

# Agenda Report

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June 16, 2014 City Council Meeting

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Item No. 10

## **ISSUE: Ordinance regulating the disposal of commercial waste water**

### **BACKGROUND:**

Below is an update on the completion of Windsor Heights' FOG Ordinance so the WRA and City can begin doing effective restaurant inspections: WH did make the 2010 amendments (called ordinance 10-11) to the original ordinance adopted in 2006. The framework is in place which is good. However, there are some items that should be addressed with it.

The amendment ordinance (10-11) mentions that its purpose is to update and revise sections of Chapter 100 of the Municipal Code - Regulation of Industrial Wastewater, Commercial Wastewater and Hauled Waste. We had chapter 36 instead of chapter 100 listed. This is now corrected. Also, the section numbers for each title were missing. This has been amended.

The Administrative Penalties Schedules for industrial pretreatment violations in hauled waste and FOG discharge (used DSM at example). These provide for the fines that may be associated with Notice of Violations that could be issued to restaurants for non-compliance with the FOG ordinance. There was no record of these being adopted by WH, either with the adoption of the 2006 Industrial Wastewater Ordinance or in 2009 when many of the member communities adopted the Admin. Penalties. This has been amended to allow the city to enforce the illegal dumping of FOG into the sewer system.

WH will work cooperatively with the WRA and local businesses to ensure compliance in a fair and productive way.

### **RECOMMENDATION:**

Staff recommends the City Council approve Ordinance 14-08 on first reading

### **STAFF CONTACTS:**

Jason VanAusdall, Public Works Director

ORDINANCE NO. 14-08

CONSIDERATION OF AN ORDINANCE TO AMEND THE CODE OF ORDINANCES FOR THE CITY OF WINDSOR HEIGHTS, IOWA BY AMENDING SECTIONS OF CHAPTER 100 – REGULATION OF INDUSTRIAL WASTEWATER, COMMERCIAL WASTEWATER AND HAULED WASTE

BE IT ENACTED by the City Council of the City of Windsor Heights, Polk County, Iowa:

SECTION 1. Purpose. The purpose of this ordinance is to update and revise certain sections of Chapter 100 of the Municipal Code. These changes have been requested by the WRA and the Urbandale Windsor Heights Sanitary Sewer District.

SECTION 2. Created and Amended. Chapter 100. is amended to read as follows and renumber as appropriate:

DIVISION 5. REGULATION OF FAT, OIL AND GREASE DISCHARGE BY FOOD SERVICE ESTABLISHMENTS.

**Sec. 100-477 Definitions.**

*Food Service Establishment* or *FSE* means an operation or enterprise that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption. Such facilities may include, but are not limited to, those that process meat or other food ingredients as an intermediate step or for final human consumption, food service operations in a summer camp, residential substance abuse treatment facility, halfway house, correctional facility, school, restaurant, commercial kitchen, caterer, church, hotel, bar, hospital, prison, care institution or similar facility.

**Sec. 100-479 Grease interceptor installation required after effective date.**

The owner or operator of a building or facility in which an FSE is located, and the owner or operator of an FSE, shall be required to install an approved grease interceptor, and to thereafter operate and maintain same as provided in this division.

**Sec. 100-480 Exemption from grease interceptor installation requirement for existing facilities.**

The requirements of section 100-479 shall not apply to that portion of a building or facility within which an FSE is in existence on the effective date if:

- (a) The FSE has an existing grease interceptor or grease trap in place as of the effective date and provided that (1) the owner or occupant of the FSE continues to use the interceptor or trap, (2) the interceptor or trap is of sufficient capacity and design, and (3) the interceptor or trap is operated and maintained so as to comply with FOG discharge limits; and

(b) Any repair, remodeling or renovation of the wastewater plumbing system in the existing FSE involves only (1) the repair of leaks or the clearing of stoppages in drains, soil, waste or vent piping, or (2) the removal and reinstallation of a sink, toilet or hot water heater; provided that such work does not involve replacement, rearrangement or moving of wastewater pipes, floor sinks, drainage fixtures or grease traps; and

(c) None of the following conditions are present:

(1) A building or facility exists on the effective date and is thereafter expanded or renovated, or a portion thereof, to include an FSE where such FSE did not previously exist; or

(2) An FSE exists on the effective date within a building or facility, or portion of a building or facility, and application is thereafter made for a building permit(s) for such building or facility with valuation of \$50,000 or more within a twelve (12) month period; or

(3) A building or facility, or portion thereof, that contained an FSE on the effective date but in which an FSE ceases to operate for one year or more, as determined by Iowa Department of Inspections & Appeals, Food and Consumer Safety Bureau records.

#### **Sec. 100-481 Compliance procedures.**

(b) An FSE shall be deemed compliant, unless the WRA director or local building official or designee determines that an existing grease trap or grease interceptor is incapable of adequately retaining FOG. In such cases, the Director may order the FSE to install an adequate grease interceptor within a specified time period if:

1) the FSE is found to contribute FOG in quantities above FOG discharge limits; or

2) the FSE discharges necessitate increased maintenance on the publicly owned treatment works (POTW) in order to keep stoppages from occurring therein; or

3) the FSE's discharge to the POTW is at anytime determined to exceed four hundred (400) mg/l total FOG.

(c) An order directing an existing FSE or the owner or operator of the FSE or the owner of the building or facility in which the FSE is located to install a grease interceptor shall be in writing from the WRA Director in the form of a notice of violation including a corrective action order, as provided in section 100-488 of this division.

(d) FSEs or owners of buildings or facilities within which an FSE is located which are unable to install or replace a grease interceptor due to exceptional physical constraints or economic hardship may appeal to the WRA director for approval of an alternative grease control technology by requesting a hearing in accordance with the provisions of this division. Such requests shall be submitted in writing and shall include detailed descriptions of the FSE's

physical or financial constraints and the alternative grease control technology which it proposes to install and utilize.

- 1) In order to demonstrate exceptional economic hardship, the owner or operator of the FSE shall submit to the WRA director balance sheets and profit and loss statements for FSE for the preceding three (3) years. A new FSE shall submit profit/loss projections or a detailed business plan with projections for twenty-four (24) months. Each request shall be evaluated on a case-by-case basis.
- 2) Notwithstanding approval of alternative grease control technology, when the WRA director determines that such alternative is not performing adequately, the FSE or owner of the building or facility in which the FSE is located shall be required to take additional grease control measures, which may include the installation of a grease interceptor.
- 3) In order to demonstrate exceptional physical site constraints preventing the installation of a grease interceptor, the owner or operator of the FSE or owner of the building or facility in which the FSE is located shall submit to the WRA director documentation and plats showing the location of city sanitary sewer and any private easements in relation to the building sewer for the building housing the FSE, and showing available space inside or outside the building and drawings of existing plumbing at or in a site that uses common plumbing for all services at that site.
- 4) An FSE that is given an exemption from installing a properly sized grease interceptor is prohibited from installing or using a dishwasher or garbage disposal without approval of the director and must comply with the conditions of such approval, if any.

**Sec. 100-482 Installation of grease interceptors and grease traps.**

Grease interceptors and grease traps, when required, shall be installed as follows:

- 1) Grease interceptors and grease traps shall be installed at the expense of the owner or operator of the FSE or owner of the building or facility in which the FSE is located which is contributing wastewater to the POTW.
- 2) All wastewater streams containing FOG or reasonably likely to contain FOG within FSEs or other FOG generating operations shall be directed into one or more appropriately sized grease interceptor before discharge to the POTW. Grease interceptors shall be either sized by adding the peak design flow rates for all fixtures leading to the grease interceptor and allowing a minimum retention time of thirty (30) minutes or as follows:

Grease Interceptor Sizing

1. Peak meals per hour
  - a. Seating capacity of FSE \_\_\_\_\_
  - b. Occupancy of FSE \_\_\_\_\_\*
  - c. Seating or occupancy x meal factor of 1.3 (45 minute meal) = Peak meals per hour
- \* Church: include all area(s) used for meal service
- \* Assisted Living/nursing facility: equal to maximum number of residents (per State license)
2. Waste flow rate, gallons of flow
  - a. Commercial, equipped kitchen with dishwasher & one garbage disposal\* 7
  - b. Commercial, equipped kitchen with dishwasher, no garbage disposal 6
  - c. Commercial, equipped kitchen with no dishwasher, one garbage disposal 6
  - d. Commercial, equipped kitchen with no dishwasher, no garbage disposal 5
  - e. Single serve kitchen\*\* 2
- \* Each additional garbage disposal, add one (1) gallon
- \*\* Single service kitchen = no garbage disposal, no dishwasher and all service is single use
3. Retention time, hours
  - a. Commercial kitchen 2.5
  - b. Single service kitchen 1.5
4. Storage factor
  - a. Commercial kitchen up to 8 hours of operation 1
  - b. Commercial kitchen up to 16 hours of operation 2
  - c. Commercial kitchen up to 24 hours of operation 3
  - d. Single service kitchen 1.5

Peak Meals		Waste Flow		Retention		Storage		Calculated
Per hour	X	Rate	X	Time	X	Factor	=	Interceptor Size

3) Concrete grease interceptors whether precast or poured in place, shall be designed and manufactured in accordance with ASTM C 1613-08 Standard Specification for Precast Concrete Grease Interceptor Tanks or IAPMO/ANSI Z1001 Grease Interceptors and shall be installed in accordance with the codes adopted by the jurisdiction in which the FSE is located. Where no code is adopted, the construction and installation shall be in accordance with the Iowa State Plumbing Code and this division. Grease interceptors

using materials other than concrete require approval by the director, and shall comply with the conditions of such approval, if any.

4) The building official or other designated official of the governmental subdivision within which the FSE is located shall inspect each grease interceptor installation made pursuant to this division, shall review all relevant information regarding the rated performance of the grease interceptor, and the building plan and facility site plan for the building and site where the grease interceptor has been installed, and shall approve such grease interceptor installation upon determination that the grease interceptor meets all applicable standards and requirements.

5) Grease interceptors shall have a minimum capacity of one thousand (1000) gallons and shall not exceed five thousand (5000) gallons for a single unit. Where a capacity greater than five thousand (5000) gallons is required, several smaller units shall be installed in series, however the capacity shall not exceed ten thousand (10,000) gallons for any single series of interceptors without approval of the director.

6) Grease interceptors shall be installed outside the building housing the FSE and below surface grade, and shall have access manholes, with a minimum diameter of twenty-four (24) inches, over each chamber and sanitary tee. Access manholes shall extend from the grease interceptor to at least the finished surface grade and be designed and maintained to prevent storm or surface water inflow and groundwater infiltration. The manholes shall also have readily removable covers to facilitate inspection and grease removal.

7) Sewer lines which are not grease laden, which are not likely to contain FOG, or which contain sanitary wastes shall not be connected to a grease interceptor.

8) Grease interceptors shall be equipped with an accessible discharge sampling port with a minimum six (6) inch diameter, which shall extend from the grease interceptor to at least the finished surface grade.

9) Where grease interceptors are shared by more than one FSE, the building owner shall be the responsible party for record keeping and cleaning of the interceptor.

#### **Sec. 100-485 Inspection of grease interceptors and related sewers and equipment.**

The owner or operator of an FSE shall:

1) Provide, operate and maintain, at its expense, safe and accessible monitoring facilities (such as a suitable manhole), and shall make such monitoring facilities available for inspection, and for sampling and flow measurement of the building sewer or internal drainage systems. There shall be ample room in or near such monitoring facility to allow accurate sampling and preparation of samples for analysis.

2) Shall allow personnel authorized by the WRA director or by the city building official or designee, bearing proper credentials and identification, to enter upon or into any building, facility or property housing an FSE at any reasonable time and without prior notification, for the purpose of inspection, observation, measurement, sampling, testing or record review, in accordance with this division.

3) Shall, upon request by the WRA director's authorized representative, open any grease interceptor for the purpose of confirming that maintenance frequency is appropriate, that all necessary parts of the installation are in place, including but not limited to, baffles influent and effluent tees, and that all grease interceptors and related equipment and piping is maintained in efficient operating condition.

4) Shall accommodate compliance inspections and sampling events by the authorized representatives of the WRA director or of the city building official. Staff may conduct routine inspections and sampling events of any food service establishment. Non-routine inspection and sampling events shall occur more frequently when there is a history of non-compliance with this division and when blockages occur in the city's sanitary sewer system downstream of the FSE.

#### **Sec. 100-486 Inspection Fees.**

The fees for inspection of an FSE shall be as provided in section 100-1002 and shall be paid within thirty (30) days of the date of the invoice for such fees.

#### **Sec. 100-489 Penalties.**

(a) Any person who fails to perform an act required by this division or who commits an act prohibited by this division shall be guilty of a misdemeanor punishable by fine or imprisonment or shall be guilty of a municipal infraction punishable by a civil penalty.

(b) Any person who fails to comply with a pretreatment standard applicable to an FSE shall be guilty of a municipal infraction punishable by a civil penalty of not more than one thousand dollars for each day the violation exists or continues, as provided by section 1004.22 or 331.307 of the Iowa Code.

(c) When enforcement is sought through a municipal infraction proceeding, the director, or such other designated officers or officials with enforcement authority as provided in section 100-487, may enter into consent orders, assurances of voluntary compliance or other similar documents establishing an agreement with the user responsible for noncompliance. Such orders will include specific action to be taken by the user to correct the noncompliance within a time period specified by the order.

#### **Sec. 100-491 Appeal of corrective action order or cease and desist order.**

(a) Any person aggrieved by a corrective action order or a cease and desist order issued by the WRA director or by such other designated officers or officials with enforcement authority as provided in section 100-487, may, file an appeal and request a ruling that such order be modified or rescinded.

(b) Such appeal request shall be in writing, shall include the grounds for appeal including any factual findings which are disputed, and shall be delivered to the WRA within ten (10) days

after the WRA director's issuance of the order. Such appeal request shall be considered delivered when placed in the mail, return receipt requested, addressed to:

WRA Appeal Committee  
%Des Moines Metropolitan Wastewater Reclamation Authority  
3000 Vandalia Road  
Des Moines, Iowa 50326

(c) The chair of the appeal committee shall schedule the appeal and shall cause notice of the time, date and place of the hearing to be mailed to the appealing party. Such appeal shall be decided by majority vote of the appeal committee. The appeal committee may affirm, modify or rescind the order of the director and shall so state and order in its written decision.

SECTION 3. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed, including but not limited to conflict provisions of City Ordinance Chapters 36 and 100.

SECTION 4. Severability. If any section, provision or part of this ordinance shall be adjudged to be unconstitutional or invalid, such adjudication shall not affect the validity of this ordinance as a whole, or any section, provision or part thereof not adjudged unconstitutional or invalid.

SECTION 5. Effective Date. This ordinance shall be effective from and after its final passage, approval and publication as provided by law.

Passed by the City Council this \_\_\_\_\_ day of July and approved this \_\_\_\_\_ day of July, 2014.

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Diana Willits, Mayor

ATTEST:

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Jeffrey A. Fiegenschuh, City Administrator

CLERK'S CERTIFICATE

I, Jeff Fiegenschuh, do hereby certify that I am the duly appointed, qualified and acting City Clerk of the City of Windsor Heights, Iowa, and that the above and foregoing is a true and correct copy of an ordinance passed by the City Council of the City of Windsor Heights, Iowa, as provided by law on the \_\_\_\_ day of July, 2014, approved as provided by law on the \_\_\_\_ day of July, 2014, and published as provided by law on the \_\_\_\_ day of July, 2014.

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***Jeffrey A. Fiegenschuh, City Administrator***