

**Chapter 12.20**  
**FATS, OILS AND GREASES (FOG) CONTROL ORDINANCE**

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#### 12.20.010. Purpose and policy.

- A. .The purpose of this Chapter is to facilitate the maximum beneficial public use of the City's sewer services and facilities while preventing blockages of the sewer lines resulting from discharges of FOG to the sewer facilities, and to specify appropriate FOG discharge requirements for Food Service Establishments.
- B. .This Chapter shall be interpreted in accordance with the definitions set forth in Section 12.20.020. The provisions of this Chapter shall apply to the direct or indirect discharge of all wastewater or waste containing FOG carried to the sewer facilities of the City.
- C. .To comply with Federal, State, and local policies and to allow the City to meet applicable requirements, provisions are made in this Chapter for the regulations of wastewater or waste containing FOG discharges to the sewer facilities.
- D. .This Chapter establishes quantity and quality standards on all wastewater and/or waste discharges containing FOG, which may alone or collectively cause or contribute to FOG accumulation in the sewer facilities causing or potentially causing or contributing to the occurrence of SSOs.  
(Ord. 3051 § 1 (part), 2004).

#### 12.20.020. Definitions.

- A. Unless otherwise defined herein, terms related to water quality shall be as adopted in the latest edition of Standard Methods for Examination of Water and Wastewater, published by the American Public Health Association, the American Water Works Association and the Water Environment Federation. The testing procedures for waste constituents and characteristics shall be as provided in 40 CFR 136 (Code of Federal Regulations).
- B. Other terms not herein defined are defined as being the same as set forth in the latest adopted applicable editions of the California Codes applicable to building construction adopted pursuant to the California Building Standards Law.
- C. Subject to the foregoing provisions, the following definitions shall apply in this Chapter:

**"Best Management Practices"** mean schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce the introduction of FOG to the sewer facilities.

**"Change in operations"** means any change in the ownership, food types, or operational procedures that have the potential to increase the amount of FOG generated and/or discharged by Food Service Establishments in an amount that alone or collectively causes or creates a potential for SSOs to occur.

**"City Council"** means the City Council of the City of Fullerton.

**"Composite sample"** means a collection of individual samples obtained at selected intervals based on an increment of either flow or time. The resulting mixture (composite sample) forms a representative sample of the waste stream discharged during the sample period. Samples will be collected when a wastewater discharge occurs.

**"Discharger" (also "user")** means any person who discharges or causes a discharge of wastewater directly or indirectly to a public sewer.

**"District"** means the Orange County Sanitation District.

**"Effluent"** means any liquid outflow from the Food Service Establishment that is discharged to the sewer.

**"Fats, oils, and grease" or "FOG"** means any substance such as a vegetable or animal product that is used in, or is a byproduct of, the cooking or food preparation process, and that turns or may turn viscous or solidifies with a change in temperature or other conditions.

**"FOG Control Program"** means the FOG Control Program required by and developed pursuant to RWQCB Order No. R8-2002-0014, Section (c)(12)(viii).

**"FOG Control Program Manager"** means the individual designated by the City to administer the FOG Control Program. The FOG Control Program Manager is responsible for all determinations of compliance with the program, including approval of discretionary variances and waivers.

**"FOG Wastewater Discharge Permit"** means a permit issued by the City subject to the requirements and conditions established by the City authorizing the permittee or discharger to discharge wastewater into the City's facilities or into sewer facilities which ultimately discharge into a City facility.

**"Food grinder"** means any device installed in the plumbing or sewage system for the purpose of grinding food waste or food preparation by products for the purpose of disposing it in the sewer system.

**"Food Service Establishment"** means Facilities defined in California Uniform Retail Food Service Establishments Law (CURFFL) Section 113785, and any commercial entity within the boundaries of the City, operating in a permanently constructed structure such as a room, building, or place, or portion thereof, maintained, used, or operated for the purpose of storing, preparing, serving, or manufacturing, packaging, or otherwise handling food for sale to other entities, or for consumption by the public, its members or employees, and which has any process or device that uses or produces FOG, or grease vapors, steam, fumes, smoke or odors that are required to be removed by a Type I or Type II hood, as defined in CURFFL Section 113785.

**"Grab sample"** means a sample taken from a waste stream on a one-time basis without regard to the flow in the waste stream and without consideration of time.

**"Grease control device"** means any grease interceptor, grease trap or other mechanism, device, or process, which attaches to, or is applied to, wastewater plumbing fixtures and lines, the purpose of which is to trap or collect or treat FOG prior to it being discharged into the sewer system. "Grease Control Device" may also include any other proven method to reduce FOG subject to the approval of the City.

**"Grease Disposal Mitigation Fee"** means a fee charged to an Owner/Operator of a Food Service Establishment when there are physical

limitations to the property that make the installation of the usual and customary grease interceptor or grease control device for the Food Service Establishment under consideration, impossible or impracticable. The Grease Disposal Mitigation Fee is intended to cover the costs of increased maintenance of the sewer system for inspection and cleaning of FOG and other viscous or solidifying agents that a properly employed grease control device would otherwise prevent from entering the sewer system.

**"Grease interceptor"** means a multi-compartment device that is constructed in different sizes and is generally required to be located, according to the California Plumbing Code, underground between a Food Service Establishment and the connection to the sewer system. These devices primarily use gravity to separate FOG from the wastewater as it moves from one compartment to the next. These devices must be cleaned, maintained, and have the FOG removed and disposed of in a proper manner on regular intervals to be effective.

**"Grease trap"** means a grease control device that is used to serve individual fixtures and have limited effect and which should only be used in those cases where the use of a grease interceptor or other grease control device is determined to be impossible or impracticable, or in conjunction with a grease interceptor or grease control device.

**"Hot spots"** mean areas in sewer lines that have experienced sanitary sewer overflows or that must be cleaned or maintained frequently to avoid blockages of the sewer system.

**"Infiltration"** means water entering a sewer system, including sewer service connections, from the ground through such means as defective pipes, pipe joints, connections, or manhole walls.

**"Inflow"** means water entering a sewer system through a direct stormwater runoff connection to the sanitary sewer, which may cause an almost immediate increase in wastewater flows.

**"Inspector"** means a person, including a staff member of the Orange County Health Care Agency, authorized by the City to inspect any existing or proposed wastewater generation, conveyance, processing, and disposal facilities.

**"Interceptor"** means a grease interceptor.

**"Interference"** means any discharge which, alone or in conjunction with discharges from other sources, inhibits or disrupts the City's sewer system, treatment processes or operations; or is a cause of violation of the City's NPDES or Waste Discharge Requirements or prevents lawful sludge use or disposal.

**"Limited Food Preparation Establishment"** means an establishment engaged only in reheating, hot holding or assembly of ready to eat food products and as a result, there is a de minimus or no wastewater discharge containing a significant amount of FOG. A limited food preparation establishment does not include any operation that changes the form, flavor, or consistency of food. A Limited Food Preparation Establishment is not considered a Food Service Establishment for purposes of this Chapter.

**"Manifest"** means that receipt which is retained by the generator of wastes for disposing recyclable wastes or liquid wastes as required by the City.

**"NPDES"** means the National Pollutant Discharge Elimination System; the permit issued to control the discharge of liquids or other substances or solids to surface waters of the United States as detailed in Public Law 92.500, Section 402.

**"New construction"** means any structure planned or under construction for which a sewer connection permit has not been issued, or which is being converted from a non-Food Service Establishment use to a Food Service Establishment.

**"Orange County Health Care Agency"** means the Orange County agency with oversight, inspection and regulatory authority over Food Service Establishments, particularly with respect to protection of the public health.

**"Permittee"** means a person who has received a permit to discharge wastewater into the City's sewer facilities subject to the requirements and conditions established by the City.

**"Person"** means any individual, partnership, firm, association, corporation or public agency, including the State of California and the United States of America.

**"Public agency"** means the State of California and/or any city, county, special district, other local governmental authority or public body of or within this State.

**"Public sewer"** means a sewer owned and operated by the City, or other local Public Agency.

**"Regulatory agencies"** shall mean those agencies having regulatory jurisdiction over the operations of the City, including, but not limited to:

1. United States Environmental Protection Agency, Region IX, San Francisco and Washington, DC (EPA).
2. California State Water Resources Control Board (SWRCB).
3. California Regional Water Quality Control Board, Santa Ana Region (RWQCB).
4. South Coast Air Quality Management District (SCAQMD).
5. California Department of Health Services (DOHS).

**"Remodeling"** means a physical change or operational change causing generation of an amount of FOG that exceeds the current amount of FOG discharge to the sewer system by the Food Service Establishment in an amount that alone or collectively causes or creates a potential for SSOs to occur; or exceeding a cost of \$50,000 to a Food Service Establishment that requires a building permit, and involves any one or combination of the following: (1) under slab plumbing in the food processing area, (2) a 30%

increase in the net public seating area, (3) a 30% increase in the size of the kitchen area, or (4) any change in the size or type of food preparation equipment.

**"Sample point"** means a location approved by the City, from which wastewater can be collected that is representative in content and consistency of the entire flow of wastewater being sampled.

**"Sampling facilities"** mean structure(s) provided at the user's expense for the City or user to measure and record wastewater constituent mass, concentrations, collect a representative sample, or provide access to plug or terminate the discharge.

**"Sanitary sewer overflow" or "SSO"** means any overflow spill, release, discharge or diversion of wastewater from a sanitary sewer system, including: (1) overflows or releases of wastewater that reach waters of the United States; (2) overflows or releases of wastewater that do not reach waters of the United States; (3) wastewater backups into buildings and on private property that are caused by blockages or flow conditions in a sanitary sewer, other than a building lateral. Wastewater backups into buildings caused by a blockage or other malfunction of a building lateral that is privately owned is an SSO when sewage is discharged off of private property into streets, storm drains, or waters of the State.

**"Sewage" (see "Wastewater")**

**"Sewer facilities" (or "sewer system")** means any property or facilities belonging to the City used in the transportation or disposal of wastewater, or sludge, and treatment reclamation and reuse facilities belonging to the Orange County Sanitation District or other public authority.

**"Sewer lateral"** means a building sewer as defined in the latest edition of the California Plumbing Code. It is the wastewater connection between the building's wastewater facilities and a public sewer system.

**"Sludge"** means any solid, semi-solid or liquid decant, supernate or subnate from a manufacturing process, utility service, or pretreatment facility.

**"User" (also "discharger")** means any person who discharges or causes a discharge of wastewater directly or indirectly to a public sewer system.

**"Waste"** means sewage and any and all other waste substances, liquid, solid, gaseous or radioactive, associated with human habitation or of human or animal nature, including such wastes placed within containers of whatever nature prior to and for the purpose of disposal.

**"Waste minimization practices"** means plans or programs intended to reduce or eliminate discharges to the sewer system or to conserve water, including, but not limited to, product substitutions, housekeeping practices, inventory control, employee education, and other steps as necessary to minimize wastewater produced.

**"Wastehauler"** means any person carrying on or engaging in vehicular transport of waste as part of, or incidental to, any business for that purpose.

**"Wastewater"** means the liquid and water-carried wastes of the community and all constituents thereof, whether treated or untreated, discharged into or permitted to enter a public sewer.

**"Wastewater constituents and characteristics"** mean the individual chemical, physical, bacteriological, and other parameters, including volume and flow rate and such other parameters that serve to define, classify or measure the quality and quantity of wastewater.

- D.** Words used in this Chapter in the singular may include the plural and the plural the singular. Use of the masculine shall include feminine and use of the feminine shall include masculine. Shall is mandatory; may is permissive or discretionary. (Ord. 3051 § 1 (part), 2004).

**12.20.030. FOG discharge requirement.**

No Food Service Establishment shall discharge or cause to be discharged into the sewer system FOG that exceeds a concentration level adopted by the City Council or that may accumulate and/or cause or contribute to blockages in the sewer system or at the sewer system lateral which connects the Food Service Establishment to the sewer system.

(Ord. 3051 § 1 (part), 2004).

**12.20.040. Limited food preparation establishment.**

- A.** Limited Food Preparation Establishment is not considered a Food Service Establishment for purposes of this Chapter and is not subject to any of the requirements of this Chapter.

(Ord. 3051 § 1 (part), 2004).

**12.20.050. Prohibitions.**

The following prohibitions shall apply to all Food Service Establishments:

- A.** Installation of food grinders in the plumbing system of new constructions of Food Service Establishments shall be prohibited. Furthermore, all food grinders shall be removed from all existing Food Service Establishments within 180 days of the effective date of the Ordinance adopting this Chapter, except when expressly allowed by the FOG Control Program Manager.
- B.** Introduction of any additives into a Food Service Establishment's wastewater system for the purpose of emulsifying FOG is prohibited, unless a specific written authorization from the FOG Control Program Manager is obtained.
- C.** Disposal of waste cooking oil into drainage pipes is prohibited. All waste cooking oils shall be collected and stored properly in receptacles such as barrels or drums for recycling or other acceptable methods of disposal.
- D.** Discharge of wastewater from dishwashers to any grease trap or grease interceptor is prohibited.
- E.** Discharge of wastewater with temperatures in excess of 140°F to any grease control device, including grease traps and grease interceptors, is prohibited.

- F. The use of biological additives for grease remediation or as a supplement to interceptor maintenance, without prior authorization from the FOG Control Program Manager, is prohibited.
- G. Discharge of wastes from toilets, urinals, wash basins, and other fixtures containing fecal materials to sewer lines intended for grease interceptor service, or vice versa, is prohibited.
- H. Discharge of any waste including FOG and/or solid materials removed from the grease control device to the sewer system is prohibited. Grease removed from grease interceptors shall be wastehailed periodically as part of the operation and maintenance requirements for grease interceptors.  
(Ord. 3051 § 1 (part), 2004).

**12.20.060. FOG Wastewater Discharge Permit required.**

- A. No person shall discharge, or cause to be discharged, any wastewater from Food Service Establishments directly or indirectly into the sewer system without first obtaining a FOG Wastewater Discharge Permit pursuant to this Chapter. Within thirty (30) days of the effective date of this Chapter, all Food Service Establishments in the City shall file a FOG Wastewater Discharge Permit Application with the City on a form approved by the City for such purpose. Except Limited Food Preparation Establishments, as defined in Section 12.20.020(C), which are not subject to the provisions of this Chapter, any person who wishes to open or operate a new Food Service Establishment following the effective date of this Chapter shall apply for and obtain a FOG Wastewater Discharge Permit prior to opening or operating such Food Service Establishment as provided for below.
- B. There shall be four types of FOG Discharge Permits granted to Food Service Establishments by the City:
  - 1. Interim Permit: Upon the effective date of this Chapter, all Food Service Establishments in the City of Fullerton will be subject to the conditions for a FOG Discharge Permit as described in this Chapter. For a period of eighteen (18) months following adoption, all Food Service Establishments will be granted a blanket General Interim Permit until such time as they are inspected by the City's FOG Control Program staff. Notwithstanding the foregoing, each Food Service Establishment shall comply with the provisions of Section 12.20.060A, and prior to the expiration of the eighteen month interim permit period, each Food Service Establishment must have obtained a formal Regular, Conditional or Variance permit in order to continue discharging wastewater to the City's sewer system;
  - 2. Regular Permit: A permit issued upon the proper installation and maintenance of a grease interceptor as described in Section 12.10.070 below;
  - 3. Conditional Permit: A permit issued upon implementation of Kitchen Best Management Practices and/or alternative pretreatment technology that is, at least, equally effective in controlling the FOG discharge in lieu of a grease interceptor, as described in Section 12.10.074 below;



4. Variance: Where it is impossible or impracticable to install, operate or maintain a grease interceptor, a Food Service Establishment may apply for a Variance as described in Section 12.20.080 below.

Proper installation and maintenance of a grease interceptor and application for a Regular Permit shall be the standard method of compliance with this chapter. However, existing Food Service Establishments that do not have grease interceptors may meet the requirements of this chapter by obtaining a Conditional Permit or a Variance as described below.

- C. FOG Wastewater Discharge Permits shall be expressly subject to all provisions of this Chapter and all other regulations, charges for use, and fees established by the City. The conditions of FOG Wastewater Discharge Permits shall be enforced by the City in accordance with this Chapter and applicable State and Federal Regulations.  
(Ord. 3051 § 1 (part), 2004).

#### **12.20.070. Regular Permit.**

Food Service Establishments are required to install, operate and maintain an approved type and adequately sized grease interceptor necessary to maintain compliance with the objectives of this Chapter. The grease interceptor shall be adequate to separate and remove FOG contained in wastewater discharges from Food Service Establishments prior to discharge to the sewer system. Fixtures, equipment, and drain lines located in the food preparation and clean up areas of Food Service Establishments that are sources of FOG discharges shall be connected to the grease interceptor. Application of this requirement shall be as follows:

- A. New Construction of Food Service Establishments. Each newly constructed Food Service Establishment shall include and install grease interceptors prior to commencing discharges of wastewater to the sewer system, unless it obtains a variance, as specified in Section 12.20.080.
- B. Existing Food Service Establishments.
  1. An existing Food Service Establishment, which has caused or contributed to a grease-related blockage in the sewer system or which has been determined to contribute significant FOG to the system based on inspection or sampling, shall be deemed to have reasonable potential to adversely impact the sewer system or have sewer laterals connected to hot spots, as determined by the FOG Control Program Manager, and shall be required to install a grease interceptor within 180 days of an order from the FOG Control Program Manager in the absence of grant of a variance as specified in Section 12.20.080.
  2. Existing Food Service Establishments undergoing remodeling or a change in operations as defined in Section 12.20.020 of this Chapter, or Food Service Establishments that change ownership, shall be required to install a grease interceptor, subject to the variance provisions of Section 12.20.080.
  3. An Existing Food Service Establishment which has neither been specifically ordered by the FOG Control Program Manager to install a grease interceptor, nor has obtained a Conditional Permit or a Variance Permit as provided in this Chapter by the termination of its

Interim Permit, shall comply with all requirements of this Chapter and shall obtain a Regular Permit by the time of the expiration of its Interim Permit, or cease all discharges to the sewer system until it has obtained a Regular Permit, a Conditional Permit or a Variance pursuant to this Chapter.  
(Ord. 3051 § 1 (part), 2004).

#### **12.20.074. Conditional Permit.**

- A.** A Food Service Establishment may submit an application for a Conditional Permit to avoid compliance with the grease interceptor requirement to the FOG Control Program Manager. The Food Service Establishment bears the burden of demonstrating, to the FOG Control Program Manager's reasonable satisfaction, that the installation of a grease interceptor is not necessary and that acceptable alternatives such as, but not limited to, installation of a grease trap or traps and implementation of kitchen Best Management Practices will be sufficient to prevent significant FOG discharges from the applicant Food Service Establishment. Upon determination by the FOG Control Program Manager that a Conditional Permit may be granted, the permit will be issued or revised to relieve the Food Service Establishment from the grease interceptor requirement. Terms and conditions for issuance of a Conditional Permit to a Food Service Establishment shall be set forth in the permit.
- B.** The Conditional Permit shall be valid only so long as the Food Service Establishment remains in compliance with all other requirements of this Chapter, including, but not limited to, the requirements to apply for a new or renewed FOG Wastewater Discharge Permit and to implement Best Management Practices.
- C.** A Conditional Permit may be suspended or revoked at any time when any of the terms and conditions for its issuance is not satisfied or if the conditions upon which the Conditional Permit was based change so that the justification for the exception no longer exists. Appeal of any suspension or revocation may be had, as provided in Sections 12.20.330 and 12.20.340.  
(Ord. 3051 § 1 (part), 2004).

#### **12.20.080. Variance.**

- A. Variance from Grease Interceptor Requirements.** An existing Food Service Establishment may obtain a variance from the grease interceptor requirement to allow alternative pretreatment technology that is at least equally effective in controlling the FOG discharge in lieu of a grease interceptor, if the Food Service Establishment demonstrates that it is impossible or impracticable to install, operate or maintain a grease interceptor. The FOG Control Program Manager's determination to grant a variance will be based upon, but not limited to, evaluation of the following conditions:
  - 1.** There is no adequate space for installation and/or maintenance of a grease interceptor.
  - 2.** There is no adequate slope for gravity flow between kitchen plumbing fixtures and the grease interceptor and/or between the grease interceptor and the private collection lines or the public sewer.
  - 3.** The Food Service Establishment can demonstrate that the alternative pretreatment technology is equivalent or better than a grease

interceptor in controlling its FOG discharge. In addition, the Food Service Establishment must be able to demonstrate, after installation of the proposed alternative pretreatment, its effectiveness to control FOG discharge through downstream visual monitoring of the sewer system, for at least three months, at its own expense. A variance may be granted if the results show no visible accumulation of FOG in its lateral and/or tributary downstream sewer lines.

4. The Food Service Establishment installs grease trap(s), as specified in Section 12.20.220.
  5. The Food Service Establishment agrees to be placed at the Tier II rate (high volume discharge rate) of the Sewer Service Surcharge Fee Schedule for Food Service Establishments to cover the City's costs for additional inspection and line cleaning.
- B. Period of Validity.** The variance shall be valid only so long as the Food Service Establishment remains in compliance with all requirements of this Chapter, including, but not limited to, the requirements to apply for a new or renewed FOG Wastewater Discharge Permit and to implement Best Management Practices. The variance may be suspended or revoked if any of the terms and conditions for its issuance are not satisfied. Appeal of any suspension or revocation may be had as provided in sections 12.20.330 and 12.20.340.  
(Ord. 3051 § 1 (part), 2004).

#### **12.20.090. Best Management Practices required.**

All Food Service Establishments shall implement Best Management Practices in their operations to minimize the discharge of FOG to the sewer system. General requirements for Best Management Practices are set forth in section 12.20.240, and more detailed requirements may be specified in the permit.  
(Ord. 3051 § 1 (part), 2004).

#### **12.20.100. FOG pretreatment required.**

All Food Service Establishments shall provide wastewater acceptable to the City, under the requirements and standards established in this Chapter before discharging to any public sewer.  
(Ord. 3051 § 1 (part), 2004).

#### **12.20.110. Revocation of Conditional Permit or Variance.**

A Conditional Permit or Permit Variance may be revoked at any time as provided in this Chapter if the Food Establishment fails to meet any of the conditions set forth in its Discharge Permit. A Food Service Establishment whose Conditional Permit or Variance has been revoked will be required, at a minimum, to install and maintain grease interceptors and re-apply for a Regular Permit.  
(Ord. 3051 § 1 (part), 2004).

#### **12.20.120. Commercial properties.**

Property owners of commercial properties or their official designee(s) shall be responsible for the installation and maintenance of the grease interceptor serving multiple Food Service Establishments that are located on a single parcel.  
(Ord. 3051 § 1 (part), 2004).

**12.20.130. Sewer system overflows, public nuisance, abatement orders and cleanup costs.**

Notwithstanding the granting of an Interim or other Permit as provided in Section 12.20.060-12.20.080, Food Service Establishments found to have contributed to a sewer blockage, SSOs or any sewer system interferences resulting from the discharge of wastewater or waste containing FOG, shall be ordered to install and maintain a grease interceptor within one hundred eighty (180) days of the FOG Manager's order, and may be subject to a plan to abate the nuisance and prevent any future health hazards created by sewer line failures and blockages, SSOs or any other sewer system interferences. SSOs may cause injury to public health, safety, and welfare and threaten life and property and are hereby declared public nuisances. Furthermore, sewer lateral failures and SSOs caused by Food Service Establishments alone or collectively, are the responsibility of the private property owner or Food Service Establishment, and individual(s) as a responsible officer or owner of the Food Service Establishment. If the City must act immediately to contain and clean up an SSO caused by blockage of a private or public sewer lateral or system serving a Food Service Establishment, or at the request of the property owner or operator of the Food Service Establishment, or because of the failure of the property owner or Food Service Establishment to abate the condition causing immediate threat of injury to the health, safety, welfare, or property of the public, the City's costs for such abatement shall be entirely borne by the property owner or operator of the Food Service Establishment, and individual(s) as a responsible officer or owner of the Food Service Establishment(s) and shall constitute a debt to the City and become due and payable upon the City's demand for reimbursement of such costs. The owner or operator of any Food Service Establishment which has caused or contributed to a Sanitary Sewer Overflow shall immediately notify the County of Orange Health Department.

(Ord. 3051 § 1 (part), 2004).

**12.20.140. FOG Wastewater Discharge Permit application.**

**A.** Any person required to obtain a FOG Wastewater Discharge Permit shall complete and file with the City prior to commencing or continuing discharges after the effective date of the FOG Wastewater Discharge Permit requirement, an application in a form prescribed by the City. The applicable fees shall accompany this application. The applicant shall submit, in units and terms appropriate for evaluation, the following information at a minimum:

1. Name, address, telephone number, assessor's parcel number(s), description of the Food Service Establishment, operation, type of cuisine, service activities, or clients using the applicant's services.
2. (Whichever is applicable) Name, address of any and all principals/owners/major shareholders of the Food Service Establishment; copies of Articles of Incorporation; most recent Report of the Secretary of State; copy of a current Business License.
3. Name and address of property owner or lessor and the property manager where the Food Service Establishment is located.
4. Any other information as specified in the application form.

**B.** At the time of initial application for a FOG Wastewater Discharge Permit, the applicant shall be notified if any drawings are required to be submitted with or in connection with an application.

1. Food Service Establishments may be required to submit two copies of facility site plans, mechanical and plumbing plans, and details to show all sewer locations and connections. The submittal shall be in a form and content acceptable to the City for review of existing or proposed grease control device, grease interceptor, monitoring facilities, metering facilities, and operating procedures. The review of the plans and procedures will in no way relieve the Food Service Establishment of the responsibility of modifying the facilities or operating procedures in the future, as necessary to produce an acceptable discharge, and to meet the requirements of this Chapter or any requirements of other Regulatory Agencies.
  2. Applicants may be required to submit site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, FOG control device, grease interceptor or other pretreatment equipment and appurtenances by size, location, and elevation for evaluation.
  3. Food Service Establishments may be required to submit a schematic drawing of the FOG control device, grease interceptor or other pretreatment equipment, piping and instrumentation diagram, and wastewater characterization report.
  4. The City may require the drawings be prepared by a California Registered Civil, Chemical, Mechanical, or Electrical Engineer.
- C. Other information related to the applicant's business operations and potential discharge may be required to properly evaluate the permit application.
- D. After evaluation of the data furnished, the City shall notify the applicant within thirty (30) days if the application is deemed incomplete, and shall specify in writing the deficiencies. Once the application is deemed complete, the City shall either deny or issue a FOG Wastewater Discharge Permit, subject to terms and conditions set forth in this Chapter and as otherwise determined by the FOG Control Program Manager to be appropriate to protect the City's sewer system, within sixty (60) days of receipt of a complete application.  
(Ord. 3051 § 1 (part), 2004).

#### **12.20.150. FOG Wastewater Discharge Permit conditions.**

The issuance of a FOG Wastewater Discharge Permit may contain any of the following conditions or limits:

- A. Limits on discharge of FOG and other priority pollutants.
- B. Requirements for proper operation and maintenance of grease interceptors and other grease control devices.
- C. Grease interceptor maintenance frequency and schedule.
- D. Requirements for implementation of Best Management Practices and installation of adequate grease interceptor and/or grease control device.
- E. Requirements for maintaining and reporting status of Best Management Practices.

- F. Requirements for maintaining and submitting logs and records, including waste hauling records and waste manifests.
- G. Requirements to self-monitor.
- H. Requirements for the Food Service Establishment to construct, operate and maintain, at its own expense, FOG control device and sampling facilities.
- I. Additional requirements as otherwise determined to be reasonably appropriate by the FOG Control Program Manager to protect the City's system or as specified by other Regulatory Agencies.
- J. Other terms and conditions, which may be reasonably applicable to ensure compliance with this Chapter.  
(Ord. 3051 § 1 (part), 2004).

**12.20.160. FOG Wastewater Discharge Permit fee and consumption-based charge.**

- A. The FOG Wastewater Discharge Permit fee shall be paid by the applicant in an amount adopted by ordinance or resolution of the City Council of the City. Payment of permit fees must be received by the City prior to issuance of either a new permit or a renewed permit. A permittee shall also pay any delinquent invoices in full prior to permit renewal.
- B. In addition to the application fee, Food Service Establishments subject to this Chapter shall pay a monthly or bi-monthly fee (depending on water billing frequency) based on water consumption, to offset the costs to City for FOG Program costs associated with Food Service Establishment. The fee shall be set by resolution of the City Council and shall consist of two levels, or tiers:
  - 1. Tier I: The standard fee paid by Food Service Establishments that fully comply with this Chapter per the conditions set forth in Section 12.20.060;
  - 2. Tier II: A fee charged to those Food Service Establishments that do not or cannot fully comply with this Chapter and which discharge a volume of FOG in excess of those Food Service Establishments which fall in Tier 1 (High Volume Dischargers). The quantity of FOG discharge shall be determined by the FOG Control Program Manager through inspection or other means. After one year of being assigned to the Tier II level, a Food Service Establishment's fee level may be returned to the Tier I level if it can demonstrate, to the reasonable satisfaction of the FOG Control Program Manager, that it is no longer discharging an excessive amount of FOG into the City sewer system. Assignment to the Tier II level in no way relieves a Food Service Establishment of implementing the structural and/or non-structural source control measures necessary to comply with this Chapter.  
(Ord. 3051 § 1 (part), 2004).

**12.20.170. FOG Wastewater Discharge Permit modification of terms and conditions.**

- A. The terms and conditions of an issued permit may be subject to modification and change by the sole determination of the FOG Control Program Manager during the life of the permit based on:

1. The discharger's current or anticipated operating data;
  2. The City's current or anticipated operating data;
  3. Changes in the requirements of Regulatory Agencies which affect the City;  
or
  4. A determination by the FOG Control Program Manager that such modification is appropriate to further the objectives of this Chapter.
- B.** The Permittee may request a modification to the terms and conditions of an issued permit. The request shall be in writing stating the requested change, and the reasons for the change. The FOG Control Program Manager shall review the request, make a determination on the request, and respond in writing, within thirty (30) days of submission of a complete request.
- C.** The Permittee shall be informed of any change in the permit limits, conditions, or requirements at least forty-five (45) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.  
(Ord. 3051 § 1 (part), 2004).

#### **12.20.180. FOG Wastewater Discharge Permit duration and renewal.**

Excepting only the Interim Permits provided for upon the effective date of this Chapter, FOG Wastewater Discharge Permits shall be issued for a period not to exceed one (1) year. Upon expiration of the permit, the user shall apply for renewal of the permit in accordance with the provisions of Section 12.20.140.  
(Ord. 3051 § 1 (part), 2004).

#### **12.20.190. Non-transferability of Permits.**

FOG Wastewater Discharge Permits issued under this Ordinance are for a specific Food Service Establishment, for a specific operation and create no vested rights.

- A.** No permit holder shall assign, transfer, or sell any FOG Wastewater Discharge Permit issued under this Ordinance, nor use any such permit for or on any premises or for facilities or operations or discharges not expressly encompassed within the underlying permit.
- B.** Any permit which is transferred to a new owner or operator or to a new Food Service Establishment is void. At least thirty (30) days prior to a proposed transfer of a FSE to a new owner, the prospective new owner shall submit an application for a FOG Wastewater Discharge Permit as set forth in Section 12.20.140. During the period that a decision is pending on the application, the prospective new owner may continue to discharge provided the prospective or new owner complies with all terms and conditions of the previous owner's permit.  
(Ord. 3051 § 1 (part), 2004).

#### **12.20.200. FOG Wastewater Discharge Permit charge for use.**

A charge to cover all costs of the City for providing the sewer service and monitoring shall be established by Ordinance or Resolution of the City Council of the City of Fullerton.

(Ord. 3051 § 1 (part), 2004).

#### **12.20.210. Grease interceptor requirements.**

- A.** Any Food Service Establishment required to pre-treat, as specified in Section 12.20.100 shall install, operate, and maintain an approved type and adequately sized grease interceptor necessary to maintain compliance with the objectives of this Chapter. All fixtures, equipment, and drainlines located in the food preparation and clean up areas of Food Service Establishments that are sources of FOG discharges shall be connected to the grease interceptor.
- B.** Grease interceptor sizing and installation shall conform to the current edition of the California Plumbing Code, or as required by the FOG Program Manager. Grease interceptors shall be constructed in accordance with the design approved by the FOG Control Program Manager and shall have a minimum of two compartments with fittings designed for grease retention.
- C.** The grease interceptor shall be installed at a location where it shall be at all times easily accessible for inspection, cleaning, and removal of accumulated grease.
- D.** Access manholes, with a minimum diameter of 24 inches, shall be provided over each grease interceptor chamber and sanitary tee. The access manholes shall extend at least to finished grade and be designed and maintained to prevent water inflow or infiltration. The manholes shall also have readily removable covers to facilitate inspection, grease removal, and wastewater sampling activities.  
(Ord. 3051 § 1 (part), 2004).

#### **12.20.220. Grease trap requirements.**

- A.** A Food Service Establishment may propose the use of or may be required to install grease traps, in lieu of or in addition to installation of a grease interceptor, in the waste line leading from drains, sinks, and other fixtures or equipment where grease may be introduced into the sewer system in quantities that can cause blockage.
- B.** Sizing and installation of grease traps shall conform to the current edition of the California Plumbing Code, or as required by the FOG Program Manager.
- C.** Grease traps shall be maintained by removing accumulated grease on a daily basis, or as often as required to ensure efficient operating condition.
- D.** Grease traps shall be maintained free of all food residues and any FOG waste removed during the cleaning and scraping process.
- E.** Grease traps shall be inspected periodically to check for leaking seams and pipes, and for effective operation of the baffles and flow regulating device. Grease traps and their baffles shall be maintained free of all caked-on FOG and waste. Removable baffles shall be removed and cleaned during the maintenance process.



- F. Dishwashers and food waste disposal units shall not be connected to or discharged into any grease trap.  
(Ord. 3051 § 1 (part), 2004).

**12.20.230. Monitoring facilities requirements.**

- A. The City may require a Food Service Establishment to construct and maintain in proper operating condition at the Food Service Establishment's sole expense, flow monitoring, constituent monitoring and/or sampling facilities.
- B. The location of the monitoring or metering facilities shall be subject to approval by the FOG Control Program Manager.
- C. Food Service Establishments may be required to provide immediate, clear, safe and uninterrupted access to the FOG Control Program Manager or inspectors to the Food Service Establishment's monitoring and metering facilities.
- D. Food Service Establishments may also be required by the FOG Control Program Manager to submit waste analysis plans, contingency plans, and meet other necessary requirements to ensure proper operation and maintenance of the grease control device or grease interceptor and compliance with this Chapter.
- E. No Food Service Establishment shall increase the use of water or in any other manner attempt to dilute a discharge as a partial or complete substitute for treatment to achieve compliance with this Chapter and the FOG Wastewater Discharge Permit.  
(Ord. 3051 § 1 (part), 2004).

**12.20.240. Requirements for Best Management Practices.**

- A. All Food Service Establishments shall implement best management practices in accordance with the requirements and guidelines established by the City under its FOG Control Program in an effort to minimize the discharge of FOG to the sewer system.
- B. Best Management Practices shall include, at a minimum, installation of drain screens, segregation and collection of waste cooking oil, and proper management, disposal of food waste into the trash or garbage, maintenance of kitchen exhaust filters and kitchen signage. Specific requirements shall be specified in the FOG Wastewater Discharge Permit.
- C. All Food Service Establishments shall provide employee training within 180 days of the effective date of the Ordinance adopting this Chapter, to all new employees within ten days of their employment, and to all employees twice each calendar year, on the Best Management Practices. Training shall be documented and employee signatures retained indicating each employee's attendance and understanding of the practices reviewed. Training records shall be available for review upon request by the FOG Control Program Manager or an authorized inspector.  
(Ord. 3051 § 1 (part), 2004).

## **12.20.250. Grease interceptor maintenance requirements.**

- A.** Grease Interceptors shall be maintained in efficient operating condition by periodic removal of the full content of the interceptor which includes wastewater, accumulated FOG, floating materials, sludge and solids.
- B.** All existing and newly installed grease interceptors shall be maintained in a manner consistent with a maintenance frequency approved by the FOG Control Program Manager pursuant to this section.
- C.** No FOG that has accumulated in a grease interceptor shall be allowed to pass into any sewer lateral, sewer system, storm drain, or public right of way during maintenance activities.
- D.** Food Service Establishments with grease interceptors may be required to submit data and information necessary to establish the maintenance frequency grease interceptors.
- E.** The maintenance frequency for all Food Service Establishments with a grease interceptor shall be determined in one of the following methods:
  - 1.** Grease interceptors shall be fully pumped out and cleaned at a frequency such that the combined FOG and solids accumulation does not exceed 25% of the total liquid depth of the grease interceptor. This is to ensure that the minimum hydraulic retention time and required available volume is maintained to effectively intercept and retain FOG discharged to the sewer system.
  - 2.** All Food Service Establishments with a Grease Interceptor shall maintain their grease interceptor not less than once every six (6) months.
  - 3.** Grease interceptors shall be fully pumped out and cleaned quarterly when the frequency described in (1) has not been established. The maintenance frequency shall be adjusted when sufficient data have been obtained to establish an average frequency based on the requirements described in (1) and guidelines adopted pursuant to the FOG Control Program. The City may change the maintenance frequency at any time to reflect changes in actual operating conditions in accordance with the FOG Control Program. Based on the actual generation of FOG from the Food Service Establishment, the maintenance frequency may increase or decrease.
  - 4.** The owner/operator of a Food Service Establishment may submit a request to the FOG Control Program Manager requesting a change in the maintenance frequency at any time. The Food Service Establishment has the burden of responsibility to demonstrate that the requested change in frequency reflects actual operating conditions based on the average FOG accumulation over time and meets the requirements described in (1), and that it is in full compliance with the conditions of its permit and this Chapter. Upon determination by the FOG Control Program Manager that requested revision is justified, the permit shall be revised accordingly to reflect the change in maintenance frequency.
  - 5.** If the grease interceptor, at any time, contains FOG and solids accumulation that exceeds the maximum allowable limits described in (1),

the Food Service Establishment shall be required to have the grease interceptor serviced immediately such that all fats, oils, grease, sludge, and other materials are completely removed from the grease interceptor. If deemed necessary, the FOG Control Program Manager may also increase the maintenance frequency of the grease interceptor from the current frequency.  
(Ord. 3051 § 1 (part), 2004).

#### **12.20.260. Monitoring and reporting conditions.**

##### **A. Monitoring for compliance with permit conditions and reporting requirements.**

The following may be required by the FOG Control Program Manager when he/she determines, through inspection, observation, or by evidence of an SSO, that an FSE is deficient in meeting the requirements of its permit.

1. The FOG Control Program Manager may require periodic reporting of the status of implementation of Best Management Practices, in accordance with the FOG Control Program.
2. The FOG Control Program Manager may require visual monitoring at the sole expense of the Permittee to observe the actual conditions of the Food Service Establishment's sewer lateral and sewer lines downstream.
3. The FOG Control Program Manager may require reports for self monitoring of wastewater constituents and FOG characteristics of the Permittee needed for determining compliance with any conditions or requirements as specified in the FOG Wastewater Discharge Permit or this Chapter. Monitoring reports of the analyses of wastewater constituents and FOG characteristics shall be in a manner and form approved by the FOG Control Program Manager and shall be submitted upon request of the FOG Control Program Manager. Failure by the Permittee to perform any required monitoring, or to submit monitoring reports required by the FOG Control Program Manager constitutes a violation of this Chapter and shall be cause for the City to initiate all necessary tasks and analyses to determine the wastewater constituents and FOG characteristics for compliance with any conditions and requirements specified in the FOG Wastewater Discharge Permit or in this Chapter. The Permittee shall be responsible for any and all expenses of the City in undertaking such monitoring analyses and preparation of required reports.
4. Other reports may be required such as compliance schedule progress reports, FOG control monitoring reports, and any other reports deemed reasonably appropriate by the FOG Control Program Manager to ensure compliance with this Chapter.

##### **B. Record Keeping Requirements.**

The Permittee shall be required to keep all manifests, receipts and invoices of all cleaning, maintenance, grease removal of/from the grease control device, disposal carrier and disposal site location for no less than two years. The Permittee shall, upon request, make the manifests, receipts and invoices available to any City representative or inspector, including an OCHCA inspector. These records may include:

1. A logbook of grease interceptor, grease trap or grease control device cleaning and maintenance practices.
2. A record of Best Management Practices being implemented including employee training.
3. Copies of records and manifests of waste hauling interceptor contents.
4. Records of sampling data and sludge height monitoring for FOG and solids accumulation in the grease interceptors.
5. Records of any spills and/or cleaning of the lateral or sewer conveyance system.
6. Any other information deemed appropriate by the FOG Control Program Manager to ensure compliance with this Chapter.

**C. Falsifying Information or Tampering with Process.**

It shall be unlawful to make any false statement, representation, record, report, plan or other document that is filed with the City, to destroy any record required to be maintained by this Chapter, or to tamper with or knowingly render inoperable any grease control device, monitoring device or method or access point required under this Chapter.

(Ord. 3051 § 1 (part), 2004).

**12.20.270. Inspection and sampling conditions.**

- A.** The FOG Control Program Manager may inspect or order the inspection and/or the sampling of the wastewater discharges of any Food Service Establishment to ascertain whether the intent of this Chapter is being met and the Permittee is complying with all requirements. The Permittee shall allow the City access to the Food Service Establishment premises, during normal business hours, for purposes of inspecting the Food Service Establishment's grease control devices or interceptor, reviewing the manifests, receipts, records and invoices relating to the cleaning, maintenance and inspection of the sewer conveyance systems, grease control devices or interceptor.
- B.** The FOG Control Program Manager shall have the right to place or order the placement on the Food Service Establishment's property or other locations as determined by the FOG Control Program Manager, such devices as are necessary to conduct sampling or metering operations. Where a Food Service Establishment has security measures in force, the Permittee shall make necessary arrangements so that representatives of the City shall be permitted to enter without delay for the purpose of performing their specific responsibilities.
- C.** In order for the FOG Control Program Manager to determine the wastewater characteristics of the discharger for purposes of determining the annual use charge and for compliance with permit requirements, the Permittee shall make available for inspection and copying by the City all notices, monitoring reports, waste manifests, receipts, invoices and records including, but not limited to, those related to wastewater generation, and wastewater disposal without restriction but subject to the confidentiality provision set forth in this Chapter. All such records shall be kept by the Permittee a minimum of two (2) years.  
(Ord. 3051 § 1 (part), 2004).

### **12.20.280. Right of entry.**

Persons or occupants of Food Service Establishments, whether or not permitted, where wastewater is created or discharged shall allow the FOG Control Program Manager, or designated City representatives, reasonable access to all parts of the wastewater generating and disposal facilities of such establishment for the purposes of inspection and sampling during all times the discharger's facility is open, operating, or any other reasonable time. No person shall interfere with, delay, resist or refuse entrance to City representatives attempting to inspect any facility involved directly or indirectly with a discharge of wastewater to the City's sewer system. In the event of an emergency involving an actual or imminent sanitary sewer overflow, City representatives may access adjoining businesses or properties which share a sewer conveyance system with a Food Service Establishment in order to prevent or remediate an actual or imminent sanitary sewer overflow.  
(Ord. 3051 § 1 (part), 2004).

### **12.20.290. Emergency notification requirements.**

- A.** In the event a permittee is unable to comply with any permit condition due to a breakdown of equipment, accidents, or human error or the Permittee has reasonable opportunity to know that his/her/its discharge will exceed the discharge provisions of the FOG Wastewater Discharge Permit or this Chapter, the discharger shall immediately notify the City by telephone at the number specified in the Permit. If the material discharged to the sewer has the potential to cause or result in sewer blockages or SSOs, the discharger shall immediately notify the Orange County Health Department, and the City.
- B.** Confirmation of this notification shall be made in writing to the FOG Control Program Manager at the address specified in the Permit no later than five (5) working days from the date of the incident. The written notification shall state the date of the incident, the reasons for the discharge or spill, what steps were taken to immediately correct the problem, and what steps are being taken to prevent the problem from recurring.
- C.** Such notification shall not relieve the Permittee of any expense, loss, damage or other liability which may be incurred as a result of damage or loss to the City or any other damage or loss to person or property; nor shall such notification relieve the Permittee of any fees or other liability which may be imposed by this Chapter or other applicable law.  
(Ord. 3051 § 1 (part), 2004).

### **12.20.300. Purposes and scope.**

- A.** The City Council finds that in order for the City to comply with the laws, regulations, and rules imposed upon it by Regulatory Agencies and to ensure that the City's sewer facilities are protected and are able to operate with the highest degree of efficiency, and to protect the public health and environment, specific enforcement provisions must be adopted to govern the discharges to the City's system by Food Service Establishments.
- B.** To ensure that all interested parties are afforded due process of law and that violations are resolved as soon as possible, the general policy of the City is that:
  - 1.** Any determination relating to a notice of violation and Compliance Schedule Agreement (CSA) will be made by the FOG Control Program

Manager, with a right of appeal by the permittee to the City Manager pursuant to the procedures set forth in Section 12.20.410.

2. A permittee, or applicant for a permit may request the City Council to hear an appeal of the City Manager's decision pursuant to Section 12.20.420. Such request may be granted or denied by the City Council.
  3. Any permit suspension or revocation recommended by the FOG Control Program Manager will be heard and a recommendation made to the City Manager or other person designated by the City Manager with a right of appeal of the City Manager's order by the permittee to the City Council pursuant to the provisions of Section 12.20.420.
- C. The City, at its discretion, may utilize any one, combination, or all enforcement remedies provided in this Chapter in response to any permit or Chapter violations.  
(Ord. 3051 § 1 (part), 2004).

**12.20.310. Determinations of noncompliance with FOG Wastewater Discharge Permit conditions.**

**A. Sampling and Inspection Procedures.**

1. Sampling and inspection of Food Service Establishments shall be conducted in the time, place, manner, and frequency determined at the sole discretion of the FOG Control Program Manager.
2. Noncompliance with permit discharge conditions, or any discharge provisions of this Ordinance may be determined by an inspection of grease control device, grease interceptor and associated manifest and documentation; and analysis of a grab or composite sample of the effluent of a Food Service Establishment.
3. Any sample taken from a sample point is considered to be representative of the discharge to the public sewer.  
(Ord. 3051 § 1 (part), 2004).

**12.20.320. Compliance Schedule Agreement.**

- A. Upon determination that a permittee is in noncompliance with the terms and conditions specified in its permit or any provision of this Chapter, or needs to construct and/or acquire and install a grease control device or grease interceptor, the FOG Control Program Manager may require the permittee to enter into a CSA.
- B. The issuance of a CSA may contain terms and conditions including but not limited to requirements for installation of a grease control device, grease interceptor and facilities, submittal of drawings or reports, audit of waste hauling records, best management and waste minimization practices, payment of fees, or other provisions to ensure compliance with this Chapter.
- C. The FOG Control Program Manager shall not enter into a CSA until such time as all amounts owed to the City, including user fees, noncompliance sampling fees, or other amounts due are paid in full, or an agreement for deferred payment

secured by collateral or a third party, is approved by the FOG Control Program Manager.

- D. If compliance is not achieved in accordance with the terms and conditions of a CSA during its term, the FOG Control Program Manager may issue an order suspending or revoking the discharge permit pursuant to Section 12.20.330 or 12.20.340 of this Chapter.  
(Ord. 3051 § 1 (part), 2004).

### **12.20.330. Permit suspension.**

- A. The City Manager may suspend any permit when it is determined that a permittee:

1. Has failed to comply with the terms and conditions of a CSA order.
2. Knowingly provided a false statement, representation, record, report, or other document to the City.
3. Refused to provide records, reports, plans, or other documents required by the City to determine permit terms or conditions, discharge compliance, or compliance with this Chapter, or knowingly destroyed such documents.
4. Falsifies, tampers with, or knowingly renders inaccurate any monitoring device or sample collection method.
5. Refuses reasonable access to the permittee's premises for the purpose of inspection and monitoring.
6. Does not make timely payment of all amounts owed to the City for user charges, permit fees, or any other fees imposed pursuant to this Chapter.
7. Causes interference, sewer blockages, or SSOs with the City's or District's collection, treatment, or disposal system.
8. Violates grease interceptor maintenance requirements, any condition or limit of its discharge permit or any provision of this Chapter or of the City's Water Quality Ordinance.

- B. When the FOG Control Program Manager has reason to believe that grounds exist for permit suspension, he/she shall give written notice thereof by certified mail to the permittee setting forth a statement of the facts and grounds deemed to exist, together with the time and place where the charges shall be heard by the City Manager or his/her designee. The hearing date shall be not less than fifteen (15) calendar days nor more than forty-five (45) calendar days after the mailing of such notice.

1. At the suspension hearing, the permittee shall have an opportunity to respond to the allegations set forth in the notice by presenting written or oral evidence. The hearing shall be conducted in accordance with procedures established by the City Manager and approved by the City Attorney.
2. If the City Manager designates a hearing officer, after the conclusion of the hearing, the hearing officer shall submit a written report to the City

Manager setting forth a brief statement of facts found to be true, a determination of the issues presented, conclusions, and a recommendation.

3. Upon receipt of the written report of a hearing officer or conclusion of the hearing, if the City Manager conducted the hearing, the City Manager shall make his/her determination and should he/she find that grounds exist for suspension of the permit, he/she shall issue his/her decision and order in writing within thirty (30) calendar days after the conclusion of the hearing. The written decision and order of the City Manager shall be sent by certified mail to the permittee or its legal counsel/representative at the permittee's business address.

**C. Effect.**

1. Upon an order of suspension by the City Manager becoming final, the permittee shall immediately cease and desist its discharge and shall have no right to discharge any wastewater containing FOG directly or indirectly to the City's system for the duration of the suspension. All costs for physically terminating and reinstating service shall be paid by the permittee.
2. Any owner or responsible management employee of the permittee shall be bound by the order of suspension, and are responsible to ensure that all employees of the permittee comply with any such order.
3. An order of permit suspension issued by the City Manager shall be final in all respects on the sixteenth (16th) day after it is mailed to the permittee unless a request for hearing is filed with the City Clerk of the City pursuant to Section 12.20.420 no later than 5:00 p.m. on the fifteenth (15th) day following such mailing.  
(Ord. 3051 § 1 (part), 2004).

**12.20.340. Permit revocation.**

**A. The City Manager may revoke any permit when it is determined that a permittee:**

1. Knowingly provided a false statement, representation, record, report, or other document to the City.
2. Refused to provide records, reports, plans, or other documents required by the City to determine permit terms, conditions, discharge compliance, or compliance with this Chapter, or knowingly destroyed such documents.
3. Falsified, tampered with, or knowingly rendered inaccurate any monitoring device or sample collection method.
4. Failed to comply with the terms and conditions of permit suspension or CSA.
5. Discharged effluent to the City's sewer system while its permit was suspended.
6. Refused reasonable access to the permittee's premises for the purpose of inspection and monitoring.



7. Did not make timely payment of all amounts owed to the City for user charges, permit fees, or any other fees imposed pursuant to this Chapter.
  8. Caused interference, sewer blockages, or SSOs with the City's or District's sewage collection, treatment, or disposal system.
  9. Violated grease interceptor maintenance requirements, any condition or limit of its discharge permit or any provision of this Chapter or the City's Water Quality Ordinance.
- B. Notice and Hearing.** When the FOG Control Program Manager has reason to believe that grounds exist for the revocation of a permit, he/she shall give written notice by certified mail thereof to the permittee setting forth a statement of the facts and grounds deemed to exist together with the time and place where the charges shall be heard by the City Manager or his/her designee. The hearing date shall be not less than fifteen (15) calendar days nor more than forty-five (45) calendar days after the mailing of such notice.
1. At the hearing, the permittee shall have an opportunity to respond to the allegations set forth in the notice by presenting written or oral evidence. The revocation hearing shall be conducted in accordance with the procedures established by the City Manager and approved by the City Attorney.
  2. If the City Manager designates a hearing officer, after the conclusion of the hearing, the hearing officer shall submit a written report to the City Manager setting forth a brief statement of facts found to be true, a determination of the issues presented, conclusions, and a recommendation.
  3. Upon receipt of the written report by the hearing officer, or conclusion of the hearing, if the City Manager conducted the hearing, the City Manager shall make his/her determination and should he/she find that grounds exist for permanent revocation of the permit, he/she shall issue his/her decision and order in writing within thirty (30) calendar days after the conclusion of the hearing. The written decision and order of the City Manager shall be sent by certified mail to the permittee or its legal counsel/representative at the permittee's business address.
  4. In the event the City Manager determines to not revoke the permit, he/she may order other enforcement actions, including, but not limited to, a temporary suspension of the permit or imposition of additional conditions, under terms and conditions that he/she deems appropriate.
- C. Effect.**
1. Upon an order of revocation by the City Manager becoming final, the permittee shall permanently lose all rights to discharge any wastewater containing FOG directly or indirectly to the City's system. All costs for physical termination shall be paid by the permittee.
  2. Any owner or responsible management employee of the permittee shall be bound by the order of revocation, and is responsible to ensure that all employees of the permittee comply with any such order.

3. Any future application for a permit at any location within the City by any person or entity which was previously subject to an order of revocation or suspension will be considered by the FOG Control Program Manager after fully reviewing the records of the revoked or suspended permit, which records may be the basis for denial of a new permit.
4. An order of permit revocation or other enforcement action issued by the City Manager shall be final in all respects on the sixteenth (16th) day after it is mailed to the permittee unless a request for hearing is filed with the City Clerk pursuant to Section 12.20.420 no later than 5:00 p.m. on the fifteenth (15th) day following such mailing.  
(Ord. 3051 § 1 (part), 2004).

**12.20.350. Damage to facilities or interruption of normal operations.**

- A. Any person who discharges any waste which causes or contributes to any sewer blockage, SSOs, obstruction, interference, damage, or any other impairment to the City's sewer facilities or to the operation of those facilities shall be liable for all costs required to clean or repair the facilities together with expenses incurred by the City to resume normal operations. A service charge of twenty-five percent (25%) of City's costs shall be added to the costs and charges to reimburse the City for miscellaneous overhead, including administrative personnel and record keeping. The total amount shall be payable within forty-five (45) days of invoicing by the City.
- B. Any person who discharges a waste which causes or contributes to the City violating its discharge requirements established by any Regulatory Agency, incurring additional expenses, or suffering losses or damage to the facilities, shall be liable for any costs or expenses incurred by the City, including regulatory fines, penalties, and assessments made by other agencies or a court.  
(Ord. 3051 § 1 (part), 2004).

**12.20.360. Public nuisance.**

Discharge of wastewater in any manner in violation of this Chapter or of any order issued by the FOG Control Program Manager or City Manager, as authorized by this Chapter, is hereby declared a public nuisance and shall be corrected or abated as directed by the FOG Control Program Manager or City Manager. Any person creating a public nuisance is guilty of a misdemeanor. No prosecution of any public nuisance action shall preclude the City from pursuing any other remedy for a violation of this Chapter.

(Ord. 3051 § 1 (part), 2004).

**12.20.370. Termination of service.**

- A. The City, by order of the City Manager, may physically terminate sewer service to any property as follows:
  1. On a term of any order of suspension or revocation of a permit; or
  2. Upon the failure of a person not holding a valid FOG Wastewater Discharge Permit to immediately cease the discharge, whether direct or indirect, to the City's sewer facilities after the notice and the completion of any process pursuant to Section 12.20.340 herein.

- B.** All costs for physical termination shall be paid by the owner or operator of the Food Service Establishment or permittee as well as all costs for reinstating service.

(Ord. 3051 § 1 (part), 2004).

#### **12.20.380. Emergency suspension.**

- A.** The City may, by order of the City Manager, suspend sewer service on an emergency basis when the City Manager determines that such suspension is necessary in order to stop an actual or impending discharge which presents or may present an imminent or substantial endangerment to the health and welfare of persons, or to the environment, or may cause SSOs, sewer blockages, interference to the City's sewer facilities, or may cause the City to violate any State or Federal Law or Regulation. Any discharger notified of and subject to an Emergency Suspension Order shall immediately cease and desist the discharge of all wastewater containing FOG to the sewer system.

- B.** As soon as reasonably practicable following the issuance of an Emergency Suspension Order, but in no event more than five (5) business days following the issuance of such order, the City Manager shall hold a hearing to provide the Food Service Establishment or Permittee the opportunity to present information in opposition to the issuance of the Emergency Suspension Order. Such a hearing shall not stay the effect of the Emergency Suspension Order. The hearing shall be conducted in accordance with procedures established by the City Manager and approved by the City Attorney. The City Manager shall issue a written decision and order within two (2) business days following the hearing, which decision shall be sent by certified mail to the Food Service Establishment at that Food Service Establishment's business address and/or to its legal counsel/representative at the address provided by such representative to the City. The decision of the City Manager following the hearing shall be final and not appealable to the City Council, but may be subject to judicial review pursuant to Section 12.20.450.

(Ord. 3051 § 1 (part), 2004).

#### **12.20.390. Civil penalties.**

- A.** All users of the City's system and facilities are subject to administrative or judicial enforcement actions brought by the City, the District, U.S. EPA, State of California Regional Water Quality Control Board, the County of Orange or City Attorney. Said actions may be taken pursuant to the authority and provisions of several laws, including but not limited to: (1) Federal Water Pollution Control Act, commonly known as the Clean Water Act (33 U.S.C.A. Section 1251 et seq.); (2) California Porter-Cologne Water Quality Control Act (California Water Code Section 13000 et seq.); (3) California Hazardous Waste Control Law (California Health & Safety Code Sections 25100 to 25250); (4) Resource Conservation and Recovery Act of 1976 (42 U.S.C.A Section 6901 et seq.); (5) California Government Code, Sections 54739-54740 and (6) this Chapter.

- B.** In the event the City is subject to the payment of fines or penalties pursuant to the legal authority and actions of other regulatory or enforcement agencies based on a violation of law or regulation or its permits, and said violation can be established by the City, as caused by the discharge of any user of the City's system which is in violation of any provision of the City's FOG Ordinance or the user's permit, the City shall be entitled to recover from the user all costs and

expenses, including, but not limited to, the full amount of said fines or penalties to which it has been subjected.

**C.** Pursuant to the authority of California Government Code Sections 54739 - 54740, any person who violates any provision of this Chapter; any permit condition, prohibition or effluent limit; or any suspension or revocation order shall be liable civilly for a sum not to exceed \$25,000.00 per violation for each day in which such violation occurs. Pursuant to the authority of the Clean Water Act, 33 U.S.C. Section 1251 et seq., any person who violates any provision of this Chapter, or any permit condition, prohibition, or effluent limit shall be liable civilly for a sum not to exceed \$25,000.00 per violation for each day in which such violation occurs. The City Attorney of the City, upon request of the City Manager, shall petition the Superior Court to impose, assess, and recover such penalties, or such other penalties as the City may impose, assess, and recover pursuant to Federal and/or State legislative authorization.

**D. Administrative Civil Penalties.**

1. Pursuant to the authority of California Government Code Sections 54740.5 and 54740.6, the City may issue an administrative complaint to any person who violates:

- a) any provision of this Chapter;
- b) any permit condition, prohibition, or effluent limit; or
- c) any suspension or revocation order.

2. The administrative complaint shall be served by personal delivery or certified mail on the person and shall inform the person that a hearing will be conducted, and shall specify a hearing date within sixty (60) days following service. The administrative complaint will allege the act or failure to act that constitutes the violation of the City's regulations, the provisions of law authorizing civil liability to be imposed, and the proposed civil penalty. The matter shall be heard by the City Manager or his/her designee. The person to whom an administrative complaint has been issued may waive the right to a hearing, in which case a hearing will not be conducted.

3. At the hearing, the person shall have an opportunity to respond to the allegations set forth in the administrative complaint by presenting written or oral evidence. The hearing shall be conducted in accordance with the procedures established by the City Manager and approved by the City Attorney.

4. If the City Manager designated a hearing officer, after the conclusion of the hearing, the hearing officer shall submit a written report to the City Manager setting forth a brief statement of the facts found to be true, a determination of the issues presented, conclusions, and a recommendation.

5. Upon receipt of the written report by the hearing officer, or conclusion of the hearing if the City Manager conducted the hearing, the City Manager shall make his/her determination and should he/she find that grounds exist for assessment of a civil penalty against the person, he/she shall issue

his/her decision and order in writing within thirty (30) calendar days after the conclusion of the hearing.

6. If, after the hearing or appeal, if any, it is found that the person has violated reporting or discharge requirements, the City Manager or City Council may assess a civil penalty against that person. In determining the amount of the civil penalty, the City Manager or City Council may take into consideration all relevant circumstances, including but not limited to the extent of harm caused by the violation, the economic benefit derived through any non-compliance, the nature and persistence of the violation, the length of time over which the violation occurred, and corrective action, if any, attempted or taken by the person involved.
7. Civil penalties may be assessed as follows:

  - a) In an amount which shall not exceed two thousand dollars (\$2,000.00) for each day for failing or refusing to furnish required reports;
  - b) In an amount which shall not exceed three thousand dollars (\$3,000.00) for each day for failing or refusing to timely comply with any compliance schedules established by the City;
  - c) In an amount which shall not exceed five thousand dollars (\$5,000.00) per violation for each day of discharge in violation of any waste discharge limit, permit condition, or requirement issued, reissued, or adopted by the City;
  - d) In any amount which does not exceed ten dollars (\$10.00) per gallon for discharges in violation of any suspension, revocation, cease and desist order or other orders, or prohibition issued, reissued, or adopted by the City;
8. An order assessing administrative civil penalties issued by the City Manager shall be final in all respects on the thirty-first (31st) day after it is served on the person unless an appeal and request for hearing is filed with the City Clerk pursuant to Section 12.20.420 no later than the thirtieth (30th) day following such mailing. An order assessing administrative civil penalties issued by the City Council shall be final upon issuance.
9. Copies of the administrative order shall be served on the party served with the administrative complaint, either by personal service or by registered mail to the person at his/her/its business or residence address, and upon other persons who appeared at the hearing and requested a copy of the order.
10. Any person aggrieved by a final order issued by the City Council, after granting review of the order of the City Manager, may obtain review of the order of the City Council in the superior court, pursuant to Government Code Section 54740.6, by filing in the court a petition for writ of mandate within thirty (30) days following the service of a copy of the decision or order issued by the City Council.
11. Payment of any order setting administrative civil penalties shall be made within thirty (30) days of the date the order becomes final. The amount of

any administrative civil penalties imposed shall constitute a debt to the City.

12. No administrative civil penalties shall be recoverable for any violation for which the City has recovered civil penalties through a judicial proceeding filed pursuant to Government Code Section 54740. (Ord. 3051 § 1 (part), 2004).

#### **12.20.400. Criminal penalties.**

Any person who violates any provision of this Chapter is guilty of a misdemeanor, which upon conviction is punishable by a fine not to exceed \$1,000.00, or imprisonment for not more than 6 months, or both. Each violation and each day in which a violation occurs may constitute a new and separate violation of this Chapter and shall be subject to the penalties contained herein. (Ord. 3051 § 1 (part), 2004).

#### **12.20.410. Appeals to City Manager.**

- A. Any Food Service Establishment, permit applicant or permittee affected by any decision, action or determination made by the FOG Control Program Manager or notice of violation issued by any City inspector may file with the City Manager a written request for an appeal hearing. The request must be received by the City within fifteen (15) days of mailing of notice of the decision, action, or determination of the FOG Control Program Manager to the appellant. The request for hearing shall set forth in detail all facts supporting the appellant's request.
- B. The City Manager shall, within fifteen (15) days of receiving the request for appeal, designate a Department Head or other person to hear the appeal and provide written notice to the appellant of the hearing date, time and place. The hearing date shall not be more than thirty (30) days from the mailing of such notice by certified mail to the appellant unless a later date is agreed to by the appellant. If the hearing is not held within said time due to actions or inactions of the appellant, then the staff decision shall be deemed final.
- C. At the hearing, the appellant shall have the opportunity to present information supporting its position concerning the FOG Control Program Manager's decision, action or determination. The hearing shall be conducted in accordance with procedures established by the City Manager and approved by the City Attorney.
- D. After the conclusion of the hearing, the Department Head (or other designee) shall submit a written report to the City Manager setting forth a brief statement of facts found to be true, a determination of the issues presented, conclusions, and a recommendation whether to uphold, modify or reverse the FOG Control Program Manager's original decision, action or determination. Upon receipt of the written report, the City Manager shall make his/her determination and shall issue his/her decision and order within thirty (30) calendar days of the hearing by his/her designee. The written decision and order of the City Manager shall be sent by certified mail to the appellant at the appellant's business address and/or to its legal counsel/representative at the address provided to the City.

The order of the City Manager shall be final in all respects on the sixteenth (16th) day after it is mailed to the appellant unless a request for hearing is filed with the City

Clerk pursuant to Section 12.20.420, no later than 5:00 p.m. on the fifteenth (15th) day following such mailing.

(Ord. 3051 § 1 (part), 2004).

#### **12.20.420. Appeals to the City Council.**

- A.** Any Food Service Establishment, permit applicant, or permittee adversely affected by a decision, action, or determination made by the City Manager may, prior to the date that the City Manager's order becomes final, file a written request with the City Clerk for hearing before the City Council accompanied by an appeal fee in the amount established by a separate resolution of the City Council. The request for hearing shall set forth in detail all the issues in dispute for which the appellant seeks determination and all facts supporting appellant's request.
- B.** No later than sixty (60) days after receipt of the request for hearing, the City Council shall either set the matter for a hearing, or deny the request for a hearing.
- C.** A hearing shall be held by the City Council within sixty-five (65) days from the date of determination granting a hearing, unless a later date is agreed to by the appellant and the City Council. If the matter is not heard within the required time, due to actions or inactions of the appellant, the City Manager's order shall be deemed final.
- D.** The City Council shall grant all requests for a hearing on appeals concerning permit suspension, revocation, or denial. Whether to grant or deny the request for a hearing on appeals of other decisions of the City Manager shall be within the sole discretion of the City Council.
- E.** The appeal fee shall be refunded if the City Council denies a hearing or reverses or modifies, in favor of the appellant, the order of the City Manager. The fee shall not be refunded if the City Council denies the appeal.
- F.** After the hearing, the City Council shall make a determination whether to uphold, modify, or reverse the decision, action, or determination made by the City Manager.
- G.** The decision of the City Council shall be set forth in writing within sixty-five (65) days after the close of the hearing and shall contain a finding of the facts found to be true, the determination of issues presented, and the conclusions. The written decision and order of the City Council shall be sent by certified mail to the appellant at the appellant's business address and/or to its legal counsel/representative at the address provided to the City.

The order of the City Council shall be final upon its adoption. In the event the City Council fails to reverse or modify the City Manager's order, it shall be deemed affirmed. (Ord. 3051 § 1 (part), 2004).

#### **12.20.430. Payment of charges.**

- A.** Except as otherwise provided, all fees, charges and penalties required to be paid pursuant to this Chapter, whether established in this Chapter or by other ordinance or resolution, are due and payable upon receipt of notice thereof. All such amounts are delinquent if unpaid forty-five (45) days after date of invoice.

- B.** Any charge that becomes delinquent shall have added to it a penalty in accordance with the following:
1. Forty-six (46) days after date of invoice, a basic penalty of ten percent (10%) of the base invoice amount, not to exceed a maximum of \$1,000.00; and
  2. A penalty of one and one-half percent (1.5%) per month of the base invoice amount and basic penalty shall accrue from and after the forty-sixth (46th) day after date of invoice.
- C.** Any invoice outstanding and unpaid after ninety (90) days shall be cause for immediate initiation of permit revocation proceedings or immediate suspension of the permit.
- D.** Penalties charged under this Section shall not accrue to those invoices successfully appealed, provided the City receives written notification of said appeal prior to the payment due date.
- E.** Payment of disputed charges is still required by the due date during City review of any appeal submitted by permittees.
- F.** Collection of delinquent accounts shall be in accordance with the City's policy resolution establishing procedures for collection of delinquent obligations owed to the City, as amended from time to time by the City Council. Any such action for collection may include an application for an injunction to prevent repeated and recurring violations of this Chapter.  
(Ord. 3051 § 1 (part), 2004).

**12.20.440. Financial security/amendments to permit.**

- A.** Delinquent Accounts. The City may require an amendment to the permit of any Permittee who fails to make payment in full of all fees and charges assessed by the City, including reconciliation amounts, delinquency penalties, and other costs or fees incurred by the Permittee to require provision for payment or additional security for same.
- B.** Bankruptcy. Every Permittee filing any legal action in any court of competent jurisdiction, including the United States Bankruptcy Court, for purposes of discharging its financial debts or obligations or seeking court ordered, protection from its creditors, shall, within ten (10) days of filing such action, apply for and obtain the issuance of an amendment to its permit to provide for security for any fees and costs due to the City for continuation of the permit.
- C.** Security. An amendment to a waste discharge permit issued, may be conditioned upon the Permittee depositing financial security in an amount equal to the average total fees and charges for two (2) calendar quarters during the preceding year. Said deposit shall be used to guarantee payment of all fees and charges incurred for future services and facilities furnished by City and shall not be used by the City to recover outstanding fees and charges incurred prior to the Permittee filing and receiving protection from creditors in the United States Bankruptcy Court.
- D.** Return of Security. In the event the Permittee makes payment in full within the time prescribed by this Ordinance of all fees and charges incurred over a period



of two (2) years following the issuance of an amendment to the permit, the City shall either return the security deposit posted by the Permittee or credit their account.

(Ord. 3051 § 1 (part), 2004).

#### **12.20.450. Judicial Review.**

**A.** Pursuant to Section 1094.6 of the California Code of Civil Procedure, the City hereby enacts this part to limit to ninety (90) days following final decisions in adjudicatory administrative hearings the time within which an action can be brought to review such decisions by means of administrative mandamus. Notwithstanding the foregoing, the time limits set forth in California Government Code section 54740 shall apply to any challenges to any civil penalty imposed pursuant to Section 12.20.390 D.

**B.** Definitions. As used in this Section, the following terms and words shall have the following meanings:

1. "Decision" shall mean and include adjudicatory administrative decisions that are made after hearing, or after revoking, suspending, or denying an application for a permit.
2. "Complete Record" shall mean and include the transcript, if any exists, of the proceedings, all pleadings, all notices and orders, any proposed decision by the City's officers, agents, or employees, the final decision, all admitted exhibits, all rejected exhibits in the possession of the City or its officers, agents or employees, all written evidence, and any other papers in the case.

**C.** Time Limit for Judicial Review. Except as provided in Section 12.20.390 D, judicial review of any decision of the City or its officer or agent may be made pursuant to Section 1094.5 of the Code of Civil Procedure only if the petition for writ of mandate is filed not later than the ninetieth (90th) day following the date on which the decision becomes final in accordance with the provisions of California Code of Civil Procedure Section 1094.6. A decision is final on the date it is made.

**D.** In making a final decision, the City shall provide notice to the party that Section 1094.6 of the Code of Civil Procedure governs the time within which judicial review must be sought.  
(Ord. 3051 § 1 (part), 2004).

#### **12.20.460. Severability.**

If any section, subsection, subdivision, sentence, clause or phrase of this Chapter or the Ordinance adopting it is for any reason held to be unconstitutional or otherwise invalid, such invalidity shall not affect the validity of this Chapter or any of the remaining portions hereof. The City Council hereby declares that it would have adopted this Chapter, and each section, subsection, subdivision, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentence, clauses or phrases be declared unconstitutional or otherwise invalid.  
(Ord. 3051 § 1 (part), 2004).