

AN ORDINANCE AMENDING CHAPTER 30, TITLED SEWERS AND SEWAGE DISPOSAL BY AMENDING ARTICLE III, DIVISION 2, PURPOSES, POLICY AND PROHIBITED DISCHARGES; AMENDING ARTICLE III, DIVISION 3, FAT, OIL AND GREASE CONTROL AND PREVENTION; AMENDING ARTICLE III, DIVISION 4, PRETREATMENT PROGRAM; AMENDING ARTICLE III, DIVISION 5 COMPLIANCE AND ENFORCEMENT; AND AMENDING ARTICLE IV, DIVISION 1, MISCELLANEOUS CHARGES TO MODIFY THE CITY OF KILLEEN'S ADOPTED WASTEWATER SYSTEM PROTECTION ORDINANCE; PROVIDING A REPEALER CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR A PENALTY; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, the City of Killeen, Texas is a home-rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and,

WHEREAS, the City of Killeen has determined that clarification of the City's wastewater system prohibited discharge ordinance is necessary to establish an effective wastewater system discharge program to preserve the functionality of the City's wastewater system and prevent further damage to the same; and,

WHEREAS, the City Council of the City of Killeen deems the continued operation and functionality of the City's wastewater system to be of vital importance to the protection of the public health, safety, and welfare of its citizens and deems it necessary to adopt ordinances to protect the public health, safety, and welfare; and,

WHEREAS, the City of Killeen has declared that, because a safe and functional wastewater system service is necessary and the introduction of certain pollutants and substances into the wastewater system is detrimental to the system, potentially harmful to the waters of the state and contrary to federal and state law, the general welfare requires

that the City's wastewater system be protected from the introduction or overloading of the system with these pollutants and substances;

WHEREAS, section 307(d) of the Federal Clean Water Act and 40 CFR § 403 et seq. authorizes the City to establish pretreatment standards to specifically prohibit or limit pollutants from being introduced into the City's wastewater system that may interfere with the system, cause the pollutants to pass through the wastewater treatment plants untreated into waters in the state, or the introduction of the pollutants are otherwise incompatible with the efficient and effective operation of the wastewater system;

WHEREAS, section 26.176 of the Texas Water Code provides that a municipality shall enact ordinances to control and regulate the type, character and quality of waste to be discharged into the City's wastewater system, including authorizing the City to require pretreatment to preserve the health, safety and welfare of the citizens, to preserve the functionality of the wastewater system and to establish charges and assessment to make the wastewater system service available to all users; and,

WHEREAS, the City of Killeen deems it necessary to amend a comprehensive wastewater system discharge program in order to minimize system overflows, protect water quality, prevent further damage to the City's wastewater system and to ensure the continued functionality of the wastewater system,

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KILLEEN:

SECTION I. That Chapter 30, Article III, Division 2 of the City of Killeen Code of Ordinances is hereby amended to read as follows:

DIVISION 2. PURPOSES, POLICY AND PROHIBITED DISCHARGES.

Sec. 30-73. Prohibited Discharges.

(b) *Specifically.* Except as authorized by Divisions 2, 3, 4 or 5 of this article, no person shall discharge any of the following into the wastewater system:

- (5) *Temperature.* No person shall discharge liquid, vapor, or any substance having a temperature higher than one hundred-fifty ~~twenty~~ degrees Fahrenheit (150/120° F) (sixty-five/forty-eight and 9/10ths ~~degrees Celsius, 65/48.9° C),~~ degrees Celsius, 65/48.9° C), or that causes the temperatures of the total wastewater treatment plant(s) influent to exceed one hundred-four degrees Fahrenheit (104° F) (forty degrees Centigrade (40° C), or which will inhibit biological activity in the wastewater treatment plant(s) resulting in interference;

Sec. 30-74. Monitoring, Inspections and Sampling.

(b) The Director may require a user to provide and operate monitoring facilities to allow inspection, sampling, and flow measurements of the building sewer and/or internal drainage systems at the user's own expense when facts exist establishing that there is a reasonable probability that a user's discharge exceeds allowable limits and adequate facilities for inspection, sampling or measurement do not currently exist. "Reasonable probability" may be established, for example and without limitation, when: information provided in a completed discharge survey, as required by Subsection (a) of this Section, indicates that the user's discharge contains substances or pollutants prohibited by Section 30-73 of this Division; the condition of the wastewater system downstream from the user's facility indicates that substances or pollutants in excess of allowable limits are adversely affecting the wastewater system or are attributing to a waste stream that exceeds the levels of normal domestic wastewater; or, upon inspection and/or consultation with a user, when the Director determines that a user's operations do not employ BMPs that will prevent prohibited levels of substances or pollutants from being discharged into the wastewater system.

- (1) When required by the Director, the owner of any property served by a building sewer carrying industrial wastewater shall install a control point at user's expense.

- (2) The monitoring facility or control point should normally be situated on the user's premises near the property line, but the Director may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public right-of-way or sidewalk area and located so that it will not be obstructed. Relating to control points necessary to verify compliance with Division 3, Fat, Oil and Grease Control and Prevention, of this Article, control points may be installed either downstream from where industrial wastewater from a grease or grit trap on the building sewer mixes with normal domestic wastewater or prior to that point.

(g) *Measurements, tests, analyses.* All measurements, tests, and analyses of the characteristics of wastewaters and wastes to which reference is made shall be determined in accordance with standard methods and shall be determined from samples taken at the control point provided for in this Division, a location specified in the wastewater system use permit, or upon samples taken at other representative locations approved by the Director. ~~If no control point has been required and/or provided, the control point shall be considered to be the nearest downstream manhole in the wastewater system to the point at which the building sewer is connected.~~

(h) *Sampling Expense.* Laboratory processing of initial grab samples collected by the Director to determine a user's compliance with federal and state regulations and with Divisions 2, 3, 4, or 5 of this article shall be borne by the City. Upon request of a user, a composite sample will be collected and analyzed by the Director or a third party contractor and/or laboratory at the user's expense, which shall be assessed as a separate line item on the user's utility bill. If the user requests a composite sample, the Director may also require the user to install a device of a type and design approved by the Director that will allow the sampling equipment to be secured and protected. If the first sample(s) collected indicate that a user is out of compliance the Director shall at a minimum, in accordance with Division 5 of this article, issue a Notice of Violation to the user. This provision in no way limits the Director's authority to take additional action under Division 5 of this article. If, within any twelve (12) month period from the date of the first Notice of Violation, additional samples indicate that the user continues to be non-compliant, and in addition to any other action taken by the Director under Division 5, the expense of obtaining and processing the repeat grab or composite (if requested) samples shall be at the user's own expense and shall be reflected as a separate line item on the user's utility bill. If at any time during this twelve (12) month period samples are collected and analyzed and indicate that the user is in compliance, this provision shall not be implemented again until another Notice of Violation is subsequently issued.

SECTION II. That Chapter 30, Article III, Division 3 is hereby amended to read as follows:

DIVISION 3. FAT, OIL AND GREASE CONTROL AND PREVENTION.

Sec. 30-76. Applicability and Prohibitions.

(a) This division shall apply to all non-residential users of the wastewater system and transporters of grease or grit trap waste.

(b) Grease or grit traps or interceptors shall not be required for residential users.

(c) Food service establishments, as defined in Division 2 of this Article, that generate fats, oils, or greases as a result of food manufacturing, processing, preparation, or food service shall install, use, and maintain appropriate grease traps or interceptors as required in section 30-77 of this division.

(d) Food service establishments, as defined in Division 2 of this Article, that utilize cooking oil (yellow grease) fryers in the preparation of food products shall provide a recycling or disposal container for used oil on site and shall properly dispose of said used oil as necessary.

~~(e)~~ Other non-residential users not identified as a food service establishment may be required to institute BMPs and/or comply with this Division 3 if, upon sampling, the user's discharge is shown to exceed any pollutant limit established by Division 2 of this article or the Director determines, based upon a reasonable probability, that the user's discharge exceeds the same. The phrase "reasonable probability" has the same meaning ascribed to it in Division 2, Section 30-74(b) of this article.

~~(f)~~ Facilities generating motor oil, grease, sand, wash water and other wastes or substances harmful or hazardous to the wastewater system as a result of providing commercial service or manufacturing shall install, use, and maintain appropriate grit traps as required in section 30-77 of this division. These facilities include, without limitation, car washes, auto repair, fueling stations and various manufacturing facilities.

~~(g)~~ No user may intentionally or unintentionally allow the discharge of any automotive oil, petroleum oil, non-biodegradable cutting oil, mineral oil, or any fats, oils, or greases of animal or vegetable origin, including, without limitation, cooking oil or yellow grease, into the wastewater system in amounts exceeding the limits established under Division 2 of this article which are hereby determined to cause interference with the wastewater system, or cause pollutants to pass through the wastewater system into the environment or water in the state.

Sec. 30-77. Installation, Cleaning, Maintenance and Transporter Requirements.

(a) *Installations.*

(1) *New Facilities.*

(A) Food service establishments which are newly proposed or constructed, or existing facilities which will be expanded or renovated to include a food service establishment, or to expand an existing food service establishment, shall be required to design, install, operate and maintain a grease trap in accordance with the adopted plumbing codes under chapter 8 of this Code of Ordinances and ~~other applicable ordinances~~ this Article. The grease trap shall have adequate capacity to capture all FOG, TSS, BOD and COD in excess of that found in normal domestic wastewater. The food service establishment shall also be required to install and maintain a control point in accordance with section 30-74 of this article. Grease traps and control points shall be installed and inspected prior to issuance of a certificate of occupancy.

(3) Grease Trap Capacity Sizing Criteria. Notwithstanding any conflict found in the adopted plumbing code under Chapter 8 of this Code of Ordinances, grease traps shall be sized in accordance with the following minimum criteria. The Director may adjust the final grease trap size as needed to protect the wastewater system.

Type of Fixture	Trap/Trap Arm Size	Fixture Unit Count
3 compartment sink	1-1/2", 2"	3, 4
2 compartment sink	1-1/2"	2
Dishwasher	2"	4
Garbage grinder	2"	4
Wok stove	2"	4
Floor drains (2", 3", 4")	2", 3", 4"	2, 3, 4
Floor sinks* (3", 4")	3", 4"	3, 4
Mop sinks	2", 3", 4"	2, 3, 4
Hand sink	1-1/2"	0

Calculation:

Grease Trap Holding Capacity (GTHC) (gallons) = GTFR in gallons/minute multiplied by 12 minutes (Applicable Retention Time), where Grease Trap Flow Rating (GTFR) = Total Fixture Unit Count multiplied by 3 gallons/minute.

Example: Fixtures: (1) 3-compartment sink (2”), (1) dishwasher, and (2) 4” floor drains = 16 (Fixture Unit Count) * 3 gallons/minute = 48 gallons per minute (GTFR) * 12 minutes = 576 GTHC

All facilities are required to install 2-compartment grease traps with a minimum 12-minute total retention time. All floor drains in food preparation area shall drain through the grease trap.

- (43) All grease and grit trap waste shall be properly disposed of at a permitted facility in accordance with federal, state, and local regulation.
- (54) Alternate grease removal devices or technologies.

(b) *Cleaning and Maintenance.*

- (2) Each grease or grit trap pumped shall be fully evacuated unless the grease/grit trap volume is greater than the tank capacity on the vacuum truck in which case the transporter shall arrange for additional transportation capacity so that the trap is fully evacuated within a twenty-four (24) hour period, in accordance with 30 TAC § 312.143. Grease and grit trap cleaning and evacuation shall be completed by a transporter permitted under this article to operate within the City. It is a violation of this article for a user to utilize a non-permitted transporter for cleaning and maintenance.

(d) *Cleaning/Inspection Schedules.*

- (2) Grease traps shall be completely evacuated and inspected a minimum of every ninety (90) days, or more frequently when:

- (C) More frequently if there is a history of non-compliance and the user is administratively directed to do so by the Director; or

(D) Any time the grease trap is found to have garbage, waste or solids exceeding one-half inch (1/2") in diameter, as necessary to prevent clogs, damage and/or overflows in the wastewater system.

(f) *Transporter Requirements.*

(3) Transporter Permit. Within ninety (90) days from the effective date of the ordinance from which this subsection is derived, all transporters operating within the municipal boundaries of the City must obtain a permit from the City's water and sewer utilities division. Operating as a transporter without a permit issued by the City is a violation of this article. Permits shall be valid for a term of one (1) year from the date of issuance and must be renewed annually. The content of a permit application shall contain, at a minimum, the transporter's TCEQ registration number, the types of liquid waste proposed to be transported, a disposal site identification list, a driver and vehicle identification list, proof of liability insurance for all vehicles utilized to transport liquid waste, and an executed acknowledgement by an authorized representative confirming an understanding and consent to all applicable provisions of this article.

(4) Permit Revocation. If a transporter fails to comply with this article or applicable state law, the City may, upon ten (10) days written notice, revoke a permit issued under this article for a period of one (1) year. Permit revocation under this subsection may be appealed in accordance with Division 5 of this article.

Sec. 30-78. Manifest and Record Keeping Requirements.

(b) Persons who generate, collect and transport grease or grit trap waste (referred to as "waste" in this section) shall maintain a record of each individual collection and deposit. Such records shall be in the form of a manifest obtained from the City. The manifest shall include:

(c) Manifests shall be divided into five (5) parts and records shall be maintained as follows:

- (6) One completed part of the manifest shall go be provided by the transporter to the Director within fifteen (15) days after the waste is received at the disposal or processing facility.

SECTION III. That Chapter 30, Article III, Division 4 is hereby amended to read as follows:

DIVISION 4. PRETREATMENT PROGRAM.

Sec. 30-79. Applicability and Requirements.

(h) *Surcharge Calculation and Assessment.* Users may be assessed a surcharge for discharges that contain concentrations of TSS and/or BOD/COD higher than that found in normal domestic wastewater in accordance with this division. A user may also be assessed a surcharge that represents the City's cost of pretreating any other type of pollutant prohibited by Divisions 2, 3, 4 or 5.** The surcharge shall be in addition to any other wastewater service charge, non-compliant sampling charge or other charge required by other City ordinances and shall be listed as a separate line item on the user's monthly utility bill. Written notice of the assessment of a surcharge shall be given by the Director prior to imposition of surcharge.

- (3) *Computation of Surcharge.* The City may sample for TSS, BOD, and COD, as necessary. Computations of surcharges shall be based on the formulas below and for those concentrations that exceed the levels set forth in subsection (h)(2) of this section, the surcharge shall be applied to that excess. The surcharges for individual TSS and BOD/COD are additive.

- (i) BOD surcharge

$$S = V \times 8.34 (A[BOD - 250])$$

- (ii) TSS surcharge

$$S = V \times 8.34 (B[TSS - 300])$$

(iii) COD surcharge
 $S = V \times 8.34 (C[\text{COD} - 450])$

where:

S = Sum of surcharges in dollars that will appear on the user's monthly bill.

V = Monthly average volume of ~~nondomestic-user's~~ discharge in millions of gallons whichever is the least of the following volumes: (1) total monthly water consumption during the billing period, (2) the average water consumption for the billing periods of December, January, and February of each fiscal year, or; (3) the total estimated or measured ~~nondomestic-user's~~ discharge as determined by methods specified in the user's wastewater system use permit.

8.34 = Conversion factor for units of measure in surcharge equations.

A = \$0.3825 per pound of BOD

B = \$0.240 per pound of TSS

C = \$0.1913 per pound of COD

BOD = BOD concentration in mg/l. For more than one ~~nondomestic-user~~ discharge, this shall be the flow-weighted concentration.

TSS = TSS concentration mg/l. For more than one ~~nondomestic-user~~ discharge, this shall be the flow-weighted concentration.

COD = COD concentration in mg/L. For more than one ~~nondomestic-user~~ discharge, this shall be the flow-weighted concentration.

250 mg/l = Normal daily domestic wastewater average BOD concentration in mg/l.

300 mg/l = Normal daily domestic wastewater average TSS concentration in mg/l.

450 mg/l = Normal daily domestic wastewater average COD in mg/l.

- (4) *Sampling and Analysis.* The City shall sample for TSS, BOD, and/or COD, as necessary. The time of sampling shall be at the sole discretion of the Director. The Director may select an independent contractor and/or laboratory to conduct the sampling and/or analyses.
- (5) *Period of Surcharge.* If analyses for TSS, BOD and/or COD indicate that a surcharge is applicable, the surcharge shall be applied to a user's monthly utility bill for a period of ~~six~~twelve (~~12~~6) months. Prior to expiration of the period, new analyses shall be conducted to establish whether the surcharge continues to be applicable to a user and, if so, what level of surcharge will be assessed for the following ~~six~~twelve (~~12~~6) months. Notwithstanding the standard ~~six~~twelve (~~12~~6) month period, the City reserves the right to reassess and reestablish the amount of the surcharge at any time.
- (6) *Costs of Analyses.* The cost of sampling and analyses shall be assessed in accordance with Division 2, section 30-74(~~hg~~) of this article.

SECTION IV. That Chapter 30, Article III, Division 5 is hereby amended to read as follows:

DIVISION 5. COMPLIANCE AND ENFORCEMENT

Sec. 30-81. Compliance monitoring.

(a) *Right of entry; inspection and sampling.* The Director shall have the right to enter the property of any user discharging into the wastewater system to determine if the user is complying with all requirements of Divisions 2, 3, 4 and 5 of this article. A user shall allow the Director immediate access to all parts of the property for the purposes of inspection, sampling, records examination and copying, and for the performance of any additional duties necessary to ensure compliance with the same. A person shall make available to the Director, upon request, any self-inspection reports, monitoring and manifest records, compliance evaluations, and any other records, reports, or other documents related to compliance with Divisions 2, 3, 4 and 5 of this article or compliance with any State or Federal regulation governing the same.

(State law reference: Texas Water Code § 26.173.)

Sec. 30-83. Right to reconsideration and appeal.

(a) *Reconsideration.*

- (1) Any person subject to a permit revocation, compliance order, stop work order or an emergency order issued pursuant to this Division may petition the Director to reconsider the basis for the Director's order within ten (10) days of the affected person's receipt of such order. Notice is presumed to occur five (5) days following the date the notice is mailed.

- (4) The effect of any compliance order shall be stayed upon the Director's receipt of the petition pending the Director's reconsideration of the petition unless the Director expressly makes a written determination to the contrary. The effectiveness of any permit revocation, stop work order or emergency order shall not be stayed pending the Director's reconsideration unless the Director expressly makes a written determination staying such order.

SECTION V. That Chapter 30, Article IV, Division 1, section 30-106 is hereby amended to read as follows:

Sec. 30-106. Miscellaneous charges.

The following charges shall be imposed for services and miscellaneous items:

(21) Transporter Manifest Book....\$15.00

(22) Transporter Permit....\$100.00

SECTION VI. That all ordinances or resolutions or parts of ordinances or resolutions in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

SECTION VII. That should any section or part of any section, paragraph or clause of this ordinance be declared invalid or unconstitutional for any reason, it shall not invalidate or impair the validity, force or effect of any other section or sections or part of a section or paragraph of this ordinance.

SECTION VIII. That the Code of Ordinances of the City of Killeen, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

SECTION IX. That this ordinance shall be effective after its passage and publication according to law.

PASSED AND APPROVED at a regular meeting of the City Council of the City of Killeen, Texas, this _____ day of _____, 2014, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 *et seq.*

APPROVED

Daniel A. Corbin, MAYOR

ATTEST:

APPROVED AS TO FORM:

Dianna Barker, CITY SECRETARY

Kathryn H. Davis, CITY ATTORNEY

ORD _____

Date: _____