

★ Roll Call Number

Agenda Item Number

34

Date June 28, 2010

An Ordinance entitled, "AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, and amended by Ordinance No. 14,549 passed March 20, 2006, by amending Sections 118-422, 118-424, 118-425, 118-426, 118-427, 118-430, 118-431, 118-434 and 118-436, relating to regulation of fat, oil and grease discharge by food service establishments",

which was considered and voted upon for the first time under Roll Call No. 10-838 of May 24, 2010, and considered and voted upon for the second time under Roll Call No. 10-948 of June 14, 2010, again presented.

Moved by \_\_\_\_\_ that this ordinance do now pass.

ORDINANCE NO. \_\_\_\_\_

| COUNCIL ACTION | YEAS | NAYS | PASS | ABSENT |
|----------------|------|------|------|--------|
| COWNIE         |      |      |      |        |
| COLEMAN        |      |      |      |        |
| GRIESS         |      |      |      |        |
| HENSLEY        |      |      |      |        |
| MAHAFFEY       |      |      |      |        |
| MEYER          |      |      |      |        |
| MOORE          |      |      |      |        |
| TOTAL          |      |      |      |        |

MOTION CARRIED

APPROVED

Mayor


CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

City Clerk

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|--|--------------------------|---|
|  <b>Council<br/>Communication</b><br>Office of the City Manager | <b>Date:</b>             | May 24, 2010  |
|  | <b>Agenda Item No.</b>   | 48  |
|  | <b>Roll Call No.</b>     | [Roll Call]   |
|  | <b>Communication No.</b> | <u>10-304</u>   |
|  | <b>Submitted by:</b>     | William G. Stowe,<br>Assistant City<br>Manager—Public<br>Works Director |

#### **AGENDA HEADING:**

An Ordinance to amend the Industrial Waste Ordinance, Article III, Division 5 of Chapter 118 of the Municipal Code regarding Fat, Oil and Grease Discharge by Food Service Establishments.

#### **SYNOPSIS:**

Recommend approval of an amendment to the Industrial Waste Ordinance of the Municipal Code of the City of Des Moines, Article III, Division 5 (Fat, Oil, and Grease Discharge by Food Service Establishments).

#### **FISCAL IMPACT: NONE**

Amount: N/A

Funding Source: N/A

#### **ADDITIONAL INFORMATION:**

The Wastewater Reclamation Authority Technical Committee recommended a review of Division 5 - Fat, Oil, and Grease Discharge by Food Service Establishments (FSE's) - of the Industrial Waste Ordinance and established a FOG subcommittee in 2008. Recommended changes were drafted and reviewed in 2009 and 2010. The Technical Committee reviewed the final draft at their April 13, 2010 meeting and recommend adoption by the WRA Board. These amendments were approved by the Wastewater Reclamation Authority Board on April 20, 2010 and are now presented to the Council for enactment. All Participating Communities in the WRA are required to adopt this amendment.

The changes simplify Grease Interceptor sizing, clarify the procedures for obtaining exceptions for economic hardship, allow installation of 5,000 gallon interceptor tanks, which are now available in the metropolitan area, and correct ambiguities in the ordinance previously passed by the WRA Board in December 2005. A listing of the changes is included below:

118-424 and 118-425 Sections are partially combined to reduce confusion regarding grandfathering and modifications.

118-424 & 118-425(c)(3) Addition of "that portion of" a building or facility. This allows inclusion of

FSEs moving into a former retail shop of a strip mall. Currently, if the strip mall contains one FSE, the language in the ordinance is unclear whether all spaces are grandfathered or only the space in which the FSE was located.

118-425 (b) Improve language describing what plumbing can be changed without jeopardizing the grandfather status of an FSE.

118-425 (c)(2) An existing building that previously contained an FSE but has not held a business with an FSE license for 12 or more consecutive months as determined by Iowa Department of Inspections & Appeals, Food and Consumer Safety Bureau is no longer considered an "existing" FSE and eligible for grandfathering under this ordinance. This is consistent with current practice.

118-426 (d)(4) FSE's that receive an exemption from Grease Interceptor installation cannot install a garbage disposal or dishwasher without approval of the Director. The smaller Grease Traps are not designed to handle high temperature water and food solids generated by garbage disposals and commercial dishwashers.

118-427 (2) Grease Interceptor sizing methodology is set without reference to a specific plumbing code or version to keep a consistent methodology throughout the Des Moines metropolitan communities.

118-427 (3) Grease Interceptor construction standards for pre-cast or poured-in-place interceptors are ASTM C 1613-08 Standard Specification for Precast Concrete Grease Interceptor Tanks or IAPMO/ANSI Z1001. Other materials are allowed with approval of the Director (guided by local building officials).

118-430 Change makes it clear that FSE inspections are required for all FSE's, even if the FSE does not have a Grease Trap or Grease Interceptor, consistent with current practices.

118-429 (5) Maximum size for a single Grease Interceptor increased from 3,000 to 5,000 gallons and the maximum capacity for a single series of Grease Interceptors is limited to 10,000 gallons, unless approved by the Director. This takes advantage of a larger capacity interceptor and larger Grease Interceptor pumping trucks available in greater Des Moines.

118-436 (b) Changes a prior scrivener error that allowed appeal of Director decision or order "not less than 10 days" thereafter to "within 10 days," as originally intended.

#### **PREVIOUS COUNCIL ACTION(S):**

Date: February 20, 2006

Roll Call Number: 06-376

Action: Amending Chapter 118 of the Municipal Code regarding Regulation of Industrial Wastewater and Commercial Wastewater to provide for various fees that make the Industrial Pretreatment Program self-funded and to add enforcement mechanisms as required by the Iowa Department of Natural Resources. (Council Communication No. 06-101) Moved by Kiernan that this ordinance be considered and given first vote for passage. Motion Carried 7-0.

**BOARD/COMMISSION ACTION(S):**

Date: April 20, 2010

Roll Call Number: WRA Board Resolution No. 10-55

Action: Resolution Approving an Amendment to Regulation of Fat, Oil, and Grease Discharge by Food Service Establishments and Directing Adoption by the Participating Communities

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE**

For more information on this and other agenda items, please call the City Clerk's Office at 515-283-4209 or visit the Clerk's Office on the second floor of City Hall, 400 Robert D. Ray Drive. Council agendas are available to the public at the City Clerk's Office on Thursday afternoon preceding Monday's Council meeting. Citizens can also request to receive meeting notices and agendas by email by calling the Clerk's Office or sending their request via email to [cityclerk@dmgov.org](mailto:cityclerk@dmgov.org).

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ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, and amended by Ordinance No. 14,549 passed March 20, 2006, by amending Sections 118-422, 118-424, 118-425, 118-426, 118-427, 118-430, 118-431, 118-434 and 118-436, relating to regulation of fat, oil and grease discharge by food service establishments.

Be It Ordained by the City Council of the City of Des Moines, Iowa:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, and amended by Ordinance 14,549 passed March 20, 2006, is hereby amended by amending Sections 118-422, 118-424, 118-425, 118-426, 118-427, 118-430, 118-431, 118-434 and 118-436 relating to regulation of fat, oil and grease discharge by food service establishments, as follows:

**Sec 118-422. Definitions.**

The definitions found in section 118-316 shall apply to the provisions of this division, provided however that the following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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*Food Service Establishment or FSE* means an operation or enterprise that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption. Such facilities may include, but are not limited to, those that process meat or other food ingredients as an intermediate step or for final human consumption, food service operations in a summer camp, residential substance abuse treatment facility, halfway house, correctional facility, school, restaurant, commercial kitchen, caterer, church, hotel, ~~school~~, bars, hospital, prison, ~~correctional facility~~, care institution or similar facility.  
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**Sec. 118-424. Grease interceptor installation required after effective date.**

~~The owner or operator of a building or facility likely to discharge FOG to the POTW, including FSEs, in which as FSE is located, and the owner or operator of an FSE shall be required to install an approved grease interceptor, and to thereafter operate and maintain same as provided in this division, if:~~

~~(1) The building or facility is proposed or constructed after the effective date; or~~

~~(2) The building or facility exists on the effective date and is thereafter expanded or renovated to include an FSE where such FSE did not previously exist; or~~

~~(3) An FSE within a building or facility exists on the effective date and application is thereafter made for a building permit for the facility with valuation of \$50,000 or more; or~~

**Sec. 118-425. Exemption from grease interceptor installation requirement for existing facilities.**

The requirements of section 118-424 shall not apply to that portion of a building or facility within which an FSE is in existence on the effective date shall be exempt from the requirement to install a grease interceptor if:

(1) The FSE has an existing grease interceptor or grease trap in place as of the effective date and provided that (1) the owner or occupant of the FSE continues to use the interceptor or trap, (2) the interceptor or trap is of sufficient capacity and design, and (3) the interceptor or trap is operated and maintained so as to comply with FOG discharge limits; and

(2) Any Repair, remodeling or renovation of the wastewater plumbing system in an the existing FSE involves only (1) the repair of leaks or the clearing of stoppages in drains, soil, waste or vent piping, or (2) the removal and reinstallation of a sink, toilet or hot water heater; provided that such work does not involve replacement, rearrangement or moving of wastewater valves, traps or pipes floor sinks, drainage fixtures or grease traps; and-

(3) None of the following conditions are present:

a. A building or facility exists on the effective date and is thereafter expanded or renovated, or a portion thereof, to include an FSE where such FSE did not previously exist; or

b. An FSE exists on the effective date within a building or facility, or portion of a building or facility, and application is thereafter made for a building permit(s) for such building or facility

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- with valuation of \$50,000 or more within a twelve (12) month period; or
- c. A building or facility, or portion thereof, that contained an FSE on the effective date but in which an FSE ceases to operate for one year or more, as determined by Iowa Department of Inspections & Appeals, Food and Consumer Safety Bureau records.

**Sec 118-426. Compliance procedures.**

(a) After the effective date, any permitted construction under section 118-424 shall be deemed compliant upon issuance of a certificate of compliance or certificate of occupancy for such construction by the city building official or designee.

(b) ~~Any existing building or facility~~An FSE shall be deemed compliant, unless the WRA director or local building official or designee determines that an existing grease trap or grease interceptor is incapable of adequately retaining FOG. In such cases, the Director may order the FSE to install an adequate grease interceptor within a specified time period if:

- (1) the FSE is found to contribute FOG in quantities above FOG discharge limits; or
- (2) the FSE discharges necessitate increased maintenance on the publicly owned treatment works (POTW) in order to keep stoppages from occurring therein; or
- (3) the FSE's discharge to the POTW is at anytime determined to exceed four hundred (400) mg/l total FOG.

(c) An order directing an existing FSE or the owner or operator of the FSE or the owner of the building or facility in which the FSE is located to install a grease interceptor shall be in writing from the WRA Director in the form of a notice of violation including a corrective action order, as provided in section 118-433 of this division.

(d) FSEs or owners of buildings or facilities within which an FSE is located which are unable to install or replace a grease interceptor due to exceptional physical constraints or economic hardship may appeal to the WRA director for approval of an alternative grease control technology by requesting a hearing in accordance with the provisions of this division. Such requests shall be submitted in writing and shall include detailed descriptions of the FSE's physical or financial constraints and the alternative grease control technology which it proposes to install and utilize.

- (1) In order to demonstrate exceptional economic hardship, the owner or operator of the FSE shall submit to the WRA director balance sheets and profit and loss statements for FSE for the preceding three (3) years. A new FSE shall submit profit/loss projections or a detailed business plan with projections for twenty-four (24)

months. Each request shall be evaluated on a case-by-case basis.

- (2) Notwithstanding approval of alternative grease control technology, when the WRA director determines that such alternative is not performing adequately, the FSE or owner of the building or facility in which the FSE is located shall be required to take additional grease control measures, which may include the installation of a grease interceptor.
- (3) In order to demonstrate exceptional physical site constraints preventing the installation of a grease interceptor, the owner or operator of the FSE or owner of the building or facility in which the FSE is located shall submit to the WRA director documentation and plats showing the location of city sanitary sewer and any private easements in relation to the building sewer for the building housing the FSE, and showing available space inside or outside the building and drawings of existing plumbing at or in a site that uses common plumbing for all services at that site.
- (4) An FSE that is given an exemption from installing a properly sized grease interceptor is prohibited from installing or using a dishwasher or garbage disposal without approval of the director and must comply with the conditions of such approval, if any.

**Sec. 118-427. Installation of grease interceptors and grease traps.**

Grease interceptors and grease traps, when required, shall be installed as follows:

- (1) Grease interceptors and grease traps shall be installed at the expense of the owner or operator of the FSE or owner of the building or facility in which the FSE is located which is contributing wastewater to the POTW.
- (2) All wastewater streams containing FOG or reasonably likely to contain FOG within FSEs, restaurants, commercial kitchens or other FOG generating operations buildings and facilities shall be directed into an one or more appropriately sized grease interceptor before discharge to the POTW. Grease interceptors shall be either sized by adding the peak design flow rates for all fixtures leading to the grease interceptor and allowing a minimum retention time of thirty (30) minutes or as follows:



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# Grease Interceptor Sizing

1. Peak meals per hour
  - a. Seating capacity of FSE \_\_\_\_\_ \*
  - b. Occupancy of FSE \_\_\_\_\_ \*
  - c. Seating or occupancy x meal factor of 1.3 (45 minute meal) = Peak meals per hour \_\_\_\_\_
- \* Church: include all area(s) used for meal service
- \* Assisted Living / nursing facility: equal to maximum number of residents (per State license)
2. Waste flow rate, gallons of flow
  - a. Commercial, equipped kitchen with dishwasher & one garbage disposal\* \_\_\_\_\_ 7
  - b. Commercial, equipped kitchen with dishwasher, no garbage disposal \_\_\_\_\_ 6
  - c. Commercial, equipped kitchen with no dishwasher, one garbage disposal\* \_\_\_\_\_ 6
  - d. Commercial, equipped kitchen with no dishwasher, no garbage disposal \_\_\_\_\_ 5
  - e. Single service kitchen\*\* \_\_\_\_\_ 2
- \* Each additional garbage disposal, add one (1) gallon
- \*\* Single service kitchen = no garbage disposal, no dishwasher and all service is single use
3. Retention time, hours
  - a. Commercial kitchen \_\_\_\_\_ 2.5
  - b. Single service kitchen \_\_\_\_\_ 1.5
4. Storage factor
  - a. Commercial Kitchen up to 8 hours of operation \_\_\_\_\_ 1
  - b. Commercial kitchen up to 16 hours of operation \_\_\_\_\_ 2
  - c. Commercial kitchen up to 24 hours of operation \_\_\_\_\_ 3
  - d. Single service kitchen \_\_\_\_\_ 1.5

|            |   |            |   |           |   |         |   |                  |
|------------|---|------------|---|-----------|---|---------|---|------------------|
| Peak Meals |   | Waste Flow |   | Retention |   | Storage |   | Calculated       |
| per Hour   | X | Rate       | X | Time      | X | Factor  | = | Interceptor Size |

- (3) Concrete Grease interceptors whether precast or poured in place, shall be designed, constructed, and installed and manufactured in accordance with ASTM C 1613-08 Standard Specification for Precast Concrete Grease Interceptor Tanks or IAPMO/ANSI Z1001 Grease Interceptors and shall be installed in accordance with the codes adopted by the jurisdiction in which the FSE is located. Where no code is adopted, the construction and installation shall be in accordance with the Iowa State Plumbing Code and this division. Grease interceptors using materials other than concrete require approval by the director, and shall comply with the conditions of such approval, if any.
- (4) The building official or other designated official of the governmental subdivision within which the FSE is located shall inspect each grease interceptor installation made pursuant to this division, shall review all relevant information regarding the rated performance of the grease interceptor, and the building plan and facility site plan for the building and site where the grease interceptor has been installed, and shall approve such grease interceptor installation upon determination that the

- grease interceptor meets all applicable standards and requirements.
- (5) Grease interceptors shall have a minimum capacity of one thousand (1000) gallons and shall not exceed ~~three~~five thousand (~~35000~~) gallons for a single unit. Where a capacity greater than three thousand (3000) gallons is required, several smaller units shall be installed in series, however the capacity shall not exceed ten thousand (10,000) gallons for any single series of interceptors without approval of the director.
  - (6) Grease interceptors shall be installed outside the building housing the FSE and below surface grade, and shall have access manholes, with a minimum diameter of twenty-four (24) inches, over each chamber and sanitary tee. Access manholes shall extend from the grease interceptor to at least the finished surface grade and be designed and maintained to prevent storm or surface water inflow and groundwater infiltration. The manholes shall also have readily removable covers to facilitate inspection and grease removal.
  - (7) Sewer lines which are not grease laden, which are not likely to contain FOG, or which contain sanitary wastes shall not be connected to a grease interceptor.
  - (8) Grease interceptors shall be equipped with an accessible discharge sampling port with a minimum six (6) inch diameter, which shall extend from the grease interceptor to at least the finished surface grade.
  - (9) Where grease interceptors are shared by more than one FSE, the building owner shall be the responsible party for record keeping and cleaning of the interceptor.

**Sec. 118-430. Inspection of grease interceptors and related sewers and equipment.**

The owner or operator of an FSE ~~which is required to pass its wastewater through a grease interceptor shall:~~

- (1) Provide, operate and maintain, at its expense, safe and accessible monitoring facilities (such as a suitable manhole), and shall make such monitoring facilities available for inspection, and for sampling and flow measurement of the building sewer or internal drainage systems. There shall be ample room in or near such monitoring facility to allow accurate sampling and preparation of samples for analysis.
- (2) Shall allow personnel authorized by the WRA director or by the city building official or designee, bearing proper credentials and identification, to enter upon or into any building, facility or property housing an FSE at any reasonable time and without prior notification, for the purpose of inspection, observation, measurement,

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sampling, testing or record review, in accordance with this division.

- (3) Shall, upon request by the WRA director's authorized representative, open any grease interceptor for the purpose of confirming that maintenance frequency is appropriate, that all necessary parts of the installation are in place, including but not limited to, baffles influent and effluent tees, and that all grease interceptors and related equipment and piping is maintained in efficient operating condition.
- (4) Shall accommodate compliance inspections and sampling events by the authorized representatives of the WRA director or of the city building official. Staff may conduct routine inspections and sampling events of any food service establishment. Non-routine inspection and sampling events shall occur more frequently when there is a history of non-compliance with this division and when blockages occur in the city's sanitary sewer system downstream of the FSE.

#### **Sec. 118-431. Inspection Fees.**

The fees for inspection of an FSE shall be as provided in section 118-352 and shall be paid within thirty (30) days of the date of the invoice for such fees.

#### **Sec. 118-434. Penalties.**

(a) Any person who fails to perform an act required by this division or who commits an act prohibited by this division shall be guilty of a misdemeanor punishable by fine or imprisonment as provided by section 1-15 of this code or shall be guilty of a municipal infraction punishable by a civil penalty as provided by section 1-15 of this code.

(b) Any person who fails to comply with a pretreatment standard applicable to an FSE shall be guilty of a municipal infraction punishable by a civil penalty of not more than one thousand dollars for each day the violation exists or continues, as provided by section 364.22 or 331.307 of the Iowa Code.

(c) When enforcement is sought through a municipal infraction proceeding, the director, or such other designated officers or officials with enforcement authority as provided in section 118-432, may enter into consent orders, assurances of voluntary compliance or other similar documents establishing an agreement with the user responsible for noncompliance. Such orders will include specific action to be taken by the user to correct the noncompliance within a time period specified by the order.

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Sec 118-436. Appeal of corrective action order or cease and desist order.

(a) Any person aggrieved by a corrective action order or a cease and desist order issued by the WRA director or by such other designated officers or officials with enforcement authority as provided in section 118-432, may, file an appeal and request a ruling that such order be modified or rescinded.

(b) Such appeal request shall be in writing, shall include the grounds for appeal including any factual findings which are disputed, and shall be delivered to the WRA ~~not less than~~ within ten (10) days after the WRA director's issuance of the order. Such appeal request shall be considered delivered when placed in the mail, return receipt requested, addressed to:

WRA Appeal Committee  
%Des Moines Metropolitan Wastewater Reclamation Authority  
3000 Vandalia Road  
Des Moines, Iowa 50326

(c) The chair of the appeal committee shall schedule the appeal and shall cause notice of the time, date and place of the hearing to be mailed to the appealing party. Such appeal shall be decided by majority vote of the appeal committee. The appeal committee may affirm, modify or rescind the order of the director and shall so state and order in its written decision.

Sec. 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:

Ann DiDonato  
Ann DiDonato  
Assistant City Attorney