

Ordinance No. 1803

AN ORDINANCE OF THE CITY OF FERNDALE ESTABLISHING A FATS, OILS, AND GREASE (FOG) CONTROL REGULATION

WHEREAS, it is necessary to prevent interference with wastewater treatment and to prevent blockages and obstructions of the sanitary sewer system due to contributions and accumulation of fats, oils, and grease from commercial, industrial, and institutional establishments, particularly food preparation, processing, packaging, or serving facilities;

NOW, THEREFORE, the City Council of the City of Ferndale do ordain as follows:

Section 1: The following shall be adopted as section 13.33 FATS, OILS, AND GREASE (FOG) CONTROL of the Ferndale Municipal Code.

Sections:

- 13.33.010 Scope and Purpose
- 13.33.020 Definitions and Exemptions
- 13.33.030 Applicability and Exemptions
- 13.33.040 FOG Discharge Limits
- 13.33.050 FOG Control Requirements - General
- 13.33.060 FOG Control Device Design and Implementation Standards
- 13.33.070 FOG Control Device Operations and Maintenance Requirements
- 13.33.080 Maintenance Records, Monitoring, and Reporting
- 13.33.090 Significant Changes in Facility Operation
- 13.33.100 Facility Closure
- 13.33.110 Judicial Enforcement Remedies

13.33.010 Scope and Purpose

The purpose of the Fats, Oils, and Grease (FOG) Control Ordinance (Ordinance) is to prevent interference with wastewater treatment and to prevent blockages and obstructions of the sanitary sewer system due to contributions and accumulation of fats, oils, and grease from, including but not limited to, commercial, industrial, and/or institutional facilities, which engage in, among other things, the preparation, processing, packaging, and/or serving of food.

The Ordinance seeks to meet that purpose by instituting the following objectives:

- A. Requiring FOG dischargers to prepare a FOG Management Plan
- B. Requiring FOG dischargers to control FOG discharge through installation of FOG control devices and through use of Best Management Practices (BMPs)
- C. Requiring FOG dischargers to perform maintenance and reporting on FOG control devices and BMPs

13.33.020 Definitions

For the purposes of this Section, the following definitions shall apply:

Best Management Practices. Methods or techniques found to be the most effective in achieving an objective such as preventing or minimizing pollution. In this Ordinance, BMP's refer to methods and techniques used by food service establishments and food manufacturers/processors and other facilities that may have an impact on the sewer system by the deposition of FOG, to prevent or minimize the deposition of fats, oils, and grease from cooking, baking, processing, manufacturing, and other processes in private sewer laterals and public sewer lines, structures, and wastewater treatment facilities.

Brown Grease. Fats, Oils, and Greases (FOG) and food solids that are retained in and removed from FOG control devices most commonly serving food service establishments, institutions with commercial kitchens, and industrial food manufacturers/processors. Brown grease is generally considered unsuitable for reuse in most applications.

Director. The "Director" herein refers to the City of Ferndale Public Works Director or the Director's "Designated Representative."

Fats, Oils, and Greases (FOG). 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 the United States Code of Federal Regulations 40 CFR 136, as may be amended from time to time. All are sometimes referred to herein as “grease” or “greases.”

FOG Control Device. A control device for removing or significantly reducing FOG from the liquid waste stream of a food service establishment or food manufacturer/processor prior to the wastewater entering the municipal sewer system.

FOG Discharger. An FSE, FM/P, or any other nonresidential User who discharges FOG to the sewer system.

Food Manufacturer/Processor (FM/P). Those manufacturing facilities primarily engaged in manufacturing and/or processing food, either for human or non-human (pets, livestock, etc.) consumption. Manufacturers and/or processors include, but are not limited to, dairies; creameries; slaughterhouse, meat processing, and packing facilities; industrial bakeries; condiment producers; salad dressing producers; cooking oil facilities, canning facilities; and any other commercial/industrial facility that discharges FOG into the sewer system.

Food Service Establishments (FSE). Those establishments engaged in the activity of preparing, serving, or otherwise making food available for consumption by the public, which use one or more of the following preparation methods: cooking by frying (all methods), baking (all methods), grilling, sautéing, rotisserie cooking, broiling (all methods), boiling, blanching, roasting, toasting, infrared heating, searing, barbecuing, and any other method of food preparation that produces or may produce hot, non-drinkable food product in or on a receptacle that requires washing. These establishments include, but are not limited to, restaurants, bakeries, commercial kitchens, caterers, hotels, schools, religious institutions, hospitals, prisons, correctional facilities, and care institutions.

Grease Trap. A device for separating and retaining waterborne greases and grease complexes prior to the exit of the wastewater from the trap and the entry of such wastewater into the sanitary sewer system. Such traps are typically under-the-sink units that are near

food preparation areas but could include other types of grease trap units.

Grease Interceptor. A structure or device designed for the purpose of removing and preventing fats, oils, and grease from entering the sanitary sewer system. These devices are often below-ground units in outside areas and are built as two or three chamber baffled tanks but could include other types of interceptor units.

Minimum Design Capacity. The design features of a grease interceptor or grease trap and the ability or volume required of either to effectively intercept and retain FOG from FOG-laden wastewaters discharged to the public sanitary sewer

Sample Well. A small structure or chamber, usually below ground with a surface access, that easily allows the collection of a wastewater sample. A sample well is often placed immediately downstream of an outdoor in-ground grease interceptor and upstream of the sanitary sewer line. A sample well can also be incorporated into the discharge of an under-the-sink grease trap in a commercial or institutional kitchen.

Sewer (Sanitary Sewer). A pipe or conduit (sewer) intended to carry wastewater or water-borne wastes from homes, businesses, and industries.

Sewer System. A system for collecting, conveying, and treating sewage. The system may include private sewer laterals, public sewer lines, manholes, other structures, and wastewater treatment facilities

User. Any person or entity, including those located outside the jurisdictional limits of the City of Ferndale (City), who contributes, causes, or permits the contribution or discharge of wastewater into the City's sewer system, including persons who contribute such wastewater from mobile sources, such as those who discharge hauled wastewater.

Yellow Grease. Mainly derived from used cooking oils from deep fryers used in FSEs and institutions with commercial kitchens but could also be generated by FM/Ps. Yellow grease is typically preferred over brown grease for biofuels, animal feed additives, soap manufacturing, and other manufacturing uses.

13.33.030 Applicability and Exemptions

1. All FSE's and FM/P's discharging wastewater, or any other User discharging FOG-laden wastewater in excess of the limits set forth in this Ordinance, are subject to the requirements of this Ordinance.
2. Private living quarters (such as single-family homes and single dwelling units in multi-plexes, condominiums or apartment complexes, etc.) are exempt from the requirements of this Ordinance.

13.33.040 FOG Discharge Limits

No User shall allow wastewater discharge concentration from a subject FOG Control Device to exceed 100 milligrams per liter (mg/L), as defined by EPA Test Method 1664 (40 CFR 136.3 Table IB). A complete description of discharge limits is given in City of Ferndale Municipal Code Chapter 13.31.

13.33.050 FOG Control Requirements - General

All FSE's and FM/P's discharging wastewater to the City sewer system are subject to the following requirements:

- 1. FOG Management Plan:** All FSE's and FM/P's are required to submit a FOG Management Plan for review and approval by the City. A FOG Management Plan describes an FSE's or FM/P's operations and required plans to control the discharge of FOG from their facility into the City's sewer system.
 - a. **New Facilities:** New FSE's and FM/P's shall submit their FOG Management Plan either before submitting their Building Permit Application or with their Building Permit Application.
 - b. **Tenant Improvement (TI) Applicants:** For a change in use, TI's shall submit their FOG Management Plan with their TI Application. For a change in owner, the TI's shall submit their FOG Management Plan within 24 months of the date this Ordinance becomes effective.
 - c. **Existing Facilities:** Existing FSE's and FM/P's shall submit a FOG Management Plan within 24 months of the date this Ordinance becomes effective.

2. FOG Management Plan Contents: The Director will provide printed forms for a Fog Management Plan indicating thereon the information to be furnished by the User. The Director shall establish administrative guidelines and application forms necessary to establish the following:

- a. Type of Use
- b. Contact Information for Users
- c. Likely FOG impact
- d. Proposed BMP's and FOG Control Devices

3. Best Management Practices (BMP's): An FSE or FM/P shall implement FOG control requirements and BMP's in their kitchen's food production and processing areas. Examples of BMPs include dry scraping of dishes and cooking-ware and the installation of flat screens and/or baskets in the pre-rinse.

4. Food Grinders/Garbage Disposal Units: In-sink garbage disposal units shall not be installed in any FSE or FM/P, as these can increase FOG and the waste load in the City's sewer system. The City discourages the continued use of existing in-sink garbage disposal units, as these can increase FOG and the waste load in the City's sewer system. However, if used, garbage disposal units must be connected to grease interceptors. Garbage disposal units shall not be used for disposal of any materials (food scraps included) that can be disposed as solid waste. For purposes of this section, an in-sink garbage disposal unit is any device designed to grind food and other waste material and discharge such waste to the sewer system.

5. Grease interceptor requirements: All FSE's and FM/P's are required to install, operate, and maintain an approved type and adequately sized grease interceptor necessary to maintain compliance with the objectives of this Ordinance, unless the City has determined that they are exempt by an approved variance or conditional waiver. All grease interceptors must meet the requirements of this Ordinance and the current edition of the Uniform Plumbing Code (UPC).

6. Implementation: All new FSE's and FM/P's are subject to FOG Control Requirements. Existing facilities proposing tenant improvements are subject to FOG Control Requirements. All such facilities must submit a FOG Management Plan that includes a grease interceptor which is sized in conformance with this Ordinance, in order to obtain a building permit or tenant improvement permit. All grease interceptors shall be readily accessible for cleaning and inspection. All existing FSEs and FM/Ps, determined by the Director, to have a reasonable potential to discharge wastewater containing more than 100mg/L FOG to the City's sewer system shall be notified of the obligation to install a grease interceptor. The required grease interceptor shall be installed and operational within 36 months of the effective date of this Ordinance.

7. Variance from the FOG Control Requirements

a. **Variance from Grease Interceptor Requirements.** An FSE or FM/P may request that the Director grant a variance from the grease interceptor requirement to allow alternative FOG control device in lieu of a grease interceptor. The FSE or FM/P must demonstrate that the alternative equals or exceeds the effectiveness of a grease interceptor or that it is impossible or impracticable to install, operate or maintain a grease interceptor and that the proposed alternative is sufficient to control FOG discharge to less than 100 mg/L. In order to obtain a variance, an FSE or FM/P shall demonstrate at least one of the following:

- 1) There is no adequate space for installation and/or maintenance of a grease interceptor;
- 2) There is no adequate slope for gravity flow between kitchen plumbing fixtures and the grease interceptor and/or between the grease interceptor and the private sewer lines or the public sewer;
- 3) It is impossible or impracticable to install, operate and maintain a grease interceptor;
- 4) The alternative FOG control device is equally or more effective than a grease interceptor in controlling FOG discharge;

And the FSE or FM/P shall demonstrate that:

- 5) After installation of the proposed alternative FOG control device, the control device is effective in controlling FOG discharge through downstream visual monitoring of the public sewer at the FSE's or FM/P's own expense;

The Director's determination will be based upon evaluation that the FSE or FM/P meets the above conditions. The Director, at his/her discretion may evaluate and require additional conditions before granting a variance. Any variance issued pursuant to this section may be revoked at any time at the discretion of the Director.

- b. **Conditional Waiver of Requirement to Install Grease Interceptor.** The Director may grant a conditional waiver of the requirement to install a grease interceptor to an FSE that the Director determines to have negligible FOG discharge and insignificant impact to the public sewer system. Although the Director may grant a waiver from installation of a grease interceptor, the FSE may be required to provide space and plumbing segregation for future installation of a grease interceptor. The Director's determination to grant or revoke a conditional waiver shall be based upon, but not limited to, evaluation of the following conditions:

- 1) Quantity of FOG discharge as measured or indicated by the size of the FSE based on water usage, menu, seating capacity, number of meals served, amount of on-site consumption of prepared food, number of plumbing fixtures and other conditions that may reasonably be shown to contribute to FOG discharges;
- 2) Adequacy of implementation of BMPs and compliance history;
- 3) Sewer size, grade, and condition based on visual and other information, FOG deposition in the sewer by the FSE, and history of maintenance and sewer overflows caused by FOG from the FSE;
- 4) Changes in operations that significantly affect FOG discharge; and
- 5) Any other condition that the Director deems reasonably related to the generation of FOG discharges.

c. **Application for Variance or Conditional Waiver of Requirement for Grease Interceptor.** An FSE or FM/P may submit to the City an application for a conditional waiver or variance from the grease interceptor requirement. The FSE or FM/P bears the burden of demonstrating that the installation of a grease interceptor is not feasible or otherwise required. The Director will provide printed forms for application indicating thereon the information to be furnished by the User. The Director shall establish administrative guidelines and application forms necessary to establish conditions allowing a Variance or Conditional Waiver. Upon determination by the Director that reasons are sufficient to justify a variance or waiver, an approval of the variance will be issued to relieve the FSE or FM/P from the requirement. The Director shall have up to 30 calendar days to review the application.

d. **Terms and Conditions of Variance or Conditional Waiver.** A variance or conditional waiver shall contain the terms and conditions that serve as the basis for its issuance. A variance or conditional waiver may be revoked by the Director at any time upon his or her determination that any of the terms or conditions for issuance are not satisfied or if the conditions upon which the variance or conditional waiver was based have changed so that the justification for the variance or conditional waiver no longer exists. The variance or conditional waiver shall be valid so long as the FSE or FM/P remains in compliance with the terms and conditions until the expiration date specified in the variance or conditional waiver, but shall not automatically transfer when a use is changed.

8. Prohibited Discharges: The wholesale shredding and subsequent discharge of food wastes (or any wastes) into the City's sewer system is prohibited.

9. FOG Control Additives. The use of any additive, such as emulsifiers, enzymes, chemicals, or bacteria, as a substitute for grease interceptors or grease traps or for their maintenance is prohibited.

13.33.060 FOG Control Device Design and Implementation Standards

1. Grease Interceptors: All grease interceptor installations shall meet the following criteria:

- a. **Interceptor Design:** Grease interceptors shall conform to the standards in the current edition of the UPC. Grease interceptors shall have a minimum of two compartments and shall be capable of separation and retention of grease storage and settled solids. Grease interceptors shall be designed, constructed, and installed for a load-bearing capacity adequate for its intended location.
- b. **Interceptor Location:** A grease interceptor shall be installed on a separate building sewer line servicing only kitchen or food manufacturing/ processing flows and shall be connected only to those fixtures or drains which would allow FOG to be discharged. This includes, but is not limited to:
 - 1) Pot sinks;
 - 2) Pre-rinse sinks;
 - 3) Any sink into which FOG are likely to be introduced;
 - 4) Soup kettles or similar devices;
 - 5) Wok stations;
 - 6) Floor drains or sinks into which kettles may be drained;
 - 7) Automatic hood wash units;
 - 8) Dishwashers without pre-rinse sinks; and/or
 - 9) Any other fixtures or drains likely to allow FOG to be discharged.

Grease interceptors are intended for below-ground installation and shall be located outside of the building, preferably close to the kitchen or production/processing area where FOG may be discharged. They shall be easily accessible for servicing and inspection including access by a pumper truck. Parking, other than for emergency vehicles, shall not be allowed over any of the access manholes.

No fixture or drain other than those listed in the beginning of this subsection shall be directly connected to the grease interceptor unless approved by the Director. The following shall **not** be discharged into the grease interceptor:

- 1) Sanitary wastewater (i.e. from restrooms, shower facilities, etc.);

- 2) Waste that does not contain FOG and that otherwise does not require pretreatment;
- 3) Wastewater, from dish washing machines or other sources, with a temperature exceeding 140° F;
- 4) Any substance that may cause excessive foaming in the Wastewater Treatment Plant; or
- 5) Emulsifiers or FOG enzymes.

The outlet discharge line from the grease interceptor shall be directly connected to the municipal sanitary sewer system. The private sanitary sewer service pipe for the facility shall connect to the discharge pipe at least 10 feet downstream of the grease interceptor sample well or where the discharge pipe invert is at least 0.4 feet lower than at the grease interceptor outlet or sample well invert.

The location of all grease interceptors shall be shown on the approved building plan or site plan for a tenant improvement application and shall be approved in writing by the City.

- c. **Grease Interceptor Capacity and Sizing:** Grease interceptor capacity calculations shall be performed by each facility based on size and type of operation according to the formulas contained in the sizing guidelines in the most current edition of the UPC. The minimum wet volume of any one unit shall be 500 gallons and the maximum wet volume of any one unit shall be 10,000 gallons.

2. Grease Traps: Where allowed by the Director, all grease trap installations must meet the following criteria:

- a. **Grease Trap Design:** Grease traps shall conform to the standards in the current edition of the UPC. The rate of flow shall not exceed the manufacturer's rated capacity in gallons per minute for the unit.
- b. **Grease Trap Capacity and Sizing:** The required flow capacity of the grease trap shall be per the most current edition of the UPC.

13.33.070 FOG Control Device Operations and Maintenance Requirements

- 1. Grease Interceptor.** Each facility required to install and maintain a grease interceptor under this Section shall provide regular maintenance of said interceptor to the satisfaction of the Director in accordance with the requirements set forth in this Section.

Each person who removes FOG waste from the grease interceptor shall, to the extent technically and mechanically possible, remove the entire content of the grease interceptor.

- a. **Pumping:** All grease interceptors shall be maintained by the User at the User's expense. Maintenance shall include the complete removal of all contents, including floating materials (scum), wastewater, and bottom sludges and solids. Decanting or discharging of removed waste back into the interceptor from which the waste was removed or any other grease interceptor, for the purposes of reducing the volume to be hauled, is prohibited. Waste removed from each grease interceptor shall be disposed of at a facility that is permitted to receive such wastes. Grease or grey water shall not be returned to any grease interceptor, private sewer line, or to any portion of the City's sewer system.
- b. **FOG Removal and Grease Interceptor Pumping Frequency:** All grease interceptors must be pumped out completely once every three months at a minimum. However, each facility shall determine the appropriate frequency of maintenance that is needed to meet the maintenance requirements and to prevent any of the following:
 - 1) Floatable grease or scum layer exceeds 12 inches in depth as measured in the inlet compartment;
 - 2) The total volume of captured grease or scum and settled solid material (sludge) displaces more than 25 percent of the capacity of the interceptor as measured in the inlet compartment;
 - 3) The FOG removal efficiency of the device, as determined through sampling and analysis, falls below 80 percent; and/or

4) Failure to meet the manufacturer's recommendations for maintenance.

- c. **Disposal of Grease Interceptor Pumpage:** All waste removed from each grease interceptor must be disposed of at a facility permitted by the health department with jurisdiction in the county in which the disposal facility is located. Under no circumstances shall the pumpage be returned to any sewer system, whether public or private. A receipt from the disposal facility must be obtained and kept with the facility's maintenance records.
- d. **Maintenance Requirements:** Each person who engages in the handling of FOG shall maintain all vehicles, hoses, pumps, tanks, tools, and equipment associated with FOG waste handling in good repair, free of leaks, and in a clean and sanitary condition. All hoses and valves on FOG waste handling vehicles or tanks shall be tightly capped or plugged after each use to prevent leakage, dripping, spilling, or other discharge of FOG wastes onto any public or private property.
- e. **Repairs:** The User shall be responsible for the cost and scheduling of all repairs to its grease interceptor(s). Repairs required by the Director shall be completed within 14 calendar days after date of written notice of required repairs is received by the facility or other schedule upon written approval from the Director. Reporting of such repairs must be submitted to the Director within 30 calendar days of the written notice requiring the repairs.

2. Grease Trap Maintenance. Each User that is allowed by the Director to install and maintain a grease trap under this Ordinance shall provide regular maintenance of said trap to the satisfaction of the Director in accordance with the requirements set forth in this Section.

- a. **Maintenance Requirements:** Each User shall be solely responsible for the cost of inspection, cleaning, maintenance, and record keeping. Each facility may contract with a grease hauler, or it may develop a written protocol and perform its own grease trap cleaning and maintenance procedures. Cleaning and maintenance must be performed when the total volume of captured FOG and solid material displaces more

than 25 percent of the total volume of the unit. Grease traps shall be opened, inspected, cleaned, and maintained at a minimum of once per week. However, each facility shall determine the appropriate frequency for maintenance needed to meet the maintenance requirements.

- b. **Repairs:** The facility shall be responsible for the cost and scheduling of all repairs to its grease trap(s). Repairs required by the Director shall be completed within 14 calendar days after the date of written notice of required repairs is received by the facility. Users may utilize a different schedule for repair upon prior written approval from the City. Reporting of such repairs must be submitted to the Director within 30 calendar days of the written notice requiring the repairs.

13.33.080 Maintenance Records, Monitoring, and Reporting

- 1. Maintenance Records:** A maintenance log indicating each pumping of a grease interceptor for the previous 12 months shall be kept by each FSE or FM/P. This log shall include at a minimum, the date, time, amount of waste pumped, name of hauling company, and name of disposal site and shall be kept in a designated location for inspection by the City on demand. A sample maintenance record log can be found on the City's "FOG CONTROL PROGRAM" website. The hauling company's receipts shall also be kept for a minimum of two years.
- 2. Monitoring:** Users may be required to install a sample well (for measuring FOG) on new or existing sewer lines discharging to the City's sewer system. Grease interceptors and grease traps may be inspected by City staff as necessary to assure compliance with this Section and to assure proper cleaning and maintenance schedules are being heeded.
- 3. Maintenance Reporting:** The information required in the maintenance log shall be submitted to the City of Ferndale Public Works Department, "FOG CONTROL PROGRAM" annually. The reporting period is January 1st through December 31st of each year. The report shall be submitted within thirty (30) days after the end of the reporting period, and no later than January 31st immediately subsequent to the calendar year of reporting. The City will send out a letter, by December 31, reminding the User

that the information must be submitted. The City may request additional information from the User to verify the maintenance log.

13.33.090 Significant Changes in Facility Operations

An FSE or FM/P shall notify the Director prior to any significant changes in the operation of their facility including the following:

- 1.** Grease control equipment upgrades;
- 2.** For an FSE, increases in seating capacity of 20 percent or greater of that reported in the current FOG Management Plan;
- 3.** For an FM/P, sustained increases in production quantity of 20 percent or greater of that reported in the current FOG Management Plan; or
- 4.** Changes in menu selections and/or food service production processes that increase potential FOG discharge by 20 percent or more.

13.33.100 Facility Closure

- 1.** An FSE or FM/P with a grease interceptor shall notify the Director 45 days in advance whenever the FSE or FM/P closes for business and is subsequently:
 - a.** Razed or demolished;
 - b.** Remodeled such that the grease interceptor will not be used;
or
 - c.** Replaced with a type of business that will not utilize the grease interceptor.

The reason for this notification is to delete the FOG control device from the City's inventory data base.

- 2.** A facility that closes for business shall properly demolish or abandon their grease interceptor so as to prevent a safety hazard, unless the grease interceptor will be used by a new property owner or occupant.

13.33.110 Judicial Enforcement Remedies

- 1.** The Director:
 - a. Shall enforce Chapter 13.33
 - b. May refer cases within the City's jurisdiction to the City's Attorney's Office and petition the Municipal Court of the City of Ferndale or Whatcom County District Court through the City Attorney's Office for action pursuant to this section.

- 2.** When a person violates the provisions under Chapter 13.33, the Director or the City Attorney's Office, may initiate enforcement or disciplinary actions, or any other legal proceeding authorized by law, including but not limited to any one or a combination of the following:
 - a. Informal administrative conferences, convened at the request of the Director, User, or Property Owner, to explore facts and resolve problems;
 - b. Orders directed to the User or Property Owner and/or person causing or responsible for the violation of the rules of Chapter 13.33;
 - c. Denial, suspension, modification, or revocation of permits, approvals, or certification;
 - d. The issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of any requirement imposed by this Ordinance on activities of the User. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a User; and
 - e. The imposition of civil penalties pursuant to RCW 7.80.

- 3.** Orders authorized under this section include the following:
 - a. Enforcement Orders requiring corrective measures necessary to effect compliance with Chapter 13.33 which may include a compliance schedule; and
 - b. Enforcement Orders to stop work and/or refrain from any FOG discharge into the City sewer system until all permits, certifications, and approvals required by Chapter 13.33, rule, or statute are obtained.

- 4.** Enforcement orders issued under this section shall:
 - a. Be in writing;

- b. Name the person or persons to whom the Order is directed;
 - c. Briefly describe each action or inaction constituting a violation of the rules of Chapter 13.33;
 - d. Specify any corrective action, if applicable;
 - e. Specify the effective date of the Order and appropriate period of time, as required by Chapter 13.33, for the correction of the violation;
 - f. Provide notice of the consequences of failure to comply or repeated violation, as appropriate. Such notices may include a statement that continued or repeated violation may subject the violator to:
 - i. Denial, suspension, or revocation of a permit approval, or certification if violations are not corrected within 90 days; and/or
 - ii. Referral to the office of the City Attorney; and/or
 - iii. Other appropriate remedies imposed pursuant to RCW 7.80.
 - g. Provide the name, business address, and phone number of an appropriate staff person who may be contacted regarding an Order.
- 5.** Enforcement Orders shall be personally served in the manner of service of summons in a civil action pursuant to RCW 7.80 or in a manner showing proof of receipt.
- 6.** The Director shall have cause to deny the application or reapplication for an operational permit or to revoke, suspend, or modify a required operational permit of any person who has:
- a. Failed or refused to comply with the provisions of Chapter 13.33, or any other statutory provision or rule regulating the operation of an FSE, FM/P, or any other FOG discharger;
 - b. Obtained or attempted to obtain a permit or any other required certificate or approval by misrepresentation.
- 7.** For the purposes of subsection (6) of this section, a person is defined to include:
- a. Applicant;
 - b. Re-applicant;
 - c. Permit Holder; or
 - d. Any individual associated with subsection 7(1), (2), or (3) of this section including, but not limited to:

- i. Board members;
- ii. Officers
- iii. Managers;
- iv. Partners;
- v. Association members;
- vi. Agents;
- vii. Third persons acting with the knowledge of such persons.
- viii. Property Owners.

8. Should any person refuse to allow the Director to enter onto property for the purpose of enforcing these rules and regulations, the Director may, with the assistance of the City Attorney, present an affidavit, naming the person so refusing, the property involved and the reason entry is necessary, to the City of Ferndale Municipal Court, from which an authorizing warrant may issue.

9. The Director shall have the right of entry to inspect any FSE, FM/P, or any other FOG discharger.

10. Civil Penalties

- a. A User who has violated, or continues to violate, any provision of this Ordinance or order issued hereunder shall be liable for civil penalties imposed pursuant to RCW 7.80 and a maximum civil penalty of \$1,000 per violation, per day.
- b. Enforcement shall be pursuant to FMC 8.08 and RCW 7.80.
- c. To the extent that the provisions of FMC 8.08 are inconsistent with Chapter 13.33, the provisions of this Chapter govern.
- d. The Director may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.
- e. In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the User's violation, corrective actions by the User, the compliance history of the User, and any other factor as justice requires.

13.33.120 Appeals

An aggrieved party may appeal any permit decision, including approval, modification, waiver, decisions, denial, suspension or revocation in accordance with FMC 14.11, Hearing and appeals.

13.33.130 Severability

If any provision of Chapter 13.33 or its application to any person or circumstances is held invalid, the remainder of Chapter 13.33, or the application of the provision to other persons or circumstances shall not be affected.

13.33.140 Fees

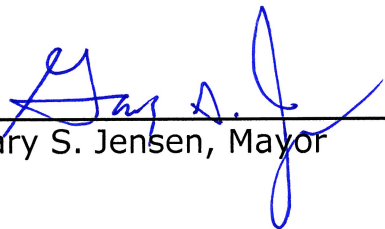
Fees shall be set and renewed annually by the Ferndale City Council and posted in the City of Ferndale fee schedule.

Section 2: Effective Date

This ordinance shall take effect November 1, 2013.

Passed by the Council of the City of Ferndale in regular session thereof this 7th day of October, 2013.

ATTEST:



Gary S. Jensen, Mayor



Sam Taylor, City Clerk