#### ORDINANCE NO. 09-\_\_\_\_

AN ORDINANCE OF THE CITY OF INGLEWOOD, CALIFORNIA ADDING AN ARTICLE 17 TO CHAPTER 10 (PUBLIC WORKS) OF THE INGLEWOOD MUNICIPAL CODE TO REGULATE FATS, OILS, AND GREASE AT FOOD SERVICE ESTABLISHMENTS AND ESTABLISH A FEE SCHEDULE

#### **SECTION 1**

WHEREAS, on May 2, 2006, the State Water Resources Control Board Order 2006-0003 which sets forth the Statewide Water Discharge Requirements (WDR) for Sanitary Sewer Systems was adopted and implemented; and

WHEREAS, the purpose of the WDR is to develop a regulatory mechanism to provide a consistent statewide approach for reducing sanitary sewer overflows from degrading receiving waters, including channels, rivers, and beaches, thereby minimizing human health hazards; and

WHEREAS, the WDR requires the preparation of a Sanitary Sewer Management Plan (SSMP) with twelve mandatory elements; and

WHEREAS, pursuant to Resolution No. 09-57 the City adopted a final Sanitary Sewer Management Plan (SSMP) on June 30, 2009.

WHEREAS, the legal authority to limit the discharge of fats, oils, and grease and other debris that may cause blockages and to enforce any violations is one of the required elements for WDR compliance; and

WHEREAS, the City finds that every City and County in California, including Inglewood, could face fines of thousands of dollars per day for not meeting the above mandated requirements; and

WHEREAS, the City Council scheduled a Public Hearing for December 1, 2009 to consider adding an Article 17 to Chapter 10 (Public Works) of the Inglewood Municipal

 $^{2}$ 

 $\frac{1}{2}$ 

Code to regulate fogs, oil, and grease at food services establishments and establish fees to recover the actual cost of administering the program; and

WHEREAS, notice of the time and place of the hearing was given as required by law: and

WHEREAS, the City Council conducted the hearing at the time and place stated in the notice and afforded all persons interested in the proposed Ordinance, or in any matter or subject related thereto, an opportunity to appear before the City Council and to be heard and to submit any testimony or evidence in favor or against the proposed Ordinance; and

WHEREAS, after taking public testimony and considering the issues, the City Council determined that an Article 17 should be added to Chapter 10 (Public Works) of the Inglewood Municipal Code to regulate fogs, oil, and grease at food services establishments and establish fees to recover the actual costs of administering the program; and

WHEREAS, the City Council does now desire to add an Article 17 to Chapter 10 (Public Works) of the Inglewood Municipal Code to regulate fogs, oil, and grease at food services establishments and establish fees to recover the actual cost of administering the program.

**NOW, THEREFORE**, THE CITY COUNCIL OF THE CITY OF INGLEWOOD, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

#### **SECTION 2**

An Article 17 (Fats, Oils and Grease Regulations at Food Services Establishments) is herby added to Chapter 10 (Public Works) of the Inglewood Municipal Code to read as follows:

# ARTICLE 17 – FATS, OILS AND GREASE REGULATIONS AT FOOD SERVICES ESTABLISHMENTS

Section 10-219 Purpose

Section 10-220 Definitions

1	Section 10-221	General Limitations, Prohibitions, and Requirements on Fats, Oils,
2		and Grease (FOG) Discharges
3	Section 10-222	Wastewater Discharge Permits for Food Services Establishments
4	Section 10-223	Grease Interceptor requirements
5	Section 10-224	Range Hood requirements
6	Section 10-225	Monitoring, Reporting, Notification, and Inspection Requirements
7	Section 10-226	Special FOG Operation Program Fund Established
8	Section 10-227	Fees and Charges for FOG Program
9	Section 10-228	Enforcement
10	Section 10-229	Severability

#### Section 10-219. Purpose

The purpose of this Article is to facilitate the maximum beneficial public use of the City's sewer services while preventing blockages of sewer lines resulting from discharges of fats, oils and grease (FOG) to the sewer facilities, and to specify appropriate FOG discharge requirements for Food Service Establishments. FOG is known to be one of the leading causes of sanitary sewer overflows (SSOs). SSOs, which are often caused by discharges of wastewater containing high levels of FOG, suspended solids, pathogenic organisms, and other pollutants, may cause temporary exceedences of applicable water quality objectives, pose a threat to the public health, adversely affect aquatic life, and impair the public recreational use and aesthetic enjoyment of surface waters.

#### Section 10-220. Definitions

The following are definitions of terms used in this Article:

- Best Management Practices shall mean schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce the introduction of FOG to the City's Sewer facilities.
- 2. *City* will mean the City of Inglewood.
- 3. *Composite Sample* is 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.

- 4. *Director* refers to the City of Inglewood Director of Public Works.
- 5. *Director or his/her designee* refers to the Director or any person who is given authority by the Director.
- 6. *Discharger* is any person who discharges or causes a discharge of wastewater directly or indirectly to a public sewer. Discharge will mean the same as a User.
- 7. *Effluent* is any liquid outflow from a Food Service Establishment that is discharged to the sewer.
- 8. Fats, Oils, and Grease (FOG) is any substance such as a vegetable oil or animal product that is used in, or is a by product of, the cooking or food preparation process, and that turns or may turn viscous or solidifies with a change in temperature or other conditions.
- 9. FOG Wastewater Discharge Permit is 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.
- 10. Food Service Establishment means any room, building, or place or portion thereof, located within the boundaries of the City, which is maintained, used or operated by any profit or non-profit entity for the purposes of storing, preparing, serving, manufacturing, packaging, transporting, salvaging or otherwise handling and distributing food and beverages (including prepackaged items), which have any process or device that uses or produces FOG, for the following purposes
  - a. In the case of a profit entity, for the commercial sale on a retail or wholesale basis; and

b. In the case of a non-profit entity, for providing food, free of charge or otherwise, to the public, its members or guests.

Food Service Establishments shall include but not be limited to, restaurants, lunch counters, refreshment stands, bars, schools, hospitals, convalescent/health care homes, community centers, private or public community clubhouses and fire stations.

Small Food Establishments shall include restaurants having a seating capacity of 50 or less and without a drive thru feature, and other establishments that generate FOG.

Large Food Establishments shall include restaurants having a seating capacity of more than 50, all restaurants that have a drive thru feature, and schools, and hospitals.

- 11. Food Grinder is 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.
- 12. Grease Control Device shall mean any grease interceptor, grease trap or other approved 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.
- 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 Charge 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
- 14. Grease Interceptor shall be 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 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.
- 15. Grease Trap shall mean a grease control device that is used to serve individual fixtures and have limited effect and 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.
- 16. *Hot spots* are areas in sewer lines that have experienced sanitary sewer overflows or that must be cleaned or maintained frequently to avoid blockages or sewer system.
- 17. *Inflow* shall mean water entering a sewer system through a direct storm water runoff connection to the sanitary sewer, which may cause an almost immediate increase in wastewater flows.
- 18. *Infiltration* shall mean water entering a sewer system, including sewer service connections, from the ground through such means as defective pipes, pipe joints, connections, or manhole walls.
- 19. Inspector is a person authorized by the Director to inspect any existing or proposed wastewater generation, conveyance, processing, and disposal facilities.
- 20. *Manifest* shall mean that receipt which is retained by the generator of wastes for disposing recyclable wastes or liquid wastes as required by the City.

- 21. NPDES is 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.
- 22. *New Construction* is any structure planned or under construction for which a sewer connection permit has not been issued.
- 23. *Permittee* is a person or entity who has received a permit to discharge wastewater into the City's sewer facilities subject to the requirements and conditions established by the City.
- 24. *Person* shall mean any individual, partnership, firm, association, corporation or public agency.
- 25. *Public Sewer* is a sewer owned and operated by the City, or other local Public Agency, which is tributary to the City's sewer facilities.
- 26. Regulatory Agencies shall mean those agencies having regulatory jurisdiction over the operations of the City, including but not limited to:
  - a. United States Environmental Protection Agency (EPA)
  - b. California State Water Resources Control Board (SWRCB)
  - c. California Regional Water Quality Control Board (RWQCB)
  - d. South Coast Air Quality Management District (SCAQMD)
  - e. California Department of Health Services (DOHS)
- 27. Remodeling is a physical change or operational change causing generation of an amount of FOG that exceeds the current amount of FOG discharged 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.
- 28. Sample Point shall mean 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.
- 29. Sampling facilities shall 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.
- 30. Sanitary Sewer Overflow (SSO) is the unauthorized discharge of wastewater from the City's designated sewer collection and conveyance facilities.
- 31. *Sewage* means wastewater.
- 32. Sewer Facilities or System means any and all facilities used by the City for collecting, conveying, pumping, treating, recycling, reuse, transportation and/or disposing of wastewater or sludge.
- 33. Sewer Lateral shall mean 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.
- 34. *Sludge* shall mean any solid, semisolid or liquid decant, subnate or supernate from a manufacturing process, utility service, or pretreatment establishment.
- 35. Waste shall mean 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.
- 36. Waste Minimization Practices shall mean 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.

- 37. Wastehauler is any person licensed to carry on or engage in vehicular transport of waste as part of, or incidental to, any business for that purpose. Wastehauler must also be licensed to conduct business within the City and have a valid City Business license on file.
- 38. Wastewater shall mean 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.

# Section 10-221. General Limitations, Prohibitions, and Requirements on Fats, Oils, and Grease (FOG) Discharges

#### A. FOG Discharge Requirement

No Food Service Establishment shall discharge or cause to be discharged into the sewer system any wastewater containing FOG that accumulates or causes or contributes to blockages in the sewer system or at the sewer system lateral, which connects the Food Service Establishment to the City's sewer system.

# B. Discharge Prohibitions

The following prohibitions shall apply to Food Service Establishments that generate FOG:

- 1. The use of food grinders in the plumbing system of new construction or existing food service establishments that result in the conveyance of FOG to the sewer system is prohibited. All food grinders shall be removed from all existing Food Service Establishments within 180 days of the effective date of this Article.
- 2. 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.
- 3. Discharge of wastewater with temperatures in excess of 140°F to any grease control device, including grease traps and grease interceptors, is prohibited.

- 4. The use of biological additives for grease remediation or as a supplement to interceptor maintenance is prohibited, unless written approval by the Director is obtained.
- 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.
- 6. Discharge into the sewer system of any waste which has FOG as well as solid materials removed from the grease control device is prohibited.
- 7. Grease removed from grease interceptors shall be waste-hauled periodically as part of the operation and maintenance requirements for grease interceptors. Licensed waste haulers or an approved recycling facility must be used to dispose of FOG, including waste cooking oil.

#### C. FOG Wastewater Discharge Permit Required

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 Article. Permit shall be obtained within 2 years of the effective date of this Article.

# D. Kitchen Best Management Practices Required

All Food Service Establishments shall implement Kitchen Best Management Practices in its operation to minimize the discharge of FOG to the sewer system. Detailed requirements for Kitchen Best Management Practices shall be specified in the permit. This may include kitchen practices and employee training that are essential in minimizing FOG discharge.

# E. FOG Pretreatment Required

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 Article, subject to variance and waiver provisions of this Article.

1 | 2 | 3 | 4 | 5

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. Compliance shall be established as follows:

- 1. New Construction of Food Service Establishments, including remodels or tenant improvements that change the classification of an establishment to a Food Service Establishment, shall include and install grease interceptors prior to commencing discharges of wastewater to the sewer system.
- Existing Food Service Establishments shall be required to install and properly
  operate and maintain a grease interceptor within 2 years of the effective date of this
  Article.
- 3. Existing Food Service Establishments which have caused or contributed to a grease-related blockage in the sewer system, or have been determined to contribute significant FOG to the sewer system by the City based on inspection or sampling, shall be deemed to have reasonable potential to adversely impact the sewer system and shall install a grease interceptor within 180 days upon receiving notification by the City.
- 4. Existing Food Service Establishments that change ownership or undergo remodeling or a change in operations as defined in the definitions section of this Article are required to install a grease interceptor.

# F. Variance and Waiver of Grease Interceptor Requirement

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 City'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 justify 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.

#### (a) Conditional Waiver from Installation of Grease Interceptor

An 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. The City's determination to grant or revoke a conditional waiver shall be based upon, but not limited to, evaluation of the following conditions:

i. 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.

11

121314

1516

17 18

19 20

 $\frac{21}{22}$ 

 $\frac{23}{24}$ 

25

262728

- ii. Adequacy of implementation of Kitchen Best Management Practices and compliance history.
- iii. 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 in the receiving sewer system.
- iv. Changes in operations that significantly affect FOG discharge.
- v. Any other condition deemed reasonably related to the generation of FOG discharges by the City.
- (b) <u>Waiver from Grease Interceptor Installation with a Grease Disposal Mitigation</u>
  <u>Charge</u>.

For Food Service Establishments where the installation of a grease interceptor is not feasible and no equivalent alternative pretreatment technology can be employed, a waiver from the grease interceptor requirement may be granted with the imposition of a Grease Disposal Mitigation Charge. Additional requirements may be imposed to mitigate the discharge of FOG into the sewer system. The City's determination to grant the waiver with a Grease Disposal Mitigation Charge will be based upon, but not limited to, evaluation of the following conditions.

- i. There is no adequate space for installation and/or maintenance of a grease interceptor.
- ii. 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.
- iii. A variance from grease interceptor installation to allow alternative pretreatment technology cannot be granted.
- (c) <u>Application for Waiver or Variance of Requirement for Grease Interceptor</u>

A Food Service Establishment may submit an application for waiver or variance from the grease interceptor requirement to the City. The Food Service Establishment bears the burden of demonstrating, to the City's reasonable satisfaction, that the installation of a grease interceptor is not feasible or applicable. Upon determination by the City that reasons are sufficient to justify a variance or waiver, the permit will be issued or revised to include the variance or waiver and relieve the Food Service Establishment from the requirement.

#### (d) 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.

#### G. Commercial Properties

Property owners of commercial properties containing multiple tenants on a single parcel, or their official designee(s), shall be responsible for the installation and maintenance of the grease interceptor serving multiple or individual Tenants. Property owners of commercial properties shall be responsible for all aspects on compliance with this Article. Permits issued to Food Service Establishments that do not have an individual water meter shall also be issued to the property owner and property management company as co-permittees. Any subsequent enforcement actions that may be necessary to ensure compliance with this Article will be prosecuted jointly against the Food Service Establishment and the property owner.

#### H. Sewer System Overflows, Public Nuisance, Abatement Orders and Cleanup Costs

Notwithstanding the 2 year period, Food Service Establishments found to have contributed to a sewer blockage, SSO 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, and may be subject to a requirement 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 threat and injury to public health, safety, and welfare of life and property 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 and/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 a 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 may constitute a debt to the City and become due and payable upon the City's request for reimbursement of such costs. If the property owner chooses to hire a private contractor to clean up an SSO they are responsible for, they can contact a vendor from a pre-approved list of contractors published by the Los Angeles County.

1

 $^{2}$ 

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

# SECTION 10-222. FOG Wastewater Discharge Permits for Food Service Establishments A. FOG Wastewater Permit Application

Any Food Service Establishment required to obtain a FOG Wastewater Discharge Permit shall complete and file with the City of Inglewood Public Works Department prior to commencing or continuing discharges, 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, cuisine, service activities, or clients using the applicant's services.

10 11

1213

14

15 16

18

17

1920

2122

 $\frac{23}{24}$ 

2526

2728

- 2. (Whichever is applicable) Name and telephone number of any and all principals/owners/major shareholders of the Food Service Establishment; Articles of Incorporation; most recent Report of the Secretary of State; Current Business License.
- 3. Name, address and telephone number 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.

Applicants may be required to submit site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, FOG control devices, grease interceptor or other pretreatment equipment and appurtenances by size, location, and elevation for evaluation. Other information related to the applicant's business operations and potential discharge may be requested to properly evaluate the permit application. After evaluation of the data furnished, the City may issue a FOG Wastewater Discharge Permit, subject to terms and conditions set forth in this Article and as otherwise determined by the City to be appropriate to protect the City's sewer system.

#### B. FOG Wastewater Permit Conditions

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

- 1. Limits on discharge of FOG and other priority pollutants.
- 2. Requirements for proper operation and maintenance of grease interceptors and other grease control devices.
- 3. Grease interceptor maintenance frequency and schedule. Maintenance frequency will be determined at the sole discretion of the City and can be an amendment to the permit at any time during the life of the permit.
- 4. Requirements for maintaining and reporting status of Kitchen Best Management Practices.
- Requirements for maintaining and submitting logs and records, including waste hauling records and waste manifests.

- 6. Requirements to self-monitor.
- 7. Requirements for the Food Service Establishment to construct, operate and maintain, at its own expense, FOG control device and sampling facilities.
- 8. Additional requirements as otherwise determined to be reasonably appropriate by the City to protect the City's system or as specified by other Regulatory Agencies.
- 9. Other terms and conditions, which may be reasonable applicable to ensure compliance with this Article.
- 10. Permit must be obtained within 2 years after the adoption of this Article and must be renewed yearly thereafter.

#### C. FOG Wastewater Discharge Permit Modification of Terms and Conditions

The terms and conditions of an issued permit may be subject to modification and change by the sole determination of the City 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 City that such modification is appropriate to further the objectives of this Article.

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 City shall review the request, make a determination on the request, and respond in writing. 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.

# D. Non-Transferability of Permits

FOG Wastewater Discharge Permits issued under this Article are for a specific Food Service Establishment, for a specific operation and create no vested rights. No permit holder shall assign, transfer, or sell any FOG Wastewater Discharge Permit issued under this Article nor use any such permit for or on any premises or for facilities or operations or discharges not expressly encompassed within the underlying permit. Any permit that is transferred to a new owner or operator or to a new facility is void.

#### SECTION 10-223. Grease Interceptor Requirements

#### A. Grease Interceptor Requirements

All grease interceptors must comply with all relevant City ordinances, and the current edition of the California Plumbing Code.

- 1. Grease interceptor sizing and installation shall conform to the current edition of the California Plumbing Code. Grease interceptors shall be constructed in accordance with the design approved by the City's Director of Building and Safety or his/her designee and shall have a minimum of two compartments with fittings designed for grease retention and a sampling box.
- 2. 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.
- 3. 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.

#### B. Monitoring Facilities Requirements

The City may require Food Service Establishments to construct and maintain in proper operating condition at the Food Service Establishment's sole expense, flow monitoring, constituent monitoring and/or sampling facilities. The location of the monitoring or metering facilities shall be subject to approval by the City. Food Service Establishments are required to provide immediate, clear, safe and uninterrupted access for the inspectors to the Food Service Establishment's monitoring and metering facilities. Food Service Establishments may also be required by the City to submit waste analysis plans, contingency plans, and meet other necessary requirements to ensure proper

1  $^{2}$ 3 4 5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

# operation and maintenance of the grease control device or grease interceptor and compliance with this Article. 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 Article and the FOG Wastewater Discharge Permit.

#### C. Requirements for Kitchen Best Management Practices

All Food Service Establishments shall implement BMPs in its operation to minimize the discharge of FOG to the sewer system and in accordance with the requirements and guidelines established by the City in an effort to minimize the discharge of FOG to the sewer system.

All Food Service Establishments shall be required, at a minimum, to comply with the following Kitchen Best Management Practices, when applicable:

- 1. Installation of drain screens. Drain screens shall be installed on all drainage pipes in food preparation and kitchen areas.
- 2. Segregation and collection of waste cooking oil. All waste cooking oil shall be collected and stored properly in recycling receptacles such as barrels or drums. Such recycling receptacles shall be maintained properly to ensure that they do not leak. Licensed waste haulers or a approved recycling facility must be used to dispose of waste cooking oil.
- 3. Disposal of food waste. All food waste shall be disposed of directly into the trash or garbage, and not in sinks or toilets.
- 4. Food grinders. All employees shall not pour, dispose, or place any food product, prepared or unprepared, containing FOG materials into a sink equipped with a food grinder.
- 5. Employee training. Employees of the food service establishment shall be trained within 180 days of the effective date of this Article by ownership/management, and twice each calendar year thereafter, on the following subjects:

28

- a. How to "dry wipe" pots, pans, dishware and work areas before washing to remove grease.
- b. How to properly dispose of food waste and solids prior to disposal in trash bins or containers to prevent leaking and odors.
- c. The location and use of absorption products to clean under fryer baskets and other locations where grease may be spilled or dripped.
- d. How to properly dispose of grease or oils from cooking equipment into a grease receptacle such as a barrel or drum without spilling.
- e. Training shall be documented and employee signatures retained indicating each employee's attendance and understanding of the practices reviewed.
- f. Training records shall be available for review at any reasonable time by the City.
- 6. Maintenance of kitchen exhaust filters. Filters shall be cleaned as frequently as necessary to be maintained in good operating condition. The wastewater generated from cleaning the exhaust filter shall be disposed of properly.
- 7. Kitchen signage. Best management and waste minimization practices shall be posted conspicuously in the food preparation and dishwashing areas at all times.
- 8. Maintenance of floormats and kitchen appliances. The wastewater generated from floormats or kitchen appliance washing operations must be disposed of properly in compliance with this Article.

# D. Grease Interceptor Maintenance Requirements

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. All existing and newly installed grease interceptors shall be maintained in a manner consistent with a maintenance frequency approved by the City pursuant to this section. 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. All Food Service Establishments with grease interceptors may be required to submit data and information necessary to establish

the maintenance frequency of the grease interceptors and 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 6 months.
- 3. Grease interceptors shall be pumped out completely and cleaned quarterly when the frequency described in (1) has not been established. The maintenance frequency shall be adjusted when sufficient data has been obtained to establish an average frequency based on the requirements described in (1). The City may change the maintenance frequency at any time to reflect changes in actual operating conditions. Based on the actual generation of FOG from an establishment, including food service establishments that generate FOG, the maintenance frequency may increase or decrease. The maintenance frequency established will be written into the FOG Wastewater Discharge Permit.
- 4. If the grease interceptor, at any time, contains FOG and solids accumulation that does not meet the requirements described in (1) any establishment, including food service establishments generating FOG, shall be required to service its grease interceptor(s) immediately to assure that all fats, oils, grease, sludge, and other materials are completely removed from the grease interceptor. If deemed necessary, the City may also increase the maintenance frequency of the grease interceptor from the current frequency.

#### (a) <u>Disposal of accumulated FOG</u>

Wastewater, accumulated FOG, floating materials, sludge/solids, and other materials removed from the grease interceptor shall be disposed off site properly by waste

haulers in accordance with federal, state and/or local laws. Food Service Establishment's are required to obtain and maintain a copy of the waste hauler's documentation which must include:

- i. Name of Hauling Company
- ii. Name and Signature of Operator performing the pump out
- iii. Documentation of full pump out with volume of water and FOG removed
- iv. Documentation of the level of floating FOG and Settable Solids (to determine if volume exceeds 25% capacity of grease removal equipment)
- v. Documentation of repairs to the Grease Interceptor are required
- vi. Identification of the facility where the waste hauler is planning to dispose of the waste

#### SECTION 10-224 Monitoring, Reporting, Notification, and Inspection Requirements

#### A. Monitoring and Reporting Conditions

- 1. The City may require periodic reporting of the status of implementation of Best Management Practices implemented at establishments.
- 2. The City designee may require visual monitoring at the sole expense of the establishment which generates FOG to observe the actual conditions of any establishment's, including food service establishments that generate FOG, sewer lateral and sewer lines downstream.
- 3. The City may require reports for self-monitoring of wastewater constituents and FOG characteristics of the establishment needed for determining compliance with this Article. Failure by the establishment to perform any required monitoring, or to submit monitoring reports required by the City constitutes a violation of this Article and 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 this Article. The Establishment shall be responsible for any and all expenses of the City in undertaking such monitoring analyses and preparation of 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 City to ensure compliance with this Article.

#### (a) Record Keeping Requirements

The Permittee are 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 four years. Food Service Establishments shall, upon request, make the manifests, receipts and invoices available to the City. These records may include:

- i. A logbook of grease control device cleaning and maintenance practices.
- ii. A record of Best Management Practices being implemented including employee training.
- iii. Copies of records and manifests of waste-hauling interceptor contents and/or waste cooking oil disposal.
- iv. Records of sampling data and sludge height monitoring for FOG and solids accumulation in the grease interceptors.
- v. Records of any spills and/or cleaning of the lateral or sewer system.
- vi. Any other information deemed appropriate by the City to ensure compliance with this Article.

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, monitoring device or method or access point required under this Article.

# B. Inspection and Sampling Conditions

The City may inspect or order the inspection and sample the wastewater discharges of any establishment subject to this Article to ascertain whether the intent of this Article is being met and the establishment is complying with all requirements.

1. <u>Inspection of Premises</u>. The Permittee shall allow the inspectors access to the premises, during normal business hours, for purposes of inspecting the establishment's grease control devices or interceptor, reviewing the manifests, receipts and invoices relating to the cleaning, maintenance and inspection of the grease control devices or interceptor.

- 2. <u>Metering and Sampling Devices</u>. The City shall have the right to place or order the placement on the establishment's property or other locations as determined by the City such devices as are necessary to conduct sampling or metering operations. Where any establishment has security measures in force, the establishment 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.
- 3. Access to Establishment. Persons or occupants of premises where wastewater is created or discharged shall allow the inspectors, reasonable access to all parts of the wastewater generating and disposal facilities for the purposes of inspection and sampling during all times the establishment is open, operating, or any other reasonable time.
- 4. Access to Documents for Inspection. In order for the City to determine the wastewater characteristics of the discharger for purposes of determining the annual use charge, the establishment shall make available for inspection and copying by the City all notices, monitoring reports, waste manifests, and records including, but not limited to, those related to wastewater generation, and wastewater disposal. All such records shall be kept for a minimum of four (4) years.
- 5. <u>Sampling and Inspection Frequency</u>. Sampling and inspection of any establishments, including food service establishments that generate FOG shall be conducted in the place, manner, and frequency determined at the sole discretion of the City during normal business hours or at any time during an emergency situation as set forth in Section 10-224(I) below. Any sample taken from a sample point is considered to be representative of the discharge to the public sewer.

# any time during an emergency situation as set forth in Section 10-224(I) below. C. Notification of a Spill

6.

In the event a permittee is unable to comply with any permit condition or provision of this Article due to a breakdown of equipment, accidents, or human error or the establishment has reasonable opportunity to know that his/her/its discharge will exceed the discharge provisions of this Article, or has reason to believe the discharge has the potential to cause or result in an SSO, the discharger shall immediately notify the City by telephone at (310) 412-5333.

to inspectors attempting to inspect any facility involved directly or indirectly with a

discharge of wastewater to the City's sewer system during normal business hours or at

Right of entry. No person shall interfere with, delay, resist or refuse entrance

- 1. <u>Agency Notification</u>. Confirmation of this notification shall be made in writing to the Director 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.
- 2. <u>Non-Relief From Expense, Loss, Damage, or Liability</u>. Such notification shall not relieve the establishment 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 establishment of any fees or other liability which may be imposed by this Article or other applicable law.

#### D. Notification of Planned Changes

Permittee shall notify the City at least 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. Permittee shall notify the City in writing of the proposed expansion or remodeling and shall submit and information requested by the City for evaluation of the effect of such expansion on Permittee's FOG discharge to the sewer system.

#### Section 10-225 Special FOG Operation Program Fund Established

There is hereby established a special fund in the City Treasury entitled the FOG Operation Program Fund, which shall contain all fees collected pursuant to this Chapter including monies received from the Grease Disposal Mitigation Charge, the FOG Wastewater Discharge Permit Fee, and the Inspection and Control Fee. Monies deposited into the fund shall not be subject to reversion to the General Fund.

Monies deposited into the Fund shall be expended only for the operation of the FOG (Fats, Oils, and Grease Program for Food Services Establishment Program) Program and related purposes. Expenditures shall be made from the Fund as provided in the General City Budget or by Council resolution unless provided otherwise by ordinance, except however that monies in the fund which were received by the City subject to any limitations on their use may only be expended in accordance with those limitations.

#### Section 10-226 Fees and Charges for FOG Program

#### A. FOG Wastewater Discharge Permit Fee

An initial fee of \$340.00 shall be required for each application for a FOG Wastewater Discharge Permit. Payment of the permit fee must be received by the City prior to the issuance of the permit. The permit must be updated and fees will be assessed annually as part of the Inspection and Control fee. A permittee shall also pay any delinquent invoices in full prior to permit renewal. The initial fee shall be waived for all food establishments lawfully operating prior to the adoption of this ordinance.

#### B. Inspection and Control Fees

 $\mathbf{2}$ 

All permitted Food Service Establishments must pay an annual Inspection and Control Fee for the purpose of covering the Cities cost for permit renewal, inspections, monitoring, food service establishments, inventory control and development, systems development and data management, and reporting to local, State and Federal authorities. Small Food Services Establishments shall pay an annual fee of \$267. Large Food Services Establishments shall pay an annual fee of \$413.

#### C. Grease Disposal Mitigation Charge

 $\mathbf{2}$ 

Food Service Establishments that operate without a grease control interceptor, who have a waiver, may be required to pay an annual Grease Disposal Mitigation Charge to equitably cover the costs of increased maintenance of the sewer system as a result of the Food Service Establishment's inability to adequately remove FOG from its wastewater discharge. This Section shall not be interpreted to allow the new construction of, or existing Food Service Establishments undergoing remodeling or change in operations to operate without an approved grease interceptor unless the City has determined that it is impossible or impracticable to install or operate a grease control interceptor for the subject facility under the provisions of this Article.

- 1. The Grease Disposal Mitigation Charge shall based on the estimated cost, as determined by City, of maintaining the sewer system for inspection and removal of FOG and other viscous or solidifying agents attributable to the Food Service Establishment resulting from lack of a grease interceptor of grease control device.
- 2. The Grease Disposal Mitigation Charge may be waived or reduced on an annual basis when the discharger demonstrates to the City that they have used best management and waste minimization practices on a regular basis and have significantly and adequately reduced the introduction of FOG into the sewer system.
- 3. The Grease Disposal Mitigation Charge may not be waived or reduced when the Food Service Establishment does not comply with the minimum requirements of this Article and/or its discharge into the sewer system in the preceding 12 months has caused or created a potential to cause, alone or collectively, a sewer blockage or SSO in the sewer downstream, or surrounding the Food Service Establishment prior to the waiver request.

#### SECTION 10-228. Enforcement

#### A. Purpose and Scope

In order that the City comply with the laws, regulations, and rules imposed on 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. 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 Inspector with a right of appeal by the permittee to the Director pursuant to the procedures set forth in this Article.
- 2. A permittee, or applicant for a permit may request in writing to the Director or his/her designee for an appeal of any decision made by the City.
- 3. The issuance or exercise of any type of enforcement action provided under this Article shall not be a bar against, or a prerequisite for taking any other or additional enforcement action against a user under this Article or any other local, state or federal law.

# B. Determination of Noncompliance with FOG Wastewater Discharge Permit Conditions

- 1. Inspection Procedures
  - a. Inspection of Food Service Establishments shall be conducted during normal business hours or at any time during emergency situations as set forth in Section 10-224(I) in the place, manner, and frequency determined at the sole discretion of the City.
  - b. Noncompliance with Kitchen Best Management Practices, maintenance frequency requirements for grease interceptors, permit discharge conditions, or any discharge provisions of this Article may be determined by an inspection of the Food Service Establishment.
- 2. Sampling Procedures

- a. Sampling of Food Service Establishments shall be conducted during normal business hours or at any time during emergency situations as set forth in Section 10-224(I) in the place, manner, and frequency determined at the sole discretion of the City.
- b. Non-compliance with mass emission rate limits, concentration limits, permit discharge conditions, or any discharge provision of this Article may be determined by a analysis of a grab or composite sample or by visual inspection of the effluent of a user. Any sample taken from a sample point is considered to be representative of the discharge to the public sewer.

#### 3. Notice of Non-compliance (NON)

- a. In the event that it is determined that a user is in noncompliance with any provision of this Article, or the terms, conditions and limitations of its FOG Wastewater Discharge Permit, the City may issue a NON, whereby the user shall comply with all directives, conditions and requirements therein within the time prescribed.
- b. The issuance of a NON may contain terms and conditions including, but not limited to, installation of grease control devices or a grease interceptor, submittal of drawings or technical reports, payment of fees or administrative fines, limits on rate and time of discharge or any other provisions to ensure compliance with this Article and the user's FOG Wastewater Discharge Permit.

# 4. Noncompliance Charges

Any permittee determined to be in noncompliance with the terms and conditions specified in its permit or with any provision of this Article may shall pay a noncompliance charge. The purpose of the noncompliance charge is to compensate the City for estimated or actual costs of additional inspection and follow-up, sampling, monitoring, laboratory analysis, treatment, disposal, and administrative processing incurred as a result of the noncompliance, and shall be in addition to and not in lieu of any penalties as may be assessed. Noncompliance charges will include a \$150 re-

 $\frac{1}{2}$ 

inspection fee and additionally other incurred costs associated with the severity of noncompliance and also if additional sampling and re-inspection is required.

#### C. Notice of Violation (NOV)

- In the event that it is determined that a user has not responded to a Notice of Noncompliance that was previously issued to them or that noncompliance of any FOG standards requires their immediate attention, the City may issue a NOV, whereby the user shall comply with all directives, conditions and requirements therein within the time period prescribed.
- 2. The issuance of a NOV may contain terms and conditions including, but not limited to, installation of grease control devices or a grease interceptor, submittal of drawings or technical reports, payment of fees, administrative fines, limits on rate and time of discharge or any other provisions to ensure compliance with this Article.

#### D. Compliance Schedule Agreement

- 1. Upon determination that a permittee is in noncompliance with the terms and conditions specified in its permit or any provision of this Article, or needs to construct and/or acquire and install a grease control device or grease interceptor, the Director or his/her designee may require the permittee to enter into a Compliance Schedule Agreement.
- 2. 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 of reports, audit of waste hauling records, best management and waste minimization practices, payment of fees, or other provisions to ensure compliance with this Article.
- 3. The City shall not enter into a CSA until such time as all amounts owed to the City, including user fees, noncompliance charges, 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 City.

4. If compliance is not achieved in accordance with the terms and conditions of a CSA during its term, the City may issue an order suspending or revoking the discharge permit.

#### E. Permit Revocation

The City may revoke any permit when it is determined that a permittee:

- 1. Knowingly provides a false statement, representation, record, report, or other document to the City.
- 2. Refuses to provide records, reports, plans, or other documents required by the City to determine permit terms, conditions, discharge compliance, or compliance with this Article.
- 3. Falsifies, tampers with, or knowingly renders inaccurate any monitoring device or sample collection method.
- 4. Fails to comply with the terms and conditions of a CSA.
- 5. Discharges effluent to the City's sewer system while its permit is suspended.
- 6. Refuses reasonable access to the permittee's premises for the purpose of inspection and monitoring.
- 7. 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 Article.
- 8. Causes interference, sewer blockages, or SSOs within the City's collection, treatment, or disposal system.
- 9. Violates grease interceptor maintenance requirements, any condition or limit of its discharge permit or any provision of the City's regulations.
- 10. Failed to report significant changes in operations or wastewater constituents.
- 11. Failed to comply with the terms and conditions of any enforcement action.

#### (a) Notice

When the City 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 Director or his/her designee. The Revocation Hearing date shall not be less than (15) calendar days nor more than (45) calendar days after the mailing of such notice.

#### (b) Revocation Hearing

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

At the Revocation 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 informal and as such formal rules of evidence and discovery do not apply. Each party shall have the opportunity to present evidence in support of his/her case and to cross-examine witnesses. The City bears the burden of proof at the revocation hearing to establish a basis for the revocation. The Director or his/her designee must use the preponderance of evidence as the standard of evidence in deciding all issues of fact. If the permittee fails to attend the scheduled hearing, the hearing will proceed without the permittee, and he/she will be deemed to have waived his/her right to present evidence and/or cross-examine witnesses. The Director or his/her designates, after the conclusion of the hearing, shall submit a written report setting forth a brief statement of facts to be found true, a determination of the issues presented, conclusions and a recommendation. Upon receipt of the written report by the hearing officer, or conclusion of the hearing, the Director shall make his/her determination and should he/she find that grounds exist for 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 Director shall be sent by certified mail to the permittee or its legal counsel/representative at the permittee's business address. In the event that the Director determines not to revoke the permit, he/she may order other enforcement actions under terms and conditions that he/she deems appropriate.

#### (c) Effect

Upon an order of revocation by the Director becoming final, the permittee shall be lose all rights to discharge any wastewater directly or indirectly to the City's system for a period of one year, after which time he/she may again apply for a permit. All costs for

physical termination shall be paid for by the permittee. Any owner or responsible management employee or assignee of the permittee shall be bound by the order of revocation. Any future application for a permit at any location within the City by any person associated with an order or revocation will be considered by the City after fully reviewing the records of the revoked permit, which records may be the basis for the denial of a new permit. An order of permit revocation issued by the Director shall be final in all respects on the sixteenth (16th) day after it is mailed to the permittee.

#### F. Damage to Facilities or Interruption of Normal Operations

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 the 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. Any person who discharges a waste which causes or contributes to the City violating its discharge requirements established by any Regulatory Agency incurring additional expense of 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.

#### G. Public Nuisance

 $^{2}$ 

Sewer system overflows may cause threat and injury to public health, safety, and welfare of life and property and are hereby declared public nuisances. Discharge of wastewater in any manner in violation of this Article or of any order issued by the City is hereby declared a public nuisance and shall be corrected or abated as directed by the Director. Any person creating a public nuisance is guilty of a misdemeanor and is subject to criminal penalties.

#### H. Termination of Service

The City may physically terminate sewer service to any property as follows:

- 1. On an order of 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 process defined in this Article.

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

#### I. Emergency Suspension

The City may suspend sewer service when it is determined 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 on and subject to an Emergency Suspension Order shall immediately cease and desist the discharge of all wastewater containing FOG to the sewer system. In no more than five (5) business days following the issuance of such order, the Director or his/her designee 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. After the hearing, in two (2) business days a written decision shall be sent by certified mail to the Food Service Establishment's business address. The decision shall be final and not appealable to the City Council.

#### J. Civil Penalties

All users of the City's system and facilities are subject to enforcement actions administratively or judicially by the City, US. EPA, State of California Regional Water Quality Control Board, or the County of Los Angeles District 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.); and (5) California Government Code, Sections 54739-54740.

#### (a) Recovery of Fines or Penalties

In the event that 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 to be caused by the discharge of any user of the City's system which is in violation of any provision of the City's Regulations 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.

#### (b) Civil Liability

- i. Pursuant to the authority of California Government Code Sections 54739-54740, any person who violates any provision of this Article; 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.
- ii. 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 Article 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.
- iii. The Director 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.
- iv. Remedies under this section are in addition to and do not supersede or limit any and all other remedies, civil or criminal.

#### (c) Administrative Civil Penalties

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

Pursuant to the authority of the California Government Code Sections 54740.5 and 54740.6, the City may issue an administrative compliant to any permittee, discharger or other person who violates:

- i. Any provision of this Article;
- ii. Any permit condition, prohibition, or effluent limit; or
- iii. Any revocation or emergency suspension order.

The administrative compliant shall be served by personal delivery or certified mail 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 compliant will allege that 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 Director or his/her designee. The person to whom an administrative compliant has been issued may waive the right to a hearing, in which case a hearing will not be conducted. The hearing shall be informal and as such formal rules of evidence and discovery do not apply. Each party shall have the opportunity to present evidence in support of his/her case and to cross-examine witnesses. The City bears the burden of proof at the hearing to establish a basis for the complaint. The Director or his/her designee must use the preponderance of evidence as the standard of evidence in deciding all issues of fact. If the person fails to attend the scheduled hearing, the hearing will proceed without the person, and he/she will be deemed to have waived his/her right to present evidence and/or cross-examine witnesses. The Director or his/her designates, after the conclusion of the hearing, shall submit a written report setting forth a brief statement of facts to be found true, a determination of the issues presented, conclusions and a recommendation.

If the Director finds that grounds exist for assessment of a civil penalty against the person, he/she shall issue his/her decision within thirty (30) calendar days after the

 $\frac{1}{2}$ 

hearing. If it is found during the hearing that the person has violated reporting or discharge requirements, the Director may assess a civil penalty as follows:

- i. In an amount which shall not exceed two thousand dollars (\$2,00.00) for each day for failing or refusing to furnish required reports;
- ii. 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;
- iii. 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.
- iv. 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.

Payment of any order setting administrative civil penalties shall be made within thirty (30) calendar days of the date the order becomes final. The amount of any administrative civil penalties imposed shall constitute a debt to the City.

#### K. Criminal Penalties

Any person who violates any provision of this Article 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 Article and shall be subject to the penalties contained herein.

#### L. Appeals to the Director

Any Food Service Establishment, permit applicant or permittee affected by any decision, action, or determination made by the Director's designee or notice of violation issued by any City inspector may file with the Director 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 Director to the appellant. The request shall set forth in all detail all facts supporting the appellant's request.

#### (a) Notice

 $^{2}$ 

The Director 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 a 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 the said time due to actions or inactions of the appellant, then the staff decision shall be deemed final.

#### (b) Hearing

At the hearing, the appellant shall have the opportunity to present information supporting its position concerning the Director's designee decision, action or determination. The hearing shall be informal and as such formal rules of evidence and discovery do not apply. Each party shall have the opportunity to present evidence in support of his/her case and to cross-examine witnesses. The Director's designee bears the burden of proof at the hearing, to establish a basis for the complaint. The Director's designee must use the preponderance of evidence as the standard of evidence in deciding all issues of fact. If the person fails to attend the scheduled hearing, the hearing will proceed without the person, and he/she will be deemed to have waived his/her right to present evidence and/or cross-examine witnesses.

#### (c) Written Determination

After conclusion of the hearing, the Director's designee shall submit a written report to the Director 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 Director's designee's original decision, action or determination.

#### M. Payment of Charges

1

 $\mathbf{2}$ 

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

Except as otherwise provided, all fees, charges and penalties established by this Article are due and payable upon receipt of notice thereof. All such amounts are delinquent if unpaid forty-five days after date of invoice. Any charge that becomes delinquent shall have added to it a penalty in accordance with the following:

- 1. Forty-six (46) days after the 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 forth-sixth (46th) day after date of invoice.

Any invoice outstanding and unpaid after ninety (90) days shall be cause for immediate initiation of permit revocation proceedings. 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. Payment of disputed charged is still required by the due date during City review of any appeal submitted by permittees.

#### Section 10-228 Severability

If any portion of this Article is found to be invalid, the City Council declares that it would have enacted the remainder of this Chapter regardless of the absence of any such invalid portion.

21 ||///

22 ||///

23 ||///

24 ||///

25 ||///

26 || / / /

27 ||///

28 ||///

# **SECTION 3** The City Clerk shall certify to the passage of this ordinance and to its approval by the City Council and shall cause the same to be published in accordance with the City Charter; and thirty days from the final passage and adoption, this ordinance shall be in full force and effect. PASSED, APPROVED AND ADOPTED by the City Council of the City of Inglewood at its regular meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 2009, in the City of Inglewood. ROOSEVELT F. DORN MAYOR ATTEST: YVONNE HORTON CITY CLERK N:\LPETERSON\PLEADINGS\Ordinance - FOG.doc