

## ORDINANCE NO. 2021-0824-29

### AN ORDINANCE TO AMEND ARTICLE VII OF CHAPTER 12 OF APEX TOWN CODE

THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF APEX AS FOLLOWS:

**Section 1.** Section 12-191 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:

#### **Sec. 12-191. - Introduction—Scope and intent.**

The intent of this article is to aid in the prevention of ~~s~~Sanitary ~~s~~Sewer blockages and overflows due to the accumulation of fats, oils and greases in the sanitary sewer from **industrial or** commercial establishments—particularly food preparation and food serving establishments. ~~—by requiring~~ **Town regulations require that** all ~~f~~Food ~~s~~Service **and Non-Cooking e**Establishments ~~to~~ install properly-sized and maintained ~~g~~Grease traps ~~or i~~Interceptors to prevent excess fats, oils and greases from entering the **Sanitary Sewer**~~town's publicly owned treatment works.~~

**Section 2.** Section 12-192 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:

#### **Sec. 12-192. - Definitions.**

~~Cooking establishments~~ means those establishments engaged in activities of preparing, serving, or making available for public or clientele consumption foodstuffs that require one or more of the following preparation activities: frying, baking, grilling, sautéing, rotisserie cooking, broiling, boiling, blanching, roasting, toasting, poaching, infrared heating, searing, barbecuing, and any other food preparation activity that produces a hot non-drinkable food product in or on a receptacle that requires washing.

~~Establishment~~ means a ~~cooking~~ **Food Service e**Establishment or ~~n~~Non-**e**Establishment.

~~Fats, oils, and greases~~ means organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. These substances are measured using analytical test procedures established in 40 CFR 136. Fats, oils, and greases are collectively referred to herein as "~~g~~Greases."

**FOG Enforcement Response Plan (ERP) means the Town's enforcement plan for regulating Fats, Oils, and Grease Control of Establishments.**

**Food Service Establishments (FSE) means those establishments engaged in activities of preparing, serving, or making available for public or clientele consumption foodstuffs that require one or more of the following preparation activities: frying, baking, grilling, sautéing, rotisserie cooking, broiling, boiling, blanching, roasting, toasting, poaching, infrared heating, searing, barbecuing, and any other food preparation activity that produces a hot non-drinkable food product in or on a receptacle that requires washing.**

*Grease interceptor minimum design capability* means the design features of a grease interceptor and its ability or volume required to effectively intercept and retain greases from grease-laden wastewaters discharged to the ~~s~~**S**anitary ~~s~~**S**ewer.

*Grease trap or interceptor* means a device for separating and retaining greases and like compounds from wastewater prior to entry into the ~~s~~**S**anitary ~~s~~**S**ewer. These devices also serve to remove and collect settleable solids from ~~food service e~~**E**stablishments prior to entry into the ~~s~~**S**anitary ~~s~~**S**ewer. Grease traps and interceptors are collectively referred to herein as "~~g~~**G**rease ~~i~~**I**nterceptors."

*Non-cooking establishments* means those establishments primarily engaged in the preparation of precooked foodstuffs that do not include any form of cooking. These include cold dairy and frozen foodstuffs preparation and serving establishments.

*North Carolina Plumbing Code* means written guidelines, regulations and ordinances governing the plumbing criteria for type and use of plumbing systems in the State of North Carolina and its political subdivisions.

*Publicly-owned treatment works ~~or~~ (POTW)* means that certain collective wastewater treatment system owned and/or operated by the town, including all devices, systems and appurtenances thereto used in the collection, storage, treatment, recycling, distribution and reclamation of municipal sewage, industrial wastes of a liquid nature, or other wastewater.

*Sanitary ~~s~~**S**ewer* means a pipe or conduit intended to carry wastewater or waterborne wastes from homes, businesses, and industries to the POTW. A sewer collection system.

*User* means any person, including those located outside the jurisdictional limits of the town, who contributes, ~~or~~ causes, or permits the contribution of, wastewater into the POTW, including mobile sources such as hauled wastewater.

**Section 3.** Section 12-193 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:

### Sec. 12-193. - Specific prohibitions.

~~No user shall allow any wastewater discharge of greases of animal or vegetable origin in concentrations greater than 250 milligrams per liter, as determined by appropriate EPA analytical methodologies. These limits shall be continually achieved without exception.~~

(a) **No User shall contribute or cause to be contributed into the POTW petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.**

(b) **The owner and leaseholder shall be responsible for ensuring that no waste or wastewater pumped from the grease interceptor or oil separator is reintroduced back into the device. The User may request permission by submitting data, sampling and justification to be approved at the discretion of the water resources director.**

**Section 4.** Section 12-194 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:

### Sec. 12-194. - Grease interceptors.

(a) All ~~cooking~~ **Food Service** ~~e~~**E**stablishment ~~u~~**U**ser shall install a ~~minimum 1,000-gallon in-ground~~ **g****G**rease **i****I**nterceptor, unless an alternative pretreatment method is approved by the town in accordance with subsection (h). Grease **i****I**nterceptors may also be required at ~~n~~**N**on-~~e~~**C**ooking ~~e~~**E**stablishments and other industrial, commercial, or institutional establishments at the ~~u~~**U**ser's expense when deemed necessary by the water resources director for the proper handling of grease-laden wastewaters. ~~No user shall allow any grease discharge from any grease interceptor to exceed 250 mg/l under any circumstances.~~ All **g****G**rease **i****I**nterceptors shall be of a type, design, and capacity approved by Town of Apex Plumbing Code Enforcement Officer and shall be readily and easily accessible for ~~u~~**U**ser cleaning and town inspection and sampling.

(b) Exterior in-ground **g****G**rease **i****I**nterceptors shall be serviced and emptied of accumulated waste (greases, sludge, debris, etc.) content as required to maintain minimum design capability, but not less often than every ~~sixty 3~~**(60)** days. In-floor and under-the-counter **g****G**rease **i****I**nterceptors shall be cleaned not less often than weekly.

(c) In-ground **g****G**rease **i****I**nterceptors must have access manholes, minimum diameter of **twenty-four** (24) inches shall be provided over each interceptor chamber and sanitary tee. The access manholes shall extend at least to finished grade and shall be designed and maintained to prevent inflow and infiltration. The manholes also shall have readily removable covers.

(d) Minimum design criteria for ~~g~~**G**rease ~~i~~**I**nterceptors shall be approved by the Town of Apex Plumbing Code Enforcement Officer using the latest adopted North Carolina Plumbing Code.

(e) Grease interceptors shall be kept free of inorganic solid materials such as rocks, grit, gravel, sand, eating utensils, cigarettes, shells, towels, rags, etc., which could settle and reduce the effective volume of the ~~g~~**G**rease ~~i~~**I**nterceptor.

(f) There shall be no reintroduction of wastewater back into the ~~g~~**G**rease ~~i~~**I**nterceptor ~~unless and until said wastewater has been proven to contain 250 mg/l or less of greases.~~

(g) **A sanitary tee shall be installed and maintained in each Grease Interceptor outlet at all times. An inlet and baffle sanitary tee shall be required for either FSE's with an already existing inlet tee, or newly installed Grease Interceptors.**

~~Users shall supply an adequate sampling point downstream of the grease interceptor, prior to mixing with other sanitary flows. The minimum requirement for the sampling point shall be a four inch vertical cleanout or sanitary tee.~~

(h) A user may request an alternative to an out-of-building ~~g~~**G**rease ~~i~~**I**nterceptor because of documented space constraints. The request shall contain the following information:

(1) Location of the town sewer main and easement in relation to available exterior space outside the building.

(2) Existing plumbing at or in an ~~e~~**E**stablishment that uses common plumbing for all services.

(3) Detailed list of all potential sources of ~~g~~**G**rease at the subject premises.

(i) The use of biological additives as a grease degradation agent is conditionally permissible, upon written approval by the water resources director. ~~Any establishment using these methods shall consistently meet the grease numerical limit of 250 mg/l specified in section 12-193, as measured at the grease interceptor's outlet required under subsection (g).~~

(j) The use of automatic grease-removal systems is conditionally permissible, upon prior written approval by the water resources director. ~~Any establishment using such equipment shall operate the system in such a manner that compliance with the 250 mg/l limit specified in section 12-193 (as measured from the unit's outlet required under subsection (g)) is continually achieved.~~

(k) The water resources director reserves the right to make determinations of ~~g~~**G**rease ~~i~~**I**nterceptor adequacy and need, based on review of all relevant information regarding ~~g~~**G**rease ~~i~~**I**nterceptor performance, facility site and building plan review, and to require repairs to, or modification or replacement of such ~~g~~**G**rease ~~i~~**I**nterceptors.

(l) Users are required to ensure that all material removed from ~~g~~**G**rease ~~i~~**I**nterceptors is disposed of in a manner that complies with all federal, state and local statutes, rules, regulations, policies and ordinances.

**(m) Whenever there is a change in management, ownership, or food production at a property, the property owner shall be required to submit justification for either retaining the current Grease Interceptor method or a new request for a variance. The Town reserves the right to inspect the existing Grease Interceptor for acceptance.**

**(n) In the case that there is a shared or common Grease Interceptor, the property owner shall assume ownership of all responsibilities for adhering to this Article.**

**(o) The water resources director reserves the right to approve or deny any variance formally submitted in regards to Grease Interceptors.**

**Section 5.** Section 12-195 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:

**Sec. 12-195. - Grease Interceptor inspections and documentation.**

(a) Users shall maintain a written record of all ~~g~~**G**rease ~~i~~**I**nterceptor maintenance activities for three ~~(3)~~ **(3)** years ~~after completion of the maintenance activities.~~ These records shall contain ~~clean-out dates~~ **pumping and maintenance manifests, the as-built designs of the Grease Interceptor(s) on site,** the name of the owner or manager of the facility, and the name of the firm that performed the clean-out. These records must be located on the premises and available for inspection during all business hours by the water resources director or ~~his~~ **their** designee.

(b) The town ~~will~~ **may** inspect an ~~e~~**E**stablishment's grease interceptor and maintenance records at the town's discretion. If problems are found during any such inspection, the ~~u~~**U**ser must take immediate corrective action **as indicated in the ERP unless otherwise** directed by the water resources director. ~~If sampling of the grease interecptor effluent is warranted to assure compliance with the numerical grease numerical limit of 250 mg/l specified in section 12-193, in the town's sole and exclusive judgment, the user will be assessed for any analytical testing fees.~~

(c) At inspection, grease cap and solids measurements ~~will~~ **may** be performed. Grease accumulation shall not be greater than four ~~(4)~~ **(4)** inches at any point within the ~~g~~**G**rease ~~i~~**I**nterceptor. Solids **and grease** accumulation shall not be greater than ~~20~~ **thirty-five percent (35%)** of the total water depth from the ~~g~~**G**rease ~~i~~**I**nterceptor's **inlet chamber, and twenty-five percent (25%) of the total water depth in the outlet**

chamber interior floor to the static working water level, at any point within the grease intercepter.

**(d) In-Floor and under-the-ground Grease Interceptors may be inspected using the "Screwdriver Test". This is a visual test and must require the water and grease to separate to pass inspection.**

**(e) Maintenance records shall be maintained onsite where the Grease Interceptor or oil/water separator is located for a period of three years.**

**(f) Grease Interceptor maintenance records must include the following information:**

**i. Establishment name and physical location**

**ii. Name of Grease Interceptor service company**

**iii. Date and time of Grease Interceptor service**

**iv. Name and signature of person doing said service**

**v. Established service frequency and type of service**

**vi. Number and size of each Grease Interceptor serviced**

**vii. Approximated amount, per best professional judgment, of grease and solids removed from each Grease Interceptor**

**viii. Total volume of waste removed from each Grease Interceptor**

**ix. Destination of removed wastes, food solids, and wastewater disposal**

**(g) Maintenance records that do not include all the above information will be considered incomplete. Incomplete records are considered a violation of the Town of Apex Sewer Use Ordinance and may subject the facility to penalty assessments and/or service termination.**

**(h) Facilities for which a specific pretreatment permit has been issued shall follow the requirements for maintenance and record keeping as stated in the permit.**

**Section 6.** Section 12-196 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as struck-through text:

**Sec. 12-196. - Enforcement.**

(a) ~~Violations of this article will result in enforcement actions in accordance with the then prevailing provisions of chapter 12, article III, division 4, of this Code. In addition, any user who is found to have failed to comply with any provision of this article, or any order, rule, regulation or permit issued hereunder, may be assessed a civil penalty in the amount of \$50.00 per day per violation.~~ **Non-compliance with this Article will result in enforcement actions in accordance with the FOG ERP.**

(b) **The FOG ERP may be updated and approved for action as the water resources director sees fit. Each corresponding FSE will be given a six-month notice of impending ERP changes, and will have that time to ensure all maintenance and functionality requirements are met prior to roll out date.**

(c) For a period of ~~one year~~ **six (6) months** following adoption of this article, no enforcement actions will be taken for failure to achieve limits on discharges of ~~g~~**G**reases from ~~g~~**G**rease ~~i~~**I**nterceptors. If, during such ~~one year~~ **six-month** period, an obstruction of a town sewer main occurs causing an overflow with environmental impact can be attributed in part or whole to an accumulation of ~~g~~**G**reases in the ~~s~~**S**anitary ~~s~~**S**ewer or the POTW, the town will take appropriate enforcement actions in accordance with the Apex Sewer Use Ordinance against the culpable user or other generator or contributor of such ~~g~~**G**reases.

**Section 7.** It is the intention of the governing body, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances and the sections of this ordinance may be renumbered to accomplish such intention.

**Section 8. Severability, Conflict of Laws.** If this ordinance or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to the end the provisions of this ordinance are declared to be severable. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

**Section 9. Effective Date.** This ordinance shall be effective upon adoption.

Introduced by Council Member: \_\_\_\_\_

Seconded by Council Member: \_\_\_\_\_

This the \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Jacques K. Gilbert  
Mayor

ATTEST:

---

Donna B. Hosch, MMC, NCCMC  
Town Clerk

APPROVED AS TO FORM:

---

Laurie L. Hohe  
Town Attorney