

For: Monday, January 13, 2025, City Council Meeting

Advance Packet Information

Published: January 2, 2025

Included in this packet is documentation to support the following Agenda item:

PUBLIC HEARINGS/ORDINANCES

1. Fats, Oil and Grease Ordinance
 - a. Draft Ordinance 24-O-813
 - b. Exhibit A – FOG Ordinance Language

*Public Comment forms and the agenda packet are available on-line at www.brookings.or.us, and at Brookings City Hall. Return completed Public Comment forms to the City Recorder before the start of the meeting or during regular business hours.

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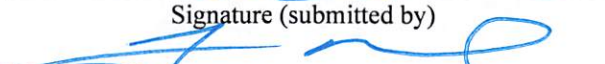
CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: January 13, 2025

Originating Dept: PW/DS



Signature (submitted by)

City Manager Approval

Subject: Fats, Oil and Grease Ordinance

Recommended Motion:

Motion to adopt Ordinance #24-O-813 amending the Brookings Municipal Code, Title 13 Public Services, modifying language in Chapter 13.10 and adding Chapter 13.45 Regulation of Fats, Oils, and Grease (FOG) Discharges to the Brookings Sanitary Sewer System as described in Exhibit A.

Background/Discussion:

Fat, Oils, and Grease (FOG) released into the City of Brookings (City) wastewater system leads to serious issues of restricted flow capacity, interference with pump stations, deterioration of piping and sewer overflows in the collections system. FOG also can cause excessive foaming in the wastewater treatment plant. The City, to eliminate these detrimental and costly effects, has adopted this Ordinance to be monitored and conducted in accordance with the City FOG Control Program.

Council reviewed the draft ordinance at the November 4, 2024 council workshop and directed staff to proceed with finalizing the ordinance for adoption at the next Council Meeting. Staff has prepared ordinance 24-O-813 for your review and approval.

Attachments:

1. Draft Ordinance 24-O-813
2. Exhibit A – FOG Ordinance Language

IN AND FOR THE CITY OF BROOKINGS
STATE OF OREGON
ORDINANCE 24-O-813

**IN THE MATTER OF ORDINANCE 24-O-813, AN ORDINANCE AMENDING TITLE 13 PUBLIC
SERVICES IN THE BROOKINGS MUNICIPAL CODE**

Sections:

Section 1. Ordinances Identified.

Section 2. Revise Chapter 13.10.160 Class of Sewer Permits, 13.10.350 Grease, oil and sand interceptors and 13.10.360 Pretreatment devices – installation and maintenance.

Adds Chapter 13.45 Regulation of Fats, Oils, and Grease (FOG) Discharges to the Brookings Sanitary Sewer System

The City of Brookings ordains as follows:

Section 1. Ordinance Identified. This ordinance amends Title 13 Public Services

Section 2. Revise Chapter 13.10.160 Class of Sewer Permits, 13.10.350 Grease, oil and sand interceptors and 13.10.360 Pretreatment devices – installation and maintenance.

Adds Chapter 13.45 Regulation of Fats, Oils, and Grease (FOG) Discharges to the Brookings Sanitary Sewer System as presented in Exhibit A attached hereto with additions designated in bold and underlined and deletions being bold and struck out.

First Reading: _____ Passage: _____

Second Reading: _____ Effective Date: _____

Signed by me in authentication of its passage on _____ day of _____, 2025

ATTEST:

Mayor /Council President

City Manager Tim Rundel

Title 13 Public Services

13.10.160 Classes of sewer permits.

There shall be ~~two~~**three** classes of sewer permits:

- A. For residential and commercial service
- B. For service to establishments producing industrial wastes; and
- C. For service to food preparation establishments (Chapter 13.45)**

[Ord. 88-O-430 Art. IV § 6.]

13.10.350 Grease, oil and sand interceptors.

Grease, oil and sand interceptors shall be provided at establishments **producing industrial wastewater** when, in the opinion of the city, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, clay, sand, or other harmful ingredients. All interceptors shall be of a type and capacity approved by the city, and shall be located as to be readily and easily accessible for cleaning and inspection. [Ord. 88-O-430 Art. V § 7.]

13.10.360 Pretreatment devices – Installation and maintenance.

Where preliminary treatment, interceptors or flow-equalizing facilities are provided for any waters or wastes at establishments producing industrial waste, they shall be installed and maintained continuously in satisfactory and effective operation by the owner at his expense. All grease, oil and sand interceptors, pretreatment devices, control manholes, and other related apparatus shall be inspected to verify correct function upon installation and at least annually thereafter. Annual inspections shall be performed by a city of Brookings approved vendor and shall comply with all state, county, and city requirements. A copy of the annual inspection report shall be provided to the city of Brookings public works director. [Ord. 16-O-765 § 2; Ord. 88-O-430 Art. V § 8.]

Chapter 13.45 Regulation of Fats, Oils, and Grease (FOG) Discharges to the Brookings Sanitary Sewer System

Sections:

13.45.010 General Introduction

13.45.020 Applicability

13.45.030 Purpose

13.45.040 Definitions

13.45.050 Food Preparation Establishment (FPE) Permitting Program

13.45.060 Wastewater Discharge Limitations and Prohibitions

13.45.070 Outdoor Grease Interceptor Requirements

13.45.080 Fees and Billing

13.45.090 Administrative Enforcement and Abatement

13.45.010 General Introduction.

Fat, Oils, and Grease (FOG) released into the City of Brookings (City) wastewater system leads to serious issues of restricted flow capacity, interference with pump stations, deterioration of piping and sewer overflows in the collections system. FOG also can cause excessive foaming in the wastewater treatment plant. The City, to

eliminate these detrimental and costly effects, has adopted this Ordinance to be monitored and conducted in accordance with the City FOG Control Program.

13.45.020 Applicability.

- A. This Ordinance applies to facilities classified as Food Preparation Establishments (FPEs) as defined herein that are connected to the public sewer system, excluding residential and significant industrial facilities.

13.45.030 Purpose

- A. The purpose of this Ordinance (also referred to herein as the "FOG Ordinance") is to:

1. Prevent the introduction of excessive amounts of grease into the City's public sanitary sewer system;
2. Prevent clogging or blockage of the City's public sanitary sewer system due to grease buildup causing sewage to backup and flood streets, residences and commercial buildings, resulting in potential liability to the City, residences, commercial buildings and others;
3. Prevent clogging or blockage to prevent sewer overflows to navigable waters of the State;
4. Implement a procedure to recover the cost incurred from cleaning and maintaining sewer lines due to improper grease disposal;
5. Implement a procedure to recover costs for any liability incurred by the City for damage caused by grease blockages resulting in the flooding of streets, residences, or commercial buildings;
6. Issue FOG Discharge Permits to FPEs and establish maintenance and monitoring requirements, and enforcement activities;
7. Establish administrative procedures and reporting requirements;
8. Establish permit fees for the recovery of costs resulting from this FOG Ordinance; and
9. Establish enforcement procedures for violations of any part or requirement of this Ordinance.

13.45.040 Definitions.

The following definitions shall apply to this Ordinance:

- A. "Authorized Representative of the User" means

1. If the User is a corporation:
 - a. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the business/corporation; or
 - b. The manager of one or more FPE facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations and initiating and directing other comprehensive measures to assure long-term compliance with laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
2. If the User is a partnership or sole proprietorship: A general partner or proprietor, respectively.

3. If the User is a federal, state, or local governmental facility: A director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility or their designee.
4. The individuals described in paragraphs 1 through 3 may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City.

B. "Automatic Grease Recovery Unit, (AGRU)" means an indoor grease trap that separates grease from wastewater by active mechanical or electrical means. Such traps should be as far away as possible from grease-bearing (cleaning) equipment, such as sinks, before exiting the building. See definition of Grease Trap.

C. "Best Management Practice, (BMP)" means the practices and procedures of a facility designed to prevent or minimize environmental damage. BMPs include but are not limited to treatment requirements, operating procedures, practices to control spillage or leaks, and grease disposal.

D. "City" means the City of Brookings acting through the City Council of Brookings and the City's duly authorized officers or agents on its behalf.

E. "City Manager" means the person designated by the City to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this Ordinance or a duly authorized representative (designee).

F. "Fats, Oils and Grease (FOG)" means any fats, oils and grease generated from the food preparation process. All are sometimes referred to as "grease." The current methods approved under Title 40 Code of Federal Regulations (CFR) Part 136 measure total FOG that may contain hydrocarbon FOG from petroleum sources. For the purposes of this City Ordinance the term FOG will refer to total FOG.

G. "Food Preparation Establishments (FPE)" means facilities that are regulated by the Brookings Health Department and are classified as a Class III or Class IV food service establishment, defined as:

- Class I: Establishment serves only prepackaged foods and/or beverages.
- Class II: Establishment uses cold or ready-to-eat processed food.
- Class III: Establishment has exposed foods prepared by hot processes and consumed within 4 hours of preparation.
- Class IV: Establishment has exposed foods prepared by hot processes held for 4 hours or more prior to consumption.

or other facilities that engage in similar cooking methods that have the potential to produce fats, oils and grease.

The City Manager or their designee reserves the right to reclassify any establishment to either a higher or lower Class based on these criteria: a better understanding of facility operations (based on facility-reported information and/or City inspection), a change in facility operations, and/or evidence that the facility has caused or contributed to a blockage or interference in the collection system through the discharge of FOG.

H. "Existing FPE" means any FPE in existence at the time of the initial adoption of this Ordinance.

I. "New FPE" means any FPE that is established in a newly constructed building or in a building that previously was not a food establishment. An FPE that changes its menu substantially enough to move upward in Class may also be classified as a New FPE at the sole discretion of the City Manager or their designee.

J. "FOG Discharge Permit" means a permit issued by the City Manager or their designee authorizing the discharge of wastewater to the public sanitary sewer system from an FPE.

K. "Grease Disposal Facility (GDF)" means a regional collection/transfer/disposal site approved in accordance with the law for the disposal of FOG. This means an Oregon Department of Environmental Quality (ODEQ)-approved publicly/privately owned treatment works that is for the separation and disposal of FOG by incineration or other methods.

L. "Grease Trap" means (collectively) devices intended to capture grease without the use of underground interceptors, including but not limited to sink traps, passive floor traps (indoor or outdoor) and AGRUs.

M. "Grease Interceptor" means an underground tank with baffles needed for FOG collection and access ports to facilitate cleaning, inspection and/or maintenance.

N. "Hauler" means any person who collects the contents of a grease trap or interceptor (Non-renderable Grease) and transports it to a GDF. A Hauler may also provide other services to FPEs related to trap maintenance. Haulers must be licensed in accordance with state and federal regulations.

O. "Non-renderable Grease" means fats, oils, and grease generated from food preparation or serving that has come into contact with water or other contaminants shall prevent this FOG from being rendered, also called Brown Grease. See Renderable Grease.

P. "Permittee" the Permittee represents the FPE and is authorized by the issuance of a FOG Discharge Permit to initiate, create, originate, or maintain a wastewater discharge from the FPE. The Permittee shall be the Authorized Representative of the User.

Q. "Person" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity or their legal representatives, agents, or assigns. This definition includes all federal, state, and local governmental entities.

R. "Public Sanitary Sewer System" means a sewer in which all owners of abutting properties have equal rights and which is controlled by a public authority. Includes the main pipe, manholes, other structures, and equipment appurtenant thereto controlled and maintained by the City for the conveyance of sanitary sewage.

S. "Renderable Grease" means the uncontaminated FOG from the food preparation process that is free of impurities and has not come into contact with water and can be recycled into products such as, but not limited to, animal feed or cosmetics.

T. "Renderer" means any person who collects renderable grease from an FPE and transports it to another site for recycling.

U. "Variance" means a permit that reduces the obligations of an FPE. A variance, when granted, shall serve as a permit. Variances shall be granted at the sole discretion of the City Manager or their designee. Variances must be displayed onsite.

The City Manager or their designee reserves the right to revoke any variance based on a better understanding of facility operations (based on facility-reported information and/or City inspection), a change in facility operations, and/or evidence that the facility has caused or contributed to a blockage or interference in the collection system through the discharge of FOG.

13.45.050 Food Preparation Establishment (FPE) Permitting Program:

A. All FPEs discharging wastewater to the public sanitary sewer system are subject to the following requirements.

- 1. Permitting: All FPE's shall be required to apply for and obtain a FOG Discharge Permit or variance from the City Manager or their designee. The City Manager or their designee shall approve or deny all applications for FOG discharge permits in accordance with the policies and regulations established in this Ordinance. The FOG Discharge Permit shall be in addition to any other permits, registrations, or**

occupational licenses, which may be required by federal, state, or local law. It shall be a violation of this Ordinance for any FPE identified by the City Manager or their designee to discharge wastewater containing fats, oils and grease to the public sanitary sewer system without a current FOG Discharge Permit.

2. Application Form: The City Manager or their designee shall provide an application form for a FOG Discharge Permit to all FPEs. All existing FPEs shall submit a completed application form within 60 days of: (a) receipt of the application, or (b) prior to the expiration of their valid FOG Discharge Permit. New FPEs shall obtain a FOG Discharge Permit prior to issuance of a Food Service License. Each application form submitted shall include but not be limited to the following information.
 - a. The FPE's engineer's design report for outdoor grease interceptor, grease trap or AGRUs, including unit specifications, cut sheet, and sizing calculations. Sizing shall not be less than specified in § 13.45.070 (E)(3).
 - b. Hours of facility operation.
 - c. A copy of the FPE's menu.
 - d. A statement signed by the Authorized Representative as follows: "I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify that, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate, and complete to the best of my knowledge and belief."
3. Application Procedure: Upon the filing of a completed FOG Discharge Permit Application form with fee, and variance application if applicable, the City Manager or their designee shall review and approve or deny a FOG Discharge Permit. No system modification shall be initiated until approval is obtained.
4. FOG Discharge Permit:
 - a. The FOG Discharge Permit must be displayed in a prominent location where it can be seen by staff.
 - b. A FOG Discharge Permit shall not be transferred or sold to a new owner. A new owner is required to apply to the City Manager or their designee for a new FOG Discharge Permit.
 - c. A new FOG Discharge Permit must be applied for when renovations are completed at an existing FPE or upon making significant changes to the menu.
 - d. The terms and conditions of the permit are subject to modification by the City Manager or their designee during the term of the permit. If due to changes in this Ordinance modifications to a facility are required to remain in compliance, the Permittee shall be informed at least 6 months prior to the compliance date of the new requirement or 6 months prior to the expiration date of the existing permit.
5. Entry: Each FPE shall allow the Inspector, bearing proper identification, access at all reasonable times to all parts of the premises for the purpose of inspection, observation, records examination, measurements, sampling and testing in accordance with the provisions of this Ordinance. The refusal of any FPE to allow the Inspector official entry for purposes of inspection or performing such other duties as shall be required shall constitute a violation of this Ordinance. The City may pursue legal action as provided for in §13.45.090 as may be advisable and reasonably necessary for Inspectors to carry out their duties.
6. Inspection: The Inspector shall inspect the FPE on an unscheduled basis after a FOG Discharge Permit has been issued to confirm compliance with the requirements of this Ordinance. All FPEs with a current FOG Discharge Permit shall be inspected. Inspections shall include but not be limited to all equipment, food processing, cleanup and storage areas and shall include any area that produces wastewater discharge to the grease trap. The Inspector shall also inspect the grease trap maintenance logbook

and/or file and other data pertinent to the grease trap and may check the level of the trap contents and/or take samples/measurements as necessary. The Inspector shall record all observations in a written report. Any deficiencies as provided in this Ordinance shall be noted.

- 7. Violation Reporting:** A Permittee shall immediately notify the City Manager or their designee by telephone upon learning or having reason to believe that a discharge may cause a sewer blockage or adversely affect the public sanitary sewer system and initiate corrective action to prevent further violations.

The Permittee shall file a written report of the violation and corrective actions taken to the City Manager or their designee within 5 days of the Permittee learning of such violation. Failure to report may result in a fine pursuant to §13.45.080.

13.45.060 Wastewater Discharge Limitations and Prohibitions:

- A. No User shall allow wastewater discharge concentrations from a grease trap or alternative pretreatment technology to exceed 100 milligrams per liter (mg/L). All analyses shall be conducted according to the current method as listed in 40 CFR 136 or as approved in writing by the City Manager or their designee. All costs associated with testing are the responsibility of the FPE.
- B. Where outdoor grease interceptors/traps are used, separate wastewater lines shall be provided to convey the sanitary and kitchen wastewater outside the facility. Only wastewater from the kitchen and cleanup areas shall be directed to the grease trap. In no case shall sanitary wastewater be allowed to enter a grease interceptor/trap.
- C. Wastewater having a temperature in excess of 140 degrees Fahrenheit shall not be discharged into any AGRU or other grease trap.
- D. Dishwashers equipped with prewash sinks shall be prohibited from discharging to grease interceptors or grease traps. Prewash sinks shall be discharged to the grease interceptor.
- E. Any use of enzymes, solvents, emulsifiers, biological agents and similar material for maintaining or cleaning grease traps is prohibited.
- F. No food grinder or food pulper shall discharge into a grease trap.
- G. All wastewater flows connected to grease traps shall be screened to prevent solids from entering the grease trap. Screened solids shall be disposed of in accordance with applicable solid waste regulations.

13.45.070 Outdoor Grease Interceptor Requirements:

- A. Requirements: All new FPEs are required to have an outdoor grease interceptor or a variance.
- B. Equipment Requirements: On or after the effective date of this Ordinance, all FPEs discharging to or proposing to discharge to the City's public sanitary sewer system shall submit an application and obtain a permit to operate and maintain an outdoor grease interceptor, a variance for an AGRU, or a variance from the requirements of this Ordinance as established by § 13.45.070 (F)(1). All outdoor grease interceptors shall meet the requirements of this Ordinance.
- C. On or after the effective date of this Ordinance, the City Manager or their designee shall require an existing FPE to install, operate, and maintain a new grease interceptor that complies with the requirements of this Ordinance or to modify any non-compliant plumbing or existing grease trap within 60 days of written notification by the City Manager or their designee when any of the following conditions exist.
 - 1. The establishment is found to be contributing grease in quantities to cause pipe blockages or increase maintenance on the public sanitary sewer system.

2. The establishment does not have a grease interceptor or a variance.
 3. The establishment has an undersized, irreparable, or defective grease interceptor or qualified equipment used to obtain a variance.
 4. Existing establishment is sold or undergoes a change of ownership.
 5. Remodeling of a kitchen, which requires a plumbing permit to be issued by the City.
 6. The menu of an establishment changes such that it meets the requirements of an FPE.
- D. Variance from Outdoor Grease Interceptor Requirements: An AGRU may only be installed in lieu of a Grease Interceptor after authorization by the City Manager or their designee. The FPE shall request a variance in writing, which shall consist of a completed Program Application and Variance Application. Variances shall be granted only when it is infeasible to install an interceptor and/or when the FPE can both demonstrate to the City Manager or their designee that adequate control of the discharge of FOG exists, and that discharges will not interfere with the collection system and will also meet the 100 -mg/L FOG limitation.
- E. Outdoor Grease Interceptor: Outdoor grease interceptors shall be installed in all FPEs as described in 13.45.070 (B) and (C). All grease interceptors shall meet the following criteria.
1. Interceptor Design and Location: Outdoor grease interceptor shall have a minimum of two compartments and shall be capable of separation and retention of grease and storage of settled solids. Access manholes with a minimum diameter of 17 inches shall be provided over each trap chamber and sanitary tee. The manhole also shall have readily removable covers to facilitate inspection, grease removal, and wastewater sampling activities. The invert elevation of the inlet shall be between 3 and 6 inches above the invert elevation of the outlet.
 2. The trap shall be designed, constructed, and installed for adequate load-bearing capacity.
 3. Trap Capacity: The minimum capacity of any one unit shall be:
 - Fast Food Facilities: 1,000 gallons
 - Full-service Restaurants: 1,500 gallons
 - Prisons and Hospitals: 2,000 gallons
 4. These stated sizes may be increased if in the opinion of the City Manager or their designee additional capacity is needed. Where sufficient capacity cannot be achieved with a single unit, installation of grease interceptors in series is required. For FPEs not listed in paragraph 3, the City Manager or their designee will calculate and require sizing based on an industry-accepted standard calculation.
 5. Pumping and Maintenance: Each FPE shall be responsible for the cost of installing, inspecting, pumping, cleaning, and maintaining its outdoor grease interceptor/trap. Outdoor grease interceptor cleaning shall include complete removal of all contents, including scraping of excessive solids from the walls, floors, baffles, and all pipe work. It shall be the responsibility of each FPE to inspect its outdoor grease interceptor during the pumping operation to ensure proper cleaning and that all fittings and fixtures are functioning properly.
 6. Outdoor Interceptor Pumping Frequency: Each FPE shall have its outdoor grease interceptor(s) pumped whenever 25% of the operating depth of the outdoor grease trap is occupied by grease and settled solids or a minimum of once every 3 months, whichever is more frequent.
 7. Inspections: The Inspector shall inspect grease interceptors/traps as necessary to ensure compliance with this Ordinance.

8. Disposal: Renderable grease shall not be disposed of in any sewer, septic tank, or grease interceptor/trap. All renderable grease shall be stored in a separate, covered, leak-proof, labeled, renderable grease container stored out of reach of vermin and collected by a Renderer.
 9. Grease removed from outdoor grease interceptors shall be disposed of at a GDF permitted by ODEQ.
 10. Recordkeeping: Each FPE shall maintain a logbook in which a record of all grease trap maintenance is entered, including the date and time of the maintenance, repairs, records of inspection, log of pumping activities and GDF. The file shall be available at all times for inspection and review by the Inspector.
- F. Variance Procedure: Two types of variances may be granted, Program Variances and Equipment/BMP Variances, as follows.
1. Program Variances: The City or their designee may, at their sole discretion, exempt from this FOG Program facilities that meet the definition of FPE but whose wastewater discharge contributes negligible FOG to the sanitary sewer. This may include:
 - a. FPE's that are itinerant vendors, either truck or cart, with no fixed sewer connection;
 - b. FPE's that meet the Class I or Class II definition; or
 - c. Facility's generating a volume of wastewater less than 250 gallons per day; or
 - d. Class III FPE's that do not employ frying, sautéing, baking or roasting of meats or the use of rotisseries, grills, smokers, or other methods and/or food items that have the potential to generate fats, oils or grease.
 2. Equipment/BMP Variances: At the request of the Permittee, the City Manager or their designee, at their sole discretion, may grant a variance from the equipment or BMP requirements of this Ordinance. Any change to the conditions of the variance must be reported to the City Manager or their designee for review within 30 days.
- G. Alternative Grease Removal Devices: The City or their designee, at their sole discretion, may approve these types of devices, depending on manufacturer's specifications and verified operations, on a case-by-case basis. Alternative devices shall be subject to written approval based on a demonstration prior to installation.
3. AGRU: AGRUs shall be prohibited at new FPEs, except as granted by variance at the discretion of the City or their designee per § 13.45.070 (B).
 4. AGRU Size: The AGRU design flow shall be sized by a licensed engineer according to the City's guidelines, including all connected fixtures and drains.
 5. AGRU shall have a removable lid on the top surface to facilitate inspection, cleaning and maintenance.
 6. Flow Control Device: AGRUs shall be equipped with a device to control the rate of flow through the unit and shall not exceed the design flow capacity.
 7. Cleaning and Maintenance: Each FPE shall be solely responsible for the cost of the AGRU installation, cleaning, and maintenance. The AGRU shall include a skimming device, automatic draw-off or other mechanical means to automatically separate fats and oils from the wastewater using a timer or level controller. The AGRU shall be connected to the electrical circuit by either hardwire or cord and plug. The AGRU shall operate no less than once per day.
- H. Other Approved Unit: If the Permittee requests the use of a unit other than an outdoor grease trap or an AGRU, the Permittee must demonstrate to the City Manager or their designee that the proposed unit can reliably meet the effluent limitations established in this Ordinance. Only after receiving approval from the City or their designee will the Permittee be authorized to install the proposed unit.

- I. An FPE that has been granted a variance shall have 30 days to report to the City or their designee and the Brookings Health Department any changes that cause a violation in the terms of the variance. Changes that may cause a violation to the terms of the variance may include but are not limited to hours of operation, food preparation techniques, or changes to the menu.

13.45.080 Fees and Billing:

- A. The fees provided for in this Ordinance are separate and distinct from all other fees chargeable by the City. All invoiced fees, pursuant to this Ordinance, shall become immediately due and owed upon receipt of invoice and shall become delinquent if not fully paid within 30 days after receipt. Any delinquent amount shall be subject to the late fee.
- B. Fines shall fall into four classifications: Reporting violations (including failure to apply for permit), numerical limits violations (local limits), BMP violations, and equipment installation violations. The City's current fees applicable to all applications and permits pursuant to this Ordinance will be adopted by resolution by the City Council. Violations will be assessed per Chapter 1.05 General Penalty.
- C. FPEs shall be responsible for any processing fees on payments made through third parties. Processing fees include but are not limited to credit card fees, online payment fees and collection fees.

13.45.090 Administrative Enforcement:

- A. Violations: If the City Manager or their designee records any deficiencies during an inspection, they will provide written or electronic Notice of Violation (NOV) to the FPE with instructions to correct the deficiency. An NOV shall be issued to an FPE for any one or more of the following violations:
 1. Failure to properly clean and maintain the grease trap in accordance with the provisions of the FOG Ordinance.
 2. Failure to report changes in operations.
 3. Failure to report an unauthorized grease discharge per § 13.45.050 (A)(7).
 4. Failure to maintain grease records, including documentation of pumping activities, GDF or receipts onsite at all times.
 5. Failure to provide access for trap/interceptor cleaning, inspection, or monitoring activities.
 6. Failure to obtain or renew a Discharge Permit in a timely manner.
 7. Failure to store grease in a proper container or dispose of grease at an approved facility.
 8. Failure to correct deficiencies noted in NOV within 30 days of notice for BMP violations. This violation shall be considered a second infraction.
 9. Failure to correct deficiencies noted in NOV within 60 days of notice for equipment violations. This violation shall be considered a second infraction.
 10. Any other failure to comply with the requirements of this Ordinance or conditions of any permit issued pursuant to this Ordinance.
 11. Within 30 days, the Permittee shall have the right to appeal the issuance of an NOV.
 12. All NOV's shall be addressed and corrections reported in writing to the City Manager or their designee within 30 days, except for repair or installation of equipment that must be completed and reported within 60 days, unless the FPE requests in writing an appeal or an extension. An appeal shall not be

grounds to extend the time requirements of this paragraph. Extensions will be granted at the sole discretion of the City Manager or their designee.

B. Enforcement Actions: Enforcement actions against FPEs in violation of this Ordinance shall be according to the following provisions.

- 1. Initial Violation Penalties: The City Manager or their designee may take enforcement actions against FPEs, including fines, consent agreements, compliance agreements or written agreements for voluntary compliance, or with any User or other person responsible for non-compliance. Such documents will include specific actions to be taken to correct the non-compliance within a time period specified by the document. Such documents shall be judicially enforceable. Corrective actions may include but are not limited to:**
 - a. Submittal of records for trap maintenance, immediate pump-out of the trap, or establishment of an ongoing contract with a Hauler or Renderer.**
 - b. Requirements for submittal of plans or upgrade of grease traps, including time frames for preparation of plans, acquisitions of necessary equipment, initiation of construction (including time for permit approval, where required), completion of construction and date for achievement of final compliance within the provisions of the NOV and this Ordinance.**
 - c. NOV Actions and Fines**
 - For the first violation in any 18-month period, an NOV will be issued with required corrective actions. Corrections must be made and reported or appealed within the time periods specified in § 13.45.090 (A)(11) and (12). At the sole discretion of the City Manager or their designee, a Tier 1 fine may be issued.**
 - For a second violation in any 18-month period, a second NOV and a citation will be issued pursuant to Chapter 1.05 BMC. [Ord. 07-O-590 § 5; Ord. 88-O-430 Art. XI § 2.] Additionally, the FPE will be required to bring the facility into full compliance. Where the FPE cannot meet this requirement immediately, the FPE will prepare a plan within 30 days of the NOV that outlines the soonest that equipment and other measures can be installed to meet full compliance. This plan will be submitted to the to the City for review and approval. Upon approval, the City Manager or their designee will issue a compliance schedule to meet the plan with milestones and specific time limits for each milestone. The plan will also specify that the FPE must report completion of each milestone within 10 days after the milestone is reached. If an FPE cannot meet a milestone, it shall report this within 10 days of the milestone, including additional efforts that will be taken to accelerate activities to continue to meet all future milestones leading to compliance.**
 - If a user of the system, including a Hauler, a Renderer, or an FPE, is discovered discharging FOG to a nonapproved discharge location (for instance, using a manhole in the City's wastewater collection system), enforcement for this action will be an immediate Tier 4 fine. This violation will not move through Tiers 1 through 3 as described above.**
 - The time schedule will be enforceable at the discretion of the City Manager or their designee for missed milestones and completion of the schedule.**
- 2. Continued Violations: If an FPE violates or continues to violate the provisions set forth in this Ordinance or fails to initiate/complete corrective action in response to an NOV(s), the City or their designee may pursue one or more of the following options:**
 - a. Referral to other appropriate enforcement agencies for further action, that is, the Brookings Health Department.**
 - b. Refer the NOV to the Brookings Health Department, recommending closure of the facility and/or denial of Food Service License renewal.**

3. The City may issue an immediate Cease and Desist Order when necessary to protect the public health, safety and welfare of the City or the environment.
4. Discharge Permit Revocation: Any Discharge Permit issued under the provisions of this Ordinance is subject to be modified, suspended, or revoked in whole or in part during its term for failure to comply with the terms of this Ordinance.
5. Any denial or revocation of a permit pursuant to this Ordinance may be appealed to the City. The Permittee shall have 15 days from date of notification of the permit denial or revocation to submit a written request for a hearing before the City. Failure to file an appeal constitutes acceptance of the decision to deny or revoke the permit and any conditions thereof.
6. If an appeal is filed, the City shall conduct a public hearing and decide within 60 days from receipt of appeal whether to grant the permit. The decision of the City shall be final. Cause for FOG Discharge Permit modification, suspension, or revocation shall include but not be limited to any one of the following:
 - a. Falsification of any information submitted as part of the application for the Discharge Permit.
 - b. Failure to comply with the requirements or regulations concerning discharges to the public sanitary sewer system.
 - c. Failure to comply with the requirements or regulations concerning grease interceptors/traps in this Ordinance.
 - d. Failure to pay required fees or penalties in a timely manner.
 - e. Failure to attend required BMP training courses if required by the City Manager or their designee.
 - f. When necessary to protect the public health, safety and welfare of the City.
7. Recovery of Costs: When a discharge causes any obstruction, damage or any other impairment to the public sanitary sewer system, damage to public or private property, or any expense of whatever character or nature to the City, the City shall assess the expenses incurred to clear the obstruction and/or repair damage to the system and any other expenses or damage of any kind or nature suffered by the City as a result thereof, including reimbursement for damage to private property. The City may file a claim with the User or other person that caused the obstruction, damage or other impairment for recovery of such costs, including any collection costs. If the claim is ignored or denied, the City shall notify the City Attorney to take such measures as shall be appropriate to recover any expense or to correct other damages suffered by the City.
8. Remedies Nonexclusive: The remedies for this Ordinance are not exclusive. The City may take any, all, or any combination of these actions against any person violating this FOG Ordinance.
9. Search Warrant: The City, through the City's Attorney, may seek to obtain a search warrant from the appropriate authority to gain access to an FPE's facility for the purposes of verification of compliance inspection and monitoring as provided for under §13.45.050 (A)(5) if such lawful entry has previously been denied by the FPE.
10. Citation to Superior Court: Notwithstanding any of the aforementioned, the City may cite any User to Superior Court for violation of any provision of this Ordinance. A violation of any condition or requirement of a Discharge Permit, or failure to obtain such a permit, shall be deemed to be in violation of this Ordinance.
11. Injunction and Other Relief: The City, through the City's Attorney, may file a petition in the name of the City in Superior Court or such other courts as may have jurisdiction seeking the issuance of an injunction, damages or other applicable law or regulation. Suit may be brought to recover any and all

damages suffered by the City as a result of any action or inaction of any person that causes or suffers damage to occur to the City's public sanitary sewer system.

- C. Upon issuance of a ~~fifth~~ third NOV in any 18-month period, any person found to have continued to violate any provision of this Ordinance, or any condition of a permit issued pursuant to this Ordinance, may be liable for an additional civil fine up to \$1,000 per violation. Each separate violation shall constitute a separate offense, and each day's continuance of a violation shall constitute a separate and distinct violation. In addition to the penalties provided herein, the City may recover attorney's fees, court costs, court reporter's fees and other expenses of litigation by appropriate suit at law against the person found to have violated this Ordinance or the orders, rules, regulations, and permits issued hereunder.