

ORDINANCE NO. 63

**AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE
MIDWAY CITY SANITARY DISTRICT ADOPTING FATS, OILS
AND GREASE CONTROL REGULATIONS APPLICABLE TO
FOOD SERVICE ESTABLISHMENTS**

WHEREAS, pursuant to the Sanitary District Act of 1923, Health & Safety Code §§ 6400 et seq., the Midway City Sanitary District ("District") has the authority to adopt ordinances relating to the provision of sewer services and facilities, and regulations of those services and facilities; and

WHEREAS, the Regional Water Quality Control Board ("RWQCB") for the Santa Ana Region adopted Order R8-2002-0014, which prescribes general waste discharge requirements prohibiting 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 District's service area is "grease blockages;" and

WHEREAS, SSOs 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, and impair the public recreational use and aesthetic enjoyment of surface waters within the District's service area; 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 and sewage spills is sewer lines clogged from the accumulation of FOG discharged from Food Service Establishments; and

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

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

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

WHEREAS, Section 1014 of the 2001 California Plumbing Code, applicable to all occupancies in the State pursuant to the California Building Standards Law, 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 Food Service Establishments within the District's jurisdiction to comply with waste discharge regulations and prevent the harmful effects of SSOs; and

WHEREAS, the regulations adopted herein will require existing Food Service Establishments to install grease control devices or interceptors no later than five years from the effective date of these regulations, and the Board finds that five years is a reasonable amortization period for existing Food Service Establishments that are operating without a grease control device or grease interceptor; and

WHEREAS, the Board of Directors finds that specific enforcement provisions must be adopted to govern discharges of wastewater to the District's system by Food Service Establishments.

NOW, THEREFORE, the Board of Directors does hereby ordain as follows:

SECTION 1. ADOPTION OF REGULATIONS. The "Regulations of the Midway City Sanitary District Applicable to Food Service Establishments for Controlling Fats, Oils and Grease" attached herewith as Exhibit "1" are hereby adopted and made applicable to Food Service Establishments within the District effective upon the adoption of these regulations.

SECTION 2. REPEAL OF INCONSISTENT ORDINANCES AND REGULATIONS. Ordinance No. 59 and any prior ordinance and regulation inconsistent with the regulations and standards adopted herein are hereby repealed.

SECTION 3. FILING WITH CALIFORNIA BUILDING STANDARDS COMMISSION. A copy of these regulations shall be filed with the California Building Standards Commission and the California Department of Housing and Community Development by the Secretary of the Board as required by State law (Health & Safety Code Section 17958.7).

SECTION 4. EFFECTIVE DATE. These regulations shall take effect immediately upon its adoption and a summary shall have been published in a newspaper of general circulation as provided by law.

**REGULATIONS OF THE MIDWAY CITY SANITARY DISTRICT
 APPLICABLE TO FOOD SERVICE ESTABLISHMENTS
 FOR CONTROLLING FATS, OILS AND GREASE**

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REGULATIONS OF THE MIDWAY CITY SANITARY DISTRICT
APPLICABLE TO FOOD SERVICE ESTABLISHMENTS
FOR CONTROLLING FATS, OILS AND GREASE

ARTICLE 1 -- GENERAL PROVISIONS

1.1 PURPOSE AND POLICY

- A. The purpose of these regulations is to facilitate the maximum beneficial public use of the District's sewer services and facilities while preventing blockages of the sewer facilities resulting from discharges of Fats, Oils and Grease ("FOG") to sewer facilities, and to specify appropriate FOG discharge requirements for Food Service Establishments.
- B. These regulations shall be interpreted in accordance with the definitions set forth in Section 1.2. The provisions of these regulations shall apply to the direct or indirect discharge of all wastewater or waste containing FOG carried to the sewer facilities of the District.
- C. To comply with Federal, State, and local policies and to allow the District to meet applicable standards, provisions are made in these regulations for the regulations of wastewater or waste containing FOG discharges to the sewer facilities.
- D. These regulations establish quantity and quality standards on all wastewater and/or waste discharges containing FOG, which may alone or collectively cause or contribute to FOG accumulation in the sewer facilities causing or potentially causing or contributing to the occurrence of sewer system overflows ("SSOs").

1.2 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 CFR 136 (Code of Federal Regulations).
- B. 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.

C. Subject to the foregoing provisions, the following definitions shall apply in these regulations:

Best Management Practices	Schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce the introduction of FOG to the sewer facilities as more specifically provided for in Section 4.5 of these regulations.
Board	The Board of Directors of the District.
Change in Operations	Any change in the ownership, food types, or operational procedures that have the potential to increase the amount of FOG generated and/or discharged by Food Service Establishments in an amount that alone or collectively causes or creates a potential for SSOs to occur.
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. Discharger shall mean the same as User.
District	The Midway City Sanitary District.
Sewer Facility or System	Any property belonging to the District used in the treatment, reclamation, reuse, transportation, or disposal of wastewater, or sludge.
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 District to administer the FOG Control Program. The FOG Control Program Manager is responsible for all determinations of compliance with the program, including approval of discretionary variances and waivers.
FOG Wastewater Discharge Permit	A permit issued by the District subject to the requirements and conditions established by the District authorizing the permittee or discharger to discharge wastewater into the District's facilities or into sewer facilities which ultimately discharge into a District facility.
Food Service Establishment	Facilities defined in California Uniform Retail Food Service Establishments Law (CURFFL) Section 113785, and any commercial entity within the boundaries of the District, 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.
Food Grinder	Any device installed in the plumbing or sewage system for the purpose of grinding food waste or food preparation by products for the purpose of disposing it in the sewer system.
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 District.

Grease Disposal Mitigation Fee	A fee charged to an Owner/Operator of a Food Service Establishment when there are physical limitations to the property that make the installation of the usual and customary grease interceptor or grease control device for the Food Service Establishment 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 a Food Service Establishment and the connection to the sewer system. These devices primarily use gravity to separate FOG from the wastewater as it moves from one compartment to the next. 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.
General Manager	The District's General Manager.
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.
Inflow	Water entering a sewer system through a direct stormwater or runoff connection to the sanitary sewer, which may cause an almost immediate increase in wastewater flows.

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.
Inspector	A person authorized by the District to inspect any existing or proposed wastewater generation, conveyance, processing, and disposal facilities.
Interceptor	A grease interceptor.
Interference	Any discharge which, alone or in conjunction with discharges from other sources, inhibits or disrupts the District's sewer system, treatment processes or operations; or is a cause of violation of the District's Waste Discharge Requirements.
Local Sewering Agency	Any public agency or private entity responsible for the collection and disposal of wastewater to the District's sewer facilities duly authorized under the laws of the State of California to construct and/or maintain public sewers.
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 District's sewer facilities subject to the requirements and conditions established by the District.
Person	Any individual, partnership, firm, association, corporation or public agency, including the State of California and the United States of America.
Public Agency	The State of California and/or any city, county, special district, other local governmental authority or public body of or within this State.
Public Sewer	A sewer owned and operated by the District, or other local Public Agency, which is tributary to the District's sewer facilities.

Regulatory Agencies

Regulatory Agencies shall mean those agencies having regulatory jurisdiction over the operations of the District, 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 District (SCAQMD).
- e) California Department of Health Services (DOHS).

Remodeling

A physical change or operational change causing generation of the amount of FOG that exceed 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 a Food Service Establishment 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 District, 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 District or user to measure and record wastewater constituent mass, concentrations, collect a representative sample, or provide access to plug or terminate the discharge.

Sewage

Wastewater.

Sewer Facilities or System	Any and all facilities used for collecting, conveying, pumping, treating, and disposing of wastewater and sludge.
Sewer Lateral	A building sewer as defined in the latest edition of the California Plumbing Code. It is the wastewater connection between the building's wastewater facilities and a public sewer system.
Sludge	Any solid, semi-solid or liquid decant, supernate or supernate from a manufacturing process, utility service, or pretreatment facility.
Twenty-five percent (25%) Rule	Requirement for grease interceptors to be maintained such that the combined FOG and solids accumulation does not exceed 25% of the design hydraulic depth of the grease interceptor. This is to ensure that the minimum hydraulic retention time and required available hydraulic volume is maintained to effectively intercept and retain FOG discharged to the sewer system.
User	Any person who discharges or causes a discharge of wastewater directly or indirectly to a public sewer system. User shall mean the same as Discharger.
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.
Manifest	That receipt which is retained by the generator of wastes for disposing recyclable wastes or liquid wastes as required by the District.
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.

Wastewater Constituents and Characteristics The individual chemical, physical, bacteriological, and other parameters, including volume and flow rate and such other parameters that serve to define, classify or measure the quality and quantity of wastewater.

- D. Words used in these regulations 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.

ARTICLE 2 -- GENERAL LIMITATIONS, PROHIBITIONS, AND REQUIREMENTS ON FATS, OILS, AND GREASE ("FOG") DISCHARGES

2.1 FOG DISCHARGE LIMITATION

No Food Service establishment shall discharge or cause to be discharged into the sewer system FOG that exceeds a concentration level adopted by the Board or that may accumulate and/or cause or contribute to blockages in the sewer system or at the sewer system lateral which connects the Food Service Establishment to the sewer system.

2.2 PROHIBITIONS

The following prohibitions shall apply to all Food Service Establishments:

- A. Installation of food grinders in the plumbing system of new constructions of Food Service Establishments shall be prohibited. Furthermore, all food grinders shall be removed from all existing Food Service Establishments within 180 days of the effective date of these regulations, except when expressly allowed by the FOG Control Program Manager.
- B. Introduction of any additives into a Food Service Establishment's wastewater system for the purpose of emulsifying FOG is prohibited, unless a specific written authorization from the FOG Control Program Manager is obtained.

- C. Disposal of waste cooking oil into drainage pipes is prohibited. 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 is prohibited.
- E. Discharge of wastewater with temperatures in excess of 140°F to any grease control device, including grease traps and grease interceptors, is prohibited.
- 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, is prohibited.
- G. Discharge of wastes from toilets, urinals, wash basins, and other fixtures containing fecal materials to sewer lines intended for grease interceptor service, or vice versa, is prohibited.
- H. Discharge of any waste including FOG and solid materials removed from the grease control device to the sewer system is prohibited. Grease removed from grease interceptors shall be wastehauled periodically as part of the operation and maintenance requirements for grease interceptors.
- I. Operation of grease interceptors with FOG and solids accumulation exceeding 25% of the total operating depth of the grease interceptor (25% Rule).

2.3 FOG WASTEWATER DISCHARGE PERMIT REQUIRED

No person shall discharge, or cause to be discharged any wastewater from Food Service Establishments directly or indirectly into the sewer system without first obtaining a FOG Wastewater Discharge Permit or a Variance or Waiver pursuant to these regulations. Within 30 days of the effective date of these regulations, all Food Service Establishments in the District shall file an application for a FOG Wastewater Discharge Permit or Variance or Waiver with the District on a form approved by the General Manager for such purpose. Except for Limited Food Preparation Establishments, as defined in Section 3.7, which are not subject to the provisions of these regulations, any person who wishes to open or operate a new Food Service Establishment following the effective date of these regulations shall apply for and obtain a FOG Wastewater Discharge Permit or Variance prior to opening or operating such Food Service Establishment.

2.4 BEST MANAGEMENT PRACTICES REQUIRED

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

may include kitchen practices and employee training that are essential in minimizing FOG discharge.

2.5 FOG PRETREATMENT REQUIRED

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

A. New Construction of Food Service Establishments

New construction of Food Service Establishments shall include and install grease interceptors prior to commencing discharges of wastewater to the sewer system.

B. Existing Food Service Establishments

1. For existing Food Service Establishments, the requirement to install and to properly operate and maintain a grease interceptor may be conditionally stayed, that is, delayed in its implementation by the FOG Control Program Manager for a maximum period of five years from the effective date of these regulations (5-year Amortization Period). Terms and conditions for application of a stay to a Food Service Establishment shall be set forth in the permit. The Board finds that five years is a reasonable amortization period for existing Food Service Establishments that are operating without a grease interceptor.
2. Existing Food Service Establishments, which have caused or contributed to grease-related blockage in the sewer system, or which have sewer laterals connected to hot spots, or which have been determined to contribute significant FOG to the sewer system by the FOG Control Program Manager based on inspection or sampling, shall be deemed to have reasonable potential to adversely impact the sewer system, and shall install grease interceptors within 180 days upon notification by the District.
3. Existing Food Service Establishments undergoing remodeling or a change in operations as defined in Section 1.2 of these regulations shall be required to install a grease interceptor.

2.6 VARIANCE AND WAIVER OF GREASE INTERCEPTOR REQUIREMENT

A. Variance from Grease Interceptor Requirements

A variance 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 Food Service Establishments demonstrating that it is impossible or impracticable to install, operate or maintain a grease interceptor. The FOG Control Program Manager's determination to grant a variance will be based upon, but not limited to, evaluation of the following conditions:

1. There is no adequate space for installation and/or maintenance of a grease interceptor.
2. There is no 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. The Food Service Establishment can justify that the alternative pretreatment technology is equivalent or better than a grease interceptor in controlling its FOG discharge. In addition, the Food Service Establishment 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 Variance may be granted if the results show no visible accumulation of FOG in its lateral and/or tributary downstream sewer lines.

B. Conditional Waiver from Installation of Grease Interceptor

A conditional waiver from installation of a grease interceptor may be granted for Food Service Establishments that have been determined to have negligible FOG discharge and insignificant impact to the sewer system. The FOG Control Program Manager's determination to grant or 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 Food Service Establishment 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 Best Management Practices and compliance history.

3. Sewer size, grade, condition based on visual information, FOG deposition in the sewer by the Food Service Establishment, 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 Food Service Establishments 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 imposition of a Grease Disposal Mitigation Fee as described in Section 2.8. Additional requirements may be imposed to mitigate the discharge of FOG into the sewer system. 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. There is no adequate space for installation and/or maintenance of a grease interceptor.
2. There is no 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 variance from grease interceptor installation to allow alternative pretreatment technology cannot be granted.

D. Application for Variance or Waiver of Requirement for Grease Interceptor

A Food Service Establishment may submit an application for variance or waiver from the grease interceptor requirement to the FOG Control Program Manager. The Food Service Establishment bears 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 variance or waiver, the permit will be issued or revised to include the variance or waiver and relieve the Food Service Establishment from the requirement.

E. Terms and conditions

A variance or waiver shall contain terms and conditions that serve as basis for its issuance. A variance or waiver may be revoked at any time when any of the terms and conditions for its issuance is not satisfied or if the conditions upon which the waiver was based change so that the justification for the waiver no longer exists. The variance or waiver shall be valid so long as the Food Service Establishment remains in compliance with their terms and conditions until the expiration date specified in the variance or waiver.

2.7 COMMERCIAL PROPERTIES

Property owners of commercial properties or their official designee(s) shall be responsible for the installation and maintenance of the grease interceptor serving multiple Food Service Establishments that are located on a single parcel.

2.8 GREASE DISPOSAL MITIGATION FEE

Food Service Establishments 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 Food Service Establishments' inability to adequately remove FOG from its wastewater discharge. This Section shall not be interpreted to allow the new construction of, or existing Food Service Establishments undergoing remodeling or change in operations to operate without an approved grease interceptor unless the District has determined that it is impossible or impracticable to install or operate a grease control interceptor for the subject facility under the provisions of Section 2.6 of these regulations.

- A. The Grease Disposal Mitigation Fee shall be established by ordinance or resolution of the Board of Directors, 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 Food Service Establishment 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 they had 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 these regulations 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 SSO in the sewer downstream, or surrounding the Food Service Establishment prior to the waiver request.

2.9 SEWER SYSTEM OVERFLOWS, PUBLIC NUISANCE, ABATEMENT ORDERS AND CLEANUP COSTS

Notwithstanding the five-year amortization period established in Section 2.5, Food Service Establishments found to have contributed to a sewer blockage, SSOs or any sewer system interferences resulting from the discharge of wastewater or waste containing FOG, shall 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 threat and injury to public health, safety, and welfare of life and property and are hereby declared public nuisances. Furthermore, sewer lateral failures and SSOs caused by Food Service Establishments alone or collectively, are the responsibility of the private property owner or Food Service Establishment, and individual(s) as a responsible officer or owner of the Food Service Establishment. If the District must act immediately to contain and clean up an SSO caused by blockage of a private or public sewer lateral or system serving a Food Service Establishment, or at the request of the property owner or operator of the Food Service Establishment, or because of the failure of the property owner or Food Service Establishment to abate the condition causing immediate threat of injury to the health, safety, welfare, or property of the public, the District's costs for such abatement may be entirely borne by the property owner or operator of the Food Service Establishment, and individual(s) as a responsible officer or owner of the Food Service Establishment(s) and may constitute a debt to the District and become due and payable upon the District's request for reimbursement of such costs.

ARTICLE 3 -- FOG WASTEWATER DISCHARGE PERMITS FOR FOOD SERVICE ESTABLISHMENTS

3.1 FOG WASTEWATER DISCHARGE PERMIT REQUIRED

- A Food Service Establishments proposing to discharge or currently discharging wastewater containing FOG into the District's sewer system shall obtain a FOG Wastewater Discharge Permit or variance or waiver from the District.
- B. FOG Wastewater Discharge Permits, waivers, or variances shall be expressly subject to all provisions of these regulations and all other regulations, charges for use, and fees established by the District. The

conditions of FOG Wastewater Discharge Permits, waivers or variances shall be enforced by the District in accordance with these regulations and applicable State and Federal Regulations.

- C. There shall be four types FOG Discharge Permits granted to Food Service Establishments by the District:
1. Interim Permit: Upon the effective date of these regulations, all Food Service Establishments in the District will be subject to the conditions for a FOG Discharge Permit as described in these regulations. For a period of eighteen (18) months following adoption, all Food Service Establishments will be granted a blanket Interim Permit until such time as the District's FOG Control Program staff inspects them. Notwithstanding the foregoing, each Food Service Establishment shall comply with the provisions of Article 2, and prior to the expiration of the eighteen month interim permit period, each Food Service Establishment must have obtained a regular Permit, Waiver, or Variance in order to continue discharging wastewater to the District's sewer system;
 2. Regular Permit: Regular Permits will be issued upon the proper installation and maintenance of a grease interceptor as described in Section 2.5;
 3. Variance: A permit issued upon implementation of Kitchen Best Management Practices and/or alternative pretreatment technology that is, at least, equally effective in controlling the FOG discharge in lieu of a grease interceptor, as described in 2.6;
 4. Waiver: Where it is impossible or impracticable to install, operate or maintain a grease interceptor, a Food Service Establishment may apply for a Waiver as described in Section 2.6.
- D. Proper installation and maintenance of a grease interceptor and application for a Regular Permit shall be the standard method of compliance with these regulations. However, existing Food Service Establishments that do not have grease interceptors may meet the requirements of these regulations by obtaining variances or waivers as provided in Section 2.6.

3.2 FOG WASTEWATER DISCHARGE PERMIT APPLICATION

- A. Any person required to obtain a FOG Wastewater Discharge Permit shall complete and file with the District prior to commencing or continuing discharges, an application in a form prescribed by the District. 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 Food Service Establishment, operation, cuisine, service activities, or clients using the applicant's services.
 2. (Whichever is applicable) Name, address of any and all principals/owners/major shareholders of the Food Service Establishment; 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 Food Service Establishment 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 District may issue a FOG Wastewater Discharge Permit, subject to terms and conditions set forth in these regulations and as otherwise determined by the FOG Control Program Manager to be appropriate to protect the District's sewer system.

3.3 FOG WASTEWATER DISCHARGE PERMIT CONDITIONS

The issuance of a FOG Wastewater 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 Best Management Practices and installation of adequate grease interceptor and/or grease control device.
- E. Requirements for maintaining and reporting status of Best Management Practices

- F. Requirements for maintaining and submitting logs and records, including wastehauling records and waste manifests.
- G. Requirements to self-monitor.
- H. Requirements for the Food Service Establishment 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 District's system or as specified by other Regulatory Agencies.
- J. Other terms and conditions, which may be reasonably applicable to ensure compliance with these regulations.

3.4 FOG WASTEWATER DISCHARGE PERMIT APPLICATION FEE

The FOG Wastewater Discharge Application Permit fee shall be paid by the applicant in an amount adopted by ordinance or resolution of the Board of Directors of the District. Payment of the application permit fee must be received by the District at the time of filing the application for the permit. A permittee shall also pay any delinquent invoices in full prior to permit renewal.

3.5 FOG WASTEWATER DISCHARGE PERMIT MODIFICATION OF TERMS AND CONDITIONS

- A. The terms and conditions of an issued permit may be subject to modification and change by the sole determination of the FOG Control Program Manager during the life of the permit based on:
 - 1. The discharger's current or anticipated operating data;
 - 2. The District's current or anticipated operating data;
 - 3. Changes in the requirements of Regulatory Agencies which affect the District; or
 - 4. A determination by the FOG Control Program Manager that such modification is appropriate to further the objectives of these regulations.
- B. The Permittee may request a modification to the terms and conditions of an issued 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.

3.6 FOG WASTEWATER DISCHARGE PERMIT DURATION AND RENEWAL

FOG Wastewater Discharge Permits shall be issued annually. At least 30 days prior to the expiration of the permit, the user shall apply for renewal of the permit in accordance with the provisions of this Article 3.

3.7 EXEMPTION FROM FOG WASTEWATER DISCHARGE PERMIT

A limited food preparation establishment is not considered a Food Service Establishment and is exempt from obtaining a FOG Wastewater Discharge Permit. Exempted establishments shall be 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.

3.8 NON-TRANSFERABILITY OF PERMITS

FOG Wastewater Discharge Permits issued under these regulations are for a specific Food Service Establishment, for a specific operation and create no vested rights.

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

3.9 FOG WASTEWATER DISCHARGE PERMIT CHARGE FOR USE

A charge to cover all costs of the District for providing the sewer service and monitoring shall be established by Ordinance or Resolution of the Board of Directors of the District.

ARTICLE 4 -- FACILITIES REQUIREMENTS

4.1 DRAWING SUBMITTAL REQUIREMENTS

Upon request by the District:

- A. Food Service Establishments may be required to submit two copies of facility site plans, mechanical and plumbing plans, and details to show all sewer locations and connections. The submittal shall be in a form and content acceptable to the District for review of 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 the Food Service Establishments of the responsibility of modifying the facilities or procedures in the future, as necessary to produce an acceptable discharge, and to meet the requirements of these regulations or any requirements of other Regulatory Agencies.
- 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. Food Service Establishments may be required to submit a schematic drawing of the FOG control device, grease interceptor or other pretreatment equipment, piping and instrumentation diagram, and wastewater characterization report.
- D. The District may require the drawings be prepared by a California Registered Civil, Chemical, Mechanical, or Electrical Engineer.

4.2 GREASE INTERCEPTOR REQUIREMENTS

- A. All Food Service Establishments shall provide wastewater acceptable to the District, under the requirements and standards established herein before discharging to any public sewer. Any Food Service Establishment required to provide FOG pretreatment shall install, operate, and maintain an approved type and adequately sized grease interceptor necessary to maintain compliance with the objectives of these regulations.
- 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.

4.3 GREASE TRAP REQUIREMENTS

- A. Food Service Establishments 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.
- 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.

4.4 MONITORING FACILITIES REQUIREMENTS

- A. The District may require the Food Service Establishments to construct and maintain in proper operating condition at the Food Service Establishment'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. Food Service Establishments may be required to provide immediate, clear, safe and uninterrupted access to the FOG Control Program Manager or inspectors to the Food Service Establishment's monitoring and metering facilities.

- D. Food Service Establishments may also be required by the FOG Control Program Manager to submit waste analysis plans, contingency plans, and meet other necessary requirements to ensure proper operation and maintenance of the grease control device or grease interceptor and compliance with these regulations.
- E. No Food Service Establishment shall increase the use of water or in any other manner attempt to dilute a discharge as a partial or complete substitute for treatment to achieve compliance with these regulations and the FOG Wastewater Discharge Permit.

4.5 REQUIREMENTS FOR BEST MANAGEMENT PRACTICES

- A. All Food Service Establishments shall implement best management practices in accordance with the requirements and guidelines established by the District under its FOG Control Program in an effort to minimize the discharge of FOG to the sewer system.
- B. All Food Service Establishments shall be required, at a minimum, to comply with the following Best Management Practices, when applicable:
 - 1. Installation of drain screens. Drain screens shall be installed on all drainage pipes in food preparation areas.
 - 2. Segregation and collection of waste cooking oil. 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 wastehaulers or an approved recycling facility must be used to dispose of waste cooking oil.
 - 3. Disposal of food waste. All food waste shall be disposed of directly into the trash or garbage, and not in sinks.
 - 4. Employee training. Employees of the food service establishment shall be trained by ownership/management periodically as established in the permit, on the following subjects:
 - 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 or dripped.

- d) How to properly dispose of grease or oils from cooking equipment into a grease receptacle such as a barrel or drum without spilling.

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. Kitchen signage. Best management and waste minimization practices shall be posted conspicuously in the food preparation and dishwashing areas at all times.

4.6 GREASE INTERCEPTOR MAINTENANCE REQUIREMENTS

- A. Grease Interceptors shall be maintained in efficient operating condition by periodic removal of the full content of the interceptor which includes wastewater, accumulated FOG, floating materials, sludge and solids.
- B. All existing and newly installed grease interceptors shall be maintained in a manner consistent with a maintenance frequency approved by the FOG Control Program Manager pursuant to this section.
- C. 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.
- D. Food Service Establishments with grease interceptors may be required to submit data and information necessary to establish the maintenance frequency grease interceptors.
- E. The maintenance frequency for all Food Service Establishments with a grease interceptor shall be determined in one of the following methods:
 1. 25% Rule. 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 designed hydraulic depth of the grease interceptor. This is to ensure that the minimum hydraulic retention time and required available hydraulic volume is maintained to effectively intercept and retain FOG discharged to the sewer system.
 2. All Food Service Establishments with a Grease Interceptor shall maintain their grease interceptor not less than every 6 months.
 3. Grease interceptors shall be fully pumped out and cleaned quarterly when the frequency described in (1) has not been established. The

maintenance frequency shall be adjusted when sufficient data have been obtained to establish an average frequency based on the requirements described in (1) and guidelines adopted pursuant to the FOG Control Program. The District may change the maintenance frequency at any time to reflect changes in actual operating conditions in accordance with the FOG Control Program. Based on the actual generation of FOG from the Food Service Establishment, the maintenance frequency may increase or decrease.

4. The owner/operator of a Food Service Establishment may submit a request to the FOG Control Program Manager requesting a change in the maintenance frequency at any time. The Food Service Establishment 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 (1), and that it is in full compliance with the conditions of its permit and these regulations. Upon determination by the FOG Control Program Manager that 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 (1), the Food Service Establishment shall be required to have the grease interceptor serviced immediately such that all fats, oils, grease, sludge, and other materials are completely removed from the grease interceptor. If deemed necessary, the FOG Control Program Manager may also increase the maintenance frequency of the grease interceptor from the current frequency.
- F. Wastewater, accumulated FOG, floating materials, sludge/solids, and other materials removed from the grease interceptor shall be disposed off site properly by wastehaulers in accordance with all applicable federal, state and/or local laws.

ARTICLE 5 -- MONITORING, REPORTING, NOTIFICATION, AND INSPECTION REQUIREMENTS

5.1 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 Best Management Practices, 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 Food Service Establishment's 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 Wastewater Discharge Permit or these regulations. 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 and shall be submitted upon request of 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 these regulations and be cause for the District to initiate all necessary tasks and analyses to determine the wastewater constituents and FOG characteristics for compliance with any conditions and requirements specified in the FOG Wastewater Discharge Permit or in these regulations. The Permittee shall be responsible for any and all expenses of the District in undertaking such monitoring analyses and preparation of reports.
4. Other reports may be required such as compliance schedule progress reports, FOG control monitoring reports, and any other reports deemed reasonably appropriate by the FOG Control Program Manager to ensure compliance with these regulations.

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 District 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 Best Management Practices 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. Records of any spills and/or cleaning of the lateral or sewer system.
6. Any other information deemed appropriate by the FOG Control Program Manager to ensure compliance with these regulations.

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 District, or to tamper with or knowingly render inoperable any grease control device, monitoring device or method or access point required under these regulations.

5.2 INSPECTION AND SAMPLING CONDITIONS

- A. The FOG Control Program Manager may inspect or order the inspection and sample the wastewater discharges of any Food Service Establishment to ascertain whether the intent of these regulations are being met and the Permittee is complying with all requirements. The Permittee shall allow the District access to the Food Service Establishment premises, during normal business hours, for purposes of inspecting the Food Service Establishment's grease control devices or interceptor, reviewing the manifests, receipts and invoices relating to the cleaning, maintenance and inspection of the grease control devices or interceptor.
- B. The FOG Control Program Manager shall have the right to place or order the placement on the Food Service Establishment's property or other locations as determined by the FOG Control Program Manager, such devices as are necessary to conduct sampling or metering operations. Where a Food Service Establishment has security measures in force, the Permittee shall make necessary arrangements so that representatives of the District shall be permitted to enter without delay for the purpose of performing their specific responsibilities.
- C. In order for the FOG Control Program Manager to determine the wastewater characteristics of the discharger for purposes of determining the annual use charge and for compliance with permit requirements, the Permittee shall make available for inspection and copying by the District all notices, monitoring reports, waste manifests, and records including, but not limited to, those related to wastewater generation, and wastewater disposal without restriction but subject to the confidentiality provision set forth in these regulations. All such records shall be kept by the Permittee a minimum of two (2) years.

5.3 RIGHT OF ENTRY

Persons or occupants of premises where wastewater is created or discharged shall allow the FOG Control Program Manager, or District representatives, reasonable access to all parts of the wastewater generating and disposal facilities for the purposes of inspection and sampling during all times the discharger's facility is open, operating, or any other reasonable time. No person shall interfere with, delay, resist or refuse entrance to District representatives attempting to inspect any facility involved directly or indirectly with a discharge of wastewater to the District's sewer system. In the event of an emergency involving actual or imminent sanitary sewer overflow, District's representatives may access adjoining businesses or properties that share a sewer system with a Food Service Establishment in order to prevent or remediate an actual or imminent sewer overflow.

5.4 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 opportunity to know that his/her/its discharge will exceed the discharge provisions of the FOG Wastewater Discharge Permit or these regulations, the discharger shall immediately notify the District by telephone at the number specified in the Permit. If the material discharged to the sewer has the potential to cause or result in sewer blockages or SSOs, the discharger shall immediately notify the local Health Department, City or County, and the District.
- 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 the problem from recurring.
- C. Such notification shall not relieve the Permittee of any expense, loss, damage or other liability which may be incurred as a result of damage or loss to the District or any other damage or loss to person or property; nor shall such notification relieve the Permittee of any fees or other liability which may be imposed by these regulations or other applicable law.

5.5 NOTIFICATION OF PLANNED CHANGES

Permittees shall notify the District at least 60 days in advance prior to any facility expansion/remodeling, or process modifications that may result in new or substantially increased FOG discharges or a change in the nature of the discharge. Permittees shall notify the District in writing of the proposed expansion or remodeling and shall submit any information requested by the District for

evaluation of the effect of such expansion on the Permittee's FOG discharge to the sewer system.

ARTICLE 6 -- ENFORCEMENT

6.1 GENERAL PROCEDURE

- A. To ensure that all interested parties are afforded due process of law and that violations are resolved as soon as possible, the general policy of the District is that any determination relating to a notice of violation and Compliance Schedule Agreement (CSA) will be made by the General Manager upon information provided by the FOG Control Program Manager or inspector, with a right of appeal by the permittee to the Board of Directors pursuant to the procedures set forth in Section 6.12.
- B. The District, at its discretion, may utilize any one, combination, or all enforcement remedies provided in Article 6 in response to any permit or Ordinance violations.

6.2 DETERMINATION OF NONCOMPLIANCE WITH FOG WASTEWATER DISCHARGE PERMIT CONDITIONS

- A. Sampling and Inspection Procedures
 - 1. Sampling and inspection of Food Service Establishments shall be conducted in the time, place, manner, and frequency determined at the sole discretion of the FOG Control Program Manager.
 - 2. Noncompliance with permit discharge conditions, or any discharge provisions of these regulations may be determined by an inspection of grease control device, grease interceptor and associated manifest and documentation; and analysis of a grab or composite sample of the effluent of a Food Service Establishment.
 - 3. Any sample taken from a sample point is considered to be representative of the discharge to the public sewer.

B. Noncompliance fee

Any permittee determined to be in noncompliance with the terms and conditions specified in its permit or with any provision of these regulations shall pay a noncompliance fee. The purpose of the noncompliance fee is to compensate the District for costs of additional inspection and follow-up, sampling, monitoring, laboratory analysis, treatment, disposal, and

administrative processing incurred as a result of the noncompliance, and shall be in addition to and not in lieu of any penalties as may be assessed pursuant to Sections 6.10 and 6.11. Noncompliance fees shall be in the amount adopted by ordinance or resolution of the District's Board of Directors.

6.3 COMPLIANCE SCHEDULE AGREEMENT (CSA)

- A. Upon determination that a permittee is in noncompliance with the terms and conditions specified in its permit or any provision of these regulations, or needs to construct and/or acquire and install a grease control device or grease interceptor, the FOG Control Program Manager may require the permittee to enter into a CSA.
- B. The issuance of a CSA may contain terms and conditions including but not limited to requirements for installation of a grease control device, grease interceptor and facilities, submittal of drawings or reports, audit of waste hauling records, best management and waste minimization practices, payment of fees, or other provisions to ensure compliance with these regulations.
- C. The FOG Control Program Manager shall not enter into an CSA until such time as all amounts owed to the District, including user fees, noncompliance fees, or other amounts due are paid in full, or an agreement for deferred payment secured by collateral or a third party, is approved by the FOG Control Program Manager.
- D. If compliance is not achieved in accordance with the terms and conditions of a CSA during its term, the FOG Control Program Manager may issue an order suspending or revoking the discharge permit pursuant to Section 6.4 or 6.5 of these regulations.

6.4 PERMIT SUSPENSION

- A. The General Manager may suspend any permit when it is determined that a permittee:
 - 1. Fails to comply with the terms and conditions of a CSA order.
 - 2. Knowingly provides a false statement, representation, record, report, or other document to the District.
 - 3. Refuses to provide records, reports, plans, or other documents required by the District to determine permit terms or conditions, discharge compliance, or compliance with these regulations.

4. Falsifies, tampers with, or knowingly renders inaccurate any monitoring device or sample collection method.
 5. Refuses reasonable access to the permittee's premises for the purpose of inspection and monitoring.
 6. Does not make timely payment of all amounts owed to the District for user charges, permit fees, or any other fees imposed pursuant to these regulations.
 7. Causes interference, sewer blockages, or SSOs with the District's collection, treatment, or disposal system.
 8. Violates grease interceptor maintenance requirements, any condition or limit of its discharge permit or any provision of the District's Ordinance.
- B. When the FOG Control Program Manager has reason to believe that grounds exist for permit suspension, he/she shall give written notice thereof by certified mail to the permittee setting forth a statement of the facts and grounds deemed to exist, together with the time and place where the charges shall be heard by the General Manager or his/her designee. The hearing date shall be not less than fifteen (15) calendar days nor more than forty-five (45) calendar days after the mailing of such notice.
1. At the suspension hearing, the permittee shall have an opportunity to respond to the allegations set forth in the notice by presenting written or oral evidence. The hearing shall be conducted in accordance with procedures established by the General Manager and approved by the District's General Counsel.
 2. If the General Manager designated a hearing officer, after the conclusion of the hearing, the hearing officer shall submit a written report to the General Manager setting forth a brief statement of facts found to be true, a determination of the issues presented, conclusions, and a recommendation.
 3. Upon receipt of the written report of a hearing officer or conclusion of the hearing, if the General Manager conducted the hearing, the General Manager shall make his/her determination and should he/she find that grounds exist for suspension of the permit, he/she shall issue his/her decision and order in writing within thirty (30) calendar days after the conclusion of the hearing. The written decision and order of the General Manager shall be sent by certified mail to the permittee or its legal counsel/representative at the permittee's business address.

C. Effect

1. Upon an order of suspension by the General Manager becoming final, the permittee shall immediately cease and desist its discharge and shall have no right to discharge any wastewater containing FOG directly or indirectly to the District's system for the duration of the suspension. All costs for physically terminating and reinstating service shall be paid by the permittee.
2. Any owner or responsible management employee of the permittee shall be bound by the order of suspension.
3. An order of permit suspension issued by the General Manager shall be final in all respects on the sixteenth (16th) day after it is mailed to the permittee unless a request for hearing is filed with the Board of Directors of the District pursuant to Section 6.13 no later than 4:30 p.m. on the fifteenth (15th) day following such mailing.

6.5 PERMIT REVOCATION

- A. The General Manager may revoke any permit when it is determined that a permittee:
1. Knowingly provides a false statement, representation, record, report, or other document to the District.
 2. Refuses to provide records, reports, plans, or other documents required by the District to determine permit terms, conditions, discharge compliance, or compliance with these regulations.
 3. Falsifies, tampers with, or knowingly renders inaccurate any monitoring device or sample collection method.
 4. Fails to comply with the terms and conditions of permit suspension or CSA.
 5. Discharges effluent to the District's sewer system while its permit is suspended.
 6. Refuses reasonable access to the permittee's premises for the purpose of inspection and monitoring.
 7. Does not make timely payment of all amounts owed to the District for user charges, permit fees, or any other fees imposed pursuant to these regulations.
 8. Causes interference, sewer blockages, or SSOs with the District collection, treatment, or disposal system.

9. Violates grease interceptor maintenance requirements, any condition or limit of its discharge permit or any provision of the District's Ordinance.

B. Approval. When the FOG Control Program Manager has reason to believe that grounds exist for the revocation of a permit, he/she shall give written notice by certified mail thereof to the permittee setting forth a statement of the facts and grounds deemed to exist together with the time and place where the charges shall be heard by the General Manager or his/her designee. The hearing date shall be not less than fifteen (15) calendar days nor more than forty-five (45) calendar days after the mailing of such notice.

1. At the hearing, the permittee shall have an opportunity to respond to the allegations set forth in the notice by presenting written or oral evidence. The revocation hearing shall be conducted in accordance with the procedures established by the General Manager and approved by the District's General Counsel.
2. If the General Manager designated a hearing officer, after the conclusion of the hearing, the hearing officer shall submit a written report to the General Manager setting forth a brief statement of facts found to be true, a determination of the issues presented, conclusions, and a recommendation.
3. Upon receipt of the written report by the hearing officer, or conclusion of the hearing, if the General Manager conducted the hearing, the General Manager shall make his/her determination and should he/she find that grounds exist for permanent revocation of the permit, he/she shall issue his/her decision and order in writing within thirty (30) calendar days after the conclusion of the hearing. The written decision and order of the General Manager shall be sent by certified mail to the permittee or its legal counsel/representative at the permittee's business address.

In the event the General Manager determines to not revoke the permit, he/she may order other enforcement actions, including, but not limited to, a temporary suspension of the permit, under terms and conditions that he/she deems appropriate.

C. Effect

1. Upon an order of revocation by the General Manager becoming final, the permittee shall permanently lose all rights to discharge any wastewater containing FOG directly or indirectly to the District's system. All costs for physical termination shall be paid by the permittee.

2. Any owner or responsible management employee of the permittee shall be bound by the order of revocation.
3. Any future application for a permit at any location within the District by any person associated with an order of revocation will be considered by the District after fully reviewing the records of the revoked permit, which records may be the basis for denial of a new permit.
4. An order of permit revocation issued by the General Manager shall be final in all respects on the sixteenth (16th) day after it is mailed to the permittee unless a request for hearing is filed with the Board of Directors pursuant to Section 6.13 no later than 4:30 p.m. on the fifteenth (15th) day following such mailing.

6.6 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 District's sewer facilities or to the operation of those facilities shall be liable for all costs required to clean or repair the facilities together with expenses incurred by the District to resume normal operations. A service charge of twenty-five percent (25%) of District's costs shall be added to the costs and charges to reimburse the District for miscellaneous overhead, including administrative personnel and record keeping. The total amount shall be payable within forty-five (45) days of invoicing by the District.
- B. Any person who discharges a waste which causes or contributes to the District violating its discharge requirements established by any Regulatory Agency incurring additional expenses or suffering losses or damage to the facilities, shall be liable for any costs or expenses incurred by the District, including regulatory fines, penalties, and assessments made by other agencies or a court.

6.7 PUBLIC NUISANCE

Discharge of wastewater in any manner in violation of these regulations or of any order issued by the FOG Control Program Manager or General Manager, as authorized by these regulations, is hereby declared a public nuisance and shall be corrected or abated as directed by the FOG Control Program Manager or General Manager. Any person creating a public nuisance is guilty of a misdemeanor.

6.8 TERMINATION OF SERVICE

- A. The District, by order of the General Manager, may physically terminate sewer service to any property as follows:

1. On a term of any order of suspension or revocation of a permit; or
 2. Upon the failure of a person not holding a valid FOG Wastewater Discharge Permit to immediately cease the discharge, whether direct or indirect, to the District's sewer facilities after the notice and process in Section 6.5 herein.
- B. All costs for physical termination shall be paid by the owner or operator of the Food Service Establishment or permittee as well as all costs for reinstating service.

6.9 EMERGENCY SUSPENSION ORDER

- A. The District may, by order of the General Manager, suspend sewer service when the General Manager determines that such suspension is necessary in order to stop an actual or impending discharge which presents or may present an imminent or substantial endangerment to the health and welfare of persons, or to the environment, or may cause SSOs, sewer blockages, interference to the District's sewer facilities, or may cause the District to violate any State or Federal Law or Regulation. Any discharger notified of and subject to an Emergency Suspension Order shall immediately cease and desist the discharge of all wastewater containing FOG to the sewer system.
- 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 General Manager shall hold a hearing to provide the Food Service Establishment or Permittee the opportunity to present information in opposition to the issuance of the Emergency Suspension Order. Such a hearing shall not stay the effect of the Emergency Suspension Order. The hearing shall be conducted in accordance with procedures established by the General Manager and approved by the District's General Counsel. The General Manager shall issue a written decision and order within two (2) business days following the hearing, which decision shall be sent by certified mail to the Food Service Establishment or its legal counsel/representative at that Food Service Establishment's business address. The decision of the General Manager following the hearing shall be final and not appealable to the Board, but may be subject to judicial review pursuant to Section 6.16.

6.10 CIVIL PENALTIES

- A. All users of the District's system and facilities are subject to enforcement actions administratively or judicially by the District, U.S. EPA, State of California Regional Water Quality Control Board, the County of Orange or District Attorney. 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 District 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 District, as caused by the discharge of any user of the District's system which is in violation of any provision of the District's Ordinance or the user's permit, the District shall be entitled to recover from the user all costs and expenses, including, but not limited to, the full amount of said fines or penalties to which it has been subjected.

C. Pursuant to the authority of California Government Code Sections 54739 - 54740, any person who violates any provision of these regulations; any permit condition, prohibition or effluent limit; or any suspension or revocation order shall be liable civilly for a sum not to exceed \$25,000.00 per violation for each day in which such violation occurs. Pursuant to the authority of the Clean Water Act, 33 U.S.C. Section 1251 et seq., any person who violates any provision of these regulations, or any permit condition, prohibition, or effluent limit shall be liable civilly for a sum not to exceed \$25,000.00 per violation for each day in which such violation occurs. The General Counsel of the District, upon request of the General Manager, shall petition the Superior Court to impose, assess, and recover such penalties, or such other penalties as the District may impose, assess, and recover pursuant to Federal and/or State legislative authorization.

D. Administrative Civil Penalties

1. Pursuant to the authority of California Government Code Sections 54740.5 and 54740.6, the District may issue an administrative complaint to any person who violates:
 - a) any provision of these regulations;
 - b) any permit condition, prohibition, or effluent limit; or
 - c) any suspension or revocation order.
2. The administrative complaint shall be served by personal delivery or certified mail on the person and shall inform the person that a hearing will be conducted, and shall specify a hearing date within sixty (60) days following service. The administrative complaint will

allege the act or failure to act that constitutes the violation of the District's regulations, the provisions of law authorizing civil liability to be imposed, and the proposed civil penalty. The matter shall be heard by the General Manager or his/her designee. The person to whom an administrative complaint has been issued may waive the right to a hearing, in which case a hearing will not be conducted.

3. At the hearing, the person shall have an opportunity to respond to the allegations set forth in the administrative complaint by presenting written or oral evidence. The hearing shall be conducted in accordance with the procedures established by the General Manager and approved by the District's General Counsel.
4. If the General Manager designated a hearing officer, after the conclusion of the hearing, the hearing officer shall submit a written report to the General Manager setting forth a brief statement of the facts found to be true, a determination of the issues presented, conclusions, and a recommendation.
5. Upon receipt of the written report by the hearing officer, or conclusion of the hearing if the General Manager conducted the hearing, the General Manager shall make his/her determination and should he/she find that grounds exist for assessment of a civil penalty against the person, he/she shall issue his/her decision and order in writing within thirty (30) calendar days after the conclusion of the hearing.
6. If, after the hearing or appeal, if any, it is found that the person has violated reporting or discharge requirements, the General Manager or Board of Directors may assess a civil penalty against that person. In determining the amount of the civil penalty, the General Manager or Board of Directors may take into consideration all relevant circumstances, including but not limited to the extent of harm caused by the violation, the economic benefit derived through any non-compliance, the nature and persistence of the violation, the length of time over which the violation occurs, and corrective action, if any, attempted or taken by the person involved.
7. Civil penalties may be assessed as follows:
 - a) In an amount which shall not exceed two thousand dollars (\$2,000.00) for each day for failing or refusing to furnish required reports;
 - b) In an amount which shall not exceed three thousand dollars (\$3,000.00) for each day for failing or refusing to timely

comply with any compliance schedules established by the District;

- c) In an amount which shall not exceed five thousand dollars (\$5,000.00) per violation for each day of discharge in violation of any waste discharge limit, permit condition, or requirement issued, reissued, or adopted by the District;
 - d) In any amount which does not exceed ten dollars (\$10.00) per gallon for discharges in violation of any suspension, revocation, cease and desist order or other orders, or prohibition issued, reissued, or adopted by the District;
- 8. An order assessing administrative civil penalties issued by the General Manager shall be final in all respects on the thirty-first (31st) day after it is served on the person unless an appeal and request for hearing is filed with the Board of Directors pursuant to Section 6.13 no later than the thirtieth (30th) day following such mailing. An order assessing administrative civil penalties issued by the Board of Directors shall be final upon issuance.
 - 9. Copies of the administrative order shall be served on the party served with the administrative complaint, either by personal service or by registered mail to the person at his/her/its business or residence address, and upon other persons who appeared at the hearing and requested a copy of the order.
 - 10. Any person aggrieved by a final order issued by the Board of Directors, after granting review of the order of the General Manager, may obtain review of the order of the Board of Directors in the superior court, pursuant to Government Code Section 54740.6, by filing in the court a petition for writ of mandate within thirty (30) days following the service of a copy of the decision or order issued by the Board of Directors.
 - 11. Payment of any order setting administrative civil penalties shall be made within thirty (30) days of the date the order becomes final. The amount of any administrative civil penalties imposed shall constitute a debt to the District.
 - 12. No administrative civil penalties shall be recoverable for any violation for which the District has recovered civil penalties through a judicial proceeding filed pursuant to Government Code Section 54740.

6.11 CRIMINAL PENALTIES

Any person who violates any provision of these regulations are 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 these regulations and shall be subject to the penalties contained herein.

6.12 APPEALS TO THE BOARD OF DIRECTORS

- A. Any Food Service Establishment, permit applicant, or permittee adversely affected by a decision, action, or determination made by the FOG Control Program Manager or General Manager may, prior to the date that the Manager's order becomes final, file a written request for hearing before the Board of Directors accompanied by an appeal fee in the amount established by a separate ordinance or resolution of the District's Board of Directors. The request for hearing shall set forth in detail all the issues in dispute for which the appellant seeks determination and all facts supporting appellant's request.

No later than fifteen (15) days after receipt of the request for hearing, the Board of Directors shall either set the matter for a hearing, or deny the request for a hearing.

A hearing shall be held by the Board of Directors within thirty (30) days from the date of determination granting a hearing, unless a later date is agreed to by the appellant and the Board of Directors. If the matter is not heard within the required time, due to actions or inactions of the appellant, the General Manager's order shall be deemed final.

- B. The Board of Directors shall grant all requests for a hearing on appeals concerning permit suspension, revocation, or denial. Whether to grant or deny the request for a hearing on appeals of other decisions of the General Manager shall be within the sole discretion of the Board of Directors.
- C. The appeal fee shall be refunded if the Board of Directors denies a hearing or reverses or modifies, in favor of the appellant, the order of the General Manager. The fee shall not be refunded if the Board of Directors denies the appeal.
- D. After the hearing, the Board of Directors shall make a determination whether to uphold, modify, or reverse the decision, action, or determination made by the Manager.

The decision of the Board of Directors shall be set forth in writing within thirty (30) days after the close of the hearing and shall contain a finding of the facts found to be true, the determination of issues presented, and the conclusions. The written decision and order of the Board of Directors shall be sent by certified mail to the appellant or its legal counsel/representative at the appellant's business address.

The order of the Board of Directors shall be final upon its adoption. In the event the Board of Directors fails to reverse or modify the General Manager's order, it shall be deemed affirmed.

6.13 PAYMENT OF CHARGES

- A. Except as otherwise provided, all fees, charges and penalties established by these regulations are due and payable upon receipt of notice thereof. Accounts shall become delinquent and collection of delinquent accounts shall be in accordance with the District's ordinance or resolution establishing policies and procedures for collection of delinquent obligations owed to the District, as amended from time to time by the Board of Directors. Any such action for collection may include an application for an injunction to prevent repeated and recurring violations of these regulations.
- B. Notwithstanding the District's policy for collection of delinquent obligations, any invoice outstanding and unpaid after ninety (90) days shall be cause for immediate initiation of permit revocation proceedings or immediate suspension of the permit.
- C. Penalties charged under this Section shall not accrue to those invoices successfully appealed, provided the District receives written notification of said appeal prior to the payment due date. However, payment of disputed charges is still required by the due date during District review of any appeal submitted by permittees.

6.14 JUDICIAL REVIEW

- A. Pursuant to Section 1094.6 of the California Code of Civil Procedure, the District hereby enacts this part to limit to ninety (90) days following final decisions in adjudicatory administrative hearings the time within which an action can be brought to review such decisions by means of administrative mandamus.

- B. Definitions

As used in this Section, the following terms and words shall have the following meanings:

1. Decision shall mean and include adjudicatory administrative decisions that are made after hearing, or after revoking, suspending, or denying an application for a permit.
2. Complete Record shall mean and include the transcript, if any exists, of the proceedings, all pleadings, all notices and orders, any proposed decision by the District's officers, agents, or employees, the final decision, all admitted exhibits, all rejected exhibits in the

possession of the District or its officers, agents or employees, all written evidence, and any other papers in the case.

- C. Time Limit for Judicial Review. Judicial review of any decision of the District or its officer or agent may be made pursuant to Section 1094.5 of the Code of Civil Procedure only if the petition for writ of mandate is filed not later than the ninetieth (90th) day following the date on which the decision becomes final. If there is no provision for reconsideration in the procedures governing the proceedings or if the date is not otherwise specified, the decision is final on the date it is made. If there is provision for reconsideration, the decision is final upon the expiration of the period during which such reconsideration can be sought; provided that if reconsideration is sought pursuant to such provision the decision is final for the purposes of this Section on the date that reconsideration is rejected.
- D. The complete record of the proceedings shall be prepared by the District officer or agent who made the decision and shall be delivered to the petitioner within ninety (90) days after he/she has filed written request therefor. The District may recover from the petitioner its actual costs for transcribing or otherwise preparing the record.
- E. If the petitioner files a request for the record within ten (10) days after the date the decision becomes final, the time within which a petition, pursuant to Section 1094.5 of the Code of Civil Procedure, may be filed shall be extended to not later than the thirtieth (30th) day following the date on which the record is either personally delivered or mailed to the petitioner or the petitioner's attorney of record, if appropriate.
- F. In making a final decision, the District shall provide notice to the party that Section 1094.6 of the Code of Civil Procedure governs the time within which judicial review must be sought.
- G. Notwithstanding the foregoing, and pursuant to Government Code Section 54740.6, judicial review of an order of the Board of Directors imposing administrative civil penalties pursuant to Section 6.10.D may be made only if the petition for writ of mandate is filed not later than the thirtieth (30th) day following the day on which the order of the Board of Directors becomes final.

ARTICLE 7 -- SEVERABILITY

If any section, subsection, subdivision, sentence, clause or phrase of these regulations are for any reason held to be unconstitutional or otherwise invalid, such invalidity shall not affect the validity of this entire Ordinance or any of the remaining portions hereof. The

Board of Directors hereby declares that it would have passed these regulations, and each section, subsection, subdivision, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sees, clauses or phrases be declared unconstitutional or otherwise invalid.

ARTICLE 8 -- 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 Board 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 District'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 Food Service Establishments 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.

FINDINGS FOR "A" AND "B": The District's topography and geography that has created the Santa Ana Watershed and the District's proximity to the Pacific Ocean coupled with the general waste discharge requirements imposed by the RWQCB require the strict compliance with grease control device regulations to prevent sewer system overflows that threaten the health and safety of the public within the immediate vicinity of the overflow and downstream to the local beaches.

- C. ADMINISTRATIVE-PROCEDURAL AMENDMENTS. 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 life and property within the District.