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ORDINANCE NO. 18711

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. amending City of Topeka Code §§ 146-196, 146-283, 146-354 through 146-367, and specifically repealing said original sections.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TOPEKA, KANSAS:

Section 1. City of Topeka Code § 146-196, Definitions, is hereby amended to read as follows:

Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act or The Act means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251 et seq.

Approval authority means the Environmental Protection Agency (EPA) or if the pretreatment program has been formally delegated to the state department of health and environment (KDHE), it shall mean the director of the division of environment of KDHE.

Authorized representative means:

(A) A principal executive officer of at least the level of vice-president, if the industrial user is a corporation;

(B) A general partner or proprietor, if the industrial user is a partnership or proprietorship, respectively;
(C) A duly authorized representative of the individual designated above, if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates; or

(D) A duly authorized representative responsible for the operation of a facility owned and/or operated by the state, federal or local government.

Beneficial uses means uses of the waters of the state that may be protected against quality degradation which include, but are not necessarily limited to, domestic, municipal, agricultural and industrial supply, power generation, recreation, aesthetic enjoyment, navigation and the preservation and enhancement of fish, wildlife and other aquatic resources or reserves, and other uses, both tangible or intangible, as specified by federal or state law.

BOD or BOD (denoting biochemical oxygen demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five (5) days at twenty (20°) degrees Celsius, expressed in milligrams per liter.

Building sewer means a sewer conveying wastewater from the premises of a user to a community sewer.

City means the City of Topeka, Kansas, for the purpose of administering this article represented by the superintendent of the water pollution control division.

Combined sewer means a sewer receiving the combination of surface runoff, wastewater, sewage and/or industrial wastes.

Community sewer means a sewer owned and operated by the city or other public agency, tributary to a treatment facility operated by a public agency.
Composite sample means a combination of individual samples of water or wastewater taken at selected intervals (generally hourly or some similar specified period), to minimize the effect of the variability of the individual sample. Individual samples may have equal volume or may be roughly proportional to the flow at time of sampling.

Contamination means an impairment of the quality of the waters of the state by waste to a degree which creates a hazard to the public health. "Contamination" shall include any equivalent effect resulting from the disposal of wastewater, whether or not waters of the state are affected.

Cooling water means the water discharged from any use such as air conditioning, cooling or refrigeration or to which the only pollutant added is heat.

Department means the public works department of the city.

Direct discharge means the discharge of treated or untreated wastewater directly to the waters of the state.

Division means the Water Pollution Control Division of the City of Topeka Public Works Department.

Environmental Protection Agency or EPA means the U.S. Environmental Protection Agency, or where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of such agency.

Foundation drain means a perforated pipe or a pipe with open joints or porous material installed either outside exterior foundation walls or inside exterior foundation walls or beneath a basement floor for the purpose of preventing the buildup of water pressure and water capillarity beneath the floor.
Grease Generator means a business or other commercial enterprise which creates or otherwise discharges grease into the municipal sewer system.

Grab sample means a sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

Hazardous waste means a hazardous waste as defined within the Code of Federal Regulations (40 C.F.R § 261.3).

Holding tank waste means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks and vacuum-pump tank truck.

Indirect discharge means the discharge or the introduction of nondomestic pollutants from any source regulated under section 307(b) or (c) of the Act (33 U.S.C. § 1317), into the POTW (including holding tank waste discharged into the system).

Industrial user means any user contributing industrial waste to the municipal sewer system.

Interference means a discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

(A) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and

(B) Is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with statutory provisions and regulations or permits issued thereunder by the state or federal government.
Mass emission rate means the weight of material discharged to the sewer system during a given time interval. Unless otherwise specified, the "mass emission rate" means pounds per day of a particular constituent or combination of constituents.

Municipal sewer system means sanitary sewers, pumping stations, sewage treatment plants, main sewers, interceptor sewers, outfall sewers, and works for the collection, transportation, pumping and treating of wastewater, sewage or industrial waste thereto, necessary in the maintenance and operation of the same.

National categorical pretreatment standard or pretreatment standard means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 U.S.C. § 1317), which applies to a specific category of industrial users.

National pollution discharge elimination system or NPDES permit means a discharge permit issued by the approval authority pursuant to section 402 of the Act (33 U.S.C. § 1342).

National prohibitive discharge standard or prohibitive discharge standard means any regulation developed under the authority of section 307(b) of the Act.

New source means any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Act, which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that such building, structure, facility or installation meets the criteria outlined by 40 C.F.R. § 403.3(k) of the general pretreatment regulations.
Pass through means a discharge which exits the POTW into waters of the United States in quantities or concentrations which alone or in conjunction with a discharge or discharges from other sources is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

Person means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity or other legal representatives, agents or assignees.

PH means the negative logarithm of the reciprocal concentration of hydrogen ions measured in grams per liter of solution.

Pollutant means any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological material, radioactive material, heat wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.

Pollution means an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects such waters for beneficial use or facilities which serve such beneficial uses. "Pollution" may include contamination.

Premises means a parcel of real estate including any improvements thereon which is determined by the department to be a single user for the purpose of receiving, using and paying for service.

Pretreatment or treatment means the reduction of the amount of pollutants, the removal of pollutants or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the municipal sewer system. The reduction or alteration can be obtained by physical,
chemical or biological processes or process changes by other means, except by dilution as
prohibited by federal regulation.

Pretreatment standard means any regulation containing pollutant discharge limits
promulgated by the EPA in accordance with section 307(b) and (c) of the Act which
applies to industrial users.

Publicly owned treatment works (POTW) means a treatment works as defined by
section 212 of the Act (33 U.S.C. § 1292), which is owned in this instance by the city. This
definition includes any sewers that convey wastewater to the POTW treatment plant, but
does not include pipes, sewers or other conveyances not connected to a facility providing
treatment. For the purpose of this article, "POTW" also includes any sewers that convey
wastewaters to the POTW from persons outside the city who are users of the city’s POTW.

Sanitary sewer means a sewer which carries wastewater, sewage and/or industrial
wastes, and to which storm, surface and ground waters are not intentionally admitted.

Sewage means a combination of the water-carried wastes from users together with
such groundwaters, surface waters and stormwaters as may be present.

Sewer means a pipe or enclosed conduit through which sewage is transported to the
POTW treatment plant.

Significant industrial user means:

(A) Users whose average wastewater strength cannot be established because of
seasonal or other variations and/or operations;

(B) Users whose wastewater strength exceeds the normal range of wastewater
strength;

(C) Users using an unmetered source of water;
(D) Users who fall under those guidelines set forth for federal categorical industries;

(E) Users discharging an amount greater than twenty-five thousand (25,000) gallons per day of process wastewater for any day during the preceding twelve (12) month period;

(F) Users whose average discharge, measured either by volume of flow, weight of suspended solids, biochemical oxygen demand, or chemical oxygen demand, exceeds two percent (2%) of the average loading on the applicable treatment facility; and

(G) Other users determined by the superintendent to require special regulation or source control.

Significant noncompliance or SNC means and refers to any violation of pretreatment requirements (limits, sampling, analysis, reporting and meeting compliance schedules and regulatory deadlines) and is an instance of noncompliance for which the industrial user is liable for enforcement, including penalties. Instances of SNC are industrial user violations which meet one or more of the following criteria:

(A) Violations of wastewater discharge limits:

(1) Chronic violations: Sixty-six percent (66%) or more of the measurements exceed the same daily maximum limit or the same average limit in a six (6) month period (any magnitude of exceedance).

(2) Technical review criteria or "TRC" violations: Thirty-three percent (33%) or more of the measurements exceed the same daily maximum limit or the same average limit by more than the TRC in a six (6) month period.
There are two (2) groups of TRCs: BOD, TSS, fats, oil, and grease, where the TRC is 1.4; and group II for all other pollutants, where the TRC is 1.2.

(3) Any other violation of an effluent limit (average or daily maximum) that the city believes has caused, alone or in combination with other discharges, interference (e.g., slug loads) or pass-through; or endangered the health of the sewage treatment personnel or the public.

(4) Any discharge of a pollutant that has caused imminent endangerment to human health/welfare or to the environment and has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.

(B) Violations of compliance schedule milestones, contained in a local control mechanism or enforcement order, for starting construction, completing construction, and attaining final compliance by ninety (90) days or more after the schedule date.

(C) Failure to provide reports for compliance schedules, self-monitoring data, or categorical standards (baseline monitoring reports, ninety (90) day compliance reports, and periodic reports) within thirty (30) days from the due date.

(D) Failure to accurately report noncompliance.

(E) Any other violation or group of violations that the city considers to be significant.

Silver associated process means any process, manufacturing or service related business which falls within any of the following standard industrial classifications: 2711, 2721, 2731, 2732, 2741, 2751 to 2754, and 8062.
Slug means any discharge of wastewater, sewage or industrial waste which, in concentration of any given constituent or in quantity of flow, exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times its average twenty-four (24) hour concentration or flows during normal operation.

Standard industrial classification or SIC means a classification pursuant to the most recent edition of the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget.

State means the "State of Kansas."

Stormwater means any water flow occurring during or following any form of natural precipitation and resulting there from.

Stormwater collection system shall include all piping, channels, ditches, streams, or any other manmade or natural structure that conveys stormwater runoff.

Superintendent means the superintendent of the city water pollution control division of the city public works department, or designated representative.

Total suspended solids means solids that either float on the surface of or are in suspension with water, sewage or other liquids; and which are removable by laboratory filtering.

Toxic pollutant means any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provision of section 307(a)(1) of the Act.

Unpolluted water means water to which no constituent has been added, either intentionally or accidentally, which would render such water unacceptable for disposal to storm or natural drainages or directly to surface waters.
User means any person that discharges, directly or indirectly, causes or permits the
discharge of wastewater into a community sewer.

Waste means substances, whether liquid or solid, associated with human habitation
or of human origin or from any producing, manufacturing or processing operation of
whatever nature, whether treated or untreated, discharged into or permitted to enter a
community sewer.

Wastewater means waste and water, whether treated or untreated, discharged into
or permitted to enter a community sewer.

Waters of the state means any water, surface or underground, within the boundaries
of the state.

Section 2. City of Topeka Code § 146-283, Use of Grease Traps, is hereby
specifically repealed.

Use of grease traps.

Grease traps shall be installed in accordance with the requirements of article VIII
of chapter 26 of this Code to ensure compliance with the effluent limitations contained in
this article. The owner or operator of each establishment shall be responsible for
servicing and routine cleaning of the grease trap to maintain it in satisfactory operating
condition. The owner or operator shall also be responsible for removing the cover of the
grease trap for inspection at the request of any representative of the public works
department. Any existing establishments not currently using a grease interceptor shall
be required to install such if future data (laboratory data and/or preventive maintenance
data) show a need for waste pretreatment requirements regulated by the water pollution
control division.
Section 3. City of Topeka Code § 146-354, Reserved, is hereby amended by the addition of the following language:

DIVISION 9. GREASE GENERATORS

Use of grease traps/Interceptors.

Grease traps/Interceptors shall be installed in accordance with the requirements of article VIII of Chapter 26 of this Code to ensure compliance with the effluent limitations contained in this article. Each grease generator shall be responsible for servicing and routine cleaning of the grease trap and/or grease interceptor to maintain it in satisfactory operating condition. Each grease generator shall ensure that grease traps and grease interceptors are cleaned as often as necessary to ensure that sediment and floating materials do not accumulate to impair the efficiency of the grease trap and/or grease interceptor; to ensure the discharge is in compliance with local discharge limits; and that no visible grease is observed in discharge. Each grease generator shall also be responsible for removing the cover of the grease trap for inspection at the request of any representative of the public works department. Any existing grease generator not currently using a grease trap and/or grease interceptor shall be required to install such if future data (laboratory data and/or preventive maintenance data) show a need for waste pretreatment requirements regulated by the water pollution control division.

Section 4. City of Topeka Code § 146-355, Reserved, is hereby amended by the addition of the following language:
Quarterly reporting.

Each grease generator shall submit a quarterly grease report on such forms provided by the City to the superintendent. The quarterly grease report shall be submitted on or before the last calendar day of March, June, September, and December in each year.

Each quarterly grease report shall provide the following information, including but not limited to, a record of the dates the grease trap and/or grease interceptor was cleaned, the name and contact information for the grease hauler, if applicable, and grease generator contact information. Failure to submit a quarterly grease report or failure to submit a complete report within thirty (30) days of the due date may result in the issuance of a notice of violation and enforcement under Division 2 of this article.

Section 5. City of Topeka Code § 146-356, Reserved, is hereby amended by the addition of the following language:

Record keeping.

Each grease generator shall maintain a Grease Trap/Interceptor Maintenance Log such forms provided by the division that shall indicate all dates of trap/interceptor cleaning, disposal method, quantity removed, and the name of the grease hauler that pumped the interceptor or the individual who cleaned the trap. The Grease Trap/Interceptor Maintenance Log shall indicate the cleaning dates for at least the previous twelve (12) months and shall be available for inspection and review by the Superintendent. Failure to maintain a maintenance log shall result in the issuance of a notice of violation and enforcement in accordance with this article.

Section 6. City of Topeka Code § 146-357, Reserved, is hereby amended by the addition of the following language:
Additives.

The introduction of any solvent based products (i.e., fuel, gasoline or any other hydrocarbons) or enzymatic agents are prohibited in the collection system. All other chemicals, emulsifiers, live bacteria, or other grease cutters or additives shall be approved by the Superintendent prior to use. Based upon the information received and any other information solicited from the potential user or supplier, the superintendent shall permit or deny the use of the additive in writing. Permission to use any specific additive may be withdrawn by the City at any time. Any violation of this section may result in the issuance or a notice of violation and enforcement in accordance with this article.

Section 7. City of Topeka Code § 146-358, Reserved, is hereby amended by the addition of the following language:

DIVISION 10. GREASE HAULER

License Required.

It shall be unlawful for any person, firm, or business to engage in the business of cleaning or servicing a grease trap and/or a grease interceptor of a grease generator without first having obtained from the division a license therefore.

Section 8. City of Topeka Code § 146-359, Reserved, is hereby amended by the addition of the following language:

Application.

Applications for a grease hauler license shall be submitted to the division and shall contain the following information:

(A) Payment of the license fee.
(B) Achievement of a minimum passing graded score of seventy percent (70%) on the grease haulers examination administered by the division.

(C) Submitting complete application forms supplied by the division.

(D) Submitting a satisfactory public liability insurance policy covering all operations of such applicant or licensee in such business in the city in the sum of at least One Hundred Thousand Dollars ($100,000.00) for each person injured and containing a limitation of liability of not less than Three Hundred Thousand Dollars ($300,000.00) in case of injury of two (2) or more persons in any one accident and in the sum of not less than Fifty Thousand Dollars ($50,000.00) for damage to property. Should any policy be cancelled, the city shall be notified of such cancellation at least thirty (30) days prior to such cancellation becoming effective, and provisions to that effect placing upon the company writing such policy the duty to give such notice shall be incorporated in such policy.

(E) Failure to submit a complete application including certificate of insurance and a passing test score and payment of the license fee will be grounds for denial of a license. Submission of an application with false information shall be grounds for suspension of a license.

Section 9. City of Topeka Code § 146-360, Reserved, is hereby amended by the addition of the following language:

**License Term.**

City issued grease hauler licenses shall be valid for three (3) years from the date of issuance.

Section 10. City of Topeka Code § 146-361, Reserved, is hereby amended by the addition of the following language:
License Fee.

The license fee for a grease hauler shall be Three Hundred Dollars ($300.00) for the license term. Additionally, each grease hauler shall pay for each license term a fee of Twenty Dollars ($20.00) for each vehicle used to haul grease.

Section 11. City of Topeka Code § 146-362, Reserved, is hereby amended by the addition of the following language:

Grease hauler license renewal.

A license may be renewed by submitting to the division a renewal form together with the renewal fee at least thirty (30) days prior to the expiration date of the current license.

Section 12. City of Topeka Code § 146-363, Reserved, is hereby amended by the addition of the following language:

Grease waste inspection.

Grease wastes pumped from any grease generator shall be subject to inspection, sampling, and analysis to determine compliance with all applicable provisions of these rules and regulations of the superintendent who shall perform or supervise such inspection, sampling, and analysis at any time during the commission of any servicing of any grease trap or interceptor.

Section 13. City of Topeka Code § 146-364, Reserved, is hereby amended by the addition of the following language:

Record keeping.

Grease haulers who service, pump, or provide any related services to grease interceptors shall submit a grease interceptor service inspection reports on forms provided
by the division. An inspection record shall be made for each grease interceptor serviced
during the reporting period.

Section 14. City of Topeka Code § 146-365, Reserved, is hereby amended by the
addition of the following language:

**Late fees.**

Grease interceptor inspection reports shall be deemed late, and subject to the
enforcement provisions of this division if they are received by the division more than
fourteen (14) days after the end of each reporting period.

Section 15. City of Topeka Code § 146-366, Reserved, is hereby amended by the
addition of the following language:

**Suspension or revocation of license.**

Failure of any grease hauler to comply with the requirements of this article shall be
subject to the following enforcement procedures:

(A) Notice of Violation. A notice of violation will be issued to any grease hauler
that is found to be in non-compliance with the requirements of this article. The notice shall
state the violation and shall give the grease hauler ten (10) business days to remedy or
otherwise correct the violation. The grease hauler shall have ten (10) calendar days from
the receipt of notice by the grease hauler to correct or otherwise remedy the violation.

(B) Grounds for notice of violation. A grease hauler may be issued a notice of
violation for any one of the following grounds:

(1) Falsification of any information submitted as part of the application for
the LGH.
Failure to comply with any requirements or regulations concerning grease traps/interceptors as provided for in this article.

Failure to pay required fees, or any other assessed fees.

Failure to comply with any other license condition.

Discharging any liquid waste into a non-authorized location.

Falsifying information required for a discharge manifest, or any other applicable forms, applications or reports required under this article.

Disposal of waste into the municipal sewer system at any site other than the designated disposal site.

Any other violation which constitutes an imminent or substantial damage to the health or welfare of persons or the environment.

License suspension/revocation.

In the event that a grease hauler shall fail to remedy a violation within the time frame set forth in the notice, the license shall be suspended as follows:

Upon the first failure to remedy a violation, the grease hauler license will be suspended by the division until such time as the violation has been remedied.

Upon the second failure to remedy a violation, the grease hauler’s license shall be suspended for a period of three (3) months.

Upon the third failure to remedy a violation, the grease hauler’s license shall be suspended for a period of one (1) year. The
license suspension shall only be lifted after expiration of the one (1) year period and the grease hauler has applied for a new grease hauler license meriting all requirements of Topeka City Code § 146-359.

(2) During any period of any license suspension, a grease hauler may not engage in any grease hauling activities.

(3) Upon receipt of a notice of suspension issued by the division, the grease hauler shall have ten (10) days to file a written notice of appeal of the license suspension with the superintendent. An administrative hearing shall be set within ten (10) days of the receipt of the appeal. The suspension of the license shall be stayed until the hearing before the City’s administrative hearing officer.

Section 16. City of Topeka Code § 146-367, Reserved, is hereby amended by the addition of the following language:

**Prohibited acts.**

(A) In addition to any other enforcement provisions contained in this article, it shall be unlawful for any person to do the following:

(1) Violate any term or condition of the grease hauler license.

(2) Failure to follow any filing, reporting, inspection or monitoring requirement required by federal, state, or city law or regulation.

(3) Failure to comply with any lawful order or requirement made by the superintendent.

(4) Failure to maintain accurate grease interceptor service reports.
(5) Disposal of waste at any site other than the designated disposal site.

(B) Any person violating this section may be punished by:

(1) A fine of not more than four hundred ninety nine dollars ($499.00).

(2) Imprisonment in jail for not more than one hundred seventy nine (179) days; or

(3) Both such fine and imprisonment not the exceed the limits set out in subsections (c)(1) and (c)(2).

Section 17. Original City of Topeka Code §§ 146-196, 146-283 and 146-354 through 146-367 are hereby specifically repealed.

Section 18. This ordinance shall take effect and be in force after its passage, approval and publication in the official city newspaper.

PASSED and APPROVED by the City Council September 12, 2006.

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William W. Bunten, Mayor

ATTEST:

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Iris E. Walker, City Clerk