

ORDINANCE NO. 17-04

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF ORANGE ADOPTING FATS, OILS AND
GREASE CONTROL REGULATIONS APPLICABLE
TO FOOD SERVICE ESTABLISHMENTS.**

WHEREAS, pursuant to Government Code Sections 38900-38901 the City of Orange (hereafter, City) has the authority to adopt ordinances regulating to the provision of sewer services and facilities; and

WHEREAS, the Regional Water Quality Control Board (RWQCB) for the Santa Ana Region adopted Order R8-2002-0014, which prohibits sanitary sewer overflows (SSOs) by sewer collection agencies; and

WHEREAS, in Order R8-2002-0014, the RWQCB found that one of the leading causes of SSOs within the Santa Ana Region, which encompasses the City's service area is grease blockages; and

WHEREAS, SSOs are often caused by discharge of wastewater containing high levels of fat, oils and grease (FOG), suspended solids, pathogenic organisms, and other pollutants; may cause temporary exceedances of applicable water quality objectives; pose a threat to the public health; adversely affect aquatic life; result in costs for cleanup; and impair the public recreational use and aesthetic enjoyment of surface waters within Orange County; and

WHEREAS, the 2000-2001 Orange County Grand Jury (Grand Jury) conducted a survey among 35 wastewater collection and treatment agencies in Orange County and concluded that one of the leading causes of SSOs is sewer lines clogged from the accumulation of FOG discharged from Food Service Establishments (FSEs); and

WHEREAS, the Grand Jury concluded that more effective methods of minimizing FOG discharges into the sewer system must be developed and implemented in order to prevent sewer blockages and SSOs; and

WHEREAS, Order No. R8-2002-0014 requires the City to monitor and control SSOs and to develop a FOG Control Program by December 30, 2004; and

WHEREAS, in light of the evidence that FOG is a primary cause of SSOs, the City desires to implement a FOG Control Program to prevent SSOs; and

WHEREAS, Section 1014 of the 2001 California Plumbing Code, as adopted and amended by reference by Chapter 15.15 of the Orange Municipal Code (hereafter, California Plumbing Code), requires the installation of grease traps or interceptors when in the opinion of the Building Official waste pretreatment is required; and

WHEREAS, the foregoing findings indicate that a FOG Control Program is required for FSEs within the City's jurisdiction to comply with waste discharge regulations and prevent the harmful effects of SSOs; and

WHEREAS, this Ordinance will require existing FSEs to install grease control devices or interceptors no later than three years from the effective date of this Ordinance or to otherwise implement measures that effective in preventing SSOs; and

WHEREAS, the City Council finds that three years is a reasonable amortization period for existing FSEs that are operating without a grease control device or grease interceptor; and

WHEREAS, the City Council finds that specific enforcement provisions must be adopted to govern discharges of wastewater to the City's system by FSEs.

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

SECTION I:

Title 13 of the Orange Municipal Code is hereby amended by adding Chapter 13.66 thereto to read in full as follows:

Chapter 13.66

FATS, OILS AND GREASE REGULATIONS (FOG)

Sections:

- 13.66.010 Purpose and Policy.**
- 13.66.020 Definitions.**
- 13.66.030 FOG Discharge Requirements.**
- 13.66.040 Prohibitions.**
- 13.66.050 FOG Discharge Prohibited.**
- 13.66.060 Best Management Practices (BMP) Requirements.**
- 13.66.070 FOG Pre-Treatment Requirements.**
- 13.66.080 Conditional Waiver of Grease Interceptor Requirements.**
- 13.66.090 Grease Disposal Mitigation Fee.**
- 13.66.100 Sewer System Overflows, Public Nuisance, Abatement Orders and Cleanup Costs.**
- 13.66.110 FOG Discharge Permit Required.**
- 13.66.120 FOG Discharge Permit Application.**
- 13.66.130 FOG Discharge Permit Conditions.**
- 13.66.140 FOG Discharge Permit Fee.**
- 13.66.150 FOG Discharge Permit Modification of Terms and Conditions.**
- 13.66.160 FOG Discharge Permit Duration and Renewal.**
- 13.66.170 Non-Transferability of Permits.**

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13.66.300	Damage to Facilities or Interruption of Normal Operations.
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13.66.10 Purpose and Policy.

- A. The purpose of this Chapter is to enhance beneficial public use of the City's sewer facilities, prevent blockages of sewer lines resulting from discharges of fats, oils and grease and other constituents (FOG) to the sewer facilities and to specify appropriate FOG discharge requirements for Food Service Establishments (FSEs).
- B. The provisions of this Chapter shall apply to the direct or indirect discharge of all FOG carried to the sewer facilities of the City.
- C. This Chapter is established to comply with Federal, State, and local regulations and standards relating to FOG discharges to the sewer facilities.
- D. This Chapter establishes quantity and quality standards on all wastewater and/or waste discharges containing FOG, which may cause or contribute to the occurrence of sanitary sewer services overflows (SSOs).

13.66.020 Definitions.

- A. Unless otherwise defined herein, terms related to water quality shall be as adopted in the latest edition of Standard Methods for Examination of Water and Wastewater, published by the American Public Health Association, the American Water Works Association and the Water Environment Federation. The testing procedures for waste constituents and characteristics shall be as provided in 40 Code of Federal Regulations 136.

B. Other terms not defined shall be defined as they are in the latest adopted applicable editions of the California Codes applicable to building construction.

C. Subject to the foregoing provisions, the following definitions shall apply in this Ordinance:

Best Management Practices (BMP)	Schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce the introduction of FOG to the sewer facilities.
Change in Operations	Any change in the ownership, food types, or operational procedures that have the potential to increase the amount of FOG discharged by FSEs in an amount that creates a potential for SSOs to occur.
City Manager	The City Manager of the City of Orange or his or her designee.
Composite Sample	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 wastestream discharged during the sample period. Samples will be collected when a wastewater discharge occurs.
Discharger	Any person who discharges or causes a discharge of wastewater directly or indirectly to a public sewer.
Effluent	Any liquid outflow from the Food Service Establishment that is discharged to the sewer.
Fats, Oils, and Grease ("FOG")	Any substance such as a vegetable 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.
FOG Control Program	The FOG Control Program required by and developed pursuant to RWQCB Order No. R8-2002-0014, Section (c)(12)(viii).
FOG Control Program Manager	The individual designated by the City to administer the FOG Control Program.

**FOG Discharge
Permit or Permit**

A permit issued by the City subject to the requirements and conditions established by the City authorizing the Permittee or discharger to discharge wastewater into the City's facilities or into sewer facilities which ultimately discharge into a City facility.

Food Grinder

Any device installed in the plumbing or sewage system for the purpose of grinding food waste or food preparation.

**Food Service
Establishments
(FSEs)**

Facilities defined in California Uniform Retail Food Service Establishments Law (CURFFL) Section 113785, and any commercial entity within the boundaries of the City, operating in a permanently constructed structure such as a room, building, or place, or portion thereof, maintained, used, or operated for the purpose of storing, preparing, serving, or manufacturing, packaging, or otherwise handling food for sale to other entities, or for consumption by the public, its members or employees, and which has any process or device that uses or produces FOG, or grease vapors, steam, fumes, smoke or odors that are required to be removed by a Type I or Type II hood, as defined in CURFFL Section 113785. A limited food preparation establishment is not considered a Food Service Establishment when engaged only in reheating, hot holding or assembly of ready to eat food products and as a result, there is no wastewater discharge containing a significant amount of FOG. A limited food preparation establishment does not include any operation that changes the form, flavor, or consistency of food.

**Grease Control
Device**

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

**Grease Disposal
Mitigation Fee**

A fee charged to an Owner/Operator of FSEs when there are physical limitations to the property that make the installation of the usual and customary grease interceptor or grease control device for FSEs under consideration, impossible or impracticable. The Grease Disposal Mitigation Fee is intended to cover the costs of increased maintenance of the sewer system for inspection and cleaning of FOG and other viscous or solidifying agents that a properly employed grease control device would otherwise prevent from entering the sewer system.

Grease Interceptor

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 FSEs and the connection to the sewer system. These devices must be cleaned, maintained, and have the FOG removed and disposed of in a proper manner on regular intervals to be effective.

Grease Trap

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.

Grab Sample

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

Hot Spots

Areas in sewer lines that have experienced sanitary sewer overflows or that must be cleaned or maintained frequently to avoid blockages of sewer system.

Infiltration

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

Inflow

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

Interceptor

A grease interceptor.

Interference	Any discharge which, alone or in conjunction with discharges from other sources, inhibits or disrupts the City's sewer system, treatment processes or operations; or is a cause of violation of the City's NPDES or Discharge Requirements or prevents lawful sludge use or disposal.
Local Sewering Agency	Any public agency or private entity responsible for the collection and disposal of wastewater to the City's sewer facilities duly authorized under the laws of the State of California to construct and/or maintain public sewers.
Manifest	That receipt which is retained by the generator of wastes for disposing recyclable wastes or liquid wastes as required by the City.
NPDES	The National Pollutant Discharge Elimination System; the permit issued to control the discharge of liquids or other substances to surface waters of the United States as detailed in Public Law 92-500, Section 402.
New Construction	Any structure planned or under construction for which a sewer connection permit has not been issued.
Permittee	A person who has received a permit to discharge wastewater into the City's sewer facilities subject to the requirements and conditions established by the City.
Person	Any individual, partnership, firm, association, corporation or public agency, including the State of California and the United States of America.
Public Sewer	A sewer owned and operated by the City, or other local Public Agency, which is tributary to the City's sewer facilities.

Regulatory Agencies	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, Region IX, San Francisco and Washington, DC (EPA).
b)	California State Water Resources Control Board (SWRCB).
c)	California Regional Water Quality Control Board, Santa Ana Region (RWQCB).
d)	South Coast Air Quality Management Division (SCAQMD).
e)	California Department of Health Services (DOHS).
Remodeling	A physical change or operational change causing generation of the amount of FOG that exceeds the current amount of FOG discharge to the sewer system by the Food Service Establishment in an amount that alone or collectively causes or create a potential for SSOs to occur; or exceeding a cost of \$50,000 to FSEs that requires a building permit, and involves any one or combination of the following: (1) Under slab plumbing in the food processing area, (2) a 30% increase in the net public seating area, (3) a 30% increase in the size of the kitchen area, or (4) any change in the size or type of food preparation equipment.
Sample Point	A location approved by the City, from which wastewater can be collected that is representative in content and consistency of the entire flow of wastewater being sampled.
Sampling Facilities	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.
Sewer Facilities or System	Any and all facilities used for collecting, conveying, pumping, treating, and disposing of wastewater and sludge.

Sludge	Any solid, semi-solid or liquid decant, sludge or supernate from a manufacturing process, utility service, or pretreatment facility.
Waste	Sewage and any and all other waste substances, liquid, solid, gaseous or radioactive, associated with human habitation or of human or animal nature, including such wastes placed within containers of whatever nature prior to and for the purpose of disposal.
Waste Minimization Practices	Plans or programs intended to reduce or eliminate discharges to the sewer system or to conserve water, including, but not limited to, product substitutions, housekeeping practices, inventory control, employee education, and other steps as necessary to minimize wastewater produced.
Wastehauler	Any person carrying on or engaging in vehicular transport of waste as part of, or incidental to, any business for that purpose.
Wastewater	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.

D. Words used in this Chapter in the singular may include the plural and the plural the singular. Use of masculine shall mean feminine and use of feminine shall mean masculine.

13.66.030 FOG Discharge Requirements.

No FSE shall discharge or cause to be discharged into the sewer system FOG that exceeds a concentration level adopted by the City Council or that may accumulate, cause or contribute to SSOs or blockages in the sewer system or at the sewer lateral.

13.66.40 Prohibitions.

The following prohibitions shall apply to all FSEs:

A. Installation of food grinders in the plumbing system of any new construction. Furthermore, all food grinders shall be removed from all existing FSEs within 180 days of the effective date of this Ordinance, except when expressly allowed by the FOG Control Program Manager.

B. Introduction of any additives into a FSEs' wastewater system for the purpose of emulsifying FOG, unless a specific written authorization from the FOG Control Program Manager is obtained.

- C. Disposal of waste cooking oil into drainage pipes. All waste cooking oils shall be collected and stored properly in receptacles such as barrels or drums for recycling or other acceptable methods of disposal.
- D. Discharge of wastewater from dishwashers to any grease trap or grease interceptor.
- E. Discharge of wastewater with temperatures in excess of 140°F to any grease control device, including grease traps and grease interceptors.
- F. The use of biological additives for grease remediation or as a supplement to interceptor maintenance, without prior authorization from the FOG Control Program Manager.
- G. Discharge of wastes from toilets, urinals, wash basins, and other fixtures containing fecal materials to sewer lines with grease interceptor service.
- H. Discharge of any waste including FOG and solid materials removed from the grease control device to the sewer system. Grease removed from grease interceptors shall be wastehauled periodically as part of the operation and maintenance requirements for grease interceptors.

13.66.050 FOG Wastewater Discharge Prohibited.

No person shall discharge, or cause to be discharged any wastewater from a FSE directly or indirectly into the sewer system without first obtaining a FOG Wastewater Discharge Permit pursuant to this Ordinance by January 1, 2005.

13.66.060 Best Management Practices (BMP) Requirements.

All Food Services Establishments shall implement Best Management Practices in their operation to minimize the discharge of FOG to the sewer system. Detailed requirements for Best Management Practices shall be specified in the permit.

13.66.070 FOG Pre-Treatment Requirements.

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

A. New Construction of FSEs

New construction of FSEs shall install grease interceptors prior to commencing discharges of wastewater to the sewer system.

B. Existing FSEs

1. For existing FSEs, the requirement to install and to properly operate and maintain a grease interceptor may be conditionally waived by the FOG Control Program Manager. Terms and conditions for application of a stay to a FSE shall be set forth in the permit.
2. Existing FSEs that have reasonable potential to adversely impact the sewer system or have sewer laterals connected to hot spots, as determined by the FOG Control Program Manager, shall install grease interceptors within 180 days of the effective date of this Ordinance.
3. Existing FSEs undergoing Remodeling or a Change in Operations as defined in Section 13.66.020 of this Chapter shall be required to install a grease interceptor.

13.66.080 Conditional Waiver of Grease Interceptor Requirements.

A. Conditional Waiver from Grease Interceptor Requirements

A conditional waiver from the grease interceptor requirements to allow alternative pretreatment technology that is, at least, equally effective in controlling the FOG discharge in lieu of a grease interceptor may be granted to FSEs. The FOG Control Program Manager's determination to grant a conditional waiver will be based upon, but not limited to, evaluation of the following conditions:

1. The FSE can substantively demonstrate that the alternative pretreatment technology is equivalent or better than a grease interceptor 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, for at least three months, at its own expense. A conditional waiver may be granted if the results show no visible accumulation of FOG in its lateral and/or tributary downstream sewer lines.
2. The potential for FOG from the FSEs to cause or contribute to SSOs or have negligible FOG discharge and insignificant impact to the sewer system.

FOG Control Program Manager's determination to revoke a conditional waiver shall be based upon, but not limited to, evaluation of the following conditions:

1. Quantity of FOG discharge as measured or as indicated by the size of FSEs based on seating capacity, number of meals served, menu, water usage, amount of on-site consumption of prepared food and other conditions that may reasonably be shown to contribute to FOG discharges.
2. Adequacy of implementation of BMP and compliance history.

3. Sewer size, grade, condition based on visual information, FOG deposition in the sewer by the FSEs, and history of maintenance and sewage spills in the receiving sewer system.
4. Changes in operations that significantly affect FOG discharge.
5. Any other condition deemed reasonably related to the generation of FOG discharges by the FOG Control Program Manager.

C. Waiver from Grease Interceptor Installation with a Grease Disposal Mitigation Fee

For FSEs where the installation of grease interceptor is not feasible and no equivalent alternative pretreatment can be installed, a waiver from the grease interceptor requirement may be granted with the payment of a Grease Disposal Mitigation Fee as described in Section 13.66.090. The FOG Control Program Manager's determination to grant the waiver with a Grease Disposal Mitigation Fee will be based upon, but not limited to, evaluation of the following conditions:

1. Whether there is adequate space for installation and/or maintenance of a grease interceptor.
2. Whether there is 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. A conditional waiver from grease interceptor installation to allow alternative pretreatment technology cannot be granted.

D. Application for Waiver of Requirement for Grease Interceptor

A FSE may submit an application for waiver from the grease interceptor requirement to the FOG Control Program Manager. The FSE bear the burden of demonstrating, to the FOG Control Program Manager's reasonable satisfaction, that the installation of a grease interceptor is not feasible or applicable. Upon determination by the FOG Control Program Manager that reasons are sufficient to justify a waiver, the permit will be issued or revised to include the waiver and relieve the FSE from the requirement. Terms and conditions for issuance of a waiver to FSEs shall be set forth in the permit.

E. Term of Conditional Waiver

A conditional waiver shall have a maximum term of four years and a new application must be submitted at least 60 days prior to its expiration. Notwithstanding the foregoing, a waiver may be revoked at any time when any of the terms and conditions for its issuance are not satisfied or if the conditions upon which the waiver was based change so that the justification for the waiver no longer exists.

13.66.090 Grease Disposal Mitigation Fee.

FSEs that operate without a grease control interceptor may be required to pay an annual Grease Disposal Mitigation Fee to equitably cover the costs of increased maintenance of the sewer system as a result of the FSE's inability to adequately remove FOG from its wastewater discharge. This Section shall not be interpreted to allow the new construction of, or existing FSEs 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 Chapter.

A. The Grease Disposal Mitigation Fee shall be established by resolution of the City Council and shall be based on the estimated annual increased cost of maintaining the sewer system for inspection and removal of FOG and other viscous or solidifying agents attributable to the FSE resulting from the lack of a grease interceptor or grease control device.

B. The Grease Disposal Mitigation Fee may be waived or reduced on a no less than an annual basis when the discharger demonstrates to the reasonable satisfaction of the FOG Control Program Manager that it has used best management and waste minimization practices on a regular basis that has significantly reduced the introduction of FOG into the sewer system.

C. The Grease Disposal Mitigation Fee may not be waived or reduced when the Food Service Establishment does not comply with the minimum requirements of this Ordinance and/or its discharge into the sewer system in the preceding 12 months has caused or potentially caused or contributed alone or collectively, in sewer blockage or SSOs in the sewer downstream, or surrounding the FSE prior to the waiver request.

13.66.100 Sewer System Overflows (SSOs), Public Nuisance, Abatement Orders and Cleanup Costs.

Notwithstanding time limits provide for in this Chapter, FSEs found to have contributed to a sewer blockage or SSOs resulting from the discharge of wastewater or waste containing FOG, may be ordered to install and maintain a grease interceptor, and may be subject to a plan to abate the nuisance and prevent any future health hazards created by sewer line failures and blockages, SSOs or any other sewer system interferences. SSOs may cause injury to the public health, safety, and welfare of life and property and are hereby declared public nuisances. Furthermore, sewer lateral failures and SSOs caused by FSEs alone or collectively, are the responsibility of the private property owner or FSE. If the City must contain and clean up an SSOs caused by blockage of a private or public sewer lateral or system serving a FSE, or at the request of the property owner or operator of the FSE, or because of the failure of the property owner or FSE 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 borne by the property owner or operator of the FSE, and individual(s) as a responsible officer or owner of the FSE (s) and shall constitute a debt to the City and become due and payable upon the City's request for reimbursement of such costs.

13.66.110 FOG Discharge Permit Required.

A. FSEs proposing to discharge or currently discharging FOG into the City's sewer system shall obtain a FOG Discharge Permit from the City. A FSE shall obtain a FOG Discharge Permit whenever it applies to renew or be issued a new business license. All FSEs shall have a FOG Discharge Permit within 13 months of the effective date of this Chapter.

B. FOG Discharge Permits shall be expressly subject to all provisions of this Chapter and all other regulations, charges for use, and fees established by the City. The conditions of FOG Discharge Permits shall be enforced by the City in accordance with this Chapter and applicable State and Federal Regulations.

13.66.120 FOG Discharge Permit Application.

A. Any person required to obtain a FOG Discharge Permit shall complete and file with the City prior to commencing 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 FSE, operation, cuisine, service activities, or clients using the applicant's services.
2. Name, address of any and all principals/owners/major shareholders of the FSE; Articles of Incorporation; most recent Report of the Secretary of State; Business License.
3. Name and address of property owner or lessor and the property manager where the FSE is located.
4. Any other information as specified in the application form.

B. Applicants may be required to submit site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, FOG control device, grease interceptor or other pretreatment equipment and appurtenances by size, location, and elevation for evaluation.

C. Other information related to the applicant's business operations and potential discharge may be requested to properly evaluate the permit application.

D. After evaluation of the data furnished, the City may issue a FOG Wastewater Discharge Permit, subject to terms and conditions set forth in this Ordinance and as otherwise determined by the FOG Control Program Manager to be appropriate to protect the City's sewer system.

13.66.130 FOG Discharge Permit Conditions.

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

- A. Limits on discharge of FOG and other priority pollutants.
- B. Requirements for proper operation and maintenance of grease interceptors and other grease control devices.
- C. Grease interceptor maintenance frequency and schedule.
- D. Requirements for implementation of BMP and installation of adequate grease interceptor and/or grease control device.
- E. Requirements for maintaining and reporting status of BMP.
- F. Requirements for maintaining and submitting logs and records, including wastehauling records and waste manifests.
- G. Requirements to self-monitor.
- H. Requirements for FSEs to construct, operate and maintain, at its own expense, FOG control device and sampling facilities.
- I. Additional requirements as otherwise determined to be reasonably appropriate by the FOG Control Program Manager to protect the City's system or as specified by other Regulatory Agencies.
- J. Other terms and conditions, which may be reasonably applicable to ensure compliance with this Chapter.

13.66.140 FOG Discharge Permit Fee.

The FOG Discharge Permit fee shall be paid by the applicant in an amount adopted by resolution of the City Council. Payment of permit fees must be received by the City prior to issuance of either a new permit or a renewed permit. A Permittee shall also pay any delinquent invoices in full prior to permit renewal.

13.66.150 FOG Discharge Permit Modification of Terms and Conditions.

- A. The terms and conditions of a FOG Discharge Permit may be subject to modification and change by the FOG Control Program Manager during the life of the permit based on:

1. The discharger's current or anticipated operating data;
2. The City's current or anticipated operating data;
3. Changes in the requirements of Regulatory Agencies which affect the City; or
4. A determination by the FOG Control Program Manager that such modification is appropriate to further the objectives of this Chapter.

B. The Permittee may request a modification to the terms and conditions of a permit. The request shall be in writing stating the requested change and the reasons for the change. The FOG Control Program Manager shall review the request, make a determination on the request, and respond in writing.

C. The Permittee shall be informed of any change in the permit limits, conditions, or requirements at least forty-five (45) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

13.66.160 FOG Discharge Permit Duration and Renewal.

FOG Discharge Permits shall be issued for a period not to exceed four (4) years. Upon expiration of the permit, the discharger shall apply for renewal of the permit in accordance with the provisions of this Chapter.

A limited food preparation establishment is not considered an FSEs and is exempt from obtaining a FOG Discharge Permit. A limited food service establishment is one engaged only in reheating, hot holding or assembly of ready to eat food products and as a result, there is no wastewater discharge containing significant amount of FOG. A limited food preparation establishment does not include any operation that changes the form, flavor, or consistency of food.

13.66.170 Non-Transferability of Permits.

FOG Discharge Permits issued under this Chapter are for a specific FSE, for a specific operation and create no vested rights.

- A. No permit holder shall assign, transfer, sell any FOG Discharge Permit issued under this Chapter nor use any such permit for or on any premises, facilities, operations or discharges not expressly encompassed within such permit.
- B. Any permit which is transferred to a new owner or operator or to a new facility is void.

13.66.180 Drawing Submittal Requirements.

Upon request by the City:

A. FSEs may be required to submit facility site plans, mechanical and plumbing plans, and other details to show all sewer locations and connections. The submittal shall be in a form and content acceptable to the City for review of an existing or proposed grease control device, grease interceptor, monitoring facilities, metering facilities, and operating procedures. The review of the plans and procedures shall in no way relieve an FSE of the responsibility of modifying the facilities or procedures in the future, as necessary, to meet the requirements of this Chapter or any requirements of other Regulatory Agencies.

B. The City may require drawings to be prepared by a California Registered Civil, Chemical, Mechanical, or Electrical Engineer.

13.66.190 Grease Interceptor Requirements.

A. All FSEs shall meet the requirements and standards established herein before discharging to any public sewer. Any FSEs required to pre-treat wastewater shall install, operate, and maintain an approved type and adequately sized grease interceptor necessary to comply with this Chapter.

B. Grease interceptor sizing and installation shall conform to the current edition of the Uniform Plumbing Code. Grease interceptors shall be constructed in accordance with the design approved by the FOG Control Program Manager and shall have a minimum of two compartments with fittings designed for grease retention.

C. The grease interceptor shall be installed at a location where it shall be at all times easily accessible for inspection, cleaning, and removal of accumulated grease.

D. Access manholes, with a minimum diameter of 24 inches, shall be provided over each grease interceptor chamber and sanitary tee. The access manholes shall extend at least to finished grade and be designed and maintained to prevent water inflow or infiltration. The manholes shall also have readily removable covers to facilitate inspection, grease removal, and wastewater sampling activities.

13.66.200 Grease Trap Requirements.

A. FSEs may be required to install grease traps in the waste line leading from drains, sink, and other fixtures or equipment where grease may be introduced into the sewer system in quantities that can cause blockage.

- B. Sizing and installation of grease traps shall conform to the current edition of the California Plumbing Code, as adopted and amended by the City (California Plumbing Code).
- C. Grease traps shall be maintained in efficient operating conditions by removing accumulated grease on a daily basis.
- D. Grease traps shall be maintained free of all food residues and any FOG waste removed during the cleaning and scraping process.
- E. Grease traps shall be inspected periodically to check for leaking seams and pipes, and for effective operation of the baffles and flow regulating device. Grease traps and their baffles shall be maintained free of all caked-on FOG and waste. Removable baffles shall be removed and cleaned during the maintenance process.
- F. Dishwashers and food waste disposal units shall not be connected to or discharged into any grease trap.

13.66.210 Monitoring Facilities Requirements.

- A. The City may require a FSE to construct and maintain in proper operating condition at an FSE's sole expense, flow monitoring, constituent monitoring and/or sampling facilities.
- B. The location of the monitoring or metering facilities shall be subject to approval by the FOG Control Program Manager.
- C. FSEs shall during regular business hours, provide immediate and safe access to the FOG Control Program Manager or inspectors to the FSEs' monitoring and metering facilities.
- D. FSEs shall, upon request, submit to the FOG Control Program Manager waste analysis plans, contingency plans, and other necessary information to verify they are in compliance with this Chapter.
- E. No FSEs shall increase the use of water or in any other manner attempt to dilute a discharge as a way of achieving compliance with this Chapter or their FOG Wastewater Discharge Permit.

13.66.220 Requirements for Best Management Practices (BMP)

- A. All FSEs shall implement BMP in accordance with the requirements and guidelines established by the City under its FOG Control Program in an effort to minimize the discharge of FOG to the sewer system.
- B. All FSEs shall be required, at a minimum, to comply with the following BMP, when applicable:

1. Drain screens shall be installed on all drainage pipes in food preparation areas.
2. 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 an approved recycling facility must be used to dispose of waste cooking oil.
3. All food waste shall be disposed of directly into the trash or garbage, and not in sinks.
4. Employees of the FSEs shall be trained within 180 days of the effective date of this Chapter and twice each calendar year thereafter in the following areas:
 - 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 in enclosed plastic bags 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.
 - d) How to properly dispose of grease or oils from cooking equipment into a grease receptacle such as a barrel or drum.

Training shall be documented and employee signatures retained indicating each employee's attendance and understanding of the practices reviewed. Training records shall be available for review at any reasonable time by the FOG Control Program Manager or an inspector.

5. 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 properly.
6. BMP shall be posted conspicuously in the food preparation and dishwashing areas at all times.

13.66.230 Grease Interceptor Maintenance Requirements.

- A. Grease Interceptors shall be maintained in efficient operating condition by periodic removal of their full content, including wastewater, FOG, floating materials, sludge and solids.

B. 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.

C. FSEs with grease interceptors may be required to submit data and information necessary to establish the maintenance frequency grease interceptors.

D. The maintenance frequency for all FSEs with a grease interceptor shall be determined in one of the following methods:

1. Grease interceptors shall be fully pumped out and cleaned at a frequency such that the combined FOG and solids accumulation does not exceed 25% of the total liquid depth of the grease interceptor. This is to ensure that the minimum hydraulic retention time and required available volume is maintained to effectively intercept and retain FOG.
2. All FSEs with a Grease Interceptor shall maintain their grease interceptor not less than every 6 months.
3. The City may mandate periodic cleaning if it finds that a FSE is not maintaining a grease interceptor in a manner in compliance with D.1. above. The maintenance frequency may be adjusted when sufficient data have been obtained to establish an average frequency that will ensure compliance with D.1. above. Based on the actual generation of FOG from a FSE, the maintenance frequency may increase or decrease.
4. A FSE may submit a request to the FOG Control Program Manager requesting a change in the maintenance frequency at any time. The FSE has the burden of responsibility to demonstrate that the requested change in frequency reflects actual operating conditions based on the average FOG accumulation over time and meets the requirements described in D.1. above and that it is in full compliance with the conditions of its permit and this Chapter. Upon determination by the FOG Control Program Manager that the requested revision is justified, the permit shall be revised accordingly to reflect the change in maintenance frequency.
5. If the grease interceptor, at any time, contains FOG and solids accumulation that does not meet the requirements described in D.1. above the FSE shall be required to have the grease interceptor serviced immediately such that all FOG, sludge, and other materials are completely removed from the grease interceptor.

13.66.240 Monitoring and Reporting Conditions.

A. Monitoring for Compliance with Permit Conditions and Reporting Requirements

1. The FOG Control Program Manager may require periodic reporting of the status of implementation of BMP, in accordance with the FOG Control Program.
2. The FOG Control Program Manager may require visual monitoring at the sole expense of the Permittee to observe the actual conditions of the FSEs' sewer lateral and sewer lines downstream.
3. The FOG Control Program Manager may require reports for self-monitoring of wastewater constituents and FOG characteristics of the Permittee needed for determining compliance with any conditions or requirements as specified in the FOG Discharge Permit or this Chapter. Monitoring reports of the analyses of wastewater constituents and FOG characteristics shall be in a manner and form approved by the FOG Control Program Manager. Failure by the Permittee to perform any required monitoring, or to submit monitoring reports required by the FOG Control Program Manager constitutes a violation of this Chapter. The Permittee shall be responsible for any and all expenses of the City in undertaking such monitoring analyses and preparation of reports required of Permittee..

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

1. A logbook of grease interceptor, grease trap or grease control device cleaning and maintenance practices.
2. A record of BMP being implemented including employee training.
3. Copies of records and manifests of wastehauling interceptor contents.
4. Records of sampling data and sludge height monitoring for FOG and solids accumulation in the grease interceptors.
5. Any other information deemed appropriate by the FOG Control Program Manager to ensure compliance with this Ordinance.

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

13.66.250 Inspection and Sampling Conditions.

A. The FOG Control Program Manager may inspect or order the inspection and sampling of wastewater discharges of any FSE to ascertain compliance with this Chapter. The FSE shall allow the City access to its premises, during normal business hours, for purposes of inspecting the FSE's grease control devices, BMP implementation, reviewing the manifests, receipts and other records required by this Chapter.

B. The FOG Control Program Manager shall have the right to place or order the placement on the FSE's property or other reasonable locations as determined by the FOG Control Program Manager, such devices as are necessary to conduct sampling or metering operations.

13.66.260 Right of Entry.

Persons on premises where wastewater is created or discharged shall allow the FOG Control Program Manager or inspector, reasonable and safe access in order to carry out inspections authorized by this Chapter. No person shall interfere with, delay, resist or refuse entrance to the FOG Control Program Manager or inspector attempting to inspect any facility involved directly or indirectly with a discharge of wastewater to the City's sewer system.

13.66.270 Notification of Spill.

A. In the event a Permittee is unable to comply with any permit condition due to a breakdown of equipment, accidents, or human error or the Permittee has reasonable belief that its FSE's discharge will violate its FOG Discharge Permit or this Chapter, the Permittee or Permittee's representative shall immediately notify the City by telephone at the number specified in the Fog Discharge Permit. If the material discharged has the potential to cause or result in sewer blockages or SSOs, the Permittee shall immediately notify the County Health Department and the FOG Control Program Manager.

B. Confirmation of this notification shall be made in writing to the FOG Control Program Manager at the address specified in the Permit no later than five (5) working days from the date of the incident. The written notification shall state the date of the incident, the reasons for the discharge or spill, what steps were taken to immediately correct the problem, and what steps are being taken to prevent a recurrence.

C. Such notification shall not relieve the Permittee of any expense, loss, damage or other liability that may be incurred as a result of damage or otherwise arising out of a violation of this Chapter or other applicable law.

13.66.280 Enforcement.

A. The City Council finds that in order for the City to comply with the laws, regulations, and rules imposed upon it by Regulatory Agencies and to ensure that the

City's sewer facilities are protected and are able to operate with the highest degree of efficiency, and to protect the public health and environment, specific enforcement provisions must be adopted to govern the discharges to the City's system by FSEs.

13.66.290 Permit Suspension.

A. The discharge of wastewater in a manner that is in violation of this Chapter is hereby declared a public nuisance and may be abated in the manner provided in Chapter 8.04 of the Orange Municipal Code; provided that the City shall not, as provided in Section 8.04.030, be limited to those abatement procedures set forth in Chapter 8.04. The FOG Control Program Manager shall take the place of the Chief Building Official in making the determinations called for in Chapter 8.04. The abatement of illegal discharges of wastewater under this Chapter, which may take the form of a termination of service, permit suspension, permit revocation or other action, may arise out of any violation of this Chapter, including, but not limited to, a determination by the FOG Control Program Manager that a Permittee:

1. Knowingly provided a false statement, representation, record, report, or other document to the City.
2. Refused to provide records, reports, plans, or other documents required by this Chapter.
3. Falsified, tampered with, or knowingly rendered inaccurate any monitoring device or sample collection method.
4. Refused reasonable access to the FSE premises for reasons set forth in this Chapter.
5. Failed to make timely payment of all amounts owed to the City for user charges, permit fees, or any other fees imposed by this Chapter.
6. Caused SSOs or interference or sewer blockages with the City's sewer system..
7. Otherwise violated provisions of its FOG Discharge Permit or any provision of this Chapter.

13.66.300 Damage to Facilities or Interruption of Normal Operations.

A. Any person who discharges any waste which causes or contributes to any sewer blockage, SSOs, obstruction, interference, damage, or any other impairment to the City's sewer facilities or to the operation of those facilities shall be liable for all costs arising out of such discharge, including cleaning, repairing or any damages. The total amount shall be payable within forty-five (45) days of invoicing by the City.

13.66.310 Emergency Suspension Order.

A. The City may, by order of the City Manager, direct that a FSE immediately cease and desist all discharges into the City's sewer system when the City Manager determines that such suspension is necessary in order to stop an actual or impending discharge which presents a potential imminent or substantial threat to the public health and welfare or which may cause SSOs, sewer blockages, or a violation of any State or Federal law or regulation of the City. Any person notified such order shall immediately comply.

B. As soon as reasonably practicable following the issuance of an Emergency Suspension Order, but in no event more than five (5) business days following the issuance of such order, the City Manager shall hold a hearing to provide the Permittee the opportunity to present information and/or testimony in opposition to the issuance of the Emergency Suspension Order. Such a hearing shall not stay the effect of the Emergency Suspension Order. The City Manager shall issue a written decision and order within three (3) business days following the hearing, which decision shall be sent by first-class and certified mail to the Permittee. The decision of the City Manager following the hearing shall be final and not appealable to the City Council.

13.66.320 Civil Penalties.

A. All users of the City's system and facilities are subject to enforcement actions administratively or judicially by the City, U.S. EPA, State of California Regional Water Quality Control Board, or the County of Orange. 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.

B. In the event the City is subject to the payment of fines or penalties pursuant to the legal authority and actions of other regulatory or enforcement agencies based on a violation of law or regulation or its permits, and said violation can be established by the City, as caused in whole or part by the discharge of any user of the City's system which is in violation of any provision of this Chapter or the user's permit, the City shall be entitled to recover from such discharger all attributable costs and expenses, including, but not limited to, the full amount of said fines or penalties to which it has been subjected.

C. The City adopts by reference the provisions of California Government Code Sections 54740 – 54740.6 relating to the imposition of civil penalties and the filing of superior court actions and administrative complaints. As is further set forth therein, any person who violates any provision of this Chapter or their permit can be subject to a fine of \$25,000 per day for each day of the violation upon the City petitioning the superior

court in accordance with Government Code Section 54740. Civil penalties attached to the filing of an administrative complaint can range from \$2,000-\$5,000 per day as is further set forth in Government Code Section 54740.5.

D. After exhaustion of all administrative remedies and hearings provided in this Chapter, any person may seek judicial review of any final administrative decision of the City pursuant to Government Code Section 54740.6.

13.66.330 Criminal Penalties.

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

B. Prior to the filing of any misdemeanor charge, the City shall issue a Notice of Violation and provide the Permittee or other person in violation a reasonable opportunity to correct the violation or potential future violations to the satisfaction of the FOG Control Program Manager. The requirement to issue a Notice of Violation does not apply to situations in which a violation of this Chapter has resulted in a sewer blockage or SSO, where such violation poses an imminent threat or when there has been a repeated violation by the Permittee. The FOG Control Program Manager may impose any reasonable terms and conditions upon the Permittee as are necessary to correct the violation, including, but not limited to, requirements for installation of a grease control device and facilities, submittal of drawings or reports, audit of waste hauling records, implementation of BMP, payment of fees, etc.

C. If compliance is not achieved in accordance with the terms and conditions imposed by the FOG Program Control Manager, the FOG Control Program Manager may request prosecution by the City Attorney's Office and take other steps to obtain compliance as provided in this Chapter.

13.66.340 Payment of Charges.

A. Except as otherwise provided, all fees, charges and penalties (hereafter, "charge or charges") established by this Chapter are due and payable upon receipt of notice thereof. All such amounts are delinquent if unpaid 45 days after date of invoice.

B. Any charge that becomes delinquent shall have added to it a penalty in accordance with the following:

1. 46 days after date of invoice, a basic penalty of ten percent of the base invoice amount, not to exceed \$1,000; and

2. A penalty of one and one-half percent per month of the base invoice amount and basic penalty shall accrue from and after the 46th day after date of invoice.
- C. Any invoice unpaid after 75 days from the date of invoice shall be cause for immediate initiation of permit revocation proceedings.

13.66.350 Appeals.

- A. Except for penalties imposed under Sections 13.66.320 and 13.66.330 of this Chapter, a Permittee may appeal the imposition of any penalty or fee arising out of a violation of this Chapter to the City Manager; provided that the appeal is filed with the City Manager and such penalty or fee is paid prior to the time it becomes due. Failure to do either results in a waiver of any administrative appeal rights. If the appeal is timely filed and all penalties or fees are timely paid, no delinquent penalties shall accrue. The City Manager shall hold a hearing as soon as practical at which the Permittee shall be allowed to introduce evidence and call witnesses. If the appeal is successful, the applicable penalty or fee will be repaid to the Permittee without interest within 30 days of the City Manager's decision.

13.66.350 Financial Security/Amendments to Permit.

- A. Security Deposit. As a condition precedent to allowing any discharge into the City's sewer system, the City may require a Permittee to make full payment of all fees and charges assessed under this Chapter. In addition, a Permittee may be required to deposit an amount equal to twice the annual FOG Discharge Permit fee if such Permittee has a history of one or more prior delinquencies. The City may use such deposit to pay any future delinquent fees, charges and penalties imposed on the Permittee.
- B. Return of Security. In the event the Permittee makes timely payment of all fees and charges incurred for three (3) consecutive years, the City shall return the security deposit, without interest, to the Permittee.

13.66.360 California Building Standards Law Findings.

Pursuant to the provisions of the California Building Standards Law, California Health and Safety Code §§ 18941.5, 17958, 17958.5 and 17958.7, the City Council hereby finds that the amendments to the State Building Standards and Housing Laws, more particularly the California Plumbing Code, adopted herein are necessary because of climatic, geological or topographical conditions of property in the City's jurisdiction, and as more specifically described below.

- A. Articles 2 and 4 modify the authority and discretion of the "Administrative Authority" of Section 1014.1 of the 2001 California Plumbing Code by requiring all FSEs to install and operate a grease control device, which may be a grease interceptor or grease trap, if no other device, mechanism, or process is found to successfully trap or collect or treat FOG prior to it being discharged into the sewer system.

B. Article 4 modifies the general maintenance requirements for grease interceptors of Section 1014.6 of the 2001 California Plumbing Code and establishes more specific maintenance requirements.

C. The location of the City's within the Santa Ana Watershed, along with the City's proximity to the Pacific Ocean and the waste discharge requirements imposed by the RWQCB require the strict compliance with grease control device regulations to prevent SSOs that threaten the health and safety of the public within the immediate vicinity of the overflow and downstream to the local beaches. Additional amendments and deletions to the California Plumbing Code are found to be administrative or procedural and are found to be reasonable and necessary to safeguard the public health and welfare.

SECTION II:

Should any section, subsection, clause, or provision of this Ordinance for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Ordinance; it being hereby expressly declared that this Ordinance, and each section, subsection, sentence, clause and phrase hereof would have been prepared, proposed, approved and ratified irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

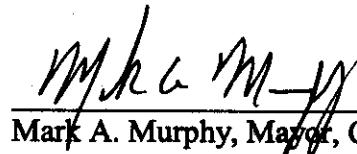
SECTION III:

A copy of this Ordinance shall be filed with the California Building Standards Commission and the California Department of Housing and Community Development by the Secretary of the City Council as required by State law (Health & Safety Code Section 17958.7).

SECTION IV:

A summary of this Ordinance shall be published and a certified copy of the full text of this Ordinance shall be posted in the Office of the City Clerk at least five (5) days prior to the City Council meeting at which this Ordinance is to be adopted. A summary of this Ordinance shall also be published once within fifteen (15) days after this Ordinance's passage in a newspaper of general circulation, published, and circulated in the City of Orange. The City Clerk shall post in the Office of the City Clerk a certified copy of the full text of such adopted Ordinance along with the names of those City Council members voting for and against the Ordinance in accordance with Government Code Section 36933. This Ordinance shall take effect thirty (30) days from and after the date of its final passage.

ADOPTED this 9th day of November, 2004.


Mark A. Murphy, Mayor, City of Orange

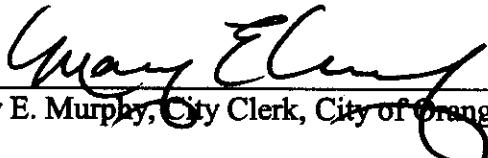
ATTEST:


Mary E. Murphy, City Clerk, City of Orange

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF ORANGE)

I, MARY E. MURPHY, City Clerk of the City of Orange, California, do hereby certify that the foregoing Ordinance was introduced at the regular meeting of the City Council held on the 26th day of October, 2004, and thereafter at the regular meeting of said City Council duly held on the 9th day of November, 2004, was duly passed and adopted by the following vote, to wit:

AYES: COUNCILMEMBERS: Ambriz, Alvarez, Murphy, Coontz, Cavecche
NOES: COUNCILMEMBERS: None
ABSENT: COUNCILMEMBERS: None
ABSTAIN: COUNCILMEMBERS: None


Mary E. Murphy, City Clerk, City of Orange