

ORDINANCE NO. O-2023-72

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING CHAPTER 18, "CODE ENFORCEMENT", ARTICLE I., "MISCELLANEOUS" AND CHAPTER "19", "UTILITIES", ARTICLE V., "LIQUID WASTE AND GREASE", DIVISION 2, "GREASETRAPS/INTERCEPTORS" OF THE CODE OF ORDINANCES OF THE CITY OF TYLER TEXAS, BY CLARIFYNG AND UPDATING ENFORCEMENT AUTHORITY AND PROVISIONS RELATED TO LIQUID WASTE AND GREASE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, it is the intent of the City Council to protect the public health, safety and welfare; and

WHEREAS, municipalities may, under their police powers, enact reasonable regulations not in conflict with Federal or State law to promote the health, safety and welfare of citizens; and

WHEREAS, the City of Tyler is a home-rule municipality acting under its Charter adopted by the electorate pursuant to Article 11, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, Texas Local Government Code Section 51.072(a) states that a home-rule municipality has full power of local self-government; and

WHEREAS, Texas Local Government Code Section 51.072(b) provides that the grant of powers to a municipality under the Texas Local Government Code does not prevent, by implication or otherwise, the municipality from exercising the authority incident to local self-government; and

WHEREAS, Section 1 of the Tyler City Charter states that the City of Tyler may make any and all rules and regulations by ordinances and resolutions; and

WHEREAS, Section 1 of the Tyler City Charter provides that the City of Tyler may define, prohibit, abate, suppress and prevent all things detrimental to the health, morals, comfort, safety, convenience and welfare of the inhabitants of the City, and all nuisances and causes thereof; and

WHEREAS, Section 1 of the Tyler City Charter states that the City of Tyler may make and enforce local police, sanitary, and other regulations, and may pass such ordinances as may be expedient for maintaining and promoting the peace, good government and welfare of the City, and for the performance of the functions thereof; and

WHEREAS, Section 1 of the Tyler City Charter provides that the City shall have all powers that now are, or hereafter may be granted to municipalities by the constitution or laws of Texas, and that all such powers, whether expressed or implied, shall be exercised and enforced, in the manner prescribed by the Charter, or when not prescribed in the Charter, in such manner as shall be provided by ordinances or resolutions of the City Council; and

WHEREAS, Section 2 of the Tyler City Charter states that the enumeration of particular powers by the Charter shall not be held or deemed to be exclusive, but in addition to the powers enumerated in the Charter, the City shall have, and may exercise all other powers which, under the constitution and laws of Texas, it would be competent for the Charter specifically to enumerate; and

WHEREAS, Section 6 of the Tyler City Charter states that pursuant to the provisions of and subject only to the limitations imposed by the State law and the Charter, all powers of the City shall be vested in an elective Council, which shall, among other duties, enact legislation; and

WHEREAS, Texas Local Government Code Section 51.001(1) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or police regulation that is for the good government, peace, or order of the municipality; and

WHEREAS, Texas Local Government Code Section 51.001(2) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or police regulation that is necessary or proper for carrying out a power granted by law to the municipality or to an office or department of the municipality; and

WHEREAS, City Code Chapter 19 contains various regulations related to the safe operation of watercraft; and

WHEREAS, it is important to clarify the watercraft regulations in City Code Chapter 19 as they relate to jet skis;

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

PART 1: That Tyler City Code Chapter 18, "Code Enforcement", Article I., "Miscellaneous", is hereby amending by amending Section 18-4 to read as follows:

Sec. 18-4. Code Enforcement.

The Police Chief, Code Enforcement Department Code Officers, Peace Officers and Public Service Officers of the Tyler Police Department and other City employees as designated in writing by the Police Chief are authorized to enforce Tyler ordinances currently being enforced by the Building Services, Neighborhood Services, Planning, Water, Engineering and Streets departments, to issue municipal court citations for violations of those ordinances, and to make any inspection, enter, examine, take photographs, post notices, and survey any premises to verify compliance with any of those ordinances. Whenever a violation of this Article occurs within 5,000 feet of the City limits or on City owned property outside the City limits but within the extraterritorial jurisdiction of the City, the Police Chief shall have discretion as to whether or not inspection and/or enforcement action shall be taken by their respective employees. (Ord. 0-2007-12, 1/24/07) (0-2007-103, 9/12/07) (Ord. No. 0-2009-16, 2/29/09) (Ord. No. 0-2014-10; 1/22/14) (Ord. No. 0-2023-72; 8/9/23)

PART 2: That Tyler City Code Chapter 19, "Utilities", Article V., Liquid Waste and Grease", Division 2., "Greasetraps/Interceptors", is hereby amending by creating or amending

the following Definitions in the appropriate alphabetical order in Section 19-121, with no other changes to the Definitions therein:

Sec. 19-121 Definitions

Director. The Director of Utilities, Tyler Water Utilities, or designee(s). (Ord. No. 0-2023-72; 8/9/23)

Operator or User. The person(s) who owns, partly owns, or represents the ownership of a Generator. If the owner is unavailable, the manager or person exercising control of the Generator shall serve in this capacity.

Trip ticket/manifest. A manifest as described in Section 19-107 related to receipt, transport and disposal of liquid waste generated within the City's sanitary sewer service area, including records related to the pumping, cleaning and maintenance of Grease/Grit Reducing Devices (GRD(s)) as referenced in Section 19-124.c. and required by Section 19-124.h. (Ord. No. 0-2023-72; 8/9/23)

PART 3: That Tyler City Code Chapter 19, Utilities", Article V., Liquid Waste and Grease", Division 2., "Greasetraps/Interceptors", is hereby amended by amending Sections 19-124 and 19-126 to read as follows:

Sec. 19-124 Pumping/Cleaning and Maintenance

- a. Each Operator shall be responsible for the costs of installing, inspecting, pumping, cleaning, maintaining, and operating its GRD(s). Since the Operator is liable for the condition of their pretreatment devices, they may want to witness all cleaning/maintenance activities to verify that GRD(s) is/are being fully cleaned and properly maintained.
- b. Generators that have GRD(s) shall utilize a waste transporter who is currently permitted by the City for hauling liquid waste (Transporter).
- c. GRD(s) shall be pumped and cleaned at minimum frequency of once every ninety (90) days (quarterly). Proper records of such pumping and cleaning shall be maintained by the Operators as part of the trip tickets/manifests required in subsection h. of this Section. In addition to the said minimum required pumping, each Operator shall determine an additional frequency at which its GRD(s) shall be pumped according to the following criteria:
 1. When the floatable grease layer exceeds six (6) inches in depth;
 2. When the settled solids layer exceeds eight (8) inches in depth;
 3. When twenty-five (25) percent or more of the wetted height of GRD, as measured from the bottom of the device to the invert of the outlet pipe, contains floating materials, sediment, oils or greases;
 4. When excessive concentrations of FOG are found or suspected in the effluent of the Generator;
 5. When periodic drain backups caused by sewer line stoppages are attributed to excessive FOG discharge from a specific Generator; or

6. When floating or settled material(s) may accumulate in such a manner so as to cause an impairment of the GRD function or cause the GRD discharge to be out of compliance with local discharge limits. (Ord. No. 0-2023-72; 8/9/23)

d. GRD chambers shall be pumped empty to remove completely the oil, grease, water, and settled solids. In the instance that the GRD volume is greater than the vacuum truck volume, Transporter shall arrange for additional vacuum trucks and/or trips such that GRD is completely emptied within a 24-hour period, in accordance with 30 TAC §312.143.

e. Gray water that is removed shall not be returned to the trap unless the vehicle performing such activity is permitted by the City in accordance with Article IV, Secs. 19-75 through 19-76, of this Chapter. Gray water removed from the trap shall not be discharged into the collection system at any point and neither shall any grease, solids, liquids, or any other matter removed from an interceptor be returned to any interceptor, or disposed of in any sanitary sewer line, any portion of the POTW, or any location other than a facility that is authorized by law to receive such wastes.

f. GRD(s) shall be easily accessible for cleaning, inspection, and sampling.

g. GRD waste disposal shall comply with all applicable federal, state, and local laws including the provisions of Article V, Division 1. Liquid Waste Transportation and Disposal, of this Chapter.

h. Operators shall maintain a proper record of pumping, cleaning and maintenance in the form of trip tickets/manifests, as referenced in Article V. of this Chapter, and shall make such records available to the City upon request. Said records shall be maintained by the Operator for a period of not less than three (3) years. (Ord. No. 0-2023-72; 8/9/23)

i. At a minimum, trip tickets shall contain the following:

1. Numerical tracking number;
2. Name, address, phone number of Generator;
3. Name, address, phone number, and signature of Operator;
4. Name, address, phone number, permit number, and signature of Transporter;
5. Type of waster collected or transported;
6. GRD capacity;
7. Volume of GRD waste removed;
8. Date of GRD servicing;
9. Name, address, phone number, and permit/registration number of waste disposal

site;

10. Name and signature of waste disposal site representative;
11. Type of waste disposed of;
12. Volume of waste disposed of; and
13. Date of waste disposal.

j. Trip tickets shall be distributed as follows:

1. Items 1-8 above shall be completed at the time of GRD servicing, and one (1) copy shall be left with Operator;
2. Upon disposal of waste, remaining items (9-13) above shall be completed, and one (1) copy left with the disposal facility; and
3. Within 15 days of waste disposal,
 - i. one (1) copy shall be delivered to Operator,
 - ii. one (1) copy shall be delivered to City, and

- iii. one (1) copy shall be retained by Transporter.

Sec. 19-126 Inspection, Enforcement

a. **Inspection.** The owner shall permit authorized City personnel bearing credentials and identification access to such premises necessary for inspection, observation, measurement, sampling, testing, calibration, and examining records in accordance with provisions of this Division. Premises to which such access must be granted include effluent sources, GRD(s), sampling ports, and any areas where records are kept to satisfy Federal, State, or local requirements and to assure compliance with this Division. The City shall also have a right to install devices upon a user's property required to conduct sampling, inspection, or other activities necessary to assure compliance with discharge standards.

b. **Violations.** In the event that any Generator, Operator or other person or entity has violated or is violating any provision of this Division, or order issued hereunder, or any applicable pretreatment standard or requirement, the Director may serve upon said user a written Notice of Violation. Nothing in this section shall limit the authority of the City to take any action (including emergency actions or any other enforcement action) without first issuing a Notice of Violation.

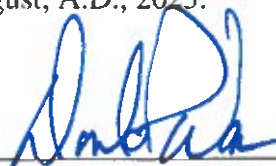
c. **Enforcement.** The Director, as well as employees of the Code Enforcement Department, and any other persons designated by the City Manager, are authorized to pursue the civil and criminal enforcement actions described in Article IV, Secs. 19-81 through 19-84, of this Chapter in response to any violation of the provisions of this Division.

d. **Publication.** The Director may publish a list of Operators and/or Generators that have been noncompliant with applicable standards and requirements of this Division. (Ord. No. 0-2023-72; 8/9/23)

PART 3: That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART4: That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as provided in Section 1-4 of the Tyler Code. Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Since this ordinance has a penalty for violation, it shall not become effective until after its publication in the newspaper as provided by Section 85 of the Charter of the City of Tyler, Texas, which date is expected to be Friday, August 11, 2023.

PASSED AND APPROVED this the 9th day of August, A.D., 2023.



DONALD P. WARREN, MAYOR
OF THE CITY OF TYLER, TEXAS

ATTEST:

APPROVED:


CASSANDRA BRAGER, CITY CLERK
DEBORAH G. PULLUM,
CITY ATTORNEY