

DIVISION XVI FOG CONTROL PROGRAM

Section 16.01 Purpose

The purpose of the District's fats, oils and grease (FOG) Control Program is to prevent FOG from entering the District's sewer collection and treatment system through the establishment of regulations for the discharge of FOG and other insoluble waste from food service establishments (FSE). The purpose of this ordinance is to further implement procedures for recovering costs associated with FOG discharges and blockages, to establish administrative requirements for FSEs, and to establish enforcement procedures for these regulations.

Section 16.02 Definitions

For purposes of this Chapter, the following definitions shall apply:

- a) **Fats, Oils and Grease (FOG)** shall mean and include any waste containing quantities or concentrations of dispersed biodegradable fats, oils and greases.
- b) **Food Service Establishment (FSE)** shall mean any entity utilizing the District's sewer collection system for operation in a permanently constructed structure, maintained and used or operated for the purpose of storing, preparing, serving, or manufacturing, packaging, or otherwise handling food for consumption by the public or for sale to other entities, its members, or employees.
- c) **Food Grinder** or garbage grinder or garbage disposal shall mean any device installed in the plumbing or sanitary sewage system for the purpose of grinding food waste or food preparation byproducts for the purpose of disposing into the District sewer system.
- d) **FOG Discharge Permit** shall mean the permit issued by the District to a FSE for utilizing the District sewer system in compliance with the terms, conditions, and criteria of the FOG Control Program set forth in this Division.
- e) **Grease Control Device (GCD)** shall mean any Grease Interceptor, Grease Trap, or other mechanism, device, or process, which is attached to, or is applied to, wastewater plumbing fixtures and lines, the purpose of which is to trap or collect or treat FOG-laden wastewater prior to its discharge into the District sewer system. "Grease Control Device" also includes any other District approved method to reduce FOG. Grease Control Devices must be sized in accordance with the California Plumbing Code.
- f) **Grease Interceptor** shall mean a District approved multi-compartment device that is required to be located, as according to the California Plumbing Code, between a FSE and the connection to the District sewer system. These devices primarily use gravity to separate FOG from the wastewater as it moves from one compartment

to the next. Grease Interceptors must be cleaned, maintained and have the FOG and solids removed and disposed of in accordance with the terms and conditions of the District's FOG Discharge Permit. Grease Interceptor includes a Gravity Grease Interceptor.

g) **Grease Trap** shall mean a District approved Grease Control Device that is used to serve individual fixtures. Grease Traps must be cleaned, maintained, and have the FOG and solids removed and disposed. A Grease Trap is also referred to as a Hydro-mechanical Grease Interceptor.

h) **Property Owner** shall mean a person or entity owning property where a Grease Interceptor is present that is or has potential to serve more than a single FSE.

i) **Remodeling** shall mean a physical change or operational change that increases the amount of FOG discharged to the District sewer system by the FSE in an amount that alone or collectively causes or creates a potential for blockages or sanitary sewer overflows (SSO) to occur.

j) **Waste Hauler** shall mean any person or entity that collects the contents of a Grease Control Device for the purpose of transporting it to a recycling or disposal facility. A Waste Hauler may also provide Grease Control Device maintenance services.

Section 16.03 Prohibition

Every owner, tenant, entity, or person receiving sewer service from the District shall have a duty to not cause, permit or allow the accumulation of FOG in the District sewer system. Such persons and entities shall use industry and District approved methods to reduce FOG accumulation in the District sewer system.

Section 16.04 FOG Discharge Permit Requirement

1. FSE

No FSE shall discharge into the District's sewer system without obtaining a FOG Discharge Permit from the District. The FOG Discharge Permit is a legally-binding agreement issued to a FSE to utilize the District sewer system setting forth the terms, conditions, and criteria of the FOG Control Program. The FOG Discharge Permit is prepared and maintained by the District, and its provisions may be modified periodically as required to ensure each FSE's compliance with the terms and conditions of this chapter, as they may be amended from time to time. Failure to comply with the FOG Discharge Permit conditions will constitute a violation of this chapter. In addition to the FOG Discharge Permit, the District may also issue specific permit conditions to any FSE. In the event that the District issues specific permit conditions to a FSE, the basis for those specific permit conditions shall be disclosed to the FSE in writing and appended to the FOG Discharge Permit. Failure to comply with

the individual permit conditions will constitute a violation of this Division.

2. Property Owners

Property owners of commercial properties or their designee(s) identified on the FOG Discharge Permit shall be responsible for the installation and maintenance of a Grease Interceptor serving multiple FSE that are located on a single parcel. The owner of the parcel containing a common use Grease Interceptor shall submit an application for and be the Permittee under a FOG Discharge Permit.

3. FSE/Property Owners Notification Regarding Planned Changes

Any existing FSE or Property Owner which substantially changes its menu, operation, or remodels shall submit in writing a detailed description of the proposed changes. The applicability of an existing FOG Discharge Permit, waiver, stay or variance from the requirement to install, operate and maintain a Grease Control Device will be assessed by the District based on the information contained in the description and the Permit, waiver, stay or variance may be revoked and replaced or amended as the changed circumstances warrant.

4. Permit Application

a) Each existing FSE/Property Owner shall submit an FOG Discharge Permit Application to the District within forty-five (45) days following the effective date of this Division.

b) All newly constructed FSEs and FSEs which change ownership, shall submit a FOG Discharge Permit Application at least sixty (60) days prior to startup. Any FSE which fails to submit the required FOG Discharge Permit application in a timely manner may be prohibited from discharging to the District sewer system.

5. Permit Renewal

Annually, each FOG Discharge Permittee shall renew its FOG Discharge Permit by the expiration date indicated on the Permit.

6. Reporting Requirements

Each FOG Discharge Permittee shall report to the District any spills of FOG and/or sewage and any unauthorized discharges into the District sewer system within the time period following the occurrence of the event as specified in and according to the requirements set forth in the FOG Discharge Permit.

7. Right to Enter and Inspect

The District shall have the right to enter and inspect each FSE premises or property owner's common use Grease Interceptor for announced or unannounced inspections. The District shall have access to all facilities and records necessary for determining compliance with this Division. An inspection may include a review of all logs and documentation of the FOG Control Program, inspection of all kitchen facilities, and inspection of any and all Grease Control Devices and appurtenant plumbing on the premises.

Section 16.05 Best Management Practices Required

All FSEs shall implement Best Management Practices (BMP) in their operations to minimize the discharge of FOG to the District sewer system. Detailed requirements for BMP shall be specified in the FOG Discharge Permit and any appended specific permit conditions. This may include kitchen practices and employee training that are essential to minimizing FOG discharge.

Section 16.06 Food Grinders

The use of a Food Grinder, which discharges food wastes from an FSE into the District sewer system, is prohibited.

Section 16.07 Pretreatment Requirements

1. Pretreatment Required

All FSEs are required to install, operate and properly maintain approved types and adequately sized Grease Control Devices. Grease Control Devices shall separate and remove FOG contained in wastewater discharges from FSEs prior to discharge of the wastewater to the District sewer system. All fixtures, equipment and drain lines located in the food preparation and clean up areas of the FSE that are potential sources of FOG discharge shall be connected to a Grease Control Device. Detailed requirements for device maintenance shall be specified in the FOG Discharge Permit.

a) Existing FSE

All existing FSEs are required to have and to properly operate and maintain a Grease Control Device according to the requirements set forth in the FOG Discharge Permit, unless the FSE has obtained a waiver as described in Section 16.07.2 and 16.07.3 below, and shall be required to follow all requirements of the FOG control program of this Division.

b) New FSE, FSE Which Change Ownership, and FSE Which Undergo Remodeling

As of the effective date of this Division, all newly constructed FSEs, FSEs which change ownership, and FSEs which undergo remodeling, see Section 16.02(k), shall be required to install a Grease Control Device, according to requirements of the FOG Discharge Permit, unless a waiver is granted under Section 16.07.2

and 16.07.3 below, and shall be required to follow all requirements of the grease control program of this Division.

2. Waiver for Alternative Pretreatment

A waiver from the FOG pretreatment requirements to allow alternative pretreatment technology that is at least equally effective in controlling the FOG discharge, in lieu of installing and operating a Grease Control Device, may be granted to a FSE demonstrating that it is impossible or impracticable to install, operate or maintain a Grease Control Device. The applicant shall bear the burden of demonstrating that the alternative method is at least equally effective. The District's determination to grant a waiver will be based upon, but not limited to, evaluation of the following conditions:

- a) District determination there is no adequate location for installation and/or maintenance of a Grease Control Device.
- b) District determination there is no adequate slope for gravity flow between kitchen plumbing fixtures and the Grease Control Device and/or between the Grease Control Device and the private collection lines or the District sewer system.
- c) District determination that alternative pretreatment technology is equivalent to or better than a Grease Control Device in controlling its FOG discharge. In addition, the FSE 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 at its own expense.

3. Waiver from Pretreatment Requirements

A waiver from installation of a Grease Control Device may be granted to a FSE that has been determined to have negligible FOG discharge and insignificant impact to the District sewer system. The District's determination to grant or revoke a waiver shall be based upon, but not limited to, evaluation of the following conditions:

- a) District determination that quantity of FOG discharge as measured or as indicated by the size of the FSE based on seating capacity, number of meals served, menu, water usage, amount of on-site consumption of prepared food and other conditions that show contribution to FOG discharges;
- b) District determination that adequacy of implementation of BMP and compliance history are sufficient;

- c) District determination that sewer size, slope, condition based on visual information, FOG deposition in the sewer by the FSE, and history of maintenance and sewage spills in the receiving sewer system;
- d) District determines that the changes in operations that significantly affect FOG discharge; and
- e) Any other condition deemed the District deems reasonably related to the generation of FOG Discharges.

4. Operations and Maintenance Requirements

All Grease Control Device shall be maintained in efficient operation at all times by the FOG Discharge Permittee at the Permittee's expense. Details of required maintenance shall be specified in the FOG Discharge Permit.

Section 16.08 Fees

1. Each FOG Discharge Permit requires an application fee of \$100.00. Following a change of ownership, a substantial change in operation, remodeling, or an increase in flow or waste generation of FOG, a revised application must be submitted with payment of an application fee of \$100.00. The application fee must be paid when the FOG Discharge Permit application is submitted to the District. The initial permit has a one-year term and is renewable annually.
2. Each FOG Discharge Permit requires an annual renewal fee of \$50.00, which shall be submitted with the annual permit renewal application.
3. The District will set the application fee and annual renewal fee in accordance with applicable law, and may amend these fees from time to time as permitted by law.

Section 16.09 Enforcement

Failure to comply with the District's FOG Control Program as provided in this Division, all generally applicable provisions of Chapter 11, and the FOG Discharge Permit or any individual permit conditions will result in enforcement action against the FSE. All fines are defined in this Section and published in the District's Master Fee Schedule, as both may be amended from time to time.

1. The first violation of the FOG Control Program will result in a warning issued by the District. For each warning, the District will make one attempt to contact the FSE's responsible party (permittee) as listed on the permit and follow-up any such verbal warning with written confirmation of the violation. If such attempt at direct contact

is unsuccessful, the District will mail written notice of the violation to the permittee. The permittee will have seven (7) days from the date of the notice to respond and correct the violation. If the permittee does not correct the violation within this time, a second violation will be issued.

2. Upon the occurrence of two or more violations, the District will notify the permittee in writing by mail of the violation and a fine of \$100.00 will be assessed and collected on the next service bill. The permittee will have seven (7) days from the date of the notice to respond and correct the violation. If the permittee does not respond and correct the violation within the seven (7) days, a per day fine of \$50.00, up to a maximum of 12 days and \$600.00 will be imposed and charged on permittee's next service bill. The fee, up to its maximum, will be assessed until the earlier of (i) the violation is corrected or (ii) the District declares the permittee to be non-compliant and discontinues sewer service to the permittee pursuant to the subsection 3. below.
3. When three or more violations of the FOG program have been committed and remain uncorrected, the District, after filing a Notice of Abatement pursuant to Section 16.10 below, may disconnect sewer service to the non-compliant permittee.

Section 16.10 Notice of Abatement

1. The District has the right to abate any violation of this Division and to charge the violating permittee or responsible person or entity for damages caused by a prohibited discharge of FOG to the District sewer system. Provided that the District can demonstrate upon reasonable proof that a FSE or responsible person or entity caused FOG build-up or another violation of this Division such that a District sewer system or appurtenance is damaged or such that a sewer overflow occurs, or that a sewer overflow is imminent, District shall have the right to serve a Notice of Abatement and to charge the permittee or responsible person or entity for all damages and abatement costs resulting from the violation. In cases of a violation of this Division that requires abatement, the District shall have the right to immediately enter a FSE premises and abate the violation to prevent further damages or violations.
2. If the District abates a violation and incurs costs for that abatement, it shall issue a bill for all damages and abatement costs incurred to the permittee or responsible person or entity as soon as practical. With the issuance of a bill for any damages and abatement costs incurred, the District also shall provide the permittee or responsible person or entity with a copy of all evidence that supports the District's determination and a copy of this Division. The responsible person or entity shall have the right to

appeal the Notice of Abatement and the damages and abatement costs charged by the District in accordance with the following procedures.

3. Upon receipt of Notice of Abatement and any bill for damages and abatement costs, the FSE or responsible person or entity (“Appellant”) may file a written reply rebutting the evidence presented and/or charges imposed by the District. The Appellant may attach any supporting evidence to its reply. The Appellant must file the written reply and supporting evidence with the District’s General Manager no later than 7 working days before the next regularly scheduled Board meeting. Any rebuttal filed by the Appellant will be limited to the issues raised in the original Notice of Abatement and any District staff report attached to the violation. At the Board meeting where an Appellant’s response to a Notice of Abatement will be considered, staff will make a presentation concerning reasons for issuing the Notice of Abatement and supporting evidence, and then the Appellant may present such oral statements, documents, and testimony of witnesses as it may choose. District staff may respond by the production of any additional relevant evidence as staff deems appropriate. The Appellant may only raise those issues in the meeting that were presented in the original Notice of Abatement and any response and staff presentation, unless the Appellant can show good cause and supporting evidence for why the Board should entertain the presentation of any new issues. Any new issues will not be acted on at the scheduled meeting and will not be made part of the record unless such presentation is first approved by the Board.
4. At the conclusion of the staff’s and Appellant’s presentations, the Board may enter into the record of the meeting the facts and its findings with respect to each issue presented by the Appellant and render its decision concerning the Notice of Abatement and District bill, or the Board may choose to take the matter under consideration and issue a written decision setting forth the facts and its findings. If the Board determines to issue a written decision, it shall do so within 15 days after the date of the meeting at which the item is considered. All decisions of the Board are final.