

**ORDINANCE NO. O-2019-14**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, ADDING CHAPTER 19, "UTILITIES", ARTICLE V. "LIQUID WASTE AND GREASE", DIVISION 2. "GREASE AND GRIT REDUCTION DEVICES", TO THE CODE OF ORDINANCES OF THE CITY OF TYLER, TEXAS; 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 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 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 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 express or implied, shall be exercised and enforced, in the manner prescribed by the Charter, or when not prescribed by 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 of 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**, this ordinance is in direct response to the requirement in the Consent Decree, Civil Action No. 6:17-cv-29 and effective 10 April 2017, that the City of Tyler implement a program to minimize the introduction of Fats, Oils, and Greases (FOG) into the sanitary sewer, or wastewater collection, system; and

**WHEREAS**, this ordinance is in direct response to the requirement in the Consent Decree, Civil Action No. 6:17-cv-29 and effective 10 April 2017, that the City of Tyler implement an ordinance establishing the authority of the City of Tyler to regulate said FOG; and

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

**PART 1:** That Tyler City Chapter 19, "Utilities", Article V. "Liquid Waste and Grease", Division 2. "Grease and Grit Reduction Devices", is hereby added, and shall read as follows:

**Sec. 19-120. General Sewer Use Requirements**

- a. This Division shall establish regulations governing the discharge of fats, oils, and greases, and/or grit into the sanitary sewer systems.
- b. This Ordinance shall apply to all non-domestic users of the Publicly Owned Treatment Works (POTW), as defined in this Article.
- c. Grease/grit traps or grease/grit interceptors shall not be required for residential users.
- d. Facilities generating fats, oils, and/or greases as a result of food manufacturing, processing, preparation, or food service shall install, use, and maintain appropriate grease traps or grease interceptors as required by this Ordinance. These facilities include but are not limited to restaurants, food manufactures, food processors, hospitals, hotels and motels, prisons, nursing homes, and any other facility preparing, serving, and/or otherwise making any food stuff available for consumption.
- e. The following types of establishments may be exempted from the requirements of this Ordinance:
  1. Bars and clubs serving drinks only and where no food is prepared;
  2. Snow cone and shaved ice stands, provided no other type of food is prepared;

3. Grocery or convenience stores without food preparation, meat cutting or packaging, delicatessens or bakeries;
4. Day care centers that do not prepare food, and primarily serve microwaved dishes, using single service items;
5. Confectionery stores which sell, exclusively, unpackaged sweets, confections, nuts, ice cream, yogurt, and variety food items;
6. Produce markets; and
7. Mobile food establishments in a vehicle or trailer designed to be easily movable and not discharging to the sanitary sewer.

f. Facilities that may introduce solids into the POTW as a result of washing and/or cleaning activities shall install, use, and maintain appropriate grit traps as required by this Ordinance. These facilities include but are not limited to car washes, truck washes, retail and/or wholesale automotive dealerships, industrial and/or commercial equipment dealerships, or other types of equipment dealerships, and manufacturing facilities.

g. No user may intentionally or unintentionally allow the direct or indirect discharge of any petroleum oil, non-biodegradable cutting oil, mineral oil, or any fats, oils, or greases of animal or vegetable origin into the POTW system in such amounts so as to cause interference with the collection and treatment system, or so as to cause pollutants to pass through the treatment works into the environment.

h. All food service establishments or grease handling facilities shall be subject to review, evaluation, and inspection by City of Tyler (City) representatives during normal working hours. Results of the inspections will be made available to the facility manager/owner.

## Sec. 19-121. Definitions.

***Fats, Oils, and Greases (FOG).*** Fats, oils, and/or greases, whether petroleum-based, mineral-oil-based, animal-based, or vegetable-based, and/or any substance that turns or may turn viscous or solidifies with a change in temperature or other conditions. Said FOG are organic polar compounds that contain multiple carbon chain triglyceride molecules, and are detectable and measureable using analytical test procedures established in 40 CFR 136, as may be amended from time to time.

***Food Service Establishment (FSE).*** Any commercial kitchen where food preparation and cooking of food or cleaning food preparation vessels may generate waste FOG. This specifically includes but is not limited to commercial facilities that grill, griddle, use deep fryers, cook raw meats, and/or prepare raw meat for cooking. The term includes food preparation facilities regardless of whether consumption is on or off premises.

***Generator.*** A Generator is a facility that operates, and/or proposes to operate a Grease/Grit Reducing Device (GRD), and/or whose act produces or may produce Grease/Grit Waste including but not limited to FSEs and Grit Producers (GPs).

***Grease/Grit Reducing Device (GRD).*** A device or devices designed to use differences in specific gravities to separate and retain light density liquids, waterborne FOG prior to the wastewater entering the sanitary sewer collection system. These devices also serve to collect settle-able solids, prior to the water exiting GRD and entering the sanitary sewer collection system.

**Grit.** Sand, soil particles, gravel, non-soil particulate, settle-able solids, and/or minor amounts of petroleum waste oils and greases. Said grit is generally introduced into the POTW from washing and/or cleaning activities.

**Grit Producer (GP).** Any non-residential facility that may introduce grit into the POTW collection system. These include but are not limited to:

1. Service facilities for cars, trucks, fleet operators, motorcycles, marine, airplanes, etc.;
2. Maintenance garages for cars, trucks, fleet operators, motorcycles, marine, off-road heavy equipment, airplanes;
3. Body Repair for cars, trucks, fleet operators, off-road heavy equipment, airplanes;
4. Dealers (new, used, retail, and/or wholesale) for cars, trucks, fleet operators, off-road heavy equipment;
5. Washing, detailing, and accessorizing facilities for cars, trucks, fleet operators, motorcycle, off-road heavy equipment, and airplanes; or
6. Any other facility that may discharge prohibited or objectionable pollutants deemed appropriate by the City.

**Managing Director.** City of Tyler Managing Director of Utilities and Public Works or designee.

**Operator.** 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.

**Publicly Owned Treatment Works (POTW).** A treatment works, as defined in §212(2) of the Clean Water Act which is owned by a state or municipality. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes all sewers, pipes and other conveyances that convey wastewater to a POTW Treatment Plant. The term also means the municipality, as defined in §502(4) of the Clean Water Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works. For purposes of this Ordinance, the terms "sanitary sewer system" and "POTW" may be used interchangeably.

**Sampling Station.** A box or opening approved by the Managing Director that allows easy access to the discharge line of GRD for sampling purposes.

**Wetted Height.** The depth of the liquid in the GRD; this should be from the inside bottom of the GRD to the bottom of the outlet pipe.

## **Sec.19-122. Grease/Grit Reducing Device (GRD) Requirements.**

- a. Grease/Grit Reducing Device (GRD) plans and specifications must be reviewed and approved by the City of Tyler Building Inspection Department and the Industrial Pretreatment Program prior to installation. Prior to placing any new GRD into operation, the City of Tyler Building Inspection Department and the Industrial Pretreatment Program shall inspect GRD to assure compliance of approved GRD(s). No new Generator will be allowed to initiate operations until a proper GRD is installed by Generator's Operator in accordance with this Ordinance, and is approved by the City.

- b. Plan and specification submittals to the City shall include as-built plans for GRD(s) (including all plumbing connections), GRD specifications and manufacturer details, site plans that clearly identify the location of GRD(s), including dimensions from site features so as to allow ease of locating said GRD(s), and capacity design justification details and calculations.
- c. GRD(s) shall be installed in accordance with the City's most recently adopted version of the International Plumbing Code, and with the requirements contained in all applicable local plumbing codes, and must be installed by a licensed plumbing contractor.
- d. The Operator must notify the City 48 hours in advance, during the normal work week, when GRD is ready for final inspection by the City. The City must give final approval prior to the Operator covering any GRD. Where the City denies approval of GRD for a new Generator, the City may elect to submit a request to the appropriate building official requesting that certificates of occupancy be withheld until GRD is constructed in accordance with this specification and is approved by the City.
- e. Generators shall discharge all wastes from sinks, dishwashers, and drains into an approved, properly maintained, and functioning GRD before such waste enters the sanitary sewer.
- f. Wastewater from domestic facilities and other similar fixtures may not be introduced into GRD by the Generator under any circumstance.
- g. GRD(s) shall be located outside of a food preparation, serving, and/or consumption area. Under-sink GRD(s) are not allowed.
- h. GRD(s) shall be constructed to provide a two-way three-inch (3") or larger cleanout on the effluent side. Sampling stations may be required if cleanouts are inadequate or not available for sampling purposes. Sampling stations shall be required for all new construction installations and modifications of existing GRD(s).
- i. GRD(s) shall be located a minimum of ten (10) feet from receptacles that could discharge hot water. All hot water that is discharged must cool down to a minimum of 120 degrees Fahrenheit before reaching GRD.

#### **Sec. 19-123. Sizing.**

- a. In approving a customer's plumbing or GRD design, the City does not accept liability for the failure of a system to adequately treat wastewater. It is the responsibility of the Operator and/or contractors to insure the appropriate level of treatment necessary for compliance.
- b. No GRD with less than 375 pound (750 gallon) total capacity will be approved for installation by the City unless acceptable engineering calculations, sealed by a professional engineer registered in the state of Texas, and demonstrating that a smaller size has satisfactory capacity, are provided by the Operator to the City, and are approved by the City prior to installation. The City retains sole discretion to approve or deny approval of GRD with less than 375 pound (750 gallon) total

capacity in all circumstances, even in the event such engineering calculations are provided.

- c. In no instance shall GRD of less than 250 pound (500 gallon) capacity be approved.
- d. Food Service Establishment (FSE) GRD(s) shall be sized in accordance with the number of kitchen plumbing fixtures and/or those that could introduce grease into the POTW (e.g. vent hood), in the facility, so as to provide a minimum detention time of thirty (30) minutes. Plumbing fixtures include the following: hand sink, vegetable preparation sink, 2 or 3 compartment sink, mop sink, other sink types, dishwasher, floor drain(s), and trough drain(s). All floor drains shall count as one (1) fixture. Generators with dishwashers shall have a 750 pound (1500 gallon) or larger GRD.
- e. Non-FSE(s) shall be sized according to the size of the water meter servicing the property.
- f. GRD sizing worksheets for both FSE(s) and Non-FSE(s) are available from the City.
- g. The Managing Director may require a larger capacity GRD for Generators that may introduce larger quantities of FOG by frying, grilling, or other cooking processes. The Managing Director may also require a larger capacity GRD for Generators that have periodic drain backups or cause periodic sewer line stoppages attributed to excessive FOG and/or grit.

#### **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). 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.
- 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 record of maintenance in the form of trip tickets, as referenced in Article V. of this Chapter for a period not less than three (3) years.
- 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. 19-125. Operation.**

- a. GRD(s) shall be operated and maintained in accordance with the manufacturer's recommendations, and in accordance with this Ordinance.
- b. GRD(s) shall be maintained in an efficient and properly operating condition at all times. "Efficient and properly operating condition" shall mean that no obstruction to the flow of wastewater due to FOG and/or grit occurs in the sewer service line, sewer main, or the manhole to which the Generator discharges, and/or in the opinion of the City, no significant accumulation of FOG and/or grit occurs on the inside surface(s) of the sewer service line, sewer main, or the manhole to which the facility discharges. If any or all of these criteria are present, an efficient and properly operating condition shall be considered not to have been achieved, and the Generator will be in violation of this article.
- c. Hazardous wastes, such as acids, strong cleaners, pesticides, herbicides, paint, solvents, or gasoline shall not be disposed of in a manner in which they would enter GRD. Dilution of grease content by increased use of process or hot water is prohibited as a substitute for the regular cleaning and pumping of GRD.
- d. Discharge into GRD of sanitary waste, hot water (greater than 120°F), solvents, emulsifiers, enzymes, chemicals, products, or bacteria that digest, liquefy, dissolve, suspend, or emulsify fats, oils, or greases is prohibited.
- e. No liquid or grease that is removed from GRD shall be discharged to the POTW. This includes actions taken during maintenance of GRD(s).

#### **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 has violated or is violating any provision of this Division, or order issued hereunder, or any applicable pretreatment standard or requirement, the Managing 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 Managing Director is authorized to pursue the 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 Managing Director may publish a list of Operators and/or Generators that have been noncompliant with applicable standards and requirements of this Ordinance.

#### **Sec. 19-127. Existing Operator and Existing Generator.**

- a. An "Existing Operator" is an Operator of an "Existing Generator" on or before the effective date of this Division.
- b. An "Existing Generator" is a Generator operating on or before the effective date of this Division.
- c. GRD(s) at an Existing Generator on or before the effective date of this Division, and lawfully operated by an Existing Operator, shall be exempted from the requirements in Section 19-122, and Sections 19-123.b through 19-123.e. However, Existing Generators shall be subject to all other requirements of this Division.
- d. Existing Generators shall become subject to all parts of this Division if:
  - 1. Any major remodeling, major changes, or major alterations by or to such Existing Generators occurs. Major remodeling, major changes, or major alterations shall mean that 20 percent or greater of the area of the Generator is to be remodeled or repurposed;
  - 2. A change in the Existing Generator occurs, such that an increase in FOG could occur; or
  - 3. There is an increase in flow to the GRD.

#### **Sec. 19-128. Exemptions.**

To be eligible for an exemption listed below, the Operator shall submit a written request for the appropriate exemption to the Managing Director.

- a. The Managing Director may waive or modify the trap sizing requirements or the pumping frequency requirements upon the presentation of valid laboratory data confirming that the existing GRD effluent consistently remains below 200 mg/l oil and grease, as determined by U.S. E.P.A. Test Method 1664 – Oil & Grease and Petroleum Hydrocarbons. For such a waiver or modification, the following criteria must be met:
  - 1. An Exemption may only be requested during or before the permitting process.
  - 2. GRD must first be pumped and cleaned and the Managing Director notified within seventy-two hours.
  - 3. GRD effluent must be properly sampled and analyzed for oil and grease on a schedule of approximately thirty (30), sixty (60), and ninety (90) days after the trap was pumped, and such data shall be provided to the Managing Director after each sampling event.
  - 4. The pretreatment inspector shall also collect one or more oil and grease sample(s) during the ninety (90) day period after GRD was pumped.

- 5. If the results of tests of all of the oil and grease samples are less than 200 mg/l, then the Managing Director may grant a waiver or modification of the sizing or pumping frequency requirements.
- 6. The above sampling criteria shall be repeated periodically for the food establishment to maintain the exemption. If additional sampling indicates that oil and grease concentrations are greater than 200 mg/l, then the Managing Director may revoke the exemption.
- b. The Managing Director may waive the requirements specifying sizing and installation of GRD(s) outside of a facility if significant engineering difficulties are encountered relating to the installation of the trap. The Managing Director may increase the pumping and cleanout frequencies upon granting this exemption.
- c. The Managing Director may revoke any of the above exemptions if the food establishment provides false information, causes periodic drain or sewer line stoppages, or violates the provisions of this Division.
- d. Any person aggrieved by the denial or revocation of an exemption under this Division may appeal such action within ten (10) days from the date thereof in the manner and in accordance with the procedures set forth in Chapter 1, Article IV. Otherwise, the decision of the Managing Director shall be final.

(Ord. No. 0-2019-14; 2/13/19)

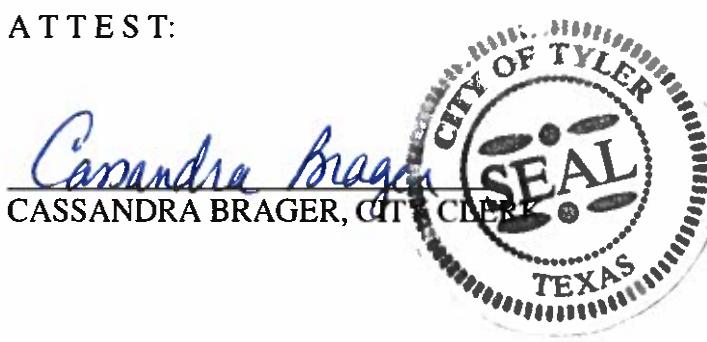
**PART 2:** That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

**PART 3:** 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 become effective upon 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 Wednesday, February 15, 2019.

PASSED AND APPROVED this 13<sup>th</sup> day of February, A. D., 2019.

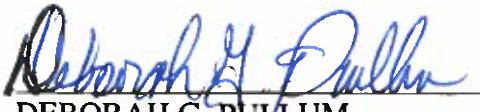
  
MARTIN HENNES, MAYOR  
OF THE CITY OF TYLER, TEXAS

ATTEST:



*Cassandra Brager*  
CASSANDRA BRAGER, CITY CLERK

APPROVED:

  
DEBORAH G. PULLUM,  
CITY ATTORNEY