

**ORDINANCE NO. 784**

**AN ORDINANCE OF THE FOX METRO WATER RECLAMATION DISTRICT, KANE, KENDALL, WILL & DUPAGE COUNTIES, ILLINOIS ENACTING A GENERAL GREASE PROGRAM REGULATING THE USE OF FOX METRO WATER RECLAMATION DISTRICT WASTEWATER SYSTEM AND PROVIDING PENALTIES FOR VIOLATION THEREOF**

**NOW, THEREFORE, THE FOX METRO WATER RECLAMATION DISTRICT DOES ORDAIN:**

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# SECTION 1 - GENERAL PROVISIONS

## 1.1 *Purpose and Policy*

This ordinance sets forth uniform requirements for Food Service Establishments (FSEs) and Non-FSE FOG Dischargers (NFDs), collectively FOG dischargers that discharge wastewater into the Fox Metro Water Reclamation District (Fox Metro). The objectives of this ordinance are:

- A. To prevent the introduction of pollutants into the Fox Metro by FOG dischargers that will interfere with the operation of the POTW;
- B. To prevent the introduction of pollutants into the Fox Metro by FOG dischargers that could cause Combined Sewer Overflows (CSOs) or Sanitary Sewer Overflows (SSOs);
- C. To protect the environment from pollution caused by CSOs and SSOs;
- D. To adequately regulate the sale and use of additives added to Grease Removal Systems (GRSs).

This ordinance shall apply to all non-residential users as defined herein as FSEs or NFDs that discharge or may discharge excess Fats, Oils and Greases (FOG) to the Fox Metro. The ordinance authorizes inspection and regulation of these users; authorizes monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user record keeping; provides for the issuance of control mechanisms if deemed necessary by the District Manager or his designate; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein if deemed necessary by the District Manager or his designate.

## 1.2 *Administration*

Except as otherwise provided herein, the District Manager shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the District Manager may be delegated by the District Manager to other Fox Metro personnel.

### 1.3 Definitions

Unless the context specifically indicates otherwise, the following terms and phrases, as used in this ordinance, shall have the following meanings:

- A. Accessible when applied to required pretreatment monitoring or treatment equipment, shall mean direct access without the necessity of removing any panel, door, vehicle, equipment, materials, or other similar obstruction.
- B. Additive any material, in any physical form, put into a GRS or any drain lines or appurtenances discharging to a GRS intended in any way to modify the operation of the GRS.
- C. Administrative Penalty a punitive monetary charge unrelated to treatment cost, which is assessed by the District Manager rather than a court.
- D. Authorized Representative of the User
  - (1) If the user is a corporation:
    - (a) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
    - (b) The manager of the local facility, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;
  - (2) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively;
  - (3) If the user is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his/her authorized designee.
  - (4) The individuals described in paragraphs 1 through 3 above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the Fox Metro.

- E. Automatic Grease Removal System (AGRS) shall mean a GRS that has provision to automatically remove separated FOG and/or settled solids from the tank and collect them for disposal.
- F. Best Management Practices (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of "waters of the United States." BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
- G. Biochemical Oxygen Demand (BOD<sub>5</sub>) shall mean the quantity of oxygen, expressed in mg/L, utilized in the biochemical oxidation of carbonaceous (organic) matter over a five day period using laboratory procedures as described in Standard Methods for the examination of Water and Wastewater, latest approved edition or other methods approved by 40CFR136.
- H. Carbonaceous Biochemical Oxygen Demand (CBOD<sub>5</sub>) See Biochemical Oxygen Demand
- I. Combined Sewer Overflow (CSO) shall mean any unplanned discharge from the combined sewer system.
- J. Composite Sample shall mean sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.
- K. District Manager shall mean the chief administrator of the Fox Metro Water Reclamation District.
- L. Discharge Authorization shall mean a waste water discharge permit authorizing users to discharge wastewater to the Fox Metro. These permits would be for users requiring a control mechanism.
- M. Domestic Sewage shall mean the liquid and water borne wastes derived from ordinary living processes, free from industrial wastes, and of such character to permit satisfactory disposal, without special treatment, into the POTW.
- N. Environmental Protection Agency (EPA) The US Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, or other duly authorized official of said agency.
- O. Existing Source shall mean an "existing user" defined as any user which is discharging wastewater prior to the effective date of this ordinance.

- P. Fats, Oils and Grease (FOG) the term fats, oils, and grease shall mean those components of wastewater amenable to measurement by the methods described in Standard Methods for the examination of Water and Wastewater, latest approved edition or other methods approved by 40CFR136. For the purposes of this ordinance, the term Fats, Oils and Grease shall include polar fats, oils, and grease and other components extracted from wastewater by these methods, excluding the non-polar fraction.
- Q. Food Service Establishment (FSE) shall mean any establishment, commercial or noncommercial, primarily engaged in the preparing, serving, or otherwise making available for consumption foodstuffs in or on a receptacle that requires washing more than two (2) days per week and that discharges to the POTW.
- R. Grab Sample a sample which is taken from a wastestream on a one-time basis without regard to the flow in the wastestream and without consideration of time.
- S. Grease/Greases See FOG.
- T. Grease Impact Area shall mean any area of the POTW collection system where grease deposits originating at FSEs and/or NFDs create maintenance requirements exceeding normal sewer maintenance. These areas will be delineated by the District Manager or designate and updated as needed.
- U. Grease Interceptor any relatively large in ground or above-ground tank, with internal plumbing and baffling intended to act as a GRS or AGRS to serve one or more fixtures and which shall be remotely located.
- V. Grease Removal System (GRS) any device designed for, and intended for, separating, collecting, and removing waterborne FOG and settleable solids prior to discharging to the POTW. This includes any AGRS.
- W. Grease Trap any relatively small appurtenance, generally of cast iron or fabricated steel, with internal configuration and internal or external flow control, intended to function as a GRS or AGRS.
- X. High Strength Waste any waters or wastewater having a concentration of BOD or Total Suspended Solids in excess of domestic strength wastewater, or having a concentration of Fats, Oil and Grease in excess of Fox Metro local limits.
- Y. Interference a discharge which alone or in conjunction with a discharge or discharges from other sources, either: (1) inhibits or disrupts the POTW, its treatment processes or operations; (2) inhibits or disrupts its biosolids (sludge) processes, use or disposal; or (3) is a cause of a violation of the Fox Metro NPDES permit or of the prevention of sewage

sludge use or disposal in compliance with any of the following statutory/ regulatory provisions or permits issued thereunder: Section 405 of the Clean Water Act; the Solid Waste Disposal Act (SWDA), including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

- Z. Liquid Waste shall mean liquid waste that is the discharge from any fixture, appliance or appurtenance in connection with a plumbing system which does not receive fecal matter.
- AA. Maximum Allowable Discharge Limit shall mean the maximum concentration (or loading) of a pollutant allowed to be discharged at any time.
- AB. New User a "new user" is defined as a user that applies to Fox Metro for a connection permit or a person who occupies an existing building and plans to discharge wastewater to the POTW after the effective date of this ordinance.
- AC. Non-FSE FOG Discharger (NFD) any establishment, such as a church, synagogue, worship hall, banquet facility, preschool, school, or meeting space, with a commercial-style kitchen that is used for preparing, serving, or otherwise making available for consumption foodstuffs in or on a receptacle that requires washing two days a week or less and that discharges to the POTW.
- AD. Pass Through shall mean a discharge which exits the Fox Metro Wastewater Treatment Plant into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of Fox Metro's NPDES permit (including an increase in the magnitude or duration of a violation).
- AE. Permittee shall be a person or user issued a wastewater discharge permit, or discharge authorization.
- AF. Person shall mean any individual, partnership, co-partnership, firm, company, corporation, association, Joint Stock Company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents, or assigns. This definition includes all Federal, State, or local governmental entities.
- AG. pH shall mean the intensity of the acid or base condition of a solution, calculated by taking the logarithm of the reciprocal of the hydrogen ion concentration.
- AH. Pollutant shall mean any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, commercial, agricultural waste, or any other contaminate.

- AI. Pretreatment shall mean the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to (or in lieu of) introducing such pollutants into the Fox Metro wastewater treatment system. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except as prohibited by 40-CFR-403.6(d).
- AJ. Pretreatment Requirements shall mean any substantive or procedural requirement related to pretreatment, other than a pretreatment standard, imposed on a user.
- AK. Pretreatment Standards or Standards shall mean any: Fox Metro prohibitive discharge standard as set forth in Section 300.105 of Ordinance 517; Fox Metro specific limitation on discharge as set forth in Section 300.120 of Ordinance 517, a State of Illinois Pretreatment Standard, or a National Categorical Pretreatment Standard (when effective).
- AL. Prohibited Discharge Standards or Prohibited Discharges shall mean absolute prohibitions against the discharge of certain substances; these prohibitions appear in Sections 300.105 of Ordinance 517.
- AM. Publicly Owned Treatment Works (POTW) shall mean a "treatment works," as defined by Section 212 of the Act. This definition includes any devices and systems used in the collection, storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature that convey wastewater to the POTW regardless of ownership, but does not include
- AN. Sanitary Flow shall mean sewage.
- AO. Sanitary Sewer Overflow (SSO) shall mean any unplanned discharge from the separate sanitary sewer system.
- AP. Septic Tank Waste shall mean any domestic and/or residential sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.
- AQ. Settleable Solids shall mean the solids that sink to the bottom of water, wastewater, or other liquid, and which is amenable to measurement by the methods described in Standard Methods for the examination of Water and Wastewater, latest approved edition or other methods approved by 40CFR136.
- AR. Sewage shall mean human excrement and gray water (household showers, dishwashing operations, food preparation, etc.)
- AS. Sewer shall mean any pipe, conduit, ditch, or other device used to collect and transport sewage from the generating source.

- AT. Shall shall mean mandatory.
- AU. Standard Industrial Classification (SIC) Code shall mean a classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.
- AV. State shall mean the State of Illinois.
- AW. Storm Water shall mean any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.
- AX. Substantial Remodel shall mean any modification to an existing FSE or NFD that involves changes to 30% or more of the floor area of the establishment.
- AY. Total Suspended Solids shall mean the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering and is amenable to measurement by the methods described in Standard Methods for the examination of Water and Wastewater, latest approved edition or other methods approved by 40CFR136.
- AZ. Toxic Pollutant shall mean any pollutant, or combination of those pollutants identified as toxic pursuant to Section 307(a) of the Federal Water Pollution Control Act or other Federal Statutes or in regulations promulgated by the State under state laws as may be promulgated.
- BA. Treatment Plant Effluent shall mean the discharge from the Fox Metro into waters of the United States.
- BB. User shall mean for the purposes of this ordinance a user is any FSE or NFD. This shall not include "domestic user" as defined herein.
- BC. Wastewater shall mean the combination of the liquid and water carrying industrial or domestic wastes from residences, commercial buildings, industrial and manufacturing facilities, and institutions including polluted cooling water, whether treated or untreated.
- BD. Wastewater Discharge Permit shall mean the document(s) allowing discharge into the Fox Metro wastewater treatment system and issued to a user by Fox Metro in accordance with the terms of this Ordinance.

The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use. The use of either the male or female shall be construed to include both genders.

## **1.4 Abbreviations**

The following abbreviations shall have the designated meanings:

AGRS .....	Automatic Grease Removal System
AKART.....	All Known Available and Reasonable Technology
BMPs.....	Best Management Practices
BOD .....	Biochemical Oxygen Demand
CFR.....	Code of Federal Regulations
COD .....	Chemical Oxygen Demand
CSO.....	Combined Sewer Overflow
EPA.....	US Environmental Protection Agency
FOG.....	Fats, Oils, and Grease
FSE.....	Food Service Establishment
GPD.....	gallons per day
GRS.....	Grease Removal System
L .....	liter
mg .....	milligrams
mg/L.....	milligrams per liter
O&M.....	Operation and Maintenance
POTW .....	Publicly Owned Treatment Works
SSO .....	Sanitary Sewer Overflow
TSS.....	Total Suspended Solids

## **SECTION 2 - GENERAL REQUIREMENTS**

### **2.1 Prohibited Discharge Standards**

See Section 300.105 Prohibitive Discharge Standards in Pretreatment Ordinance #517.

### **2.2 State Requirements**

Illinois Pretreatment Program requirements, found at Title 35 of the Illinois Administrative Code, Parts 307 & 310, are hereby incorporated into this Ordinance by reference.

## **2.3 Local Limits**

- A. See Section 300.120 Local Limits in Pretreatment Ordinance #517.

In addition, the Pretreatment Department may establish Best Management Practices (BMPs) for particular groups of users. These BMPs may include, but are not limited to types or methods of pretreatment technology to be used, methods of source control, minimum maintenance requirements, spill prevention practices, or other requirements as deemed necessary.

- B. If a failure to maintain any GRS results in partial or complete blockage of the building sewer, private sewer system discharging to Fox Metro or adversely affects the treatment or transmission capabilities of the POTW, or requires excessive maintenance, or poses a possible health hazard, the discharger responsible for the facilities shall be subject to the remedies herein, including cost recovery, enforcement and penalties.

## **SECTION 3 – GREASE REMOVAL SYSTEM REQUIREMENTS**

All FSEs and NFDs shall have an adequate grease removal system installed and exercise proper kitchen best management practices to ensure that excess concentrations of FOG are not discharged to the POTW.

### **3.1 New Construction**

All new construction FSEs and NFDs shall submit plumbing plans for all potential grease discharging lines, all GRSs, and connecting piping to the Pretreatment Department for approval prior to construction. The plumbing shall be installed in accordance with the approved plans. Failure to submit plans or construct in accordance with approved plans is a violation of this ordinance.

- A. All new Food Service Establishment single occupancy buildings shall install properly sized interceptor-style grease removal systems. Where space or gradient limitations make the use of an interceptor-style GRS impractical, and with prior approval of the Pretreatment Department, a FSE may install properly sized trap-style GRSs. All kitchen drains and any other drains that may carry grease-laden waste shall be connected to this GRS, this includes but is not limited to; vegetable sinks, prep sinks, hand sinks, mop basins, floor drains, bar sinks and chemical rinse dishwashers (high temp dishwashers MAY NOT be routed through the GRS).

- B. All new construction multi-tenant buildings (strip centers) shall include a separate waste line for all leasable spaces that discharges to a common 1500 gallon or larger interceptor. When a space is leased, sold, or rented to a FSE or NFD, all kitchen drains and any other drains that may carry grease-laden waste shall be connected to this waste line. This includes but is not limited too; vegetable sinks, prep sinks, hand sinks, mop basins, floor drains, bar sinks and chemical rinse dishwashers (high temp dishwashers MAY NOT be routed through the GRS), no domestic sewage may be connected to this line. The property owner shall be responsible for proper maintenance of this interceptor in accordance with the provisions of this ordinance.
- C. All new Non-FSE FOG Discharger single occupancy buildings shall install a properly sized GRS. All kitchen drains and any other drains that may carry grease-laden waste shall be connected to this GRS, this includes but is not limited too; vegetable sinks, prep sinks, hand sinks, mop basins, floor drains, bar sinks and chemical rinse dishwashers (high temp dishwashers MAY NOT be routed through the GRS).
- D. Any FSE or NFD undertaking a Substantial Remodel, as defined herein, will be considered to be new construction for the purposes of this ordinance.

### **3.2 Existing Users**

- A. Any existing FSE without a functional GRS shall be required to install one within nine (9) months of the effective date of this Ordinance; the type of GRS required will be determined by the Pretreatment Department. Where feasible, all kitchen drains and any other drains that may carry grease-laden waste shall be connected to this GRS, this includes but is not limited too; vegetable sinks, prep sinks, hand sinks, mop basins, floor drains, bar sinks and chemical rinse dishwashers (high temp dishwashers MAY NOT be routed through the GRS).
- B. Any existing FSE not equipped with the required pretreatment device for the type of business shall be required to install one within eighteen (18) months of the effective date of this Ordinance. The type of GRS required will be determined by the Pretreatment Department. Where feasible, all kitchen drains and any other drains that may carry grease-laden waste shall be connected to this GRS, this includes but is not limited too; vegetable sinks, prep sinks, hand sinks, mop basins, floor drains, bar sinks and chemical rinse dishwashers (high temp dishwashers MAY NOT be routed through the GRS).
- C. Any existing NFD without a functional GRS shall be required to install one within nine (9) months of the effective date of this Ordinance; the type of GRS required will be determined by the Pretreatment Department. Where feasible, all kitchen

drains and any other drains that may carry grease-laden waste shall be connected to this GRS, this includes but is not limited too; vegetable sinks, prep sinks, hand sinks, mop basins, floor drains, bar sinks and chemical rinse dishwashers (high temp dishwashers MAY NOT be routed through the GRS).

- D. Any existing NFD not equipped with the required pretreatment device for the type of business shall be required to install one within eighteen (18) months of the effective date of this Ordinance. The type of GRS required will be determined by the Pretreatment Department. Where feasible, all kitchen drains and any other drains that may carry grease-laden waste shall be connected to this GRS, this includes but is not limited too; vegetable sinks, prep sinks, hand sinks, mop basins, floor drains, bar sinks and chemical rinse dishwashers (high temp dishwashers MAY NOT be routed through the GRS).

### **3.3 *New Businesses-Existing Facility***

- A. New businesses which will occupy an existing facility required by this Ordinance to maintain a grease trap or interceptor shall install such unit prior to commencement of discharge to the sanitary sewer.
- B. For the purpose of this Ordinance, a new business shall include new ownership of an existing business.

### **3.4 *Grease Removal System Maintenance***

- A. All grease removal systems shall be maintained to ensure proper operation. At a minimum, interceptor-style GRS shall be cleaned at least once every 90 days and trap-style GRS cleaned at least once per week. These required frequencies may be extended with the approval of the Pretreatment Department. Grease Removal Systems must be cleaned whenever the combined thickness of the floating greases and settled solids is equal to, or greater than, 25% of the total liquid depth in the GRS.
- B. When cleaned, an interceptor-style GRS must have all solids and grease removed at a minimum of twice per year. Also, all internal plumbing must be inspected for damage and corrosion. If repairs are required, they shall be performed within 30 days. Manifests must be on site and available for Fox Metro to review during the FSE or NFD grease inspection.
- C. Trap-style GRS may be maintained by the FSE or NFD. When cleaned, the trap must have surface grease and oil removed, settled solids removed, all of the sides scraped, removable parts removed and cleaned, be inspected for damage and corrosion, and be properly reassembled. If repairs are required, they shall be performed within 30 days. A cleaning log must be kept and available for Fox Metro to review during the FSE or NFD grease inspection.

- D. The material that is removed in the process of cleaning a GRS shall not be discharged into any part of the POTW, any private sewer, any drainage piping, or storm sewer system. All materials removed shall be handled and disposed of in accordance with Federal, State, County and Local laws, rules and regulations.

### **3.5 Grease Removal System Additives**

No user may use an additive of any type for the GRS without the approval of the Pretreatment Department.

No vendor may sell, attempt to sell or otherwise distribute any additive in the Fox Metro Service area without prior approval of the additive by the Pretreatment Department. Any GRS additive that has not been approved for use by the Pretreatment Department is in violation of this ordinance and is subject to all enforcement actions contained herein.

### **3.6 General Specifications and Sizing**

- A. Specifications outlined in this Section shall be considered minimum requirements only. It shall be the responsibility of each User to have a grease trap or interceptor installed and maintained that will produce an effluent in compliance with the requirements of this or other applicable Ordinance.
  - 1. New grease traps or interceptors shall meet or exceed the more stringent of specifications and requirements set forth in this Ordinance and other applicable Local, State, or Federal requirements.
  - 2. An existing grease trap or interceptor which is upgraded shall meet or exceed the specifications set forth in this Ordinance and other applicable Local, State, or Federal requirements.
- B. Grease traps and interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature and capable of withstanding the traffic load where installed.
- C. Grease traps and interceptors shall be located so as to be readily and easily accessible for cleaning and inspection of the pretreatment device and shall be equipped with easily removable covers.
- D. Grease interceptors shall have a total liquid capacity of not less than five hundred (500) gallons. Grease traps shall have a total liquid capacity of not less than fifty (50) gallons.

1. The minimum size of grease interceptors shall be determined according to the number of fixture units draining through the trap, but shall, in no case, have a total liquid capacity of less than 500 gallons.
  2. The total number of fixture units multiplied by one hundred and twenty-five (125) gallons shall determine the minimum total liquid capacity of the interceptor.
- B. Plans for new grease traps/interceptors or modifications to existing grease traps/interceptors shall be submitted to the Control Authorities Pretreatment Department for review.
- C. The Pretreatment Department must give approval of the final plumbing plans prior to the issuance of any Fox Metro permits.
- D. Grease traps and interceptors shall be installed by a licensed plumber. Completed grease traps and interceptors shall be subject to inspection by the Control Authority Pretreatment Inspector prior to connection to the sanitary sewer.

## **SECTION 4 – RECORD KEEPING/REPORTING REQUIREMENTS**

### **4.1 *Record Keeping***

Users subject to this ordinance shall document all cleaning and maintenance activities performed on their GRS. These records shall be maintained for a minimum of three (3) years and be available for inspection and copying by the Pretreatment Inspector or his representative. This period shall be automatically extended for the duration of any litigation concerning the user or the POTW, or where the user has been specifically notified of a longer retention period required by the Pretreatment Department.

### **4.2 *Reporting***

Where the Pretreatment Inspector has determined that a user must provide written reports, these reports shall be submitted in accordance with the requirement of the Pretreatment Department. Written reports will be deemed to have been submitted on the date postmarked.

### **4.3 *Manifests***

All GRS pumping companies doing business with in the district shall provide the FSE or NFD with a manifest containing the following information: date of cleaning, amount of material removed, cleaning frequency, and any noted repairs.

## **SECTION 5 - CONFIDENTIAL INFORMATION**

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of Fox Metro, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable State law.

When requested and demonstrated by the user furnishing a report that such information should be held confidential, Fox Metro shall make reasonable efforts to protect the portions of a report which might disclose trade secrets or secret processes from inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report.

## **SECTION 6 - ADMINISTRATIVE ENFORCEMENT REMEDIES**

### **6.1 *Notification of Violation (Notice of Violation, NOV)***

When the Pretreatment Department finds that a user has violated (or continues to violate) any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Pretreatment Department may serve upon that user a written Notice of Violation.

- A. The Notice of Violation shall contain the particulars of such violation(s) and order the offending User to, but not limited to: explain the cause(s) of the violation(s), submit a plan or schedule for the satisfactory correction of the violation(s) and the prevention of similar violation(s) in the future, pay an administrative fine, or any additional remedies deemed necessary by Fox Metro to bring the User into compliance within the shortest time feasible.
- B. Within thirty (30) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Pretreatment Department. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of Fox Metro to take any action, including emergency actions or any other enforcement remedies, without first issuing a Notice of Violation.

## 6.2 **Enforcement**

Fines and penalties may be added to the User's next scheduled wastewater billing and Fox Metro shall have such collection remedies as may be available for other service charges and fees.

### **A. Minor Violation**

#### 1. 1st Offense

- i. Failure to submit records: \$50
- ii. Inspection hindrance (equipment related): \$50
- iii. Failure to maintain on site records: \$ 50
- iv. Reinspection fee: \$50
- v. Failure to pump grease & submit record: \$150
- vi. Failure to provide access for inspection: \$150

#### 2. 2nd Offense

- vii. Failure to submit records: \$100
- viii. Inspection hindrance (equipment related): \$100
- ix. Failure to maintain on site records: \$100
- x. Reinspection fee: \$100
- xi. Failure to pump grease & submit records: \$300
- xii. Failure to provide access for inspection: \$300

#### 2. 3rd Offense

- i. Failure to submit records: \$150
- ii. Inspection hindrance (equipment related): \$150
- iii. Failure to maintain on site records: \$150
- iv. Reinspection fee: \$150
- v. Failure to pump grease & submit records: \$450
- vi. Failure to provide access for inspection: \$450

#### 3. 4th Offense & Up

- i. Failure to submit records: \$300
- ii. Inspection hindrance (equipment related): \$300
- iii. Failure to maintain on site records: \$300
- iv. Reinspection fee: \$300
- v. Failure to pump grease & submit records: \$1000
- vi. Failure to provide access for inspection: \$1000

### **B. Intermediate Violation**

#### 1. Failure to maintain necessary equipment (T's, grease trap not watertight, baffles, screens, etc.)

- i. 1st Offense: \$150
- ii. 2nd Offense: \$300
- iii. 3rd Offense: \$500
- iv. 4th Offense & Up: \$1000

2. Failure to increase pumping frequency as requested
  - i. 1st Offense: \$150
  - ii. 2nd Offense: \$300
  - iii. 3rd Offense: \$500
  - iv. 4th Offense & Up: \$1000

C. Major Violation

1. Source of sewer blockage (minimum): \$500
2. Source of sanitary sewer overflow (minimum): \$1000
3. Falsification of maintenance records: \$1000

### **6.3 Appeal of Grease Policy**

Any Food Service Establishment (FSE) may appeal a fine that has been assessed for failure to comply with the Grease Control Policy. The FSE must submit a written request, identifying the specific issues to be contested, to the Fox Metro Pretreatment Department within thirty (30) days following receipt of the assessment of fine, or Notice of Violation. Unless such written request is made within the time frame specified, the fine subject to appeal shall be final and binding.

### **6.4 Consent Orders**

The Pretreatment Department may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for non-compliance. Such orders will include specific action to be taken by the user to correct the non-compliance within a time period specified by the document. Such documents shall have the same force and effect as the Compliance Directives issued pursuant to Section 6.4 of this ordinance and shall be judicially enforceable. Use of a Consent Order shall not be a bar against, or prerequisite for, taking any other action against the user.

### **6.5 Show Cause Hearing**

The Pretreatment Department may order a user which has violated or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the District Manager or his designate and show cause why a proposed enforcement action should not be taken.

- A. Notice shall be served on the user specifying the time and place for the hearing, the proposed enforcement action(s), the reason(s) for such action(s), and a request that the user show cause why the proposed enforcement action should not be taken. The notice of hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (5) days prior to the hearing. Such notice may be served upon any authorized representative of the user. A show cause hearing shall not be a prerequisite for taking any other action(s) or enforcement remedies against the user.

**6.6 Compliance Directives**

Whenever Fox Metro finds that any user has violated or continues to violate any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Pretreatment Department may issue a directive to the user responsible for the discharge ordering the user to come into compliance within a time period stated in the Compliance Directive. If the user does not come into compliance within the stated time period, sanitary sewer service shall be discontinued. Issuance of a compliance directive shall not be a bar against, or a prerequisite for, taking any other action against the user.

**6.7 Cease and Desist Orders**

Whenever Fox Metro finds that any user has violated (or continues to violate) any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Pretreatment Department may issue an order to the user directing it to cease and desist all such violations and directing the user to:

- A. Immediately comply with all requirements; and
- B. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

**6.8 Administrative Fines**

- A. When the Pretreatment Department finds that a user has violated or continues to violate any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Pretreatment Department may fine such user in an amount not less than \$50 (fifty dollars) nor more than \$10,000 (ten-thousand dollars) per violation per day.
  - 1. Fines shall be issued that, at a minimum, remove the economic benefit to a user by its non-compliance, include an additional monetary amount reflecting the seriousness or gravity of the violation(s), and ensures the user has a strong economic incentive to fully comply in a timely manner. Fox Metro shall consider any corrective actions taken by the user and the compliance history of the user prior to the issuance of the fine.
  - 2. For the purpose of this section, each day in which any such violation shall occur shall be deemed a separate violation.

- B. Administrative fines and penalties will be added to the user's next scheduled wastewater billing and Fox Metro shall have such collection remedies as may be available for other service charges and fees.
- C. Unpaid charges, fines, and penalties shall be assessed an additional penalty of the unpaid balance and interest shall accrue thereafter in accordance with Fox Metro User Charge Ordinances. Water service to the individual user's property will be shut off for unpaid charges, fines, and penalties.
- D. Users desiring to dispute such fines must file, within 10 (ten) calendar days of being notified of the fine, a written request for Fox Metro to reconsider the fine and full payment of the fine amount. Where such request has merit, Fox Metro shall convene, within 15 (fifteen) calendar days of receiving the request from the user, a hearing on the matter. In the event the user's appeal is successful, any payments made shall be returned less any costs incurred by Fox Metro in the preparation of the enforcement remedy.
- E. Fox Metro may recover attorney's fees, court costs, court reporter fees, and any other expenses associated with enforcement activities including sampling and monitoring expenses and the costs of any actual damages incurred by Fox Metro.

## **6.9 Emergency Suspensions**

The Pretreatment Department may immediately suspend a user's discharge (after informal notice to the user) whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons.

The Pretreatment Department may also immediately suspend a user's discharge that threatens to interfere with the operation of the POTW, or which presents or may present an endangerment to the environment.

- A. Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Pretreatment Department shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals.

The Pretreatment Department shall allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the District that the period of endangerment has passed, unless the termination proceedings in Section 6.8 of this ordinance are initiated against the user.

- B. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Pretreatment Department prior to the date of any show cause or termination hearing under Sections 6.3 and 6.8 of this ordinance.

## **6.10 Appeal Procedures**

- A. Appeals
  - 1. Any user seeking to dispute a Notice of Violation, order, fine, or other action of the Pretreatment Department Director may file an appeal.
  - 2. The appeal must be filed in writing and received by the Pretreatment Department, within ten (10) days of the receipt of the disputed action. If the notice of appeal is not received by the Pretreatment Department within the 10 day period, the right to an appeal is waived. The notice of appeal shall state with particularity the basis upon which the appellant is disputing the action taken.
  - 3. Upon receipt of a timely appeal, the Pretreatment Department shall set a date and time for an appeal hearing, but in no case shall the hearing be set more than thirty (30) days from the receipt of the timely notice of appeal. The appellant shall be notified in writing of the date, time, and place for the appeal hearing.

## **SECTION 7 - JUDICIAL ENFORCEMENT REMEDIES**

### **7.1 Injunctive Relief**

- A. When the Pretreatment Department finds that a user has violated or continues to violate any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the District Manager may petition the Circuit Court of Kane, Kendall, Will or Dupage Counties, for the issuance of a temporary restraining order or preliminary injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this ordinance on activities of the user.
- B. Such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

## **7.2 Civil Penalties**

- A. A user which has violated or continues to violate any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to Fox Metro for a civil penalty of an amount of not less than \$1,000.00 (one-thousand dollars) nor more than \$10,000 (ten-thousand dollars) per violation per day, plus any actual damages incurred by Fox Metro for as long as the non-compliance continues. For purposes of this section, each day in which any such violation shall occur shall be deemed a separate violation.
- B. Fox Metro may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by Fox Metro.
- C. Fox Metro shall petition the court to impose, assess, and recover such sums. In determining the extent of the liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.
- D. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for taking any other action against a user.

## **7.3 Criminal Prosecution**

- A. Any user that is found to have willfully or negligently violated any provision of this ordinance, wastewater discharge permit, enforcement remedy issued hereunder, or any other pretreatment standard(s) or requirement(s), upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$10,000 (ten-thousand dollars) per violation per day or shall be incarcerated in a penal institution other than the penitentiary for a period not to exceed 1 (one) year or both. For the purpose of this section, each day in which any such violation shall occur, shall be deemed a separate violation.
- B. Any user that is found to have willfully or negligently introduced any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$10,000 (ten-thousand dollars) per violation per day or shall be incarcerated in a penal institution other than the penitentiary for a period not to exceed 1 (one) year or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.

- C. Any user that is found to have knowingly made any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this ordinance, wastewater discharge permit, or order, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$10,000 (ten-thousand dollars) per violation per day or shall be incarcerated in a penal institution other than the penitentiary for a period not to exceed 1 (one) year or both.

#### **7.4 *Additional Remedies***

The provisions in Sections 6 through 8 of this ordinance are not exclusive remedies. Fox Metro reserves the right to take any, all, or any combination of these actions against a non-compliant user. Enforcement of pretreatment violations will generally be in accordance with Fox Metro's enforcement response plan. However Fox Metro reserves the right to take other action against any user when the circumstances warrant. Further, Fox Metro is empowered to take more than one enforcement action against any non-compliant user. These actions may be taken concurrently.

#### **7.5 *Publication of Violations and/or Enforcement Actions.***

The Pretreatment Department may publish violations and/or enforcement actions at any time, where monetary fines may be inappropriate in gaining compliance, or in addition to monetary fines. Violations and/or enforcement actions may also be published when the Pretreatment Department feels that public notice should be made, or at other appropriate times. The cost of such publications will be recovered from the user.

### **SECTION 8 - MISCELLANEOUS PROVISIONS**

#### **8.1 *Pretreatment Charges and Fees***

The Pretreatment Department may adopt reasonable fees for reimbursement of costs of setting up and operating the District's FOG Control Program.

These fees relate solely to the matters covered by this ordinance and are separate from all other rates or charges for sewer service, provided that the District shall collect said charges in the same manner as other sewer rates are collected.

Fees may include:

- A. Fees for wastewater discharge permits, including the cost of processing the permit applications, public noticing, issuing and administering the permit, and reviewing monitoring reports submitted by users;
- B. Fees for modifying or transferring permits.
- C. Fees for monitoring, inspection, surveillance and enforcement procedures including the cost of collection and analyzing a user's discharge;
- D. Fees for reviewing and responding to accidental discharge procedures and construction;
- E. Fees for preparing and executing enforcement action;
- F. Fees for filing appeals;
- G. Fees for High Strength Waste and Industrial Process flow; and
- H. Other fees as the District may deem necessary to carry out the requirements contained herein.
- I. Permit Fees
  - 1. Should the Pretreatment Department determine that adequate FOG control activities require issuance of control mechanism to FSEs and NFDs, the fees shall be as follows:
    - i. Five Year Discharge Authorization Permit shall be \$750.
    - ii. One Year Discharge Authorization Permit shall be \$250.
  - 2. Permit Transfer Fee shall be \$500
  - 3. Permit Modification Fee shall be \$500

Permit modification fees will only be charged in a case where changes in the user's operation require the modification, or when the user requests a modification.

J. Monitoring Fees

Any user establishing a pattern of non compliance, or having a history of non compliance, or suspected of being in non compliance, may require additional monitoring visits as deemed appropriate by the Pretreatment Department. Any additional inspections, sampling, surveillance monitoring activities, and analysis performed which detect non compliance will be billed directly to the user.

K. Enforcement Actions

All expenses in preparing enforcement actions will be billed directly to the User.

L. Cost Recovery

The Pretreatment Department may recover any expenses incurred due to noncompliance by a user, including, but not limited to; costs of opening a plugged sewer, costs of repairing a damaged sewer, costs of determining the cause of a SSO or CSO, and costs of cleaning up and mitigating a SSO or CSO.

All fees or charges will be collected by direct billing. Unless the District has been made aware of extenuating circumstances that would prevent prompt payment, all fees are payable within 30 days of the billing. Fees past due will be considered a violation of this ordinance. Users not paying fees within 60 days of the billing period may be subject to termination of service.

## **8.2 Severability**

Should any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause, or provision shall not affect any of the other provisions of this Ordinance.

## **8.3 Conflicts / Repeal.**

All ordinances, resolutions, or orders, or parts thereof, in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

## **8.4 Effective Date**

This ordinance shall be in full force and effect immediately following its passage, approval and publication, as provided by law.