

ORDINANCE 2020-19

AN ORDINANCE OF THE CITY OF FAIR OAKS RANCH AMENDING CHAPTER 6 (PUBLIC HEALTH AND SANITATION) BY ADDING A NEW SECTION TITLED "MANAGEMENT OF FATS, OILS, AND GREASES"; PROVIDING FOR SEVERABILITY AND REPEAL CLAUSES; PROVIDING FOR A PENALTY NOT EXCEEDING \$2000 PER VIOLATION FOR NONCOMPLIANCE; AND PROVIDING FOR AN EFFECTIVE DATE OF OCTOBER 1, 2020.

WHEREAS, the City of Fair Oaks Ranch (the "City") in order to protect the health, safety, and welfare of its citizens, deems it necessary to adopt the following provisions regulating fats, oils, and greases in accordance with Texas Water Code § 26.0491;

WHEREAS, the City seeks to improve the operation of its sanitary sewer system and reduce the potential for sewer backups and overflows; and

WHEREAS, the City Council of the City of Fair Oaks Ranch deems it necessary to amend Chapter 6 Public Health and Sanitation by adding a new Article titled Management of Fats, Oils, and Greases.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAIR OAKS RANCH, TEXAS:

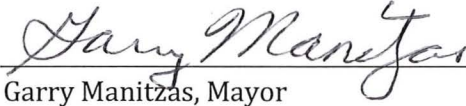
- Part 1. Chapter 6 "Public Health and Sanitation" is hereby amended as set forth in the attached Exhibit A.
- Part 2. That the recitals contain in the preamble hereto are hereby found to be true and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.
- Part 3. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance be severable, and, if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared invalid by judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this ordinance and the remainder of this ordinance shall be enforced as written.
- Part 4. That it is officially found, determined and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.
- Part 5. A penalty provision section is established in section 6.04.016 of the attached Exhibit "A".
- Part 6. This ordinance shall take effect immediately from and after its second reading, passage and publication as may be required by governing law.
- Part 7. The repeal or amendment of any ordinance or part of ordinances effectuated by the enactment of this ordinance shall not be construed as abandoning any action now

pending under or by virtue of such ordinance or as discontinuing, abating, modifying, or altering any penalty accruing or to accrue or as affecting any rights of the City of Fair Oaks Ranch under any section or provisions of any ordinances in effect at the time of passage of this ordinance.

Part 8. The provisions of this ordinance shall be cumulative of all ordinances not repealed by this ordinance and ordinances governing or regulating the same subject matter as that covered herein.

PASSED and APPROVED on first reading this the 16th day of July, 2020.

PASSED, APPROVED and ADOPTED on second reading this the 6th day of August, 2020.


Garry Manitzas, Mayor

ATTEST:


Christina Picioccio, City Secretary

APPROVED AS TO FORM:

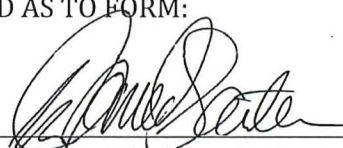

Denton Navarro Rocha Bernal & Zech, P.C., City Attorney

Exhibit A

The City's Code of Ordinances Chapter 6 Public Health and Sanitation is hereby amended by the addition of the following Article:

ARTICLE 6.04 MANAGEMENT OF FATS, OILS AND GREASES

Division 1. Generally

Sec. 6.04.01 Applicability and Prohibitions

- (a) This ordinance shall apply to all non-domestic users of the Fair Oaks Ranch Utility sanitary sewer system.
- (b) Grease traps or grease interceptors shall not be required for residential users.
- (c) Facilities generating fats, oils, or greases as a result of food manufacturing, processing, preparation, or food service shall install, use, and maintain appropriate grease traps or grease interceptors as required in this Ordinance. These facilities include but are not limited to restaurants, food manufacturers, food processors, hospitals, hotels and motels, prisons, 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, non-biodegradable cutting oil, mineral oil, or any fats, oils, or greases of animal or vegetable origin into the sanitary sewer 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. 6.04.02-6.04.09 Reserved

Division 2. Regulations

Sec. 6.04.010 Definitions

For the purposes of this Ordinance, the following definitions shall apply unless the context of their usage clearly indicates otherwise:

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

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

City. City of Fair Oaks Ranch, Texas

COD. 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. United States Environmental Protection Agency

Fats, oils, and greases (FOG). 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 Title 40 Code of Federal Regulations, Part 136, as may be amended from time to time. All are sometimes referred to herein as "grease" or "greases."

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

Grease trap or grease interceptor. A device designed to use differences in specific gravities to separate and retain light density liquids, waterborne fats, oils, and greases 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 traps and grease interceptors are also referred to herein as "grease traps/interceptors."

Grease trap waste. Material collected in and from a grease trap/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. The introduction of pollutants into the sanitary sewer system from any non-domestic source.

Interference. A discharge which alone or in conjunction with a discharge or discharges from other sources inhibits or disrupts the sanitary sewer system, its treatment processes or operations or its sludge processes, use or disposal, or is a cause of a violation of the system's current wastewater permit.

pH. 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. A treatment works which is owned by a state or municipality as defined by Section 502(4) of the Clean Water Act. 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 ordinance, the terms "sanitary sewer system" and "POTW" may be used interchangeably.

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

Transporter. 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 Title 30 Texas Administrative Code §312.142.

TSS. 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. Any person, including those located outside the jurisdictional limits of the City, who contributes, causes, or permits the contribution or discharge of wastewater into the sanitary sewer system, including persons who contribute such wastewater from mobile sources.

Sec. 6.04.011 Installations

- (a) New Facilities. 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 locally adopted plumbing codes or other applicable ordinances. Grease traps/interceptors shall be installed and inspected prior to issuance of a certificate of occupancy.
- (b) Existing Facilities with a grease trap/interceptor. Existing grease traps/interceptors must be operated and maintained in accordance with the manufacturer's recommendations and in accordance with these Model Standards, unless specified in writing and approved by the sanitary sewer system. Grease traps/interceptors that are proven inadequate for existing facilities must be removed and replaced with a properly designed grease trap/interceptor.
- (c) Existing Facilities without a grease trap/interceptor. Within sixty (60) days of the effective date of this Ordinance, existing facilities without a grease trap/interceptor must design, install, operate and maintain a grease trap/interceptor in accordance with locally adopted plumbing codes or other applicable ordinances. Grease traps/interceptors shall be inspected by the City's Building Department upon installation.
- (d) All grease trap/interceptor waste shall be properly disposed of at a facility in accordance with federal, state, and local regulation.

Sec. 6.04.012 Cleaning

- (a) Grease traps/interceptors shall be maintained in an efficient operating condition at all times.
- (b) 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 Title 30 Texas Administrative Code §312.143.

Sec. 6.04.013 Self-Cleaning

- (a) Grease trap self-cleaning operators must receive approval from the sanitary sewer system annually prior to removing grease from their own grease trap(s) located inside a building, provided:
 - (1) The grease trap is no more than fifty (50) gallons in liquid/operating capacity;
 - (2) Proper on-site material disposal methods are implemented (e.g. absorb liquids into solid form and dispose into trash);
 - (3) The local solid waste authority allows such practices;

- (4) Grease trap waste is placed in a leak-proof, sealable container(s) located on the premises and in an area for the transporter to pump-out; and
 - (5) Detailed records on these activities are maintained.
- (b) Grease trap self-cleaning operators must submit a completed self-cleaning request to the sanitary sewer system for approval. The written request shall include the following information:
- (1) Business name and street address;
 - (2) Grease trap/interceptor operator name, title, and phone number;
 - (3) Description of maintenance frequency, method of disposal, method of cleaning and size (in gallons) of the grease trap/interceptor; and
 - (4) Signed statement that the operator will maintain records of waste disposal and produce them for compliance inspections.
- (c) Self-cleaners must adhere to all the requirements; procedures and detailed record keeping outlined in their approved application, to ensure compliance with this Ordinance. A maintenance log shall be kept by self-cleaning operators that indicates, at a minimum, the following information:
- (1) Date the grease trap/interceptor was serviced;
 - (2) Name of the person or company servicing the grease trap/interceptor;
 - (3) Waste disposal method used;
 - (4) Gallons of grease removed and disposed of;
 - (5) Waste oil added to grease trap/interceptor waste; and
 - (6) Signature of the operator after each cleaning that certifies that all grease was removed, disposed of properly, grease trap/interceptor was thoroughly cleaned, and that all parts were replaced and in operable condition.
- (d) Violations incurred by grease trap self-cleaners will be subject to enforcement action including fines and/or removal from the self-cleaner program.

Sec. 6.04.014 Cleaning Schedules

- (a) Grease traps/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/interceptor; to ensure the discharge is in compliance with local discharge limits; and to ensure no visible grease is observed in discharge.
- (b) Grease traps/interceptors subject to these standards shall be completely evacuated a minimum of every ninety (90) days, or more frequently when:
 - (1) Twenty-five (25) percent or more of the wetted height of the grease trap/ interceptor, as measured from the bottom of the device to the invert of the outlet pipe, contains floating materials, sediment, oils, or greases; or
 - (2) The discharge exceeds BOD, COD, TSS, FOG, pH, or other pollutant levels established by the sanitary sewer system; or

- (3) If there is history of non-compliance.
- (c) Any person who owns or operates a grease trap/interceptor may submit to the sanitary sewer system a request in writing for an exception to the ninety (90) day pumping frequency of their grease trap/interceptor. The sanitary sewer system may grant an extension for required cleaning frequency on a case-by-case basis when:
 - (1) The grease trap/interceptor owner or operator has demonstrated the specific grease trap/interceptor will produce an effluent, based on defensible analytical results, in consistent compliance with established local discharge limits such as BOD, TSS, FOG, or other parameters as determined by the sanitary sewer system; or
 - (2) Less than twenty-five (25) percent of the wetted height of the grease trap/ interceptor, as measured from the bottom of the device to the invert of the outlet pipe, contains floating materials, sediment, oils, or greases.
- (d) In any event, a grease trap/interceptor shall be fully evacuated, cleaned, and inspected at least once every 180 days.

Sec. 6.04.015 Manifest Requirements

- (a) Each pump-out of a grease trap/interceptor must be accompanied by a manifest to be used for record keeping purposes.
- (b) 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 a manifest. The manifest shall include:
 - (1) Name, address, telephone, and commission registration number of transporter;
 - (2) Name, signature, address, and phone number of the person who generated the waste and the date collected;
 - (3) Type and amount(s) of waste collected or transported;
 - (4) Name and signature(s) of responsible person(s) collecting, transporting, and depositing waste;
 - (5) Date and place where the waste was deposited;
 - (6) Identification (permit or site registration number, location, and operator) of the facility where the waste was deposited;
 - (7) Name and signature of facility on-site representative acknowledging receipt of the waste and the amount of waste received;
 - (8) The volume of the grease waste received; and
 - (9) A consecutive numerical tracking number to assist transporters, waste generators, and regulating authorities in tracking the volume of grease transported.
- (c) Manifests shall be divided into five copies and records shall be maintained as follows:
 - (1) One copy of the manifest shall have the generator and transporter information completed and be given to the generator at the time of waste pickup.

- (2) The remaining four copies of the manifest shall have all required information completely filled out and signed by the appropriate party before distribution of the manifest.
- (3) One copy of the manifest shall go to the receiving facility.
- (4) One copy shall go to the transporter, who shall retain a copy of all manifests showing the collection and disposition of waste.
- (5) One copy of the manifest shall be returned by the transporter to the person who generated the waste within 15 days after the waste is received at the disposal or processing facility.
- (6) One copy of the manifest shall go to the City's Environmental Compliance Manager.
- (d) Copies of manifests returned to the waste generator shall be retained for five (5) years and be readily available for review by city personnel.

Sec. 6.04.015 Alternative Treatment

- (a) 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.
- (b) It is an affirmative defense to an enforcement of Section 6.04.015(a) that the use of surfactants or soaps is incidental to normal kitchen hygiene operations.

Sec. 6.04.016 Schedule of Penalties

(a) Civil penalty.

- (1) If the sanitary sewer system determines that a generator is responsible for interference or 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, in addition to the cost incurred by the City for purposes of cleaning the collection line and inspecting the violation. Continuous violations may also result in suspension of services.
- (2) Any person violating any of the provisions of this Ordinance, except for the interference or blockage of a collection system line, 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. Continuous violations may also result in suspension of services.
- (3) Notice of violations and assessments of penalties made pursuant to this article shall be sent to the generator or account holder informing them of the violation and assessment of penalties. Notices provided herein shall be deemed delivered within three business days after their placement with the United State Postal Service, hand delivery, or courier.

- (4) Civil penalties assessed pursuant to this article shall be added to a wastewater account holder's regular monthly utility bill from the City or be billed separately to the generator, as determined by the City. Any cost to repair sewer lines, streets or any other city property caused by not following this ordinance will be billed to generator according to the city fee schedule.

(b) Civil penalty appeal.

- (1) An aggrieved person may request an appeal hearing before a hearing officer(s) appointed by the City Manager within fifteen (15) business days after the date on the notice provided in compliance with article. The hearing officer(s) shall evaluate all information offered by the aggrieved person at the hearing. The aggrieved person shall bear the burden of proof to show why, by preponderance of the evidence, the administrative fee should not be assessed. The hearing officer(s) shall render a decision in writing within three (3) business days of the conclusion of the hearing. Receipt of the decision of the hearing officer(s) by the aggrieved person is presumed on the third business day after the City mails the decision of the hearing officer(s) to the aggrieved person.
- (2) The aggrieved person may appeal the decision from the hearing officer(s) in writing to the City Manager within seven (7) business days from the date the City mails the decision of the hearing officer(s) to the aggrieved person. In the written appeal, the aggrieved person shall provide the factual basis for the appeal and describe why the decision of the hearing officer(s) is not supported by the evidence. The City Manager shall promptly review the appeal. The decision by the City Manager is final.

- (c) Criminal penalty. A conviction for a violation of any provision of this ordinance shall constitute a class C misdemeanor. A person convicted of a violation of any provision of this ordinance shall be fined an amount of not less than two hundred dollars (\$200.00) per violation and a maximum of not more than two thousand dollars (\$2,000.00) per violation. Each violation of this ordinance shall constitute a separate offense, and each day a violation continues shall be considered a new offense.
- (d) Other remedies. The remedies provided for in this subdivision are cumulative of each other and of any other remedy provided for or allowed by law. In addition to any other remedy allowed by law, the City may seek injunctive relief in any court of proper jurisdiction to restrain or enjoin a violation of any provision of this ordinance.