

ORDINANCE NO. 2668

AN ORDINANCE AMENDING PROVISIONS OF CHAPTER 13.35 OF THE GARDNER MUNICIPAL CODE AND ADDING ADDITIONAL PROVISIONS TO THIS SAME CHAPTER RELATING TO INFILTRATION AND INFLOW PREVENTION AND A PROGRAM PROVIDING FOR THE CONTROL OF FAT, OIL AND GREASE DISCHARGES TO THE GARDNER MUNICIPAL CODE.

WHEREAS, the Kansas Department of Health and Environment and the United States Environmental Protection Agency have from time to time adopted, modified, and supplemented rules, regulations and standards applicable to publicly owned and operated wastewater treatment facilities, as well as discharge limitations and requirements applicable to private persons or entities connected to and using sanitary sewers; and

WHEREAS, the Governing Body of the City finds that numerical grease limitations should be implemented with effective requirements for designing, installing, operating and maintaining grease interceptors and that it is advisable to incorporate new grease management requirements, including user fees, within the City Code; and

WHEREAS, it is necessary and advisable for the protection of the public health and safety and for the prudent and appropriate operation of the sanitary sewer system of the City to adopt such standards as provided for herein; and

WHEREAS, the City deems it advisable to reduce the amount of storm water and ground water inflow and infiltration originating from defects in private property connected to the public sewer system; and,

WHEREAS, allowing the flow of storm water and ground water into the public sewer system increases the cost of constructing and operating the sewer system and treating wastewater, adversely impacts the effective treatment of wastewater, reduces the available capacity of the system, creates conditions that pollute the waterways, and poses a direct threat to public health and safety by causing or contributing to sewer back-ups and sewer overflows; and,

WHEREAS, the Governing Body of the City finds it advisable to adopt standards regulating and restricting storm and ground water inflow and infiltration into the public sewer system into the City Code as provided for herein.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF GARDNER, KANSAS:

SECTION 1: Section 13.35.010 of the Gardner Municipal Code (“GMC”) subsection G. shall be amended to provide as follows:

- G. “Sewer” shall mean a pipe or conduit for carrying sewage and to which storm, surface, and ground waters are not intentionally admitted.

SECTION 2: Section 13.35.010 of the GMC subsection I. shall be amended to provide as follows:

- I. “Wastewater” shall mean a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments as may be present.

SECTION 3: A new section 13.35.095 shall be added to the GMC to provide as follows:

Sec. 13.35.095 - Infiltration & Inflow Prevention.

No person shall make connection, either directly or indirectly, of roof down spouts, interior or exterior foundation or footing drains, area drains, crawl space drains, or other sources of surface runoff or groundwater to a building sewer or building drain which is connected to a public sanitary sewer or to a public sanitary sewer directly. Nor shall any person break, damage, destroy, uncover, deface, tamper with, alter or substantially impair the use of any fittings, joints, plugs, caps, or part of a plugged building drain or building sewer to prevent inflow from such sources directly or indirectly into the public sanitary sewer system.

SECTION 4: A new section 13.35.035 shall be added to the GMC to provide as follows:

Sec. 13.35.035.1 – Applicability to Food Service Facilities.

The requirements in this Section 13.35.035 apply to “Food Service Facilities.” For purposes of this Section, “Food Service Facility” shall mean any user that prepares and/or packages food for sale or consumption, on or off site, with the exception of private residences. Food Service Facility shall include, but is not limited to: food courts, food manufacturers, food processors, food packagers, restaurants, grocery stores, delicatessens, bakeries, lounges, hospitals, hotels, nursing homes, churches, and schools. Food Service Facility shall not include a facility that only prepares beverages; a facility that only sells prepackaged foods; a facility that is permitted to conduct industrial pretreatment.

Sec. 13.35.035.2 - General requirements.

Garbage disposals. Garbage disposals are prohibited in food service facilities that begin operation after June 1, 2020. Existing food service facilities in operation prior to the effective date of the resolution from which this article is derived shall be allowed to operate a garbage disposal unless or until the facility is required to install a grease interceptor pursuant to this article.

Grease traps. Grease traps are prohibited in food service facilities that begin operation after June 1, 2020. Existing food service facilities in operation prior to June 1, 2020, shall be allowed to operate a grease trap unless or until the facility is required to install a grease interceptor pursuant to this article. Grease traps shall have a removable lid on the top surface to facilitate inspection, cleaning and maintenance.

Grease interceptors. Grease interceptors shall be required at food service facilities under the following circumstances:

- (1) *New food service facilities.* Food service facilities that begin operation after June 1, 2020, or nonfood service facilities that are altered after June 1, 2020, to include a food service facility where such facility did not previously exist, shall be required to install a new grease interceptor that complies with the design requirements of section 13.35.030.
- (2) *Food service facilities with existing grease interceptors.* Food service facilities in operation prior to June 1, 2020, shall be allowed to operate existing grease interceptors provided they are maintained in compliance with the operating requirements established in this subdivision and none of the conditions in subsection (c)(3) of this section apply.
- (3) *Food service facilities without grease interceptors.* The City of Gardner Wastewater may require an existing food service facility in operation prior to June 1, 2020, to install a new grease interceptor that fully complies with this article or to modify or repair any noncompliant plumbing or existing interceptor upon notice to the food service facility that one or more of the following conditions exist:
 - a. The facility is found to be contributing fats, oils or grease in quantities sufficient to cause line stoppages or to necessitate increased maintenance on the wastewater collection system; or
 - b. Changes are made to the menu or kitchen equipment that, in the opinion of the director, threatens to contribute fats, oils or grease in quantities sufficient to cause line stoppages or necessitate increased maintenance on the wastewater collection system.
- (4) *Common grease interceptors.* The City of Gardner Wastewater may permit the use and operation of a shared, common grease interceptor for multiple food service facilities which lease or occupy portions of a single or connected commercial structure or which constitute a food court at or within a single structure and such

food service facilities may, when permitted, connect to and share the use of the common grease interceptor. A separate operator's permit shall be applied for and applicable to the owner/operator of the common grease interceptor, and each separate food service facility connecting to and using the shared, common grease interceptor shall apply for and obtain a use permit for the common interceptor. The director of the City of Gardner Utilities Department shall approve permits for operation and use of a common grease interceptor only upon such permit terms and conditions and subject to an operator agreement that ensure compliance with the standards and technical requirements contained in this subdivision.

Sec. 13.35.035.3 - Design requirements for new grease interceptors.

- (a) New grease interceptors installed or modified after June 1, 2020, shall be attached to the building sewer line and shall connect all interior fixtures that may introduce grease into the wastewater collection system. Interior fixtures to be piped to the grease interceptor shall include, but not be limited to:

- (1) Three-compartment sinks;
- (2) Mop sinks;
- (3) Dishwashers;
- (4) Floor drains in food preparation and storage areas; and
- (5) Any other fixture determined to be a potential source of grease.

Dish machines with a booster heater shall include a cold water solenoid-operated valve or similar device that mixes cold water with the discharged hot water from the machine. Wastewater from toilets, restroom sinks, and other similar fixtures shall not be piped to the grease interceptor under any circumstances.

- (b) Grease interceptors installed or modified after June 1, 2020, shall meet the following requirements:

- (1) The design, type, sizing and capacity of the interceptor and sampling port shall be approved, prior to installation, by the City of Gardner Wastewater and shall conform to the standards established in the most recently published version of the guidance document entitled "Grease Interceptor Design Criteria";
- (2) The interceptor shall be designed, constructed and installed for adequate load-bearing capacity;

- (3) The interceptor shall be installed in a location outside the facility which is easily accessible for cleaning, inspection and sampling;
- (4) A sampling port shall be installed on the interceptor discharge line;
- (5) The interceptor shall have a minimum of two compartments and shall be capable of separation and retention of grease and storage of settled solids;
- (6) The interceptor shall have a manhole to surface grade over each compartment to facilitate inspection, cleaning and maintenance, including pumping; and
- (7) The minimum capacity of any single interceptor unit shall be 1,000 gallons and the maximum capacity shall be 2,000 gallons. Where sufficient capacity cannot be achieved with a single unit, installation of grease interceptors in series is required.

Sec. 13.35.035.4 - Plan review and permitting requirements for new or modified grease interceptors.

- (a) *General requirements.* In addition to any other applicable requirements under this article, a food service facility required under this article to install or modify a grease interceptor or the plumbing that connects to the interceptor shall meet the plan review and permitting requirements in this section prior to discharging wastewater to the sewerage system.
- (b) *Plan review application.* Any food service facility required under this article to install or modify a grease interceptor or the plumbing that connects to the interceptor must apply for and receive approval of the proposed plan for such installation or modification. An application form and copies of the proposed plan, together with payment of the plan review fee and all other required fees, shall be submitted to the City of Gardner Wastewater for review and approval. The plan shall be submitted in a form acceptable to the director and shall contain the information necessary to demonstrate to the department's satisfaction that the interceptor and any associated plumbing is designed and will operate in compliance with this article.
- (c) *Plan review information.* The City of Gardner Wastewater shall make grease interceptor plan review application forms available upon request. Incomplete applications may be denied. In addition to the information on the application form, a food service facility shall submit the following information:
 - (1) A full set of building and construction plans to include:
 - a. Proposed plumbing connections to the grease interceptor;
 - b. The placement of all plumbing fixtures; and
 - c. The layout of kitchen equipment;

- (2) A copy of the menu or a list of the food items to be prepared, sold or consumed;
 - (3) The completed application for a state food service establishment license if applicable;
 - (4) A description of food handling, food procedures and food flow in the facility;
 - (5) The grease interceptor plan review fee including any applicable variance request processing fee; and
 - (6) Any other information required by the City of Gardner Wastewater to adequately review the grease interceptor plan.
- (d) *Plan review approval.* The City of Gardner Wastewater shall review the food service facility's grease interceptor plan and upon determining that it meets the requirements of this article, the department shall issue a directive approving the plan. In approving the plan, the department may impose any conditions necessary to ensure that it complies with this article. The department may deny any plan that does not comply with this article. The department shall notify the food service facility in writing whether the plan has been approved, approved with conditions, or denied, and if denied, the reasons for the denial.
- (e) *Connection or modified usage permit required.* Prior to installing or modifying a grease interceptor or any plumbing that connects to an interceptor, a food service facility shall apply for and be issued a connection permit or a modified usage permit from the wastewater department. The wastewater department may review but shall not approve such application for a connection or a modified usage permit unless the City of Gardner Wastewater has approved the grease interceptor plan required in subsection (b) of this section.
- (f) *Operating permit required for new or modified grease interceptors.* Upon determination that any installation or modification of a grease interceptor, or any plumbing that connects to the interceptor, has been completed and does comply with the requirements of this article, including but not limited to design and construction standards imposed under the authority of this article, the City of Gardner Wastewater shall provide notice of such compliance to the designated operator of the food service facility, and, upon proper application and approval, issue a grease interceptor operating permit for the facility. No food service facility required under this article to install or modify a grease interceptor shall discharge to the sewerage system without a valid grease interceptor operating permit. The grease interceptor operating permit holder shall comply with all of the provisions in this subdivision, operating requirements and operating permit renewals.

Sec. 13.35.035.5 - Permitting requirements for existing grease interceptors.

- (a) *General requirements.* A food service facility with a grease interceptor shall not discharge to the sewerage system without a valid grease interceptor operating permit (GIOP) issued by the City of Gardner Wastewater. The City of Gardner Wastewater shall approve, deny, or approve with conditions each GIOP application in accordance with the provisions of this Article. The GIOP shall be in addition to any other permits, registrations, or licenses that may be required under federal, state or local law.
- (b) *Applications.* All food service facilities with a grease interceptor shall apply annually for a grease interceptor operating permit (GIOP) on a form prescribed by the City of Gardner Wastewater. The City of Gardner Wastewater shall make the forms available to food service facilities at least 30 days prior to the date they are due. Each food service facility with a grease interceptor shall complete the application and submit it to the City of Gardner Wastewater no later than March 1 of each calendar year. The GIOP application shall include payment of the annual permit fee required under section 13.35.035.9(2). GIOP applications that do not include payment of the required fee shall be deemed incomplete.
- (c) *Issuance.* The City of Gardner Wastewater shall determine whether the grease interceptor operating permit application submitted by the food service facility is complete. Incomplete applications may be denied. The City of Gardner Wastewater shall review complete applications along with information from any grease interceptor inspections conducted by the City of Gardner Wastewater at the food service facility and other pertinent information. The City of Gardner Wastewater shall issue a permit to the food service facility upon a determination that the grease interceptor is in compliance with this article. The City of Gardner Wastewater may issue a permit with conditions intended to correct any violations of this article.
- (d) *Terms.*
 - (1) Each grease interceptor operating permit (GIOP) shall be effective for up to one year and shall expire on April 15 of each year regardless of the date that the previous permit was issued. The terms and conditions of a GIOP are automatically extended past the expiration date and remain fully enforceable pending issuance of a new permit only under the following conditions:
 - a. The food service facility has submitted a timely and complete application for a new permit;
 - b. The City of Gardner Wastewater is unable, through no fault of the food service facility, to issue a new permit before the expiration date of the previous permit; and
 - c. The food service facility is not significantly violating the terms and conditions of the previous permit.

- (2) The food service facility shall display the GIOP in a conspicuous place where it can be seen by the facility staff and shall maintain a copy of the GIOP in the grease interceptor records file.
- (3) The GIOP shall automatically terminate and become null and void upon cessation of operations of the food service facility or sale or transfer of business ownership of such facility including but not limited to a sale of assets, shareholders equity, or other equity or ownership interest. It is the responsibility of any new owner to timely apply for a new GIOP from the City of Gardner Wastewater.
- (4) The City of Gardner Wastewater may modify the terms and conditions of the GIOP at any time to address evidence of noncompliance with this article. Any changes or new conditions in the GIOP shall include a reasonable schedule for achieving compliance.
- (5) The City of Gardner Wastewater may revoke the GIOP at any time if a food service facility has failed to correct significant and ongoing noncompliance with this article after being provided a reasonable opportunity to do so.

Sec. 13.35.035.6 - Operating requirements.

All grease interceptors shall meet the following requirements:

- (1) *Pumping, cleaning and maintenance.* Each food service facility shall be responsible for pumping, cleaning and maintaining its grease interceptor in good working condition. All food service facilities with a grease interceptor shall utilize a wastewater hauler or contractor holding a valid sanitary disposal contractor's license issued by the City of Gardner Wastewater or alternatively Johnson County Wastewater to provide pumping, cleaning and disposal services. Pumping shall include the removal of all contents from the interceptor, including grease, floating materials, gray water, bottom sludge and solids. Cleaning shall include removal of solids from the walls, floors, baffles and pipe work in the interceptor. It shall be the responsibility of each food service facility to verify that the interceptor is properly cleaned out and that all fittings and fixtures inside the interceptor are in good working condition.
- (2) *Pumping frequency.* Unless otherwise approved by the director or authorized under this section, each food service facility shall have its grease interceptors pumped at least once every 90 days. More frequent pumping may be required by the City of Gardner Wastewater based on the following criteria:
 - a. Evidence of a floatable grease layer that exceeds six inches (6") in depth on the outlet side of the interceptor; or
 - b. Evidence of a settleable solids layer that exceeds eight inches (8") in depth on the outlet side of the interceptor.

Any food service facility which holds a GIOP may apply for a variance from the pumping frequency requirements by utilizing the procedures prescribed in this section 13.35.035.5, including payment of the variance request processing fee. Food service facilities which are located in institutional facilities operated by public or governmental entities, such as public schools, may, at the time of issuance or renewal of the GIOP for the facility, request a modified pumping schedule based upon either the limited schedule that the food service facility operates or the limited menu of food items prepared at the facility, and such request shall not be considered as a variance request and no variance request processing fee shall be required. When the director finds that a variance from the pumping frequency requirements or a modified pumping schedule would not unduly create health or safety issues or expose the sewer system to improper discharges, the director may grant the variance or modified schedule. Any variance or modified pumping schedule shall thereafter become a requirement under this article, applicable to that permit holder, and shall be subject to further revision or revocation as necessary for the public health and the proper maintenance of the sewer system.

- (3) *Repairs.* Each food service facility shall be responsible for all repairs to its grease interceptors. Repairs required by the City of Gardner Wastewater shall be completed by the date specified in a written notice provided by the City of Gardner Wastewater.
- (4) *Waste disposal.* Wastes removed from any grease interceptor shall be disposed at a facility permitted to receive such wastes or at a location legally designated for such purposes. Grease, gray water or solid materials removed from an interceptor shall not be returned to an interceptor, private sewer line or to any portion of the wastewater collection system without prior written approval from the administering agency.
- (5) *Recordkeeping.* Each food service facility shall maintain a grease interceptor binder on site in an easily accessible location and shall make it available for review upon request by the City of Gardner Wastewater. The binder shall contain a chronological record of all maintenance and repairs performed on the grease interceptors during the most recent three-year period. The binder shall include the date of the maintenance or repair including all dates when the interceptor was pumped and cleaned, a brief description of the nature of the maintenance or repair, and any other pertinent information. The binder shall also contain the following information:
 - a. A copy of the facility's current grease interceptor operating permit;
 - b. A copy of any receipts for repairs or maintenance to the interceptors, including pumping and cleaning;
 - c. The name, address, and telephone number of the sanitary disposal contractor licensed by the City of Gardner or alternatively Johnson County

Wastewater that the food service facility uses to pump and clean the grease interceptors; and

- d. Grease interceptor monitoring data, if applicable.

Sec. 13.35.035.7 - Alternative methods of grease management.

The director of the City of Gardner Utilities Department may approve and issue a modified permit for the use of alternative methods of grease management, in lieu of the requirement contained in section 13.35.035.4(c) for the installation and use of a grease interceptor, by a qualified food service facility or specified type or class of food service facility when the director determines that an alternative method of grease management is at least as effective for managing grease discharges to the sewerage system as the other requirements in this article. The approval of an alternative method of grease management shall be made in the manner and in accordance with the following prescribed criteria and conditions:

- (1) *Application processes.* A food service facility may request approval and a modified permit for the use of an alternative method of grease management according to one or more of the processes in this subsection. The application shall be in writing, on a form prescribed by the City of Gardner Wastewater, and shall comply with the procedures contained in section 13.35.035.4.
 - a. *Variance.* A food service facility may request a variance from any of the requirements of this subdivision. The City of Gardner Wastewater shall consider the request based upon documentation presented by the food service facility and may grant the variance only when the food service facility has adequately demonstrated that the alternative method requested is at least as effective in managing grease discharges to the sewerage system as the requirements contained in the article. No variance shall be approved unless the requesting facility has paid the processing fee as required by section 13.35.035.9.
 - b. *Approved grease removal device.* The director of the City of Gardner Wastewater may, from time to time, designate a particular type of equipment or grease removal device as an approved alternative grease management method and permit its use by a qualified type or class of food service facility. In such event, a qualified food service facility may request a permit to use the approved equipment or grease removal device, and the director may approve the request after making a determination that the applicant is a qualified food service facility for which the device is approved and that the particular use by the applicant will provide grease management sufficient to comply with the intent of this article. No request to use approved equipment or grease removal device shall be granted unless

the requesting facility has paid the processing fee required by section 13.35.035.9.

c. *Low discharge waiver.* A food service facility which qualifies as a low grease generating facility may request a waiver from the requirement to install and use a grease interceptor and/or a grease removal device. The director may approve the request only upon a direct finding that the facility meets the qualifications for a low grease generating facility, that the facility in ordinary operation will discharge only minimum amounts, if any, of fats, oils and grease to the sewerage system, and that the facility is not likely to contribute in the future quantities of fats, oils, and grease sufficient to cause line stoppages or to necessitate increased maintenance on the sewerage system. No request for a low discharge waiver shall be approved unless the requesting facility has paid the processing fee required by section 13.35.035.9. For purposes of this section, a food service facility will not be considered a low-grease generator unless it meets the following criteria:

1. A facility that only serves ready-to-eat foods with no preparation at the facility other than warming, which would include, but not be limited to, scoop-only ice cream shops, cold sandwich shops, popcorn stands and hot dog rollers;
2. A facility that only prepares:
 - (i) Uncooked or unbaked food or meals that will be taken from the facility and cooked or baked at another location; or
 - (ii) Small baked goods such as, but not limited to, cookies and pretzels;
3. The facility does not engage in more than a minimum amount of dish or pot washing; and
4. The facility demonstrates that its operations do not cause or provide for the discharge of fats, oils or grease in an amount which could cause unacceptable accumulation of deposits in the sewerage lines or necessitate increased maintenance on the sewerage system.

Any food service facility that uses a deep fat fryer, a grill, a wok, a griddle, a fry daddy or any other device that uses fats, oils, or grease for cooking purposes shall not be considered as low- grease generating or discharging facility and shall not qualify for a waiver under this section.

- (2) *Conditional status.* Any modified operating permit issued pursuant to this section for an alternative grease management method, whether by waiver, certification or variance, shall be strictly conditional, and the director of the City of Gardner Wastewater may impose, as a part of the approval and issuance of, the permit, such conditions as the director deems necessary and advisable to ensure the effective management of grease as intended under this Article. All approvals and permits

issued under this section shall contain, at a minimum, the following terms and conditions:

- a. *Fee payment.* The food service facility shall timely pay all applicable application and annual fees or other charges specified by the director in the approval and/or modified permit or as may hereafter be required by this article;
- b. *Code compliance.* The food service facility shall comply with each and all of the provisions of the Article which are not otherwise, expressly or by necessity, modified by the permit issued under this section;
- c. *Structural arrangements.* Notwithstanding the approval of any variance, certification or waiver, the food service facility shall be required for all new structures and for existing structures where reasonably feasible to provide structural arrangements suitable for the future installation and use of a grease interceptor, including but not limited to segregated wastewater lines within the plumbing of the facility, connection points for plumbing to an outside interceptor, and reserved location space, unrestricted, in the parking or adjacent area for placement of a future interceptor. The food service facility shall ensure that the structural arrangements are required to be preserved by any successors in interest and/or future occupants of the structural space;
- d. *Change of operations or circumstances.* The food service facility shall notify the City of Gardner Wastewater of any change in operation and/or circumstances which would or reasonably may affect the generation or discharge of fats, oils and grease at the facility;
- e. *Term and periodic review.* Any alternative grease management method approved under this section shall be for a defined term as specified by the director of the City of Gardner Wastewater and shall be subject, in addition to standard inspections or compliance investigations, to a formal periodic review at least once each five years. The review shall determine whether the food service facility is still qualified and eligible for the alternative method and whether the method is providing effective grease management at the facility as required by this article;
- f. *Best management practices.* The director of the City of Gardner Wastewater shall develop and publish guidelines specifying the best management practices (BMPs) in the food service industry for the management and disposal of fats, oils and grease and shall update the guidelines periodically to ensure that the current industry standards for BMPs are met. Each food service facility which is permitted to use an alternative grease management method under this section shall implement and adhere to the BMPs as promulgated and updated by the director, and the food service facility shall provide training, acceptable to the City of

Gardner Wastewater, for each and all of its employees upon hire and at least annually on the BMPs;

- g. *Required conversion.* In the event that the food service facility fails for any reason to comply with any term or condition of the modified permit, including the conditions stated in this subsection, or if for any reason the alternative grease management method is not effective, as contemplated by this section, then the director may require and the food service facility shall cease operation of the alternative method and immediately install, at its own expense, a grease interceptor, or if allowable an approved grease removal device, meeting the requirements of this article.
- (3) *Conversion from existing interceptor or grease removal device.* Any food service facility which has a permit for and is operating either a grease interceptor or grease removal device pursuant to this subdivision may apply under this section for a modified permit to use an alternative grease management method, and such a modified permit may then be issued to the facility if the director determines that the facility meets all of the requirements for and is qualified to operate such alternative method; provided however, that such food service facility shall not be required to pay the processing fee required by section 13.35.035.9. Upon issuance of the modified permit under this subsection, the permit issued for the grease interceptor or grease removal device shall be rescinded, and the food service facility shall decommission the grease interceptor or grease removal device in accordance with procedures, requirements and standards prescribed by the City of Gardner Wastewater as a condition to and a part of the modified permit.
- (4) *Termination and revocation of modified permit.* Any modified permit issued under this subsection for use of an alternative grease management method shall terminate automatically upon expiration of its term, unless renewed, or upon the occurrence of any event or action which would render the food service facility ineligible or not qualified to use an alternative grease management method. Immediately upon such termination, the food service facility shall cease any discharge of fats, oils or grease to the sanitary sewer system until a proper permit is issued and either a grease interceptor or grease removal device, or other approved alternative method, is installed and operational at the facility. Any modified permit issued under this subsection may be revoked by decision of the director of the City of Gardner Wastewater, following notice and an opportunity to be heard being provided to the food service facility, whenever the director determines that the food service facility has discharged or is discharging fats, oils, and/or grease to the sewer system in quantities which are causing accumulations in the sewer lines that are likely to result in a line obstruction and/or blockage or will result in increased maintenance for the wastewater collection system. Upon revocation of the modified permit, the food service facility shall immediately cease any discharge of fats, oils, and/or grease to the sewerage system until a proper permit is issued and a grease

interceptor is installed and operational at the facility. Any food service facility which has had a modified permit revoked under this article shall not be eligible thereafter for issuance of another modified permit for the same facility unless the director of the City of Gardner Wastewater determines that the management of the facility has fully modified operation at the facility and that such modifications reasonably ensure that the facility can effectively meet the intent and requirements of this Article with the use of an alternative grease management method.

Sec. 13.35.035.8 - Notice of noncompliance.

The City of Gardner Wastewater shall record all observations during an inspection of a food service facility subject to the grease management requirements of this article in a written report, including any violations. The department shall notify the food service facility of any violations and provide a time frame for correcting the violations. The department official may re-inspect any food service facility that has received a notice of noncompliance to determine whether all violations have been timely and completely corrected. The food service facility is subject to reinspection fees as provided under section 13.35.035.9.

Sec. 13.35.035.9 - Fees.

The director of the City of Gardner Wastewater is hereby authorized under this article to assess and collect fees in the amounts and according to the procedures set forth in this section and as subsequently modified by the Governing Body by resolution on an annual basis. The fees provided for in this subdivision are separate and distinct, and in addition to any other fee assessed by the City of Gardner Wastewater. Such fees may be adjusted by the Governing Body of the City on at least an annual basis by resolution. The following shall be a description of the types of fees which may be assessed and the dollar amount of the fees shall be effective until altered or amended by the Governing Body by resolution:

- (1) *Grease interceptor—Plan review fee.* Any food service facility that wishes or is required to make a modification to an existing permitted grease interceptors under this Article, and any food service facility that wishes to or is required to install a new grease interceptor under this article, shall pay a nonrefundable fee to the City of Gardner Wastewater with the plan review application. The fee shall initially be set by the Governing Body by resolution and shall be applied for each plan required to be reviewed.
- (2) *Same—Operating fee.* Each food service facility required under this article to have a grease interceptor operating permit shall pay an annual fee to the City of Gardner Wastewater with the permit application, except that the permit fee shall be waived for any facility that has in the same calendar year already paid a grease interceptor plan review fee. The permit fee shall initially be set by the Governing Body by resolution for each food service facility.

- (3) *Reinspection fees.* A food service facility that has not corrected violations of this article by the date established in a written notice of noncompliance shall as set by the Governing Body by resolution. The reinspection fees are in addition to any other enforcement action authorized under law to compel compliance with this article.
- (4) *Variance request processing fees.* A food service facility that submits a request for a variance from the provisions of this subdivision, shall pay a processing fee set by the Governing Body by resolution to be paid to the City of Gardner Wastewater.

Sec. 13.35.035.10 - Regulation of waste from other jurisdictions.

Food service facilities regulated by the City of Gardner Wastewater through an interlocal agreement must comply, at a minimum, with this article.

SECTION 5: All other ordinances not in conformity herewith are hereby repealed or amended to conform hereto.

SECTION 6: This ordinance shall take effect and be in force from and after its passage, approval and publication as provided by law.

PASSED by the City Council this 3rd day of August, 2020.

APPROVED by the Mayor this 3rd day of August, 2020.

(SEAL)



Attest:

Sharon Rose, City Clerk

CITY OF GARDNER, KANSAS

Steve Shute, Mayor

Approved as to form:

Ryan B. Denk, City Attorney