

TOWN OF FLOWER MOUND, TEXAS

ORDINANCE NO. 45-19

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, AMENDING CHAPTER 34. - ENVIRONMENT OF THE CODE OF ORDINANCES BY CREATING ARTICLE X. - FATS, OILS, AND GREASE, TO REGULATE CAPTURE AND DISPOSAL OF FATS, OILS, AND GREASE; TO REQUIRE INSTALLATION AND MAINTENANCE OF TRAPS OR INTERCEPTORS TO PREVENT FATS, OILS, AND GREASE FROM ENTERING TREATMENT WORKS; SETTING A PENALTY FOR VIOLATIONS; PROVIDING THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATION; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Flower Mound is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and,

WHEREAS, the Town of Flower Mound operates a water treatment works which serves water and wastewater customers in the Town of Flower Mound; and,

WHEREAS, the Environmental Protection Agency has found that grease from restaurants, homes, and industrial sources are the most common cause of blockages in water treatment works, which blockages cause public health issues and water quality diminution; and,

WHEREAS, Federal law requires a publicly owned treatment works to establish and enforce specific local limits for industrial users to prevent interference; and,

WHEREAS, the Town Council finds and determines that the Town's regulations related to fats, oils, and grease should comply with all applicable State and Federal laws, including the Clean Water Act of 1977 and the General Pretreatment Regulations under the Code of Federal Regulation; and

WHEREAS, a functioning waste water system is necessary to avoid the spread of disease and contamination;

WHEREAS, the Town Council finds that the amendment to Chapter 34 as outlined herein is in the best interest of the Town of Flower Mound and will promote the health, safety, and general welfare of the citizens of the Town of Flower Mound and the general public.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, THAT:

SECTION 1

Chapter 34 of the Code of Ordinances, Town of Flower Mound, Texas, is hereby amended to add Article X, "Fats, Oils, and Grease," to read as follows:

"ARTICLE X. - FATS, OILS, AND GREASE

Sec. 34-525. – Purpose and Policy

This Article sets forth uniform requirements for users of the Publicly Owned Treatment Works for the Town of Flower Mound to capture and dispose of fats, oils, and grease and enables the Town to comply with all applicable State and Federal laws, including the Clean Water Act of 1977, 33 U.S.C., § 1251, *et seq.*; and the General Pretreatment Regulations, Title 40 C.F.R. Part 403. The objectives of this article are:

- (a) To prevent the introduction of fats, oils, and grease into the Publicly Owned Treatment Works that will interfere with its operation;
- (b) To prevent the introduction of fats, oils, and grease into the Publicly Owned Treatment Works that could pass through the Publicly Owned Treatment Works, inadequately treated, into receiving waters, or otherwise interfere or be incompatible with the Publicly Owned Treatment Works;
- (c) To prevent sanitary sewer overflow, in which waste water flows out of a manhole cover and along the ground, and can then contaminate the ground, local water bodies and any property the waste water comes into contact with;
- (d) To promote reuse and recycling of waste grease from the Publicly Owned Treatment Works;
- (e) To enable the Town to comply with Federal, State and Local Pollutant Discharge limits; and
- (f) To establish fees for the recovery of costs resulting from the program established herein.

Sec. 34-526. Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning:

Act means Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, *et. seq.*

Authority means the POTW or its duly authorized representative, either of which are the authorized agent of the Town.

BOD means the value of the 5-day test for Biochemical Oxygen Demand, as described in the latest edition of "Standard Methods for the Examination of Water & Wastewater."

COD means the value of the test for Chemical Oxygen Demand, as described in the latest edition of "Standard Methods for the Examination of Water & Wastewater."

EPA means the United States Environmental Protection Agency.

Fats, oils, and grease or *FOG* means organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. These substances are detectable and measurable using analytical test procedures established in 40 CFR 136, as may be amended from time to time. All are sometimes referred to herein as "grease" or "greases."

Generator means any person who owns or operates a grease trap/grease interceptor, or whose act or process produces grease trap waste.

Grease trap or interceptor or grease trap/interceptor or grease interceptor means a pretreatment device that is installed in a sanitary drainage system to intercept non-petroleum FOG from wastewater. The definition includes the interceptor and all of its parts, above ground and below ground, along with all lids, caps, and cleanouts that connect directly to the interceptor. This device is designed to use differences in specific gravities to separate and retain light density liquids, waterborne fats, oils, and grease prior to the wastewater entering the sanitary sewer collection system. These devices also serve to collect settleable solids, generated by and from food preparation activities, prior to the water exiting the trap and entering the sanitary sewer collection system.

Grease Trap Waste means material collected in and from a grease trap or interceptor in the sanitary sewer service line of a commercial, institutional, or industrial food service or processing establishment, including the solids resulting from de-watering processes.

Indirect Discharge or *Discharge* means the introduction of pollutants into a POTW from any non-domestic source.

Interference means a discharge which alone or in conjunction with a discharge or discharges from other sources inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal, or is a cause of a violation of the Town's TPDES permit.

pH means the measure of the relative acidity or alkalinity of water and is defined as the negative logarithm (base 10) of the hydrogen ion concentration.

POTW or Publicly Owned Treatment Works means a treatment works as defined by section 502(4) of the Clean Water Act which is owned in this instance by the Town of Flower Mound. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes all sewers, pipes and other conveyances that convey wastewater to a POTW Treatment Plant. The term also means the municipality as defined in section 502(4) of the Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works. For purposes of this Article, the terms “Authority” and “POTW” may be used interchangeably.

TCEQ means the Texas Commission on Environmental Quality, and its predecessor and successor agencies.

Transporter means a person who is registered with and authorized by the TCEQ to transport sewage sludge, water treatment sludge, domestic septage, chemical toilet waste, grit trap waste, or grease trap waste in accordance with 30 TEXAS ADMINISTRATIVE CODE §312.142.

TSS means the value of the test for Total Suspended Solids, as described in the latest edition of “Standard Methods for the Examination of Water & Wastewater.”

User means any person, including those located outside the jurisdictional limits of the Town, who contributes, causes, or permits the contribution or discharge of wastewater into the POTW, including persons who contribute such wastewater from mobile sources.

Sec. 34-527. Applicability and Prohibitions

- (a) This article shall apply to all non-domestic users of the POTW.
- (b) Grease traps or grease interceptors shall not be required for residential users.
- (c) Facilities generating fats, oils, and grease as a result of food manufacturing, processing, preparation, or food service shall install, use, and maintain appropriate grease traps or interceptors as required in this article. These facilities include but are not limited to restaurants, food manufacturers, food processors, hospitals, hotels and motels, grocery stores, nursing homes, and any other facility preparing, serving, or otherwise making any foodstuff available for consumption.

- (d) No user may intentionally or unintentionally allow the direct or indirect discharge of any petroleum oil, nonbiodegradable cutting oil, mineral oil, or any fats, oils, or greases of animal or vegetable origin into the POTW system in such amounts as to cause interference with the collection and treatment system, or as to cause pollutants to pass through the treatment works into the environment.

Sec. 34-528. Installation and Maintenance Requirements

(a) Installations

- (1) Food processing or food service facilities which are newly proposed or constructed, or existing facilities which will be expanded or renovated to include a food service facility, where such facility did not previously exist, shall be required to design, install, operate and maintain a grease trap/interceptor in accordance with Town plumbing codes or other applicable ordinances. Grease traps and interceptors shall be installed and inspected prior to issuance of a certificate of occupancy.
- (2) Existing grease traps and interceptors must be operated and maintained in accordance with the manufacturer's recommendations and in accordance with Federal and State laws, and with Town ordinances unless specified in writing and approved by the Authority.
- (3) All grease trap and interceptor waste shall be properly disposed of at a facility in accordance with federal, state, or local regulation.

(b) Cleaning and Maintenance

- (1) Grease traps and grease interceptors shall be maintained in an efficient operating condition at all times. All exterior openings of the grease trap and interceptor shall have properly fitting covers and caps. Covers and caps shall remain in place during normal use and shall be easily removable for inspection and sampling purposes. The user shall be responsible for prompt replacement or repair of any defective, damaged, or inoperable components of the grease interceptor.
- (2) Each grease trap pumped shall be fully evacuated unless the trap volume is greater than the tank capacity on the vacuum truck in which case the transporter shall arrange for additional transportation capacity so that the trap is fully evacuated within a 24-hour period, in accordance with 30 Texas Administrative Code §312.143.

(c) Cleaning Schedules

- (1) Grease traps and grease interceptors shall be cleaned as often as necessary to ensure that sediment and floating materials do not accumulate to impair the efficiency of the grease trap and interceptor; to ensure the discharge is in compliance with local discharge limits; and to ensure no visible grease is observed in discharge.
- (2) Grease traps and grease interceptors subject to these standards shall be completely evacuated a minimum of every ninety (90) days, or more frequently when:
 - a. twenty-five (25) percent or more of the wetted height of the grease trap or grease interceptor, as measured from the bottom of the device to the invert of the outlet pipe, contains floating materials, sediment, oils or greases; or
 - b. liquid discharged from the interceptor/grease trap to the sanitary sewer exceeds pollutant levels established by the POTW; or
 - c. there is a history of non-compliance.
- (3) Any person who owns or operates a grease trap/interceptor may submit to the Authority a request in writing for an exception to the ninety (90) day pumping frequency of their grease trap/interceptor. The Authority may grant an extension for required cleaning frequency on a case-by-case basis when:
 - a. the grease trap/interceptor owner/operator has demonstrated the specific trap/interceptor will produce an effluent, based on defensible analytical results, in consistent compliance with established local discharge limits based on parameters as determined by the Authority, or
 - b. Less than twenty-five (25) percent of the wetted height of the grease trap or grease interceptor, as measured from the bottom of the device to the invert of the outlet pipe, contains floating materials, sediment, oils or greases.
- (4) In any event, a grease trap and grease interceptor shall be fully evacuated, cleaned, and inspected at least once every 180 days.

(d) Manifest Requirements

- (1) Each pump-out of a grease trap or interceptor must be accompanied by a manifest to be used for record keeping purposes.

- (2) Persons who generate, collect, and transport grease waste shall maintain a record of each individual collection and deposit. Such records shall be in the form of the manifest, obtained from the liquid waste transporter. The manifest shall include:
- a. name, addresses, telephone, and commission registration number of transporter;
 - b. name, signature, address, and phone number of the person who generated the waste and the date collected;
 - c. type and amount(s) of waste collected or transported;
 - d. name and signature(s) of responsible person(s) collecting, transporting, and depositing the waste;
 - e. date and place where the waste was deposited;
 - f. identification (permit or site registration number, location, and operator) of the facility where the waste was deposited;
 - g. name and signature of facility on-site representative acknowledging receipt of the waste and the amount of waste received;
 - h. the volume of the grease waste received; and
 - i. a consecutive numerical tracking number to assist transporters, waste generators, and regulating authorities in tracking the volume of grease transported.
- (3) Manifests shall be divided into five parts and records shall be maintained as follows:
- a. One part of the manifest shall have the generator and transporter information completed and be given to the generator at the time of waste pickup.
 - b. The remaining four parts of the manifest shall have all required information completely filled out and signed by the appropriate party before distribution of the manifest.
 - c. One part of the manifest shall go to the receiving facility.
 - d. One part of the manifest shall go to the transporter, who shall retain a copy of all manifests showing the collection and disposition of waste.

e. One copy of the manifest shall be returned by the transporter to the person who generated the wastes within 15 days after the waste is received at the disposal or processing facility.

f. One part of the manifest shall go to the local authority.

(4) Copies of manifests returned to the waste generator shall be retained for five years and be readily available for review by the POTW.

(e) Alternative Treatment

(1) A person commits an offense if the person introduces, or causes, permits, or suffers the introduction of any surfactant, solvent or emulsifier into a grease trap. Surfactants, solvents, and emulsifiers are materials which allow the grease to pass from the trap into the collection system, and include but are not limited to enzymes, soap, diesel, kerosene, terpene, and other solvents.

(2) It is an affirmative defense to an enforcement subsection (e)(1) that the use of surfactants or soaps is incidental to normal kitchen hygiene operations.

(3) Bioremediation media may be used with the Authority's approval if the person has proved to the satisfaction of the Authority that laboratory testing which is appropriate for the type of grease trap to be used has verified that:

a. The media is a pure live bacterial product which is not inactivated by the use of domestic or commercial disinfectants and detergents, strong alkalis, acids, and/or water temperatures of 160/F (71/C);

b. The use of the media does not reduce the buoyancy of the grease layer in the grease trap and does not increase the potential for oil and grease to be discharged to the sanitary sewer;

c. The use of the bioremediation media does not cause foaming in the sanitary sewer; and

d. The BOD, COD, and TSS discharged to the sanitary sewer after use of the media does not exceed the BOD, COD, and TSS which would be discharged if the product were not being used and the grease trap was being properly maintained. pH levels must be between 5 and 11.

- (4) All testing designed to satisfy the criteria set forth in subsection (e)(3) shall be scientifically sound and statistically valid. All tests to determine oil and grease, TSS, BOD, COD, pH, and other pollutant levels shall use appropriate tests which have been approved by the Environmental Protection Agency and the Texas Commission on Environmental Quality and which are defined in Title 40, Code of Federal Regulations, Part 136 or Title 30, TEXAS ADMINISTRATIVE CODE §319.11. Testing shall be open to inspection by the POTW, and shall meet the POTW's approval.

Sec. 34-529. Compliance Monitoring

- (a) The Authority shall have the right to enter the premises of any user or potential user to determine whether the user is complying with all requirements of this article. Users shall allow the Authority ready access to all parts of the premises for the purpose of inspection, sampling, records examination and copying, and the performance of any additional duties.
- (b) The user shall, upon written or verbal request by the Authority, be prepared to promptly remove any manhole covers, cleanout caps, or other temporary or permanent obstructions to safe and easy access to interceptors, grease traps, or other pretreatment devices for purposes of inspection and sampling. The user shall be responsible for closing and securing any cover, lid, or other appurtenance removed for purposes of inspection and sampling. The user shall be responsible for prompt replacement or repair of any defective, damaged, or inoperable components of the grease interceptor.
- (c) Unreasonable delays in allowing the Authority access to the user's premises shall be a violation of this article.

Sec. 34-530. Schedule of Penalties

- (a) If the Authority determines that a Generator is responsible for a blockage of a collection system line the Generator shall owe a civil penalty of \$1,000 for the first violation, \$1,500 for the second violation, and \$2,000 for the third violation within a two-year period. Continuous violations shall result in an increase in penalty by \$500 and may also result in termination of services.
- (b) Any person violating any of the provisions of this article shall be subject to a written warning for the first violation, a \$1,000 civil penalty for the

second violation, a \$1,500 civil penalty for the third violation, and a \$2,000 civil penalty for the fourth violation within a two- year period. Consistent violations will result in a \$500 increase in civil penalty and may result in termination of service.

SECTION 2

This Ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the Town of Flower Mound, Texas, as amended, except when the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such code, in which event the conflicting provisions of such ordinances and such code are hereby repealed.

SECTION 3

It is hereby declared to be the intention of the Town Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any section, paragraph, sentence, clause, or phrase of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses, and phrases of this Ordinance, since the same would have been enacted by the Town Council without the incorporation in this Ordinance of any such unconstitutional section, paragraph, sentence, clause or phrase.

SECTION 4

All rights and remedies of the Town of Flower Mound are expressly saved as to any and all violations of the provisions of the Code of Ordinances as amended or revised herein, or any other ordinances affecting the matters regulated herein which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 5

Any person, firm, or corporation who violates any provision of this Ordinance as adopted by the Town Council of the Town of Flower Mound shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine as provided in Section 1-13 of the Code of Ordinances of the Town of Flower Mound. Each day any such violation or violations exist shall constitute a separate offense and shall be punishable as such.

SECTION 6

The Town Secretary of the Town of Flower Mound is hereby directed to publish the caption in the official newspaper of the Town of Flower Mound as required by Section 3.07 of the Charter of the Town of Flower Mound.

SECTION 7

This Ordinance shall be in full force and effect from and after the date of its passage.

DULY PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, BY A VOTE OF 5 TO 0, ON THIS THE 3RD DAY OF SEPTEMBER, 2019.

APPROVED:

Steve Dixon, **MAYOR**

ATTEST:

Theresa Scott, **TOWN SECRETARY**