

EXHIBIT A

The City of Pflugerville, Texas Code of Ordinances, Title V (titled “*Public Works*”), Chapter 53 (titled “*Fats, Oil, and Grease Management*”), is amended by adding Sections 53.070 through 53.083 as follows:

§ 53.070 – GENERAL PROVISIONS

(A) Purpose and policy

- (1) This subchapter sets forth uniform requirements for liquid waste generators operating in the City of Pflugerville, Texas and enables the City to comply with all applicable State and Federal laws and regulations, including the Clean Water Act (33 United States Code § 1251 et seq.).
- (2) The objectives of this subchapter are:
 - (a) To aid in the prevention of sanitary sewer overflows resulting from blockages and obstructions due to the accumulation of fats, oils, and greases from commercial and industrial facilities;
 - (b) To aid in the prevention of recurring sewer line cleaning to remove blockages due to the accumulation of fats, oils, and greases from commercial and industrial facilities;
 - (c) To aid in the prevention of additional inspections and cleaning of manholes, lift stations, and air-release valves due to the accumulation of fats, oils, and greases from commercial and industrial facilities;
 - (d) To promote the proper maintenance of grease interceptors and grit traps/oil separators; and
 - (e) To ensure the proper handling, disposal, transport and tracking of grease interceptor waste, grit trap/oil separation waste, and other liquid waste.

(B) Administration

This subchapter shall be designated as the FOG Management Ordinance. Except as otherwise provided herein, the Pretreatment Coordinator shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the Pretreatment Coordinator may be delegated to a Duly Authorized City employee.

(C) Abbreviations

The following abbreviations, when used in this ordinance, shall have the designated meanings:

AGCD – automatic grease removal device
BOD – Biochemical Oxygen Demand
BMP – Best Management Practice
CFR – Code of Federal Regulations
COD – Chemical Oxygen Demand
EPA – U.S. Environmental Protection Agency
gpd – gallons per day
gpm – gallons per minute
GGI – gravity grease interceptor
HGI – hydromechanical grease interceptor
IU – Industrial User
mg/L – milligrams per liter
NPDES – National Pollutant Discharge Elimination System
POTW – Publicly Owned Treatment Works
RCRA – Resource Conservation and Recovery Act
SIU – Significant Industrial User
SNC – Significant Noncompliance
SSO – Sanitary sewer overflow
TAC – Texas Administrative Code
TCEQ – Texas Commission on Environmental Quality
TSS – Total Suspended Solids
U.S.C. – United States Code

(D) Definitions

The definitions promulgated in § 53.040(D) of this chapter are hereto applicable.

- (1) **Approved:** Accepted as satisfactory under the terms of this chapter and given formal and official sanction by the City of Pflugerville.
- (2) **Assistant City Manager – Public Works:** The chief executive officer of the utility department of the City of Pflugerville or his/her authorized deputy, agent or representative.
- (3) **Best Management Practices or BMPs:** The Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in § 53.041. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

- (4) Brown Grease shall mean floatable fats, oils, grease and settled solids produced during food preparation that are recovered from grease control devices.
- (5) Car wash: Establishments primarily engaged in cleaning, washing, and/or waxing automotive vehicles, such as passenger cars, trucks, vans, and trailers and are categorized by North American Industry Classification System number 811192 and by Standard Industrial Classification number 7542.
- (6) Chemical oxygen demand (COD): The value of the test for chemical oxygen demand, as analyzed in accordance with 40 CFR § 136.3.
- (7) City: The City of Pflugerville, Texas.
- (8) City Manager: The chief executive officer of the City of Pflugerville or his/her authorized deputy, agent, or representative.
- (9) Control Manhole (“sample port”): A manhole giving access to a building sewer to make visual observation and collect representative samples at a location downstream of the grease removal device but before the building sewer discharge mixes with other discharges in the public sewer.
- (10) Daily Maximum Limit: The maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.
- (11) Decanting shall mean discharging of removed wastewater back into the grease control device, for the purpose of reducing the volume to be hauled or for recharging the grease control device.
- (12) Director: The Public Utility Director of the City of Pflugerville or his authorized deputy, agent or representative.
- (13) Disposal: The discharge, deposit, release, injection, dumping, spilling, leaking, or placing of any liquid waste into or on any land or water so that such waste or any constituent thereof may enter the environment, be emitted into the air or discharged to any sewers or waters, including ground waters.
- (14) Disposal site: A permitted site or part of a site at which liquid waste is processed, treated, and/or intentionally placed into or on any land and at which the waste will remain after site closure.

- (15) Disposer: A person who receives, stores, retains, processes, or disposes of liquid waste.
- (16) Fats, oils, and grease (FOG): Organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. These substances are detectable and measurable using analytical test procedures established in 40 CFR Part 136, as may be amended from time to time. All are sometimes referred to herein as "grease" or "greases."
- (17) Food processing establishment: Any establishment or facility in which food for consumption is manufactured, processed, or packaged.
- (18) Food service establishment: Any public or private establishment that prepares or serves food including, but not limited to assisted living facilities, bakeries, bars and taverns, butcher shops, cafes, clubhouses, coffee shops, commissary or similar facility in which food or drink is prepared for sale or for service on the premises or elsewhere, convenience stores, delicatessens, grocery stores, ice cream parlors, hospitals, hotels, nursing homes, restaurants, schools, or similar places where meat, poultry, seafood, dairy products, or fried foods are prepared, served, or offered for sale, but shall not apply to any single-family residence or dwelling not used for the commercial preparation and sale of food items. A food service establishment does not include an establishment that offers only prepackaged foods that are not time / temperature controlled for food safety, a produce stand that only offers whole, uncut fresh fruits and vegetables, a food processing plant, a cottage food industry, an area where cottage food is prepared, sold, or offered for human consumption, a Bed and Breakfast Limited facility as defined in 25 TAC §228.2 (10), or a private home that receives catered or home-delivered food.
- (19) Food service establishment discharge permit. A permit that may be issued by the Director that authorizes the discharge of treated or not treated non-domestic wastewater from the establishment.
- (20) Food waste disposal unit (or "garbage grinder"): A fixture in a food service establishment that is used to grind up food wastes prior to discharge to a solids interceptor, grease control device, or sanitary sewer. The food waste must be shredded to a degree that all particles can be carried freely under the flow conditions normally prevailing in public sewers. Particles greater than one-half inch in any dimension are prohibited. The Pretreatment coordinator is entitled to review and approve the installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower (0.76 hp metric) or greater.

- (21) Generator: Any person who causes, creates, generates, or otherwise produces liquid waste, or a person who for any reason has a liquid waste removed from his property by a registered transporter of liquid waste.
- (22) Grease control device: A device used to collect, contain, and remove food waste, including FOG, from the wastewater while allowing the remaining wastewater to be discharged to the sanitary sewer system by gravity. Devices include gravity grease interceptors, grease traps, hydromechanical grease interceptors, automatic grease removal devices, or other devices approved by the City.
- (23) Grease interceptor (or "grease trap"): A device designed to use differences in specific gravities to separate and retain light density liquids, waterborne fats, oils, and greases prior to the wastewater entering the sanitary sewer collection system. These devices also serve to collect settleable solids, generated by and from food preparation activities, prior to the water exiting the interceptor and entering the sanitary sewer collection system.
- (24) Grease interceptor waste: Any organic, inorganic, greasy or fatty liquid, semi-liquid, and/or solid wastes collected by and removed from a grease interceptor.
- (25) Grit trap/oil separator (or "grit trap"): A watertight receptacle designed and constructed to intercept and prevent the passage of petroleum-based oil, grease wastes and solids into the sanitary sewer system to which the receptacle is directly or indirectly connected.
- (26) Grit trap waste: Oil and grease waste, inorganic solids generated by a commercial facility that are collected by and removed from a grit trap.
- (27) Liquid waste: Water-borne solids and liquids containing dissolved or suspended waste material including but not limited to septage and wastes from grease control devices and grit traps.
- (28) Hazardous waste: Any liquid, semi-liquid or solid waste (or combination of wastes), which because of its quantity, concentration, physical, chemical or infectious characteristics may:
 - (a) Have any of the following characteristics: toxic, corrosive, and irritant, a strong sensitizer, flammable or combustible, explosive or otherwise capable of causing substantial personal injury or illness;
 - (b) Pose a substantial hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise improperly managed, and is identified or listed as a hazardous waste as defined by the Texas Solid Waste Disposal Act or the

administrator, EPA pursuant to the Federal "Solid Waste Disposal Act", as amended by the RCRA of 1976", and as it may be amended in the future.

- (29) Manifest ("trip ticket"): The written multi-part documentation required to be in the possession of the transporter enabling disposal of hauled grit trap waste, grease trap waste, and septage at a permitted or registered disposal site in accordance with 30 TAC Chapter 312, Subchapter G, Section 312.145.
- (30) Manifest system: A system consisting of a five-part trip ticket used to document the generation, transportation, and disposal of liquid waste in accordance with 30 TAC Chapter 312, Subchapter G, Section 312.145.
- (31) Person: Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. This definition includes all Federal, State, and local governmental entities.
- (32) Pretreatment Coordinator: The person designated by the City to supervise industrial discharge or non-domestic wastes of a liquid nature discharged to the POTW, and who is charged with certain duties and responsibilities by this ordinance. The term also means a duly authorized representative of the City.
- (33) Public nuisance: The discharge or exposure of grease, sewage, or other organic waste in such a way as to be a potential instrument or medium in disease transmission to a person or between persons.
- (34) Publicly Owned Treatment Works or POTW: Any treatment works, as defined by section 212 of the Act (33 U.S.C. section 1292), which is owned by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant.
- (35) Renderable FOG Container ("grease bin"): A closed, leak-proof container used for the collection and storage of yellow grease.
- (36) Sanitary sewer overflow – A sanitary sewer overflow (SSO) is a type of unauthorized discharge of untreated or partially treated wastewater from a collection system or its components (e.g., a manhole, lift station, or cleanout) before reaching a treatment facility. [See also Texas Water Code Paragraph 26.049(e)(4).]

- (37) Septage: Liquid waste and sludge containing sufficient liquid content, which is removed from a portable toilet, chemical toilet, septic tank, or cesspool. Septage does not include non-domestic wastes from commercial or industrial facilities.
- (38) Solids interceptor: A device that captures solid particles from a food waste disposal unit prior to connection to a grease interceptor to prevent blockage of flow control devices when used. The solids interceptor shall be sized and rated for the discharge of the food waste disposers.
- (39) Surcharge: A charge in addition to the sewer use charge that is applied to those wastestreams whose pollutant concentrations are more than normal domestic sewage, including but not limited to BOD, COD, TSS, and FOG.
- (40) TCEQ: The Texas Commission on Environmental Quality, and its predecessor and successor agencies.
- (41) Transporter (“liquid waste hauler” and “industrial waste hauler”). Any person who is registered with and authorized by the TCEQ to transport sewage sludge, water treatment sludge, domestic septage, chemical toilet waste, grit trap waste, or grease trap waste in accordance with 30 TAC, Chapter 312, Subchapter G, Section 312.142.
- (42) Washwater: The water-borne solids, liquids, gaseous substances or other residue and debris resulting from a washing or cleaning process. Washwater shall not be discharged to the storm sewer and may require pretreatment before being discharged to the sanitary sewer.
- (43) Washwater operation: Any cleaning process generally conducted outdoors, such as washing vehicles, equipment, structures, or paved surfaces for maintenance, safety, aesthetic, or stormwater pollution prevention purposes, and which generates washwater. Examples would include cleaning of petroleum products from parking lots or service station drives, mobile washing operations or equipment/vehicle washing, which does not drain to a grit trap/oil separator.
- (44) Yellow Grease: Kitchen cooking oil used in food preparation that has not been in contact or contaminated with other sources such as water, wastewater, or solid waste. An example of yellow grease is used cooking or fryer oil, which can be recycled into products such as animal feed, cosmetics, and alternative fuel. Yellow grease is also referred to as a renderable raw material and shall be stored in a leak proof, sealable container(s) located on the premises away from storm drains. No wastes from a GCD shall be emptied into a yellow grease container. Yellow

grease shall be managed and transported in accordance with Texas Health and Safety Code, Chapter 144.

§ 53.071 – APPLICABILITY AND PROHIBITIONS

(A) **Applicability**

This ordinance shall apply to all liquid waste generators that discharge into the publicly owned treatment works (POTW), as defined in section § 53.070(D) - Definitions of this ordinance.

- (1) Grease interceptors or grease traps/oil separators shall not be required for residential users.
- (2) Facilities generating fats, oils, or grease (FOG) as a result of food manufacturing, processing, preparation, or food service shall install, use, and maintain appropriate grease interceptors as required in § 53.072 of this ordinance. These facilities include but are not limited to restaurants, food manufacturers, food processors, hospitals, hotels, motels, schools, nursing homes, and any other facility preparing, serving, or otherwise making any foodstuff available for consumption.

(B) **Prohibitions**

- (1) It shall be unlawful for a generator to allow the discharge of any petroleum oil intentionally or unintentionally, non-biodegradable cutting oil, mineral oil, or any fats, oils, or grease of animal or vegetable origin into the POTW in concentrations greater than those promulgated in Title V, Chapter 53, of the City of Pflugerville Code of Ordinances.
- (2) It shall be unlawful to discharge wastes from a food waste disposal unit located in a commercial kitchen directly into the sanitary sewer without prior approval by the Director.
- (3) It shall be unlawful to discharge trucked or hauled pollutants, except as deemed suitable and at discharge points designated by the Director.
- (4) It shall be unlawful for a person to create a public nuisance.
- (5) It shall be unlawful for a generator of liquid waste to have liquid waste in combination with hazardous waste removed from his premises by a liquid waste hauler unless the hauler is registered with TCEQ under 30 TAC Chapter 335 and authorized by the City under § 53.042(D).

§ 53.072 – INTERCEPTOR APPROVAL AND INSTALLATION

(A) New facilities

- (1) Food processing establishments and food service establishments which are newly proposed or constructed, or existing facilities which will be expanded or renovated to include a food service establishment, where such establishment did not previously exist, shall be required to design, install, operate, and maintain a grease interceptor in accordance with locally adopted plumbing codes or other applicable ordinances and guidelines as required by the City. Grease interceptors shall be installed and inspected by the Pretreatment Coordinator prior to approval by the City and the issuance of a certificate of occupancy and a food processing establishment or food service establishment health permit.
- (2) Facilities which perform washing, cleaning, or servicing of automobiles, trucks, buses, or similar equipment which are newly proposed or constructed with floor drains in areas of operation, shall be required to design, install, operate, and maintain a grit trap/oil separator in accordance with locally adopted plumbing codes or other applicable ordinances and guidelines as required by the City. Grit traps/oil separators shall be inspected by the Pretreatment Coordinator after installation prior to approval by the City and issuance of a certificate of occupancy.

(B) Existing facilities

- (1) Existing grease interceptors or grit traps/oil separators must be operated and maintained in accordance with the manufacturer's recommendations and in accordance with these standards referenced herein, unless specified in writing and approved by the POTW. Other commercial users may be required by the City to install an approved grease interceptor, grit trap/oil separator when the concentration of oil, grease waste or suspended solids is greater than concentrations promulgated in Title V, Chapter 53, of the City of Pflugerville Code of Ordinances or when discharges may cause blockages in the wastewater collection system. Grease interceptors shall be inspected by the Pretreatment Coordinator after installation and prior to approval by the City.
- (2) Existing food processing establishments or food service establishments that change in ownership, or existing facilities which will be expanded or renovated to include a food service facility, where such facility did not previously exist or where there is an inadequately sized grease interceptor, shall be required to design, install, operate, and maintain a grease

interceptor in accordance with locally adopted plumbing codes, or other applicable ordinances and guidelines as required by the City. Existing food service establishments, which have caused or contributed to grease-related blockage in the sewer system, or which have sewer laterals connected to hot spots, or which have been determined to contribute significant FOG to the sewer system by the Pretreatment Coordinator based on inspection or monitoring, shall be deemed to have reasonable potential to adversely impact the sewer system, and shall install grease interceptors within one-hundred eighty (180) days upon notification by the City. Grease interceptors shall be inspected by the Pretreatment Coordinator after installation but prior to approval and the issuance of a food processing establishment or food service establishment health permit.

- (3) Existing facilities which perform washing, cleaning, or servicing of automobiles, trucks, buses, or similar equipment with floor drains in the areas of operation that change in ownership or are expanded or renovated to include floor drains in areas of operation shall be required to design, install, operate, and maintain a grit trap/oil separator in accordance with the locally adopted plumbing code, or other applicable ordinances and guidelines as required by the City. Grit traps/oil separators shall be inspected by the Pretreatment Coordinator after installation but prior to approval by the City and the issuance of a certificate of occupancy.

(C) Control manhole or sampling port

A generator that is a new facility shall install a control manhole or sample port to allow access to sample the wastestream as close as possible to the connection with the City's sanitary sewer main within the bounds of the facility property. An existing facility which will be expanded or remodeled may be required to install a port according to the specifications of the City. The control manhole or port shall be installed and maintained at the generator's expense. The port shall be installed perpendicular to the effluent flow to allow visual observation and representative sampling. The control manhole or sample port shall be kept closed when not in use and shall be installed in such a way as to not be susceptible to infiltration and inflow. There shall be a free-fall between the inlet and the outlet of the control manhole or sample port of at least six (6) inches to allow for the collection of an uncontaminated, representative grab sample of the effluent. A cleanout shall not be installed to serve as a sample port unless approved by the Director.

(D) Grease interceptor and control manhole or sampling port approval

The Pretreatment Coordinator is authorized to review grease interceptor, grit

trap/oil separator, and control manhole and sampling port plans and specifications submitted to the City and make recommendations prior to approval by the City. The grease interceptor type, volume, and grease production capacity should be determined in accordance with the locally adopted plumbing code and the most current edition of the American Society of Plumbing Engineers (ASPE) Design Handbook, Volume 4, or using similar grease production values for the type of food, number of meals served, and other factors deemed appropriate by the City. The Pretreatment Coordinator is authorized to inspect the grease control devices and control manhole or sampling port at the site after installation and make recommendations prior to approval by the City.

(E) Single Certificate of Occupancy

Grease interceptors and grit traps/oil separators shall be installed pursuant to a single certificate of occupancy. No person or persons shall allow the use of a single interceptor or trap by more than one business as defined by a certificate of occupancy without prior written approval by the City Manager.

§ 53.073 – VARIANCE AND WAIVER OF GREASE INTERCEPTOR REQUIREMENT

(A) Variance from Gravity Grease Interceptor Requirements

If a food service establishment can demonstrate that the installation of a gravity grease interceptor is not necessary or feasible due to space, nature of operations, or other considerations, the Director may issue a variance from gravity grease interceptor requirements and authorize the installation of alternative grease removal devices. Alternative grease removal devices include, but are not limited to, HGI or other devices designed to trap, separate, and hold grease from wastewater and prevent it from being discharged to the POTW. All alternative grease removal devices must be approved by the Director in advance of installation. A food service establishment requesting a gravity grease interceptor requirement variance shall submit the request in writing on a form provided by the POTW. The Director's determination to grant a variance will be based upon, but not limited to, evaluation of the following conditions:

- (1) There is not adequate space for installation and/or maintenance of a grease interceptor.
- (2) There is not adequate slope for gravity flow between the kitchens plumbing fixtures and the gravity grease interceptor and/or between the gravity grease interceptor and the private sewer collection lines or the public sewer.

- (3) The food service establishment can justify that the alternative grease removal device is equivalent or better than a gravity grease interceptor in controlling its FOG discharge.

(B) Conditional Waiver from Installation of Grease Interceptor

A new or remodeled existing food service establishment may obtain a conditional waiver from installation of a grease interceptor, if the food service establishment demonstrates that it has negligible FOG discharge and insignificant impact to the sewer system. Although a waiver from installation of grease interceptor may be granted, the food service establishment may be required to provide space and plumbing segregation for future installation of grease interceptor. A food service establishment requesting a grease interceptor installation waiver shall submit the request in writing on a form provided by the POTW. The Director's determination to grant or revoke a conditional waiver shall be based upon, but not limited to, evaluation of the following conditions:

- (1) Quantity of FOG discharge as measured or as indicated by the size of food service establishment based on seating capacity, number of meals served, menu, water usage, amount of on-site consumption of prepared food and other conditions that may reasonably be shown to contribute to FOG discharges.
- (2) Adequacy of implementation of best management practices and compliance history.
- (3) Sewer size, grade, condition based on visual information, FOG deposition in the sewer by the food service establishment, and history of maintenance and sewage spills and overflows in the receiving sewer system.
- (4) Changes in operations that may significantly affect FOG discharge.
- (5) Any other condition that may result in FOG discharges.

(C) Terms and conditions

A variance or waiver shall contain terms and conditions that serve as basis for its issuance. A waiver or variance may be revoked at any time when any of the terms and conditions for its issuance is not satisfied or if the conditions upon which the waiver was based change so that the justification for the waiver no longer exists. The waiver or variance shall be valid so long as the food service establishment remains in compliance with their terms and conditions until the expiration date

specified in the variance or waiver.

§ 53.074 – INTERCEPTOR CLEANING AND MAINTENANCE

(A) General

(1) **Generator requirements**

A generator shall:

- (a) Provide equipment and facilities at the generator's cost of a type, size, and capacity approved by the City;
- (b) Locate the grease interceptor or grit trap/oil separator in a manner that provides ready and easy accessibility for sampling, cleaning, maintenance, and inspection;
- (c) Maintain the grease interceptor or grit trap/oil separator in effective operating condition.
- (d) Not alter the design or function of the grease interceptor or grit trap/oil separator unless approved in writing by the Director.
- (e) Supervise proper cleaning and complete removal of the contents of the grease interceptor or grit trap/oil separator.
- (f) Verify the accuracy of the trip ticket from the transporter and then legibly complete and sign the trip ticket, to certify the statements on the trip ticket, when a load is picked up by the transporter.
- (g) Maintain the grease interceptor or grit trap/oil separator and its surrounding areas in sanitary conditions, free of litter and odors.
- (h) Immediately report spills and accidents involving liquid waste to the Director.
- (i) Clean up all spills and abate all unsanitary conditions immediately, and have material used for abatement, such as absorbent materials, disposed of by approved means and in a timely manner.
- (j) A generator of washwater or other liquid waste shall:
 - (i) Contain, collect, and dispose of liquid waste by approved means;
 - (ii) Protect the storm sewer system and the environment from discharges of liquid waste or other contaminants;
 - (iii) Use approved methods for on-site or mobile treatment of liquid waste; and

(iv) Accurately measure, by approved means, the volume of liquid waste collected and disposed of by the transporter.

(2) Rates for sampling and/or analysis

Should any sampling and/or analysis be required by City staff pursuant to any provision in this ordinance provided for generators, then the generator shall reimburse the City for the cost of sampling and testing and will be charged and shall be paid by the generator.

(3) Full interceptor evacuation

Each grease interceptor or grit trap/oil separator that is pumped shall be fully evacuated unless the interceptor or grit trap volume is greater than the tank capacity on the vacuum truck in which case the transporter shall arrange for additional transportation capacity so that the trap is fully evacuated within a twenty-four-hour period, in accordance with 30 TAC § 312.143.

(B) Cleaning Schedule

(1) General

All grease interceptors shall be cleaned as often as necessary at the generator's expense to ensure that settled solids and floating materials do not accumulate to impair the efficiency of the grease interceptor; that the discharge is in compliance with local wastewater discharge limits; and, to ensure that no visible grease is observed in the discharge. The four walls and the bottom, baffles, stand-pipes, and fittings in the interceptors shall be cleaned to dislodge FOG and solids every time the interceptor is completely evacuated. The dislodged material shall be removed when the interceptor is evacuated. The interceptor shall be refilled such that the bottom of the effluent piping is submerged prior to placing back into operation to avoid FOG pass-through. At a minimum, if not required to be evacuated, cleaned, or inspected sooner as set forth below, a grease interceptor shall be fully evacuated, cleaned, and inspected at least once every ninety (90) days or as otherwise allowed by a cleaning variance approved by the Director as allowed by §53.074(C). The cleaning frequency shall not exceed once every one-hundred eighty (180) days.

(2) Single-Event and Scheduled Cleaning

The Pretreatment Coordinator may also require the grease interceptor or the grit trap/oil separator to be serviced on a single-event basis or scheduled

basis if deemed necessary for the proper operation of the grease interceptor or grit trap/oil separator.

(3) Gravity Grease Interceptors

Gravity grease interceptors shall be completely evacuated, and the four (4) walls and bottom completely cleaned to dislodge FOG and solids at a minimum of every ninety (90) days, or more frequently when:

- (a) Twenty-five (25) percent or more of the wetted height of the grease interceptor, as measured from the bottom of the device to the invert of the outlet pipe, contains floating materials, sediment, oils, or greases;
- (b) The discharge exceeds BOD, COD, TSS, FOG, pH, or other pollutant levels established by the POTW;
- (c) The discharge of wastewater contains free-floating polar FOG on the surface or adhering to the sides of storage containers. There should be less than 0.25 inches of free-floating polar FOG in a sample; or
- (d) If there is a history of noncompliance.

(4) Hydromechanical Grease Interceptors

Hydromechanical grease interceptors shall be completely evacuated, and the four (4) walls and bottom completely cleaned to dislodge FOG and solids at a frequency prescribed by the manufacturer, or every ninety (90) days, whichever is most stringent, or more frequently when:

- (a) The rated grease capacity is reached;
- (b) The discharge exceeds BOD, COD, TSS, FOG, pH, or other pollutant levels established by the POTW;
- (c) The discharge of wastewater contains free-floating polar FOG on the surface or adhering to the sides of storage containers. There should be less than 0.25 inches of free-floating polar FOG in a sample; or
- (d) If there is a history of noncompliance.

(5) Automatic Grease Removal Devices

Automatic grease removal devices shall be maintained as follows:

- (a) Opened and inspected for food solids, FOG buildup, and functionality of all parts at a minimum of once every two weeks;

- (b) The food solids collection basket and the grease collection bucket shall be emptied of their contents at a minimum of once per day when the FSE is in operation;
- (c) The device shall be inspected and completely evacuated, and the four (4) walls and bottom completely cleaned to dislodge FOG and solids at a minimum of every ninety (90) days, or more frequently when:
 - (i) The discharge exceeds BOD, COD, TSS, FOG, pH, or other pollutant levels established by the POTW;
 - (ii) The discharge of wastewater contains free-floating polar FOG on the surface or adhering to the sides of storage containers. There should be less than 0.25 inches of free-floating polar FOG in a sample; or
 - (iii) If there is a history of noncompliance.

(6) Grit Traps/Oil Separators

Grit traps/oil separators shall be completely evacuated and cleaned based on one (1) of the two (2) following schedules in (a) and (b):

- (a) At a minimum of every ninety (90) days, or
- (b) At a frequency determined by the owner/operator if all of the following best management practices are employed:
 - (i) At a minimum of once per week, all facilities with a grit trap must routinely check and perform preventive maintenance as required on all connections, valves, hoses, chemical storage containers, drains, and other equipment necessary to prevent an accidental release or slug discharge of chemicals.
 - (ii) At a minimum of once per month, all facilities with a grit trap must routinely check the level of sediment in each grit trap in order to determine a maintenance schedule that will facilitate consistent compliance with all discharge limits and requirements.
 - (iii) All self-service and coin-operated car wash facilities must post and maintain signs, in an area that is clearly visible to the public, directing customers not to dispose of oils or chemical wastes at the facility.
 - (iv) All facilities must document the best management practices, including routine checks, preventive maintenance, and repair

logs, and maintain grit trap maintenance records for a minimum of three (3) years and maintain transporter manifests for five (5) years as required by 30 TAC Chapter 312, Subchapter G, Section 312.145.(v) If at any time, the above practices in §53.074(B)(6)(a) and (b) are not being employed or the required documentation is not available for review, the owner/operator will be required to perform maintenance on the grit trap(s)/oil separator(s) immediately and once every ninety (90) days thereafter. If deemed necessary, the Pretreatment Coordinator may also increase the maintenance frequency of the grit trap(s)/oil separator(s) from the current frequency until such time as the owner/operator can demonstrate consistent compliance with (6)(b)(i) –(v).

(C) Cleaning Variance

- (1) Any person who owns or operates a grease interceptor or grit trap/oil separator may submit to the Director a request in writing on a form provided by the POTW for a waiver to the required pumping frequency of the grease interceptor or grit trap/oil separator. The Director may grant an extension for required cleaning frequency on a case-by-case basis when:
 - (a) The grease interceptor owner/operator has demonstrated the specific interceptor will produce an effluent with no visible grease, and based on defensible analytical results, can demonstrate consistent compliance with established local discharge limits such as BOD, COD, TSS, TPH. or FOG limit in § 53.041(A)(2), or other parameters as determined by the POTW; and
 - (b) Less than fifteen (15) percent of the wetted height of the grease interceptor, as measured from the bottom of the device to the invert of the outlet pipe, contains floating materials, sediment, oils, or greases.
- (2) If the grease interceptor, at any time, contains FOG and solids accumulation that does not meet the requirements described in (1)(a) or (b), the owner/operator shall be required to have the grease interceptor or grit trap/oil separator serviced immediately such that all fats, oils, grease, sludge, and other materials are completely removed from the grease interceptor or grit trap/oil separator. If deemed necessary, the Pretreatment Coordinator may also increase the maintenance frequency of the grease interceptor from the current frequency until such time as the owner/operator can demonstrate consistent compliance with (1)(a) and (b).

- (3) The minimum cleaning frequency shall not exceed at least once every one-hundred eight (180) days.

(D) Use of Additives and Bioremediation

- (1) **Additive general prohibition**
Additives are prohibited for use as a grease management control and shall not be substituted for the maintenance procedures required by this ordinance unless approved by the Director.
- (2) **Additive use approval required**
The generator shall not install or utilize any system, process or pretreatment involving the use of enzymes or other chemical additives without prior approval by the Director, unless the system is for the purpose of cleaning and sanitation of equipment and utensils as prescribed in local code. Prior to the use of any additive within the establishment or interceptor or grit trap/oil separator, including, but not limited to, products that contain solvents, emulsifiers, surfactants, caustics, acids, enzymes or bacteria, the generator must obtain approval by the Director on a case-by-case basis. Requests for approval to use additives must be made in writing to the Director using a form provided by the POTW.
- (3) **Bioremediation media use approval required**
Bioremediation media may be used with the Director's approval if the generator has proved to the satisfaction of the Director that laboratory testing which is appropriate for the type of grease interceptor to be used has verified that:
 - (a) The media is a pure live bacterial product which is not inactivated by the use of domestic or commercial disinfectants and detergents, strong alkalis, acids, and/or water temperatures of 150°F (71°C).
 - (b) The use of the media does not reduce the buoyancy of the grease layer in the grease interceptor and does not increase the potential for FOG to be discharged to the sanitary sewer.
 - (c) The use of the bioremediation media does not cause foaming in the grease interceptor or the sanitary sewer.
 - (d) The BOD, COD, and TSS discharged to the sanitary sewer after use of the media does not exceed the BOD, COD, and TSS which would be discharged if the product were not being used and the grease interceptor was being properly maintained. The pH levels must be between 5.5 and 9.5 or as specified in § 53.041(A)(2).

- (e) All testing designed to satisfy the criteria set forth in §53.073(E)(3) shall be scientifically sound and statistically valid. All tests to determine FOG, TSS, BOD, COD, pH, and other pollutant levels shall use appropriate tests which have been approved by the EPA and the TCEQ and which are defined in 40 CFR Part 136.. Testing shall be subject to inspection by the POTW and shall meet the POTW's approval.
- (f) Requests for approval to use bioremediation must be made in writing to the Director using a form provided by the POTW.

(E) Abandonment

In the event that the generator ceases operation, the establishment is required to notify the Director in writing at least thirty (30) days prior to ceasing operation to obtain an approval letter and to then obtain a plumbing permit. The generator shall follow the procedures in the approval letter and guidelines developed by the City. If the owner of the business fails to empty the interceptor or trap and to follow the instructions and guidelines, it shall be a violation of this ordinance and become the responsibility of the property owner.

§ 53.075 – SEWER SYSTEM OVERFLOWS, PUBLIC NUISANCE, ABATEMENT ORDERS AND CLEANUP COSTS

Food service establishments found to have contributed to a sewer blockage, sanitary sewer overflow or any sewer system interference resulting from the discharge of wastewater or waste containing FOG, shall be ordered to install and maintain a grease interceptor, and may be subject to preparing and submitting plan to the Director to abate the nuisance and prevent any future sewer line failures and blockages, SSOs or any other sewer system interferences. SSOs may cause threat and injury to public health, safety, and welfare of 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(s), 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 may 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 may constitute a debt to the City and become due and payable upon the City's request for reimbursement of such costs.

§ 53.076 – RECORD KEEPING REQUIREMENTS

The generator shall be required to keep all manifests, receipts and invoices of all cleaning, maintenance, grease removal of/from the grease control device, liquid waste transporter and disposal site location. A copy of these records shall be maintained at the location site.

(A) Liquid waste transporter registration and manifests

(1) Liquid waste disposal

A generator of liquid waste shall have all liquid waste material picked up from his/her premises by a liquid waste transporter who holds a valid registration from the TCEQ and holds a valid permit by the City, if issued. The liquid waste shall be transported to an approved site for disposal.

(2) Manifest record disposition and retention

Copies of transporter manifests shall be returned by the transporter to the waste generator that is signed by the disposal site representative within fifteen (15) days after the waste is received at the disposal or processing facility. The waste generator shall retain a copy of all manifests at the location where the waste is generated. Manifests shall be retained for five (5) years as required by 30 TAC Chapter 312, Subchapter G, Section 312.145, and be readily available for review by the City and the TCEQ upon request. A copy of any and all manifests shall be sent to the Pretreatment Coordinator and the TCEQ upon request.

(B) Records available for review

The generator shall, upon request, make the receipts and invoices available to any City representative, or inspector. These records may include:

(1) Logs of grease interceptor, grease trap or grease control device cleaning and maintenance practices.

(2) Record of Best Management Practices being implemented including employee training.

(3) Records of sampling data and sludge height monitoring for FOG and solids accumulation in the grease interceptors.

(4) Records of any spills and/or cleaning of the lateral or sewer system.

- (5) Any other information deemed appropriate by the Pretreatment Coordinator to ensure compliance with this ordinance.

(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, or to tamper with or knowingly render inoperable any grease control device or monitoring access point required under this ordinance.

§ 53.077 NOTIFICATION REQUIRED

(A) Notification of spill or potential violation

- (1) In the event a generator is unable to comply with this ordinance due to a breakdown of equipment, accidents, or human error or the generator has reasonable opportunity to know that his/her/its discharge will exceed the discharge provisions of this ordinance or has the potential to cause or result in sewer blockages or SSOs, the discharger shall immediately notify the Director by telephone as listed below:

Public Utility Director

Phone: 512-990-6400

Fax: 512-989-1052

After Hours Emergency

512-990-6700, Option 0

- (2) Written notification shall be made to the Pretreatment Coordinator no later than five (5) working days from the date of the incident. The written notification shall state the date and time 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.
- (3) Such notification shall not relieve the generator 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 generator of any fees or other liability which may be imposed by this ordinance or other applicable law.

(B) Notification of planned changes

The generator shall notify the Director at least sixty (60) days in advance prior to any facility expansion/remodeling, or process modifications that may result in new or substantially increased FOG discharges or a change in the nature of the discharge. The generator shall notify the Director in writing of the proposed expansion or remodeling and shall submit any information requested for evaluation of the effect of such expansion on generator's wastewater discharge characteristics to the sewer system.

§ 53.078 – RIGHT-OF-ENTRY: INSPECTIONS AND MONITORING

(1) Inspections

The Pretreatment Coordinator and any third-party inspectors approved by the Director shall have the right to enter the premises of any generator to determine whether the generator is complying with all requirements of this ordinance and any individual wastewater discharge permit or order issued hereunder. Generators shall allow the Pretreatment Coordinator ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

- (1)1 Where a generator has security measures in force which require proper identification and clearance before entry into its premises, the generator shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, Pretreatment Coordinator and third-party inspectors approved by the Director shall be permitted to enter without delay for the purposes of performing specific responsibilities covered by this ordinance.
- (2) Unreasonable delays greater than one-hour (1) in allowing Pretreatment Coordinator access to the generator's premises shall be a violation of this ordinance.
- (3) The Pretreatment Coordinator shall inspect and monitor each generator at least once per calendar year or more frequently as determined by the Director to determine compliance with this ordinance. For generators that demonstrate compliance with this ordinance consistently for two consecutive years, the Director may adjust the inspection frequency to once every two calendar years.

(2) Monitoring

- (1) The Pretreatment Coordinator shall have the right to set up on the generator's property, or require installation of, such devices as are

necessary to conduct sampling and/or metering of the generator's operations.

- (2) The Pretreatment Coordinator may require the generator to install monitoring equipment, as necessary. The generator's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the generator at its own expense. All devices used to measure wastewater flow and quality shall be calibrated annually to ensure their accuracy.
- (3) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the generator at the written or verbal request of Pretreatment Coordinator and shall not be replaced. The costs of clearing such access shall be born by the generator.
- (4) Each food processing and food service establishment or liquid waste transporter shall determine just prior to evacuation the percent of the wetted height of the grease interceptor, as measured from the bottom of the device to the invert of the outlet pipe, contains floating materials, sediment, oils, or greases. The percentage of floating solids and the percentage of settle solids shall be recorded on the grease interceptor maintenance log provided by the POTW. The percentage will be used by the Pretreatment Coordinator to estimate the relative amounts of FOG and solids removed from the grease interceptor when evacuated.

(3) Third-party inspections

The Director is authorized to require each food service and food processing establishment not less frequently than once per calendar year, to cause a licensed plumber or other qualified professional approved by the Director to inspect each GCD. Consecutive inspections shall be scheduled at least three hundred (300) days apart. After complete evacuation of the GCD, the licensed plumber or other qualified professional approved by the Director shall make a visual observation of and shall photograph all inlet and outlet fittings, internal baffles, walls, floor and all other internal structures. Each food service and food processing establishment shall cause the licensed plumber or other qualified professional approved by the Director conducting the inspection to provide a written report of the inspection to the food service and food processing establishment that includes the photographs that are required by this section and that provides the name, address and telephone number of the licensed plumber or other qualified professional approved by the

Director conducting the inspection, the date of the inspection, and a description of any defects observed during the inspection. All defects shall be corrected by each food service and food processing establishment within ninety (90) days of each inspection. The Director reserves the right to require all defects to be corrected by each food service and food processing establishment within less than ninety (90) days or to require no discharge from the GCD until all defects are corrected if significant amounts of FOG would otherwise be discharged from the food service and food processing establishment.

§ 53.079 – BEST MANAGEMENT PRACTICES

The Director is authorized to require a food service and food processing establishment to implement BMPs in an effort to minimize the discharge of FOG to the sewer system, including, but not limited to, the following, as applicable:

(A) Installation of drain screens in sinks and on floors

Drain screens shall be installed on all drainage pipes in the kitchen area and placed in sinks in food preparation areas. Food wastes and grease shall not be flushed or placed down an unscreened drain.

(B) Waste cooking oil segregation

All waste cooking oil (yellow grease) shall be segregated from brown grease, collected, and stored in recycling containers such as barrels or drums with leak proof covers. The storage area shall be kept clean, and spills reported and cleaned up immediately. Such recycling and storage containers shall be maintained properly to ensure that they do not leak and kept covered except when adding contents. Transporters of yellow grease must be registered by the Texas Department of Health and Human Services as required by Title 25, Part 1, Chapter 221, Subchapter A.

(C) Disposal of food waste

All food waste shall be removed from plates, pots, and pans directly into the trash, recycling, or compost bin and not into sinks or drains prior to rinsing. The food waste shall be disposed of in a manner that will ensure against leakage in storage of trash containers or anywhere else. The use of food waste disposal units (garbage grinders) is discouraged.

(D) Employee training

Employees of the FSE should be trained by ownership/management periodically on the following practices:

- (1) Dry-wiping pots, pans, dishware, and work areas before washing to remove FOG.
- (2) Properly disposing food waste and solids in plastic bags prior to disposal in trash bins or containers to prevent leaking and odors. Keep containers sealed and dumpster lids closed to prevent rainfall from entering the container.
- (3) The location and use of absorption products to clean under fryer baskets and other locations where FOG may be spilled or dripped.
- (4) Properly disposing of grease or oils from cooking equipment into a proper grease receptacle without spilling.
- (5) Keep drains and screens in place except for when waste material is removed.
- (6) Immediately report spills to supervisor.
- (7) The Director may require that training of food service establishment employees on § 53.079(D)(1) – (6) be documented along with employee signatures. Training records shall be available for review at any time by authorized representatives of the City.

(E) Cleaning of exhaust fan filters

Exhaust fan filters shall be cleaned as frequently as necessary to be maintained in good operating condition. The wastewater generated from cleaning exhaust fan filters shall be collected and stored for pickup by a liquid waste transporter or drained into a GCD, unless cleaning chemicals were used. The wastewater generated shall not be disposed of directly to the sanitary sewer nor allowed to be discharged into a storm drain or ditch.

(F) Kitchen signage

FOG-related BMPs shall be posted conspicuously in the food preparation and dishwashing areas at all times.

§ 53.080 – ADMINISTRATIVE ENFORCEMENT REMEDIES

(A) Notification of Violation

- (1) When the Pretreatment Coordinator finds that a generator has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Pretreatment Coordinator may serve upon that generator a written Notice of Violation. Such notice and order shall state:
 - (a) The nature of the violation and the provisions of this ordinance which have been violated;
 - (b) The corrective action which must be taken and the amount of time allowed to correct the violation.
- (2) Within fourteen (14) calendar days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the generator to the Pretreatment Coordinator. Submission of this plan in no way relieves the generator of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the Pretreatment Coordinator to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

(B) Consent Orders

The City may enter into Consent Orders, assurances of compliance, or other similar documents establishing an agreement with any generator responsible for noncompliance. Such documents shall include specific action to be taken by the generator to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Section § 53.049 (D) of the industrial wastes ordinance and shall be judicially enforceable.

(C) Show Cause Hearing

The City may order a generator which has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, to appear before the Pretreatment Coordinator and show cause why the proposed enforcement action should not be taken. Notice shall be served on the generator specifying the

time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the generator show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served electronically or by registered or certified mail (return receipt requested) at least fifteen (15) days prior to the hearing. Such notice may be served on any Authorized Representative of the generator. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the generator.

(D) Administrative Orders

(1) Compliance Orders

When the Pretreatment Coordinator finds that a generator has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the City may issue an order to the generator responsible for the discharge directing that the generator come into compliance within a specified time. If the generator does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a Pretreatment Standard or Requirement, nor does a compliance order relieve the generator of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the generator. The Pretreatment Coordinator may grant a variance in compliance dates to a generator when, in the Pretreatment Coordinator's opinion, such action is necessary to achieve pretreatment or corrective measures.

(2) Cease and Desist Orders

When the Pretreatment Coordinator finds that a generator has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, or that the generator's past violations are likely to recur, the City may issue an order to the generator directing it to cease and desist all such violations and directing the generator to:

- (a) Immediately comply with all requirements; and

- (b) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the generator.

(E) Administrative Fines

- (1) When the Pretreatment Coordinator finds that a generator has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other Pretreatment Standard or Requirement, the City may fine such generator in an amount not to exceed Two-Thousand Dollars (\$2,000) on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.
- (2) Generators desiring to dispute such fines must file a written request for the City to reconsider the fine along with full payment of the fine amount within fifteen (15) days of being notified of the fine. Where a request has merit, the City may convene a hearing on the matter within thirty (30) business days. In the event the generator's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the generator. The City may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.
- (3) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the generator.

(F) Emergency Suspensions

The Director may immediately suspend a generator's discharge, after informal notice to the generator, whenever such suspension is necessary to stop an actual or threatened discharge, which reasonably appears to present, or cause an imminent or substantial endangerment to the health or welfare of persons. The Director may also immediately suspend a generator's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

- (1) Any generator notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a generator's failure to immediately comply voluntarily with the suspension order, the

Pretreatment Coordinator may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Director may allow the generator to recommence its discharge when the generator has demonstrated to the satisfaction of Pretreatment Coordinator that the period of endangerment has passed unless the termination proceedings in Section § 53.049 (G) of the industrial wastes ordinance are initiated against the generator.

- (2) A generator that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Pretreatment Coordinator prior to the date of any show cause or termination hearing under § 53.049 (C) or (F) of the industrial waste ordinance.

Nothing in this section shall be interpreted as requiring a hearing prior to any Emergency Suspension under this Section.

(G) Termination of Discharge

In addition to the provisions in Section § 53.044 (E) of the industrial wastes ordinance, any generator who violates the following conditions is subject to discharge termination:

- (1) Violation of wastewater discharge permit conditions;
- (2) Failure to accurately report the wastewater constituents and characteristics of its discharge;
- (3) Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
- (4) Refusal of reasonable access to the generator's premises for the purpose of inspection, monitoring, or sampling; or
- (5) Violation of the Pretreatment Standards in § 53.041 of the industrial wastes ordinance.
- (6) Such generator will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under § 53.049 (C)

of the industrial wastes ordinance why the proposed action should not be taken. Exercise of this option by the City shall not be a bar to, or a prerequisite for, taking any other action against the generator.

§ 53.081 - JUDICIAL ENFORCEMENT REMEDIES

(A) **Injunctive Relief**

When Pretreatment Coordinator finds that a generator has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the City may petition the appropriate District Court through the City's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the individual wastewater discharge permit, order, or other requirement imposed by this ordinance on activities of the generator. The City may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the generator to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a generator.

(B) **Civil Penalties**

(1) **Civil Penalty - Generator**

If the Director determines that a generator is responsible for a blockage in the wastewater system, the generator shall owe a civil penalty of \$1,000.00 for the first violation, \$1,500.00 for a second violation, and \$2,000.00 for the third violation within a two-year period. After the third violation, each successive violation within a two-year period shall result in an increase in civil penalty by \$500.00 and may also result in termination of services. The collection of a civil penalty does not preclude assessing a surcharge or cost recovery fee or filing a criminal action for violating a provision of this ordinance but is in addition to a possible surcharge or cost recovery fee, or criminal action.

(2) **Civil Penalty - Person**

Any person (other than the generator) violating any of the provisions of this ordinance shall be subject to a written warning for the first violation, a \$1,000.00 civil penalty for the second violation, a \$1,500.00 civil penalty for the third violation, and a \$2,000.00 civil penalty for the fourth violation within a two-year period. After the fourth violation, each

successive violation within a two-year period shall result in a \$500.00 increase in civil penalty and may result in termination of service. The collection of a civil penalty does not preclude assessing a surcharge or cost recovery fee or filing a criminal action for violating a provision of this ordinance but is in addition to a possible surcharge or cost recovery fee or criminal action.

- (3) The City may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.
- (4) In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the generator's violation, corrective actions by the generator, the compliance history of the generator, and any other factor as justice requires.
- (5) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a generator.

(C) Criminal Prosecution

- (1) A generator who willfully or negligently violates any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than Two-Thousand Dollars (\$2,000) per violation, per day, or imprisonment as decided by the appropriate District Court, or both.
- (2) A generator who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a maximum penalty of Two- Thousand Dollars (\$2,000) per violation, per day, or be subject to imprisonment as decided by the appropriate District Court, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.
- (3) A generator who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other

documentation filed, or required to be maintained, pursuant to this ordinance, individual wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be punished by a fine of not more than Two-Thousand Dollars (\$2,000) per violation, per day, or imprisonment as decided by the appropriate District Court, or both.

- (4) **Criminal Responsibility:** A person is criminally responsible for a violation of this ordinance if the person negligently, knowingly, or willfully commits or assists in the commission of a violation, or causes or permits another person to commit a violation.

(D) Remedies Nonexclusive

The remedies provided for in this ordinance are not exclusive. The City may take any, all, or any combination of these actions against a noncompliant generator. Enforcement of pretreatment violations will generally be in accordance with the City's enforcement response plan. However, the City may take other action against any generator when the circumstances warrant. Further, the City is empowered to take more than one enforcement action against any noncompliant generator.

§ 53.082 - AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

(A) Act of God Defense

- (1) **Act of God defense:** The Act of God defense constitutes a statutory affirmative defense [Texas Water Code Section § 7.251] in an action brought in municipal or State court. If a person can establish that an event that would otherwise be a violation of this ordinance, or a permit issued under the ordinance, was caused solely by an act of God, war, strike, riot, or other catastrophe, the event is not a violation of the ordinance or permit.
- (2) A generator who wishes to establish the Act of God affirmative defense shall demonstrate, through relevant evidence that:
 - (a) An event that would otherwise be a violation of a pretreatment ordinance or a permit issued under the ordinance occurred, and the sole cause of the event was an act of God, war, strike, riot or other catastrophe; and
 - (b) The generator has submitted the following information to the City within 24 hours of becoming aware of the event that would

otherwise be a violation of a pretreatment ordinance or permit issued under the ordinance (if information is provided orally, a written submission must be provided within five (5) days):

- (i) A description of the event, and the nature and cause of the event;
- (ii) The time period of the event, including exact dates and times or, if still continuing, the anticipated time the event is expected to continue; and
- (iii) Steps being taken or planned to reduce, eliminate, and prevent recurrence of the event.

(3) Burden of proof

In an enforcement, the generator seeking to establish the Act of God affirmative defense shall have the burden of proving by a preponderance of the evidence that an event that would otherwise be a violation of a pretreatment ordinance, or a permit issued under the ordinance, was caused solely by an act of God, war, strike, riot or other catastrophe.

(B) Bypass

No liquid or solid waste that contains FOG shall be discharged directly into the POTW. All liquids and solids that contain FOG must be discharged into a GCD or grit trap/oil separator before any such discharges enter the POTW. Should a GCD or grit trap/oil separator require repair, upon written request to and the receipt of written approval from the Director a bypass of the GCD or grit trap/oil separator shall be permitted for the duration of the repair, but in no event for more than eighteen (18) consecutive hours, or as specified by the Director. Each generator shall create a written record that describes the repairs made to the GCD and grit trap/oil separator, the date and time of the commencement of any GCD and grit trap/oil separator repairs and of any bypass during the repairs, who performed the repairs, and the date and time of the termination of the repairs and bypass. The written record shall be made available for review by the Director upon request.

§ 53.083 MISCELLANEOUS PROVISIONS

(A) Pretreatment Charges and Fees

The City may adopt reasonable fees for reimbursement of costs of setting up and operating the City's FOG Management Program, which may include but not be limited to:

- (1) Fees for FSE wastewater discharge permit applications including the cost

of processing such applications;

- (2) Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a generator's discharge, and reviewing monitoring reports and certification statements submitted by generators;
- (3) Fees to recover cost to the City including but not limited to labor, equipment, containment, and disposal costs for responding the sewer blockages, SSOs, and sewer line backups into residences, multi-family units, and commercial businesses that are caused by FOG discharges from generators;
- (4) Fees to recover the cost of actual damages to the City's sewer system including pipes, manholes, lift stations and pumps, and air-release valves that are caused by FOG accumulations caused by discharges from generators;
- (5) Fees for reviewing and responding to accidental discharge procedures and construction;
- (6) Fees for filing appeals;
- (7) Fees to recover administrative and legal costs associated with the enforcement activity taken by the Pretreatment Coordinator to address generator noncompliance; and
- (8) Other fees as the City may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this ordinance and are separate from all other fees, fines, and penalties chargeable by the City.

(B) Surcharge for High Strength Wastewater

- (1) A generator discharging wastewater to the POTW with BOD, COD, TSS, Ammonia- Nitrogen, and Phosphorus of concentrations higher than normal domestic wastewater as defined in Section § 53.040 (D)(44) or FOG as defined in § 53.041(A)(2)(q) shall pay a monthly surcharge in addition to the usual monthly sewer charge.
- (2) The City shall calculate the surcharge under this section as prescribed in §

53.052(B)(2) - (5).

- (3) Payment of any surcharge under this section does not constitute a waiver of any of the prohibited discharge standards in §53.041, nor does it relieve the user from the obligation to meet all pretreatment requirements in this ordinance.

§ 53.084 – § 53.094 RESERVED