

ORDINANCE NO. 2367

AN ORDINANCE AMENDING TITLE V OF THE HERMISTON MUNICIPAL CODE BY AMENDING CHAPTER 51 ENTITLED “SEWERS” TO INCLUDE A “FATS, OILS, AND GREASE (FOG) ABATEMENT PROGRAM”

WHEREAS, the staff of the City of Hermiston (City) is conducting a review of the City’s Code of Ordinances (Code); and

WHEREAS, water containing high concentrations of fats, oil, grease (FOG), and other food waste can build up and block sewer pipes. Clogged sewer pipes can cause raw sewage to back up into homes and businesses or overflow into streets and streams; and

WHEREAS, the leading preventable cause of non-weather related sanitary sewer overflows nation-wide has been build-up and blockages from FOG material restricting the flow of sewage.; and

WHEREAS, wastewater discharges from commercial food service facilities are the main sources of FOG and other food waste in the city's sewer system. Food service establishments can include bakeries, donut shops, hotels, supermarkets, meat processors, commercial kitchens, coffee shops and restaurants.

WHEREAS, by requiring FOG abatement by the parties responsible for its generation, costly sewer back-ups can be reduced or eliminated on both private and public properties.

WHEREAS, the Oregon Department of Environmental Quality has prohibited sanitary sewer overflows and communities that suffer sanitary sewer overflows can be penalized for sewer spills/overflows. FOG abatement is the most cost- effective method of reducing sanitary sewer overflows caused by grease from the public collection system by requiring that FOG be treated at its source.

WHEREAS, the City desires to implement a Fats, Oils, and Greases (FOG) prevention program to reduce/eliminate sanitary sewer overflows by adding a Fats, Oils, and Grease (FOG) Abatement Program with Chapter 51, Title V of the Hermiston Municipal Code; now therefore,

THE CITY OF HERMISTON ORDAINS AS FOLLOWS:

(New language is in red and underlined and repealed language has ~~a line through it.~~)

Section 1. Title V of the Hermiston Municipal Code is amended by amending Chapter 51 to include, new sections, §§ 51.100 through 51.129 “FATS, OILS, AND GREASE (FOG) ABATEMENT PROGRAM” and amending §§51.130 through 51.999 as follows:

Fats, Oils, and Grease (FOG) Abatement Program

51.100 PURPOSE STATEMENT AND REGULATORY AUTHORITY

This Ordinance sets forth uniform requirements for users of the Publicly Owned Treatment Works (POTW) for the Control Authority of the City of Hermiston and enables the Control Authority to comply with all applicable State and Federal laws, including the Clean Water Act (33 USC 1251 et seq.) and the General Pretreatment Regulations (40 CFR Part 403). The objectives of this Ordinance are:

- (1) To prevent the introduction of fats, oils, and grease (FOG) into the POTW that will interfere with its operation;
- (2) To prevent sanitary sewer overflows in alignment with EPA-833-F-12-003 guidelines;
- (3) To provide for fees for the equitable distribution of the cost of operation and enforcement of a FOG abatement program; and
- (4) To enable the Control Authority to comply with its National Pollutant Discharge Elimination System Permit (NPDES) conditions, biosolids use and disposal requirements, and any other Federal or State laws to which the POTW is subject.

This Ordinance authorizes provisions for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

51.101 APPLICABILITY

This Ordinance shall apply to all users of the POTW. Any facility with a temporary or permanently plumbed connection to the Control Authority sewer system that has the potential to generate discharges of animal and/or vegetable-based FOG must comply with these rules.

51.102 ADMINISTRATION

Except as otherwise provided herein, the Control Authority, as defined in this chapter, shall administer, implement, and enforce the provisions of this chapter. Any powers granted to or duties imposed upon the Control Authority may be delegated by the Control Authority to his/her authorized representative.

51.103 ABBREVIATIONS AND DEFINITIONS

(A) Abbreviations. The following is a list of abbreviations that may appear in the document and be related to FOG Ordinance.

CFR Code of Federal Regulation

FE Food establishment

FOG Fats, oils, and grease

FSE Food service establishment

IAPMO International Association of Plumbing and Mechanical Officials

OAR Oregon Administrative Rules

OR-DEQ Oregon Department of Environmental Quality

POTW Publicly owned treatment works

U.S. EPA United States Environmental Protection Agency

USC United States Code

PDI Plumbing Drainage Institute

(B) Definitions. The following definitions shall apply unless the context clearly indicates or requires a different meaning.

AUTHORITY HAVING JURISDICTION (AHJ). An agency or officer that is responsible for compliance within a defined area.

BEST MANAGEMENT PRACTICES (BMPS). Schedules of activities, requirements or prohibitions of practices, operating procedures, maintenance procedures, and other management procedures used to reduce the amount of pollutants entering the Control Authority's wastewater system. (40 CFR 403.3(e))

BYPASS. The intentional diversion of one or more waste streams or processes from any portion of an industrial user's treatment facility.

CONTROL AUTHORITY. The City of Hermiston.

FATS, OILS AND GREASE (FOG). Fats, oils, or greases of animal or vegetable origin in amounts that may cause obstructions or maintenance problems in the sanitary sewer system or in the POTW.

FOOD SERVICE ESTABLISHMENT (FSE). A facility that engages in activities of preparing or serving food or beverage for consumption by person(s) either on or off the premises, including but not limited to restaurants, cafes, commercial kitchens, caterers, hotels and motels, schools, hospitals,

prisons, correctional facilities, nursing homes, care institutions, Mobile Food Units (such as food trucks), and any other facility preparing and serving food for consumption.

FOOD ESTABLISHMENT (FE). A retail food store includes the preparing, packaging, storing, handling, or displaying of food for sale to the consumer or user such as full-service grocery stores, convenience stores, food ready-to-bake, and other facilities preparing food for consumption that is not consumed on-site.

GREASE INTERCEPTOR. A plumbing appurtenance or appliance installed in a sanitary drainage system to intercept or separate certain wastes from wastewater. This term includes but is not limited to grease interceptors, oil/water separators, sand or sediment interceptors, lint interceptors, and hair interceptors.

GRAVITY GREASE INTERCEPTOR. A plumbing appurtenance or appliance that is installed in a sanitary drainage system to intercept nonpetroleum FOG from a wastewater discharge and is identified by volume, 30-minute retention time, baffle(s), not less than two compartments, a total volume of not less than 300 gallons (1135 Liters), and gravity separation. These interceptors must comply with the requirements of Chapter 10 of the Oregon Plumbing Specialty Code or be designed by a registered design professional. Gravity grease interceptors are generally installed outside.

HYDROMECHANICAL GREASE INTERCEPTOR. A plumbing appurtenance or appliance that is installed in a sanitary drainage system to intercept nonpetroleum fats, oil, and grease (FOG) from a wastewater discharge and is identified by flow rate, and separation and retention efficiency. The design incorporates air entrainment, hydromechanical separation, interior baffling, or barriers in combination or separately, and one of the following:

- (1) External flow control, with air intake (vent), directly connected;
- (2) External flow control, without air intake (vent), directly connected;
- (3) Without external flow control, directly connected;
- (4) Without external flow control, indirectly connected.

These interceptors must comply with the requirements of Table 1014.2.1 of the Oregon Plumbing Specialty Code. Hydromechanical grease interceptors are generally installed inside.

INTERFERENCE. A discharge which, alone or in conjunction with a discharge from other sources, both:

(1) Inhibits or disrupts the municipal wastewater system, its treatment processes operations, or its solids handling processes, use or disposal; and

(2) Therefore is a cause of a violation of any requirements of the NPDES Permit (including an increase in magnitude or duration of a violation) or of the prevention of biosolids use or disposal in compliance with the following statutory provisions and regulations of a permit issued thereunder (or more stringent state or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title H), the Resource Conservation and Recovery Act (RCRA) and including state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA, the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection Research and Sanctuaries Act, as defined in 40 CFR 403.3(i).

PASS-THROUGH. A discharge of FOG exiting the grease interceptor in quantities or concentrations which alone or in conjunction with discharge(s) from other sources that cause blockages or build-up in the Public Sanitary Sewer System (40 CFR 403.3(p))

PUBLICLY OWNED TREATMENT WORKS (POTW). A "treatment works" as defined in USC 33 Chapter 36, Section 1292, which is owned by the state or municipality. The definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes and any conveyances which convey wastes and any conveyances which convey wastewater to a treatment plant. The term also means the municipal entity having jurisdiction over the industrial users and responsibility for the operation and maintenance of the treatment works.

SANITARY SEWER. A piping or conduit system that carries wastewater from residential, commercial, or industrial sites to a wastewater treatment plant for processing.

SEWER USER. An individual or entity who discharges wastewater to the sanitary sewer.

STORMWATER SEWER. Any structure or configuration of ground that is used or by its location becomes a place where stormwater flows or is accumulated including, but not limited to; pipes, sewers, curbs, gutters, manholes, catch basins, ponds, creeks, open drainage ways, ditches, and their appurtenances.

WASTEWATER. Water-carried wastes from residences, business buildings, institutions, and industrial establishments and any liquid wastes.

FOG PRETREATMENT REQUIREMENTS

51.104 GREASE INTERCEPTORS AND APPURTENANCES

(A) Any new or existing facility with a temporary or permanently plumbed connection to the City sewer system that has the potential to generate discharges of animal and/or vegetable-based FOG must install a grease interceptor device at the owner's expense when, in the opinion of the Control Authority, an interceptor is necessary to ensure that wastewater discharged to the POTW does not exceed the FOG local limit.

(B) The Control Authority may determine that a change of use or operation at a facility creates the potential to discharge FOG and require the installation of a grease interceptor device.

(C) If FOG accumulation is found during maintenance of public sewer lines, upstream sewer users will be inspected. Interference with the operation of the sanitary sewer is a violation of 40 CFR 403.5(b)(3) or (6). If the Control Authority determines that an FSE was responsible for FOG discharge that caused an interference, the FSE may be required to cease discharge of the prohibited waste until a grease interceptor is installed in accordance with this chapter. Administrative fines may be issued.

(D) If used, a grease interceptor shall be located to be readily accessible for inspection, maintenance, and cleaning.

(E) All grease interceptors must be installed in accordance with the Oregon Plumbing Specialty Code. Removal is recommended for facilities that have abandoned use of a grease interceptor. Removal of grease interceptors must be done in accordance with the Oregon Plumbing Specialty Code.

(F) The Control Authority may require a premise isolation interceptor to be installed on private property at a location closest to the point of connection. In lieu of premise isolation, the Control Authority may accept in-premises grease interceptors when the device is maintained in accordance with these rules.

(G) Interceptors with a rated capacity of 100 gallons or less that are required under this municipal code shall be manufactured in accordance with standard PDI G-101, Testing and Rating Procedure for Hydro Mechanical Grease Interceptors, and shall be listed as certified by the Plumbing Drainage Institute at the time of initial inspection. Interceptors with a rated capacity greater than 100 gallons that are required under this code shall be built and installed in accordance with IAPMO Z1001.

(H) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible substance detection meter.

51.105 INTERCEPTOR REGULATIONS

(A) Under no circumstance will domestic waste be allowed to discharge into a grease interceptor required under this Ordinance.

(B) Floor mats, grills, kettles, and other greasy equipment should be cleaned in an area where all cleaning water will flow through a grease interceptor prior to entering the wastewater collection system. The pH for cleaning products used for greasy equipment must be within the utility's local limits. When degreaser chemicals are used for equipment cleaning they should be diluted with water at a ratio of 10:1 or greater.

(C) To prevent grease passing through the grease interceptor: High-temperature water, over 140° Fahrenheit, must be cooled before discharge in accordance with Section 51.022 of the Sewer Code.

(D) Wastewater from cleaning kitchen exhaust hoods and other appurtenances must be hauled off site unless the pH and temperature limits are met and degreaser dilution ratio in Section 51.105(B) of this Ordinance is maintained.

(E) The Control Authority approved local limits for discharge to wastewater may include a limit for FOG. Such a limit applies to all facilities required to install grease interceptors.

51.106 INTERCEPTOR MAINTENANCE

(A) Such interceptors shall be inspected, cleaned, and maintained regularly, as needed, by the user at the user's expense. Cleaning the interceptor shall include removal of all contents, including floating materials, wastewater, bottom sludge, and solids, and pressure washing or scraping of all accumulated grease from walls and baffles.

(B) The maintenance frequency shall be established such that FOG or food solids do not leave the interceptor and enter the sanitary sewer collection system. Frequency of cleaning shall be determined by property owners on an individual basis and may partially be based on an appropriate accommodation of the volume of material collected to prevent discharge of FOG to the public sewerage system. The Control Authority shall preserve the right to prescribe or require an increase of a user's cleaning frequency.

(C) The use of any additive, such as enzymes, chemicals or bacteria as a substitute for a grease trap or interceptor, or as a substitute for maintenance of a grease trap or interceptor, is prohibited. In no case shall any additive, other than detergents or soap, which emulsifies FOG, be used.

(D) All wastes removed from the interceptor shall be legally disposed of other than to the sewer or storm drainage systems.

(E) "Decanting" or the returning of any liquid or waste that is removed during cleaning back into the interceptor or into the sewer is prohibited.

(F) Grease interceptors with a hydraulic capacity of less than 300 gallons must be filled with clean, cold water after evacuation, prior to usage.

(G) Cleaning of grease interceptors shall be performed by a professional interceptor service company unless the user receives approval from the Control Authority to remove FOG from the interceptors (self-cleaning). Violations of this Ordinance by interceptor self-cleaners are subject to enforcement action including fines and/or removal from the self-cleaner program.

RECORDS AND REPORTING

51.107 MAINTENANCE REPORTING

Maintenance records shall indicate for each cleaning event, at a minimum, the date of cleaning, name, and signature of the person or company servicing the interceptor, the cleaning method, gallons of waste removed, whether or not FOG were found in the inspection port, statement of general condition or malfunction, and final waste disposal location.

51.108 LOCATION OF RECORDS

The facility shall maintain grease interceptor cleaning records at the facility where the interceptor is located. Such records must be readily available for Control Authority inspection. The Control Authority may require the user to submit cleaning records each time the grease interceptor is cleaned.

51.109 RECORDS RETENTION

All records of cleaning activities shall be maintained at the facility where the interceptor is located for a minimum of three years.

FOG PERMITS AND PERMIT ISSUANCE

51.110 WASTEWATER ANALYSIS

When requested by the Control Authority, a sewer user or prospective sewer user must submit information on the nature and characteristics of its wastewater within 60 days of the request. The Control Authority is authorized to prepare a form for this purpose and may periodically require sewer users to update this information.

51.111 FOG PERMIT REQUIREMENT

(A) No FSE/FE shall discharge wastewater into the POTW without first obtaining a FOG Permit from the Control Authority, except when an FSE/FE has filed a timely application pursuant to Section 51.112 of this Ordinance may continue to discharge for the time period specified therein.

(B) The Control Authority may require other users to obtain FOG Permits as necessary to carry out the purposes of this Ordinance.

(C) Any violation of the terms and conditions of a FOG Permit shall be deemed a violation of this Ordinance and subjects the permitted sewer user to the sanctions set out in this Ordinance. Obtaining a FOG Permit does not relieve a permittee of its obligation to comply with all Federal and State Pretreatment Standards or Requirements or with any other requirements of Federal, State, and local law.

51.112 FOG PERMITTING: EXISTING CONNECTIONS

Any sewer user required to obtain a FOG Permit who was discharging wastewater into the POTW prior to the effective date of this Ordinance and who wishes to continue such discharges in the future, shall, within 60 days after said date, apply to the Control Authority for a FOG Permit in accordance with Section 51.114 of this Ordinance, and shall not cause or allow discharges to the POTW to continue after 150 days of the effective date of this Ordinance, except in accordance with a FOG Permit issued by the Control Authority.

51.113 FOG PERMITTING: NEW CONNECTIONS

Any sewer user required to obtain a FOG Permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to beginning or recommencing such discharge. An application for FOG Permit, in accordance with Section 51.114 of this Ordinance, must be filed at least 90 days prior to the date upon which any discharge will begin or recommence.

51.114 FOG PERMIT APPLICATION CONTENTS

(A) All sewer users required to obtain a FOG Permit must submit a permit application. The Control Authority may require sewer users to submit all or some of the following information as part of a permit application:

(1) Identifying Information.

(a) The name and address of the facility, including the name of the operator and the owner.

(b) Contact information, description of activities, facilities, and FOG production processes on the premises;

(2) Description of Operations/Facilities

(a) A brief description of the type of FSE/FE, size of location, available seating, major equipment used for food preparation and anticipated water usage.

(b) Number and type of employees, hours of operation, days of operation, and proposed or actual hours of operation.

(c) Site, floor, mechanical, and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge.

(3) The location, number, and size of all grease interceptors and other pretreatment equipment.

(4) Information regarding proposed grease haulers and/or proposed grease disposal methods and locations.

(5) Any other information as may be deemed necessary by the Control Authority to evaluate the Permit application.

51.115 APPLICATION SIGNATORIES AND CERTIFICATIONS

(A) All FOG Permit applications, sewer user reports, and certification statements must be signed by an authorized representative of the sewer user and contain the certification statement in Section 51.124 of this Ordinance.

(B) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, the new written authorization satisfying the requirements of this Ordinance must be submitted to Control Authority, prior to or together with any reports to be signed by an authorized representative.

51.116 FOG PERMIT DECISIONS

The Control Authority will evaluate the data furnished by the user and may require additional information. Within 30 days of receipt of a complete permit application, the Control Authority will determine whether to issue a FOG Permit. The Control Authority may deny any application for a FOG Permit. Reasons for denial of a FOG Permit may include, but are not limited to, the following: a history of consistent non-compliance with a past FOG Permit, an incomplete FOG Permit application, the potential introduction of industrial wastewater constituents that have a reasonable potential to cause POTW upset or pass-through, failure to pay the required FOG Permit fees or fines, etc.

51.117 FOG PERMIT DURATION

A FOG Permit shall be issued for a specified time period, not to exceed five years from the effective date of the permit. A FOG Permit may be issued for a period less than five years, at the discretion of the Control Authority. Each FOG Permit will indicate a specific date upon which it will expire.

51.118 FOG PERMIT CONTENTS

A FOG Permit shall include such conditions as are deemed reasonably necessary by the Control Authority to prevent pass through or interference and protect against damage or blockages in the POTW.

(A) FOG Permits must contain:

(1) A statement that indicates the FOG Permit issuance date, expiration date, and effective date;

(2) A statement that the FOG Permit is nontransferable without prior notification and approval of the Control Authority in accordance with Section 51.121 of this Ordinance, and provisions for furnishing the new owner or operator with a copy of the existing FOG Permit;

(3) Effluent limits, including BMPs, based on applicable pretreatment standards;

(4) Self monitoring, sampling, reporting, notification, pretreatment device maintenance, and record keeping requirements. These requirements shall include an identification of BMPs (or pollutants, if applicable) to be monitored, sampling location, sampling frequency, sample type, and pretreatment device maintenance frequency based on Federal, State, and local law.

(5) A statement of applicable civil and criminal penalties for violation of the FOG Permit or other applicable Federal, State, or local laws, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.

(B) FOG Permits may contain, but need not be limited to, the following conditions:

(1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

(2) Requirements for the installation of pretreatment technology, such as grease interceptors or other applicable appurtenances;

(3) Requirements for the development and implementation of spill control plans or other special conditions including BMPs necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;

(4) Development and implementation of waste minimization plans to reduce the amount of FOG or other pollutants discharged to the POTW;

(5) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;

(6) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;

(7) A statement that compliance with the FOG Permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those that become effective during the term of the FOG Permit; and

(8) Other conditions as deemed appropriate by the Control Authority to ensure compliance with this Ordinance, and State and Federal laws, rules, and regulations.

51.119 FOG PERMIT APPEALS

The permittee may petition the Control Authority to reconsider the terms of a FOG Permit within 30 days of notice of its issuance.

(A) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

(B) In its petition, the appealing party must indicate the FOG Permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the FOG Permit.

(C) The effectiveness of the FOG Permit shall not be stayed pending the appeal.

(D) If the Control Authority fails to act within 30 days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a FOG Permit, not to issue a FOG Permit, or not to modify a FOG Permit shall be considered final administrative actions for purposes of judicial review.

(E) Aggrieved parties seeking judicial review of the final administrative FOG Permit decision must do so by filing a writ of review to the Umatilla County Circuit Court.

51.120 PERMIT MODIFICATION

(A) The Control Authority may modify a FOG Permit for good cause, including but not limited to, the following reasons:

(1) To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;

(2) To address significant alterations or additions to the sewer user's operation, processes, or wastewater volume or character since the time of the FOG Permit issuance;

(3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

- (4) Violation of any terms or conditions of the FOG Permit;
- (5) Misrepresentations or failure to fully disclose all relevant facts in the FOG Permit application or in any required reporting;
- (6) To correct typographical or other errors in the FOG Permit; or
- (7) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with Section 51.121

51.121 FOG PERMIT TRANSFER

FOG Permits may be transferred to a new owner or operator only if the permittee gives at least 60 days advance notice to the Control Authority and the Control Authority approves the FOG Permit transfer. The notice to the Control Authority must include a written certification by the new owner or operator which:

- (A) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
- (B) Identifies the specific date on which the transfer is to occur; and
- (C) Acknowledges full responsibility for complying with the existing FOG Permit.

Failure to provide advance notice of a transfer renders the FOG Permit void as of the date of facility transfer.

51.122 FOG PERMIT REVOCATION

The Control Authority may revoke a FOG Permit for good cause including, but not limited to, the following reasons:

- (A) Failure to notify the Control Authority of significant changes to the wastewater prior to the changed discharge;
- (B) Failure to provide notification to the Control Authority of changed conditions pursuant to their FOG Permit;
- (C) Misrepresentation or failure to fully disclose all relevant facts in the FOG Permit application;
- (D) Falsifying self-monitoring reports and certification statements;
- (E) Tampering with monitoring equipment;

- (F) Refusing to allow the Control Authority timely access to the facility premises and records;
- (G) Failure to meet effluent limitations;
- (H) Failure to pay fines;
- (I) Failure to pay sewer charges;
- (J) Failure to meet compliance schedules;
- (K) Failure to complete a wastewater survey or the Wastewater Discharge Permit Application;
- (L) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- (M) Violation of any pretreatment standard or requirement, or any terms of the FOG Permit or this Ordinance.

FOG Permits shall be voidable upon cessation of operations or transfer of business ownership. All FOG Permits issued to a Sewer User are void upon the issuance of a new FOG Permit to that Sewer User.

51.123 FOG PERMIT RE-ISSUANCE

A sewer user with an expiring FOG Permit shall apply for a FOG Permit reissuance by submitting a complete permit application, in accordance with Section 51.114 of this ordinance, a minimum of 90 days prior to the expiration of the sewer user's existing FOG Permit.

51.124 CERTIFICATION STATEMENTS

(A) Certification of Permit Applications and Sewer User Reports The following certification statement is required to be signed and submitted by sewer users submitting permit applications in accordance with Section 51.115; sewer users submitting periodic compliance reports required by their FOG Permit; and sewer users submitting permit appeals in accordance with Section 51.119. The following certification statement must be signed by an authorized representative of the sewer user:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for

submitting false information, including the possibility of fine and imprisonment for knowing violations.

PROGRAM ADMINISTRATION

51.125 POWER AND AUTHORITY OF INSPECTORS

(A) The Control Authority, or designee, shall be permitted to enter all properties during either the Control Authority's or FSE/FE's normal operating or business hours for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this chapter.

(B) While performing the necessary work on private properties referred to in 51.125(A), the Control Authority representative shall observe all safety rules applicable to the premises established by the owner.

(C) The Control Authority shall be permitted to enter all private properties through which either the Control Authority holds a duly negotiated easement or the FE/FSE/sewer user is regulated by the Control Authority via a FOG Permit, for the purposes of, but not limited to, inspection, observation, measurement sampling, repair, and maintenance, in accordance with Section 51.130 of the Sewer Code. Such work shall be done in full accordance with the terms of the duly negotiated easement or FOG Permit pertaining to the private property involved, including any requirements that the Control Authority provide prior notice to the private property owner before entering onto the property that is subject to the easement or FOG Permit.

(D) If the Control Authority is refused access to the facility, the Control Authority may pursue all legally available options to gain access including, but not limited to, obtaining search warrants for inspection and sampling purposes. No person shall interfere with, delay, or refuse entrance to such personnel attempting to inspect or enforce upon any facility involved directly or indirectly with the discharge of wastewater to the Control Authority sewer system.

51.126 ENFORCEMENT AUTHORITY

The Control Authority may develop BMPs and/or a FOG enforcement response plan to implement the provisions of 40 CFR Part 403.5(b)(3) and (6). Such BMPs shall be considered local limits and pretreatment standards for the purposes of this Ordinance and Section 307(d) of the Act.

51.127 FOG ABATEMENT PROGRAM CHARGES AND FEES

The Control Authority's FOG abatement program may include:

(A) Fees for grease interceptor permits including the cost of processing such applications;

(B) Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing cleaning reports submitted by users;

(C) Fees for reviewing and responding to accidental discharge and FOG interference in the POTW;

(D) Fees for filing appeals;

(E) Fees to recover administrative and legal costs (not included in 51.127(B)) associated with the enforcement activity taken by the Control Authority to address FSE/FE user noncompliance; and

(F) Other fees as the Control Authority may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this Ordinance and are separate from all other fees, fines, and penalties chargeable by the Control Authority.

51.128 VARIANCE PROCESS

A facility operator unable to meet the applicable requirements of these rules may request a variance in accordance with the process outline in Section 51.119 of this Ordinance. Alternative methods, interceptors, or schedules may only be adopted with the approval of the Control Authority and must be in compliance with overlapping jurisdictions. A processing fee may apply. Facility operators who violate the terms of an approved variance will be in violation this Ordinance and subject to enforcement.

51.129 ENFORCEMENT ACTION APPEAL PROCESS

A user who desires to appeal a decision imposing an administrative fine or other enforcement action must file a written request with the Control Authority for reconsideration of the fine along with full payment of the fine amount within 30 days of being notified of the fine. Upon receipt of the written request for reconsideration, the Control Authority shall conduct a hearing on the matter within 30 days of receiving the request from the user. In the event the user's appeal is successful, the payment for the fine, together with any interest accruing thereto, shall be returned to the user.

ADMINISTRATION AND ENFORCEMENT

~~51.110~~ 51.130 POWERS AND AUTHORITY OF INSPECTORS.

(A) The city's duly authorized employees bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing, in accordance with the provisions of this chapter. City employees denied entry may obtain an administrative warrant or a search warrant. The city shall have no authority to inquire into any processes

including metallurgical, chemical, oil, refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers of waterways or facilities for waste treatment.

(B) While performing the necessary work on private properties, as defined in this chapter, the city or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the property owner or person in charge of the property; and such person shall be held harmless for injury or death to the city employees and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as may be caused by negligence or failure of the company to maintain safe conditions and within the limits of the Oregon Tort Claims Act.

(C) The city or other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter onto any city or publicly owned easement for the purposes of but not limited to inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within the easement. All entry and subsequent work, if any, on the easement shall be done in full accordance with the terms of the easement pertaining to the private property involved.

~~51.111~~ 51.131 NOTICE OF VIOLATION.

Any person found to be violating any provision of this chapter, except provisions on protection from damage, and except for the provisions of §§ [51.090](#) through [51.097](#), or as otherwise provided in this chapter, may be served with a citation or complaint as provided in Chapter [136](#) or [138](#) or by law. Nothing in this section precludes the city from first issuing a notice and opportunity to resolve the violation or limits the authority of the city to declare the violation to be a nuisance or to pursue any other remedy provided in this chapter or provided by law.

~~51.112~~ 51.132 LIABILITY FOR DAMAGE.

Any person violating any of the provisions of this chapter shall become liable to the city for any expense, loss or damage occasioned the city by reason of the violation.

~~51.113~~ 51.133 DISCONTINUANCE OF SERVICE FOR VIOLATION.

The city may discontinue service for failure to observe all terms of this chapter. Any costs incurred for discontinuation will be paid by the user in accord with this chapter.

~~51.114~~ 51.134 AUTHORITY TO ADOPT RULES.

The City Council may, by resolution, adopt such rules and regulations as the Council determines reasonable and necessary to implement or supplement this chapter. Except as provided otherwise in such rules and regulations, violation of a rule or regulation shall constitute a violation of this chapter.

51.999 PENALTY.

(A) Any person found to have violated the provisions of §§ [51.002](#) through [51.076](#) or a permit, approval or rules adopted thereunder, including any violation beyond the time limit granted for compliance by the city, if any, provided in § ~~51.444~~ [131](#), commits a Class B violation.

(B) Any person found to have violated any provision of §§ [51.090](#) through [51.097](#), permits and orders issued thereunder, or any other pretreatment requirement commits a Class B violation. Fines shall be assessed on a per violation, per day basis. Fines assessed may take into consideration the magnitude of the violation and the willingness of the industrial user to return to compliance. In the case of monthly or other long-term average discharge limits, fines may be assessed for each business day during the period of violation.

(1) Fines may be collected by adding fine amounts to the user's next scheduled sewer service charge and the city shall have other collection remedies as may be available for fines.

(2) Unpaid charges, fines, and penalties together with interest therefrom shall constitute a lien against the individual user's property and may constitute cause for revocation of an industrial user's discharge permit. If an industrial user fails to file a timely and complete request to review enforcement action, the user shall be deemed to have consented to pay the fine assessed and to comply with all other terms of the enforcement action.

(C) Any industrial user found to have committed the same or substantially the same violation within one year commits a Class A violation. Fines shall be assessed on a per violation, per day basis. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each business day during the period of this violation.

(D) Where appropriate, the city may request that the review authority or court impose mitigation projects in lieu of the payment of civil penalties where the project provides a valuable service to the city and the industrial user's expense in undertaking the project is at least 100% of the penalty.

(E) Any person found to have violated any provision of §§ 51.100 through 51.129, permits and orders issued thereunder, or any other requirement commits a Class B violation. Fines shall be assessed on a per

violation, per day basis. Fines assessed may take into consideration the magnitude of the violation and the willingness of the user to return to compliance. In the case of monthly or other long-term average discharge limits, fines may be assessed for each business day during the period of violation.

(1) Fines may be collected by adding fine amounts to the user's next scheduled sewer service charge and the city shall have other collection remedies as may be available for fines.

(2) Unpaid charges, fines, and penalties together with interest therefrom shall constitute a lien against the individual user's property and may constitute cause for revocation of a user's permit. If a user fails to file a timely and complete request to review enforcement action, the user shall be deemed to have consented to pay the fine assessed and to comply with all other terms of the enforcement action.

(F) Any user found to have committed the same or substantially the same violation under §§ 51.100 through 51.129 within one year commits a Class A violation. Fines shall be assessed on a per violation, per day basis. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each business day during the period of this violation.

~~(E)~~ G Nothing in this section precludes the city from declaring the violation to be a public nuisance, pursuing injunctive or other relief, bringing an action for damages or pursuing any other remedy provided by law.

Section 2. All other provisions of the Hermiston Municipal Code remain unchanged and in full effect.

Section 3. The City Recorder is hereby authorized to correct any scrivener's errors and to conform the revisions to the Hermiston Municipal Code with appropriate numbering.

Section 4. This ordinance shall take effect on the 30th day after its adoption.

ADOPTED by the Common Council this 12th day of November 2024.

SIGNED by the Mayor this 12th day of November 2024.

Dr. David Drotzmann, Mayor

ATTEST:

Lilly Alarcon-Strong, CMC City Recorder