

## Chapter 14.30 FATS, OILS AND GREASE (FOG) CONTROL\*

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\* Prior ordinance history: Ords. 97-3, 96-22 and 91-5.

### **14.30.010 Intent and Purpose.**

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It is the intent of this Chapter to establish regulations for the disposal of grease and other insoluble waste discharges from food service establishments (FSEs) within the City and to allow the City to inspect FSE facilities and practices to ensure compliance with this Chapter. The City Council, in enacting this Chapter, intends to provide for the maximum beneficial public use of the City's sewer system, to prevent sanitary sewer overflows (SSOs) into Newport Bay and the Pacific Ocean resulting from blockages of that system caused by buildups of fats, oils and grease (FOG), to ensure the cost of maintaining the public sewer system is equitably distributed amongst users, to clarify grease disposal requirements for existing commercial kitchens, and to promote public health, safety and welfare.

To comply with federal, state, and local policies and to allow the City to meet applicable standards, provisions are made in this Chapter for the regulation of wastewater or waste containing FOG discharges to the sewer system. (Ord. 2004-27 § 1 (part), 2004)

### **14.30.015 Definitions.**

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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 CFR 136 (Code of Federal Regulations).

Other terms not herein defined are defined as being the same as set forth in the latest adopted applicable editions of the California Codes applicable to building construction adopted pursuant to the California Building Standards Law.

Subject to the foregoing provisions, the following definitions shall apply in this Chapter:

“Best management practices (BMPs)” means schedules of activities, prohibitions of practices, the completion of maintenance procedures and other management practices that prevent or reduce the introduction of FOG to the sewer facilities.

“Building Official” means the Building Manager/Chief Building Official of the City’s Community Development Department or his or her designee.

“Change in operations” means any modification in the operational procedures of a food service establishment (FSE) which has the potential to significantly increase the amount of grease generated by food preparation including, without limitation, any substantial increase in the net public area, any substantial increase in the hours of operation, any significant change in the menu or types of food prepared or served, any significant increase in the size of the kitchen or the number of food service or food preparation employees, or any significant change in the size or type of food preparation equipment.

“City” means the municipal government of the city of Newport Beach, California.

“city” means the residential, park and open space, commercial, and industrial areas within the geographic boundaries of the City of Newport Beach, California.

“Fats, oils, and grease (FOG)” means substances such as vegetable or animal products that are used in, or are byproducts of, the cooking or food preparation process, and that turn or may turn viscous or solidify with a change in temperature or other conditions.

“Food grinder” means any device installed in the plumbing or wastewater system for the purpose of grinding food waste or food preparation byproducts for the purpose of disposing it in the sewer system.

“Food service establishment (FSE)” means facilities defined in California Uniform Retail Food Service Establishments Law (CURFFL) Section 113785, and any commercial entity within 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 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” or “device” means any grease interceptor, grease trap or other mechanism, the purpose of which is to trap or collect or treat FOG prior to it being discharged into the sewer system.

“Grease interceptor” means a multi-compartment grease control device that is constructed in different sizes and is required by the City to be located, according to the Uniform Plumbing Code, underground between a FSE and the connection to the sewer system.

“Inspector” means a person authorized by the City to inspect any existing or proposed wastewater generation, conveyance, processing, and disposal facilities.

“Monitoring facilities” means systems or facilities that sample constituents or that measure or monitor flow.

“Municipal Operations Director” shall mean the Director of the Municipal Operations Department or his or her designee.

“Regulatory agencies” means those agencies having regulatory jurisdiction over the operations of the City’s facilities, including, but not limited to:

1. United States Environmental Protection Agency, Region IX, San Francisco and Washington, DC (US EPA).

2. California State Water Resources Control Board (SWRCB).
3. California Regional Water Quality Control Board, Santa Ana Region (RWQCB).
4. South Coast Air Quality Management City (SCAQMD).
5. California Department of Health Services (DHS).
6. Orange County Health Care Agency (OC HCA).

“Remodeling” means a physical change in an FSE causing an increased amount of FOG to the sewer system, as determined by the Building Director; or exceeding a cost of fifty thousand dollars (\$50,000.00) to a FSE 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 thirty percent (30%) increase in the net public seating area, (3) a thirty percent (30%) increase in the size of the kitchen area, or (4) any change in the size or type of food preparation equipment.

“Sewer system” means any and all facilities used for collecting, conveying, pumping, and disposing of wastewater.

“Utilities Manager” means the Utilities General Manager of the City’s Municipal Operations Department or his or her designee.

“Waste” means 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 manifest” means that receipt which is retained by the generator of wastes for disposing recyclable waste or liquid waste.

“Wastewater” means 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.

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. Shall is mandatory; may is permissive or discretionary. (Ord. 2013-11 §§ 87—89, 2013; Ord. 2004-27 § 1 (part), 2004)

#### **14.30.020 Permit Required.**

No FSE shall operate or discharge FOG into the wastewater system without first obtaining a Grease Disposal Permit (“permit”) from the City. An FSE shall apply for a permit from the Utilities Director in accordance with application and review procedures set forth by the Utilities Director. Each permit holder shall pay an annual fee as described by this Chapter. (Ord. 2004-27 § 1 (part), 2004)

#### **14.30.025 Requirements.**

A. Each permit shall:

1. Authorize the FSE to dispose FOG into the wastewater system in accordance with the provisions of this chapter.
2. Authorize the Municipal Operations Director to access and inspect an FSE to ensure compliance with this chapter during all times the FSE is open, operating, or any other reasonable time.
3. Require the FSE to immediately notify the City by telephone at the number specified by the Municipal Operations Director in the event the FSE is unable to comply with any requirements of this chapter due to a

breakdown of equipment, accidents, or human error, or when the FSE has reasonable opportunity to know that a discharge will exceed the provisions of this chapter. This notification shall not relieve the FSE of any expense, loss, damage or other liability which may be incurred as a result of damage or loss to the City or any other damage or loss to person or property; nor shall such notification relieve the FSE of any fees, fines or other liability which may be imposed by this chapter or other applicable law.

4. Require the FSE's adherence to best management practices to minimize the discharge of FOG to the sewer system. These BMPs shall be developed by the Utilities Manager, updated annually, and distributed to each permit holder.
  5. Require the FSE to maintain any grease control device in an efficient operating condition by removing the full content of the device which includes wastewater, accumulated FOG, floating materials, sludge and solids in a manner consistent with the maintenance frequency and maintenance practices approved by the Municipal Operations Director.
  6. The FSE shall keep all waste manifests, receipts and invoices of all cleaning, maintenance, grease removal of or from the grease control device, disposal carrier and disposal site location for no less than two years. The FSE shall, upon request, make the waste manifests, receipts and invoices available to any City representative, or inspector.
- B. Ninety (90) days following the effective date of this chapter, all FSEs shall have applied for and received a permit.
- C. New FSEs or FSEs that are newly required to have a permit shall have received a grease disposal permit prior to the Building Official's issuance of a certificate of occupancy. An FSE may not open for business nor serve customers without receiving and maintaining a valid grease control permit. (Ord. 2013-11 § 90, 2013: Ord. 2004-27 § 1 (part), 2004)

#### **14.30.027 Prohibitions.**

The following prohibitions shall apply to all FSEs:

- A. No FSE shall discharge or cause to be discharged into the sewer system FOG that, as determined by the Utilities Director, may accumulate and/or cause or contribute to blockages in the sewer system or at the sewer system lateral which connects the FSE to the sewer system.
- B. Installation of food grinders in the wastewater system of all new FSEs in new or existing buildings, and in all existing FSEs undergoing remodeling or a change in operations.
- C. Introduction of any additives into an FSE's wastewater system for the purpose of emulsifying FOG, for grease remediation or as a supplement to interceptor maintenance unless a variance is obtained in accordance with Section [14.30.035](#).
- D. Discharge of wastewater from dishwashers to any grease control device.
- E. Discharge of wastewater with temperatures in excess of 140°F to any grease control device.
- F. Discharge of wastes from toilets, urinals, wash basins, and other fixtures containing fecal materials to sewer lines intended for grease control device service, or vice-versa.
- G. Discharge of any waste including FOG and solid materials removed from the grease control device to the sewer system.

- H. Tampering with or knowingly rendering inoperable any grease control device, monitoring device or method or access point.
- I. Interfering with, delaying, resisting or refusing entrance to City representatives attempting to inspect any facility involved directly or indirectly with a discharge of wastewater to the City's sewer system.
- J. Making any false statement or representation on any record, report, plan or other document that is filed with the City in accordance with this Chapter. (Ord. 2004-27 § 1 (part), 2004)

#### **14.30.030 Grease Control Devices.**

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- A. Any new FSE, any FSE undergoing remodeling, any FSE undergoing a change in operations or, as directed by the Municipal Operations Director, any FSE that violates the provisions of this chapter, shall obtain a permit from the Building Official to install a grease control device.
- B. Upon approval of the Building Official, grease control devices for FSEs may be "gang" devices which accept FOG from more than one FSE. Each FSE that contributes FOG to a gang device shall be responsible for the installation and maintenance of the grease control device.
- C. The Building Official shall not issue a certificate of occupancy for an FSE which is required to have a grease control device until the device has been installed, inspected and approved by the Community Development Department.
- D. Any decision of the Building Official pursuant to this chapter may be appealed by any interested party to the Building and Fire Board of Appeals, pursuant to Chapter [15.80](#) of the Newport Beach Municipal Code. (Ord. 2013-11 § 91, 2013; Ord. 2011-14 § 1, 2011; Ord. 2004-27 § 1 (part), 2004)

#### **14.30.035 Exceptions.**

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- A. The following exceptions from Section [14.30.030](#) are permitted:
  - 1. Variance. If the Municipal Operations Director finds that a treatment or pretreatment product, combined with best management practices, will limit or eliminate FOG discharges from a particular FSE, the Utilities Manager may exempt that FSE via a variance.
  - 2. Waiver. The Building Official, in consultation with the Municipal Operations Director, shall exempt an FSE from the requirements of Section [14.30.030](#) via a waiver; provided, that the FSE complies with all other provisions of this chapter; and provided, that any of the following conditions exist:
    - a. There is inadequate space on the property on which the FSE is located to install a grease control device;
    - b. There is inadequate slope for gravity flow between kitchen plumbing fixtures and the grease control device and/or between the grease control device and the private collection lines or the public sewer;
    - c. The FSE has been in operation prior to January 1, 2005, and has not had a change in operations or a remodel; or
    - d. The FSE conducts operations that do not produce FOG in a quantity that adversely affects the wastewater system. In this case, the waiver shall include conditions placed by the Municipal Operations Director on the FSE's operations that provide for continued limits on FOG production.
- B. Persons seeking a variance, waiver, or conditional waiver shall complete and file with the City an application on the form prescribed by the City. The application shall be accompanied by the applicable fee. The applicant shall provide the following information:

1. The name and address of the applicant.
  2. The address of the premises for which the license is requested.
  3. A site plan showing property lines, easements, structures, and any other features that limit the installation of a grease control device.
  4. A description of food processing, type and number of meals to be serve, cleanup procedures, size of kitchen, and dining room capacity.
  5. A list of kitchen appliances, fixtures, and ventilating equipment.
  6. The volume and type of wastewater to be discharged.
  7. Any other information deemed necessary by City to evaluate the application.
- C. The variance, waiver, or conditional waiver shall be valid for one year and shall be automatically renewed, provided:
1. That there has been no remodeling or change in operations; and
  2. That all fees or fines and penalties relating to this Chapter have been paid by the holder of the variance or waiver.
- D. In the event that a variance or waiver is revoked or not automatically renewed, the Utilities Director may require the FSE formerly holding the variance or waiver to install a grease control device. (Ord. 2013-11 § 92, 2013; Ord. 2004-27 § 1 (part), 2004)

#### **14.30.040 Fees.**

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A. Annual Grease Disposal Mitigation Fee. FSEs that operate with a waiver pursuant to this Chapter shall pay an annual Grease Disposal Mitigation Fee to equitably cover the cost to maintain a portion of the sewer system. The fee shall be adopted by the City Council by resolution and may be adjusted by the Utilities Director at the request of an FSE to reflect the FSE's effective compliance with best management practices and effective reduction or elimination of FOG into the wastewater system.

B. Annual Permit Fee. FSEs that hold a Grease Disposal Permit shall pay an annual permit fee to cover the cost of issuing the permit and the cost of providing any inspections associated with this Chapter. This fee shall be adopted by the City Council by resolution. (Ord. 2004-27 § 1 (part), 2004)

#### **14.30.045 Sampling and Monitoring.**

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A. In order to meet the objectives and requirements of this Chapter, the Utilities Director may require a FSE to construct, maintain, and provide access to monitoring facilities at the FSE's expense.

B. The location of the monitoring facilities shall be subject to approval by the Utilities Director.

C. FSEs may be required by the Utilities Director to submit waste analysis plans, contingency plans, and meet other necessary requirements to ensure proper operation and maintenance of the grease control device and compliance with this Chapter. (Ord. 2004-27 § 1 (part), 2004)

#### **14.30.050 Sanitary Sewer Overflows (SSOs) and Recovery of Costs and Fines.**

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A. Any person who discharges any waste which causes or contributes to any sewer blockage, SSOs, obstruction, interference, damage, or any other impairment to sewer facilities or to the operation of those facilities

is in violation of this Chapter and shall be liable for all costs required to clean or repair the facilities together with expenses incurred by the City to resume normal operations.

B. Any person who discharges a waste which causes or contributes to the City violating its discharge requirements shall be liable for any losses, facilities damages, costs or expenses incurred by the City, including regulatory fines, penalties, and assessments made by other agencies or a court. (Ord. 2004-27 § 1 (part), 2004)

#### **14.30.055 Termination or Suspension of Service.**

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A. Termination. The Utilities Director may physically terminate sewer service to any property upon order of any official from the Regulatory Agencies for illicit or illegal discharges due to public health.

B. Suspension. The Utilities Director may suspend sewer service when the Manager determines that the suspension is necessary to stop an actual or impending discharge which presents or may present an imminent or substantial endangerment to the health, safety and welfare of persons, or to the environment. Any discharger notified of and subject to a suspension order, shall immediately cease and desist the discharge of all wastewater containing FOG to the sewer system.

C. All costs for physical termination shall be paid by the owner or operator of the FSE as well as all costs for reinstating service. (Ord. 2004-27 § 1 (part), 2004)

#### **14.30.060 Violations and Penalties.**

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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 one thousand dollars (\$1,000.00), or imprisonment for not more than six 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. Persons violating the provisions of this Chapter may be subject to the following penalties:

1. Pursuant to the authority of the Clean Water Act, 33 U.S.C. Section 1251 et seq., any violator may be liable civilly for a sum not to exceed twenty-five thousand dollars (\$25,000.00) per violation for each day in which such violation occurs.

2. Pursuant to Chapter [1.05](#) of the Newport Beach Municipal Code, any person who violates any provision of this Chapter may be subject to administrative citation.

C. The amount of any civil penalty assessed shall be based on relevant circumstances, including but not limited to, the following:

1. The extent of the harm caused;
2. The nature and persistence of the failure to perform or comply;
3. The length of time over which the failure occurred;
4. The frequency of past violations; or
5. The financial burden to the permittee or person.

D. The decision of the Utilities Director to levy penalties may be appealed to the City Manager or his or her designee. (Ord. 2004-27 § 1 (part), 2004)

**The Newport Beach Municipal Code is current through Ordinance 2018-19, and legislation passed through February 12, 2019.**

Disclaimer: The City Clerk's Office has the official version of the Newport Beach Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.