

## Exhibit A

### ARTICLE VIII. FATS, OILS, & GREASE

#### Sec. 32-401. General Provisions

(a) *Purpose and Objectives.* In order to protect public health, the sanitary sewer system, and the environment, this article sets forth uniform requirements for fats, oils, and grease (FOG) generators and grease trap waste transporters operating in the City of Abilene and enables the City to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code S 1251 et seq.). The objectives of this article are:

- (1) To aid in the prevention of sanitary sewer overflows resulting from blockages and obstructions due to the accumulation of fats, oils, and grease ,
- (2) To promote the proper maintenance of grease traps/interceptors; and,
- (3) To ensure the proper handling, disposal, transport and tracking of grease trap waste.

(b) *Administration.* The City Manager or his/her designated city official shall administer, implement, and enforce the provisions of this ordinance and is authorized to promulgate such policies, guidelines and procedures as shall be reasonable and necessary to carry out its provisions. Any powers granted to or duties imposed in this chapter upon the City Manager may be delegated to other city personnel.

(c) *Applicability and Prohibitions.*

- (1) This ordinance shall apply to all non-domestic users of the Publicly Owned Treatment Works (POTW), as defined in Section 32-401(d) of this Ordinance.
- (2) Grease traps/interceptors shall not be required for residential users or for Food Service-Sales Facilities.
- (3) Each generator shall install, use, and maintain an appropriate grease trap/interceptor as required in the City of Abilene FOG Guidelines and Procedures.
- (4) No user may intentionally or unintentionally allow the direct or indirect discharge of any petroleum oil, non-biodegradable cutting oil, mineral oil, or any fats, oils, or greases of animal or vegetable origin into the POTW system in such amounts as to cause interference with the collection and treatment system, or as to cause pollutants to pass

through the treatment works into the environment, or that would otherwise be removed with a properly sized, installed, operated and maintained grease trap/interceptor.

(d) *Definitions.* Unless a provision explicitly states otherwise, the following terms and phrases, as used in this article, shall have the meanings hereinafter designated.

*Act.* The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et. seq.

*BOD.* The value of the 5-day test for Biochemical Oxygen Demand, as described in the latest edition of “Standard Methods for the Examination of Water & Wastewater.”

*City.* The City Manager of the City of Abilene or his/her duly authorized representative.

*City of Abilene FOG Guidelines and Procedures.* The detailed document prepared and provided by the City to aid generators, transporters, and non-domestic users in implementation of the FOG Ordinance.

*Disposal Site.* A permitted site or part of a site at which grease trap waste is processed, treated, and/or intentionally placed into or on any land and at which the waste will remain after site closure.

*Disposer.* A person who receives, stores, retains, processes or disposes of grease trap waste.

*EPA.* The United States Environmental Protection Agency.

*Fats, Oils, & Grease (FOG).* Organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. These substances are detectable and measureable using analytical test procedures established in 40 CFR Part 136, as may be amended from time to time. All are sometimes referred to herein as “grease” or “greases”.

*Food Preparation-Service Facility (Facility).* Any facility generating fats, oils, or grease as a result of food preparation and food service to include, but not limited to, restaurants, cafeterias, hospitals, hotels and motels, prisons, nursing homes, and any other facility preparing, serving, or otherwise making any foodstuff available for human consumption. This definition includes any facility in which foods are prepared utilizing a grill, griddle, deep-fat fryer, commercial range or oven, broiler, rotisserie, charbroiler, smoker, wok/stir-fry, and/or similar food preparation equipment including, but not limited to, cafeterias, fast food and full service restaurants, pizza preparation, donut preparation, and wholesale food preparation; and any facility with area(s) subject to flooding type or wet cleaning processes due to the cutting or grinding of meat or fish including, but not limited to meat and fish markets; and includes any establishment or facility in which foods are prepared without the use of fryers, grills or other similar grease generating

equipment including, but not limited to, sandwich shops, coffee shops, ice cream parlors, daycares, limited menu concession stands or convenience stores, and bakeries. This does not include industrial facilities.

*Food Service-Sales Facility.* Any facility in which foods are provided pre-wrapped such as pre-packaged sandwiches or similar foods, candies, and containerized beverages.

*Generator.* Any person who owns or operates a grease trap/interceptor at a Food Preparation-Service Facility, or whose act or process produces grease trap waste at a Food Preparation-Service Facility.

*Grease Trap or Interceptor.* A device designed to use differences in specific gravities to separate and retain light density liquids, waterborne fats, oils, and greases prior to the wastewater entering the sanitary sewer collection system. These devices also serve to collect settleable solids, generated by and from food preparation activities, prior to the water exiting the trap and entering the sanitary sewer collection system. Grease traps and interceptors are also referred to herein as “grease trap/interceptors”.

*Grease Trap Waste.* Material collected in and from a grease trap/interceptor in the sanitary sewer service line of a Food Preparation-Service Facility, including the solids resulting from dewatering processes.

*Indirect Discharge or Discharge.* The introduction of pollutants into the POTW from any non-domestic source.

*Interference.* A discharge which alone or in conjunction with a discharge or discharges from other sources inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal, or is a cause of a violation of the City’s TPDES permit.

*pH.* The measure of the relative acidity or alkalinity of water and is defined as the negative logarithm (base 10) of the hydrogen ion concentration.

*POTW or Publicly Owned Treatment Works.* The treatment works which is owned by a state or municipality as defined by section 502(4) of the Clean Water Act. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes all sewers, pipes and other conveyances that convey wastewater to a POTW Treatment Plant. The term also means the municipality as defined in section 502(4) of the Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works. For purposes of this Ordinance, the terms “sanitary sewer system” and “POTW” may be used interchangeably.

*Sampling Device.* An access point such as a sampling well or sample port to allow sampling of the wastewater flow downstream of the grease trap/interceptor which is located, installed and maintained in accordance with the City of Abilene FOG Guidelines and Procedures.

*TCEQ.* The Texas Commission on Environmental Quality, and its predecessor and successor agencies.

*Transporter.* A person or entity who is registered with and authorized by the TCEQ to transport sewage sludge, water treatment sludge, domestic septage, chemical toilet waste, grit trap waste, or grease trap waste in accordance with 30 Texas Administrative Code §312.142.

*TSS.* The value of the test for Total Suspended Solids, as described in the latest edition of “Standard Methods for the Examination of Water & Wastewater.”

*User.* Any person, including those located outside the jurisdictional limits of the City, who contributes, causes, or permits the contribution or discharge of wastewater into the POTW, including persons who contribute such wastewater from mobile sources.

### **Sec. 32-402. Guidelines and Procedures.**

The City of Abilene FOG Guidelines and Procedures shall be incorporated by reference into this Article, and shall be approved by the city council and kept on file with the city secretary.

### **Sec. 32-403. Installation and Maintenance Requirements**

#### **(a) *Installations***

(1) *New Facilities.* New facilities shall be required to design, install, operate and maintain a grease trap/interceptor in accordance with this Ordinance and the City of Abilene FOG Guidelines and Procedures. Grease trap/interceptors shall be subject to plan review and approval by the City prior to construction/installation. Grease trap/interceptors shall be installed and inspected prior to issuance of a certificate of occupancy and a food permit.

#### **(2) *Existing Facilities.***

a. Existing grease trap/interceptors must be operated and maintained in accordance with this Ordinance and the City of Abilene FOG Guidelines and Procedures.

b. Existing facilities shall be required to design, install, operate and maintain a grease trap/interceptor in accordance with the City of Abilene FOG Guidelines and Procedures when any of the following conditions apply:

1. Renovation or expansion of an existing Food Preparation-Service Facility in the following instances: (1) a grease trap/interceptor is non-existent, or (2) a grease trap/interceptor is non-compliant with current FOG Guidelines and Procedures and has a history of non-compliance.
2. Addition of a Food Preparation-Service Facility to an existing structure.
3. If prior to the issuance of a certificate of occupancy, an existing facility has lost its non-conforming use status due to vacancy, any grease trap/interceptor shall be required to be compliant with current FOG Guidelines and Procedures before a new certificate of occupancy can be issued.

Grease trap/interceptors shall be subject to plan review and approval by the City prior to construction/installation. Grease trap/interceptors shall be installed and inspected prior to the issuance of a certificate of occupancy and a food permit.

c. Notwithstanding Item b above, if an existing facility has a grease trap/interceptor that was compliant at the time of original construction, is in good working order, the facility is not increasing its footprint by 50% or more, and the facility does not have a history of non-compliance, a change of ownership or occupancy shall not require the facility to replace the existing grease trap/interceptor with one compliant with the City's current FOG Guidelines and Procedures.

(3) *Single Certificate of Occupancy.* Grease trap/interceptors shall be installed pursuant to a single certificate of occupancy. No person or persons shall allow the use of a single grease trap/interceptor by more than one business as defined by a certificate of occupancy without prior written approval from the City.

(b) *Cleaning and Maintenance*

(1) Grease traps/interceptors shall be maintained in accordance with this ordinance and the City of Abilene FOG Guidelines and Procedures at all times.

(2) A generator shall have all grease trap waste cleaned from the grease trap/interceptor and picked up by a licensed transporter, unless the generator participates in the self-cleaning program as described in the City of Abilene FOG Guidelines and Procedures.

(3) All grease trap waste shall be properly disposed of at a facility in accordance with federal, state, or local regulations.

(4) Each grease trap/interceptor pumped shall be fully evacuated unless the trap volume is greater than the tank capacity on the vacuum truck in which case the transporter shall arrange for additional transportation capacity so that the trap is fully evacuated within a 24-hour period, in accordance with 30 Texas Administrative Code 312.143.

(5) Existing grease traps/interceptors (50 gallons or less) may be allowed to participate in the self-cleaning program as described in the City of Abilene FOG Guidelines and Procedures.

(6) *Cleaning Schedules*

a. Grease trap/interceptors shall be cleaned as often as necessary to ensure that sediment and floating materials do not accumulate to impair the efficiency of the grease trap/interceptor; that the discharge is in compliance with the BOD, TSS, FOG, and/or pH limits promulgated in the City of Abilene FOG Guidelines and Procedures; and, to ensure that no visible grease is observed in the discharge.

b. Grease trap/interceptors (more than 50 gallons) shall be completely evacuated at a minimum of every ninety (90) days, or more frequently when:

1. Twenty-five (25) percent or more of the wetted height of the grease trap/interceptor, as measured from the bottom of the device to the invert of the outlet pipe, contains floating materials, sediment, oils or greases;
2. The discharge exceeds the BOD, TSS, FOG, and/or pH limits as per the City of Abilene FOG Guidelines and Procedures or,
3. If there is a history of non-compliance.

c. Grease trap/interceptors (50 gallons or less) shall be cleaned and maintained in accordance with the City of Abilene FOG Guidelines and Procedures.

d. Any person who owns or operates a grease trap/interceptor may submit to the City a request in writing for an exception to the required pumping frequency of their grease trap/interceptor. The City may grant an extension for the required cleaning frequency on a case-by-case basis when:

1. The grease trap owner/operator has demonstrated the specific trap will produce an effluent with no visible grease, and based on defensible analytical results, can demonstrate consistent compliance with the BOD, TSS, FOG, or pH limits listed in the City of Abilene FOG Guidelines and Procedures; or
2. Less than 25 percent of the wetted height of the grease trap/interceptor, as measured from the bottom of the device to the invert of the outlet pipe, contains floating materials, sediment, oils or greases.

In addition, the waiver request may include professional comments from the transporter regarding the performance of the grease trap/interceptor. These comments will provide additional insight to the City when reviewing the request.

- e. In any event, a grease trap/interceptor shall be fully evacuated, cleaned, and inspected at least once every 365 days.
- f. The City may also require grease trap/interceptors to be serviced on a single-event basis or scheduled basis if deemed necessary for the proper operation of the grease trap/interceptor.
- g. In the event that a generator ceases operation of a food preparation-service facility, the grease trap/interceptor at the facility shall be properly cleaned within 30 days of the facility being vacated.

(7) *Manifest Requirements*

- a. Each pump-out of a grease trap/interceptor must be accompanied by a manifest to be used for record keeping purposes.
- b. Manifests must be completed and distributed by the transporter as described in the City of Abilene FOG Guidelines and Procedures.
- c. Manifests shall be maintained on file by the generator and transporter per 30 Texas Administrative Code 312.145 and as described in the City of Abilene FOG Guidelines and Procedures.

**Sec. 32-404. Administrative Authority**

- (a) The City shall have the right to enter the premises of any Generator or Transporter during regular business hours to determine whether the Generator or Transporter is complying with this Ordinance and the City of Abilene FOG Guidelines and Procedures.

(b) The Generator or Transporter shall allow the City ready access to all parts of such premises for purposes of inspection, sampling, and the performance of any of their duties. The failure or refusal to comply with these provisions shall be grounds for enforcement action.

(1) The City shall have the right to set up on the Generator's premises, or require installation of, such devices as are necessary to conduct sampling and/or inspection of the Generator's operations.

(2) Any temporary or permanent obstruction to safe and easy access to the premises to be inspected and/or sampled shall be promptly removed by the Generator at the written or verbal request of the City and shall not be replaced.

(3) Unreasonable delays in allowing the City access to the Generator's premises shall be a violation of this Ordinance.

(c) *Nuisances*

(1) Any premises upon which grease and/or grease trap waste has accumulated and which is emitting noxious or offensive odors, or which is creating an unsanitary or unsafe condition, or which is injurious to the public health is hereby declared to be a nuisance and subject to Chapter 19 of the City Code of Ordinances.

(2) A vehicle transporting grease trap waste which is leaking or spilling from such vehicle is hereby declared to be a nuisance and subject to Chapter 19 of the Abilene Code of Ordinances.

### **Sec. 32-405. Enforcement and Penalties**

(a) The City shall have the responsibility for enforcement of the provisions of this Ordinance. The duties of the City shall include ensuring that all Generators and Transporters conform to this Ordinance. The City shall have the authority to adopt policies and procedures consistent with the terms of this Ordinance necessary to implement the provisions of this Ordinance.

(b) *Violations.* It shall be unlawful for any Generator or Transporter to violate any provision or fail to comply with any of the requirements of this Ordinance or the City of Abilene FOG Guidelines and Procedures. Any Generator or Transporter who has violated or continues to violate the provisions of this Ordinance or the City of Abilene FOG Guidelines and Procedures will be subject to the enforcement actions and penalties outlined herein. Such a Generator or Transporter is referred to herein as a Violator.



(c) *Enforcement Actions.* The City may pursue the following enforcement actions as appropriate and as described in the City of Abilene FOG Guidelines and Procedures.

(1) *Voluntary Compliance.* The City may instruct a Violator that commits any acts prohibited by this Ordinance to achieve voluntary compliance as determined by the City. The City may provide a reasonable amount of time, specific to the occurrence, to remedy the violation.

(2) *Notice of Violation.* If the City determines that a Generator or Transporter has violated, or continues to violate, any provision of this Ordinance, a written notice of violation may be provided to the Violator, as described in the City of Abilene FOG Guidelines and Procedures.

(3) *Stop Work Orders.* The City shall retain the authority to issue stop work orders to any Violator that commits any acts prohibited by this Ordinance or the City of Abilene FOG Guidelines and Procedures. If the City determines that voluntary compliance is not feasible, and that a facility is operating in a manner that may lead to a sanitary sewer overflow or damage to the POTW, a written stop work order may be issued as described in the City of Abilene FOG Guidelines and Procedures.

(4) *Suspension of Service*

a. The City may suspend the water supply and/or sanitary sewer connection for any Violator who continues to violate a previous notice to cease discharge into the POTW and fails to comply with this Ordinance or the City of Abilene FOG Guidelines and Procedures. The Violator will be subject to suspension of service if such measures would abate or reduce the discharge.

b. *Emergency Suspension of Service* - The City may, without prior notice, suspend the water service and/or sanitary sewer service to a Generator to stop an actual or threatened discharge which presents or may present imminent substantial danger as described in the City of Abilene FOG Guidelines and Procedures.

(d) *Schedule of Penalties*

(1) If the City determines that a Generator is responsible for a blockage of a collection system line, the Generator shall owe a civil penalty of \$1,000 for the first violation, \$1,500 for the second violation, and \$2,000 for the third violation within a two-year period. Civil penalties shall be in addition to reimbursement to the City for all costs incurred by the City in responding to the blockage or overflow. More than three violations within a two-year period shall result in an increase in penalty by \$500 for each additional violation and may also result in termination of services.

(2) Any person violating any of the provisions of this Ordinance or the City of Abilene FOG Guidelines and Procedures shall be subject to voluntary compliance for the first violation, a \$1,000 civil penalty for the second violation, a \$1,500 civil penalty for the third violation, and a \$2,000 civil penalty for the fourth violation within a two-year period. More than four violations within a two-year period will result in a \$500 increase in civil penalty for each additional violation and may result in termination of service.

(e) *Right to Reconsideration and Appeal*

(1) Any person subject to a permit revocation, compliance notice, stop work order, suspension notice, or an emergency order may petition the City Manager to reconsider the basis for the action or order within ten (10) days of the affected person's receipt of notice of such action or order. Receipt of notice is presumed to occur three (3) days following the date the notice is mailed, unless notice is actually received earlier.

(2) In its petition for reconsideration, the person must indicate the provisions of the action or order objected to, the reasons for the objections, any facts that are contested, the facts that support the person's view of the facts, and any alternate terms of the action or order that the person would accept.

(3) Failure to submit a timely written petition for reconsideration shall be deemed a waiver of any further right to reconsideration or review of the order.

(4) Within ten (10) days of receipt of the petition for reconsideration, the City Manager shall, in writing, either grant the petition and withdraw or modify the action or order accordingly, or deny the petition, and such granting or denial shall be timely delivered to the petitioner.

(5) The effect of any compliance action or order shall not be stayed pending reconsideration.

(6) Following final determination by the City Manager on the reconsideration, any adversely affected party may challenge such determination in an appropriate court of competent jurisdiction.

(7) Nothing in this section shall limit the authority of the City to take any other enforcement action or prevent existing or further enforcement action from proceeding unless the same is expressly stayed by the City Manager.