

ORDINANCE NO. 01062020-03 AMENDED

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELKHART, TEXAS, AMENDING ORDINANCE NO. O-01062020-3 BY ESTABLISHING PROVISIONS REGULATING THE DISPOSAL OF FATS, OILS, AND GREASE BY FOOD ESTABLISHMENTS; REQUIRING INSTALLATION AND MAINTENANCE OF GREASE TRAPS TO PREVENT FATS, OILS, AND GREASE FROM ENTERING THE WATER SYSTEM; REQUIRING INSPECTION OF BACKFLOW PREVENTION DEVICES; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PUBLICATION CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Elkhart, Texas, is a Type A general-law municipality located in Anderson County, created in accordance with the provisions of Chapter 6 of the Texas Local Government Code, and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, the City is authorized and empowered to adopt and enforce ordinances, not inconsistent with state law, that are necessary to protect the welfare and safety of its inhabitants, such as ordinances regulating the operation of food establishments, including, but not limited to, retail food stores, mobile food units, temporary establishments, and roadside food vendors; and

WHEREAS, the City Council ("Council") of the City serves as the elected governing body directly responsible for the promotion and protection of the public health and safety of the City's citizens and inhabitants; and

WHEREAS, the Council finds that the City's food establishment regulations, contained in Ordinance No. O-01062020-3, should address grease from food establishments, which is a common cause of blockages in water treatment works that cause public health issues and negatively impact water quality; and

WHEREAS, the Council finds that regulations regarding grease traps and backflow prevention devices in food establishments are necessary to the health, safety, and general welfare of the inhabitants of the City.

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

SECTION 1. DEFINITIONS

Section 1.B. of Ordinance No. O-01062020-3 is hereby amended by adding the following definitions by alphabetical insertion:

The words "fats, oils, and/or greases" mean organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. These substances are detectable and measurable using analytical test procedures established in 40 C.F.R. 136, as may be amended. All are sometimes referred to herein as "grease" or "greases."

The words "food establishment operator" mean the owner or operator of a food establishment as defined in Ordinance No. O-01062020-3.

The words “grease trap” mean a device, also known as an interceptor, designed to use differences in specific gravities to separate and retain light density liquids, waterborne fats, oils, and greases prior to the wastewater entering the sanitary sewer collection system. These devices also serve to collect settleable solids, generated by and from food preparation activities, prior to the water exiting the trap and entering the sanitary sewer collection system.

SECTION 2. GREASE TRAPS REQUIRED FOR EXISTING AND NEW FACILITIES

- (a) Grease traps at food establishments existing at the time this ordinance is passed must be operated and maintained in accordance with the manufacturer's recommendations and in accordance with the requirements described herein. If an existing food establishment does not operate a grease trap, it must install an appropriate grease trap as described herein within sixty (60) days following the passage of this ordinance.
- (b) Newly proposed food establishments, or existing facilities which will be expanded or renovated to include a food service facility where such a facility did not previously exist, shall be required to design, install, operate and maintain a grease trap in accordance with the standards of this section. Grease traps shall be installed and inspected prior to issuance of a certificate of occupancy.

SECTION 3. GREASE TRAP REGULATIONS

- (a) Facilities generating fats, oils, and/or greases as a result of non-residential food manufacturing, processing, preparation, or service on the premises shall install, use, and maintain appropriate grease traps as required by the following subsections. All costs for such installation, maintenance, operation, and, if necessary, the modification of such grease traps shall be the responsibility of the food establishment operator. No food establishment operator shall intentionally or unintentionally allow the direct or indirect discharge of any grease, petroleum oil, nonbiodegradable cutting oil, or mineral oil into the city sewer system in such amounts as to cause interference with the city water or sewer systems or to cause pollutants to pass into the environment.
- (b) Grease traps shall be installed, maintained, and operated in accordance with city, state, and federal standards and shall have a minimum capacity of 750 gallons unless otherwise determined by the Director of Public Works or the Director's designee. If necessary due to expansion of the use of the property or revision of applicable regulations or and discharge standards, the owner of a food service establishments shall modify grease traps to remain in compliance with this section and any other regulations and discharge standards.
- (c) The owner of the food service establishment shall be responsible for the installation, operation, maintenance and, if necessary, the modification of the grease trap to comply with all applicable laws and discharge standards. Required maintenance shall be performed in accordance with all applicable local, state, and federal regulations, and shall include, at minimum, the following:
 - (1) Regular inspection and discharge sampling of the grease trap at least once every 90 days to ensure that sediment and floating materials do not accumulate to impair the efficiency of the grease trap. Discharge samples shall be tested following inspection. BOD (Biochemical Oxygen Demand) and TSS (Total Suspended Solids) limits must be below 300 parts per million. Oil and Grease (O&G) limits must be below 200 mg/L. Owners shall report results of inspections to the Director of Public Works.

- (2) Regularly scheduled pumping by a licensed waste hauler at least once every 180 days, or following the 90-day inspection when (i) such inspection reveals that twenty-five (25) percent or more of the wetted height of the grease trap, as measured from the bottom of the device to the invert of the outlet pipe, contains floating materials, sediment, oils or greases; or (ii) the discharge sample exceeds the BOD, TSS, or O&G limits described in subsection (c)(1).
- (3) Additional pumping by a licensed waste hauler at any other times necessary to prevent impairment of the city sewer line and maintain the efficiency of the grease trap.
- (4) Within 15 days of pumping, as required by this subsection (c)(1), owners shall provide the Director of Public Works a written manifest signed by the licensed waste hauler containing, at minimum, information including the type and volume of grease disposed, the date of disposal, the information and registration number of the licensed waste hauler, and the disposal site location and registration number. Food establishments shall retain copies of manifests for five years and shall make such copies readily available for review by the Director of Public Works.

SECTION 4. BACKFLOW PREVENTION DEVICE INSPECTION

Backflow prevention devices installed in accordance with Title 25, Chapter 228 of the Texas Administrative Code shall be inspected annually.

SECTION 5. ORDINANCE CUMULATIVE

This Ordinance shall be cumulative of all provisions of the City of Elkhart's ordinances, except when the provisions of this Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances and such code are hereby repealed.

SECTION 6. SEVERABILITY

Should any provision of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this ordinance shall remain in full force and effect.

SECTION 7. PENALTY

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Five Hundred Dollars (\$500.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense. Additionally, such offense may result in the suspension of water service until such non-compliance is resolved, and the Director of Public Works may suspend the certificate of occupancy for the property until the violation is corrected. Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance may also be subjected to such civil penalties and such civil remedies as authorized by law.

SECTION 8. SAVINGS

All rights and remedies of the City are expressly saved as to any and all violations of the provisions of any ordinance amended or revised herein, or any other ordinances affecting the matters regulated herein which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending

litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 9. PUBLICATION

The City Secretary of the City of Elkhart is hereby directed to publish in the official newspaper of the City of Elkhart, the caption and the penalty clause of this ordinance in accordance with Section 52.011 of the Local Government Code.

SECTION 10. EFFECTIVE DATE

This ordinance shall become effective after its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED by the City Council of the City of Elkhart on this 6 day of September, 2022.


JENNIFER MCCOY, MAYOR

ATTEST:


Jan Stuteville, City Secretary