

AN ORDINANCE TO PROHIBIT DISCHARGES OF FATS, OILS AND GREASE ("FOG") TO THE SEWER SYSTEM; TO DECLARE PURPOSES; TO PROVIDE DEFINITIONS; TO PROHIBIT CERTAIN ACTS; TO PROVIDE FOR INSPECTIONS AND NOTICES; TO DEFINE VIOLATIONS; TO PROVIDE FOR ENFORCEMENT AND PENALTIES; AND FOR OTHER PURPOSES

WHEREAS, City Council is authorized to adopt such ordinances or regulations for the purpose of protecting and preserving the health, safety, and welfare of the citizens of the City;

WHEREAS, the City Council has determined that fats, oils and grease are pollutants that are regulated by state and federal law; and

WHEREAS, the City Council has determined that this ordinance will help reduce blockages and sewer overflows that hinder the efficiency of the City's sewer mains, lift stations and wastewater reclamation plants that result from discharges of fats, oils, and greases into the sewer system.

WHEREAS, pollutants must not be disposed into waters of the City, waters of the state of Georgia or waters of the United States except by permit required by the Federal Clean Water Act, as amended, or by the state of Georgia Water Quality Control Act, as amended; and

WHEREAS, the City of Winder is required by permit conditions in its NPDES permits under the federal Clean Water Act and the Georgia Water Quality Control Act to correct current and future water quality problems, including problems affecting the capacity, management, operation and maintenance of the City sewage collection and treatment system that may be caused by improper disposal of fats, oil and grease; and

WHEREAS, to ensure that the City complies with its NPDES and non-discharge permit conditions, residual solids use and disposal requirements, and any other federal or state laws and Consent Orders to which the City wastewater system is subject.

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Winder that Code of the City of Winder is hereby amended by adding a new Article IV to Chapter 23 of the Code of Ordinances, with sections to be numbered 23-160 through 23-181, said Amendments to be known as the City of Winder Fats, Oils and Grease ("FOG") Ordinance, and to read as follows:

Chapter 23, Article IV

Sec. 23-160 Title.

Sec. 23-160 through Sec.23-181 shall be known and may be cited as the "Fats, Oil and Grease ("FOG") Ordinance of the City of Winder.

Sec.23-160 Definitions.

For the purposes of this Article, certain terms and words are hereby defined. Where words are not herein defined, but are defined in section 1-4, those words shall have the meaning as defined therein. Unless otherwise defined herein, words related to water quality shall be as defined in the latest edition of Standard Methods for Examination of Water and Wastewater, published by the American Public Health Association, the American Water Works Association, and the Water Environment Federation. Unless otherwise defined herein, words related to construction shall be as defined in this code and in the latest adopted applicable editions of the Georgia codes applicable to building construction adopted pursuant to state law. 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:

Downtown Business/Restaurants District means a food service establishment in the City of Winder that is located within the area from the intersection of Park Avenue and Stephens Street and extending thence along Stephens Street to Center Street and continuing down Center Street to the CSX railroad and then following the railroad back to Park Avenue which will extend back to Stephens Street.

Backflow means a reversal of normal flow in a system caused by a negative pressure (vacuum or partial vacuum) in the supply piping or other condition that reverses the normal direction of flow.

Baffle means a retention wall three quarter (3/4) the length of the chamber nearer to the outlet.

Best Management Practices means a schedule of activities, a prohibition of practices, maintenance procedures, and other management practices to prevent or reduce the introduction of fats, oils, and greases into the sewer system. These practices may vary by site, but produce the same reductions in fats, oils, and greases in the sewer system.

Change in Operations means any change in the ownership, food types, or operational procedures of a food service establishment.

Compliance Inspector means a person authorized by the City of Winder to inspect any existing or proposed wastewater generation, conveyance, processing, and/or disposal facilities.

"Director" means the director or designee of the City of Winder Environmental Services Fund

Fats, Oils, and Greases (FOG) means any substance such as a vegetable or animal product that is used in, or is a by-product of, the food preparation process, that turns or may turn viscous or solidifies or may solidify with a change in temperature or other conditions.

FOG Control Program means to reduce and/or control the discharge of fats, oils, and grease into the sewer system by educating and regulating food service establishments located in the City of Winder

FOG Control Program Manager means the individual designated by the City of Winder to administer the FOG Control Program.

FOG Interceptor means a multi-compartment device that is constructed in different sizes and is generally required to be located underground between a food service establishment and the connection to the sewer system. These devices primarily use gravity to separate

FOG from the wastewater as it moves from one compartment to the next. These devices must be cleaned, maintained, and have the FOG removed and disposed of in a proper manner on regular intervals to be effective.

FOG Generator means any person including those outside the jurisdictional limits of the City of Winder who contributes, causes, or permits the contribution or discharge of wastewater into sewers within the City of Winder's boundaries.

FOG Manifest means a document that the Georgia State Permitted Transporter must provide to the FOG Generator as proof of services rendered.

FOG Wastewater Discharge Permit means a permit issued by the City of Winder authorizing the food service establishment or Generator to discharge wastewater into the City of Winder's facilities or into the sewer system.

Fixtures means a pot sink, pre-rinse sink, vegetable sink, meat sink, mop sink, soup kettles, wok stations, floor drains, automatic hood wash units, garbage disposals, trash compactors, dishwashers, and any other similarly functioning plumbing fixtures.

Flow means volume of wastewater moving in a certain direction.

Flow Control Device means a mechanism installed to control flow of hydraulic levels of FOG into an interceptor.

FOG means fats, oils, and greases.

Food Service Establishment (FSE) means any person who prepares and/or packages food or beverage for sale or consumption, on or off site, with the exception of private residences so long as the private residence is not used to prepare or package food or beverage for sale. Food service establishments include but are not limited to, food courts, food manufacturers, food packagers, restaurants, catering services, bars/taverns, cafeterias, soda fountains, institutions both public and private, mobile food vehicles (coach), wing trailers, diners, grocery stores, bakeries, coffee shops, ice cream shops, lounges, hospitals, hotels, nursing homes, churches, schools, daycare center, and all other food service establishments not listed above either fixed or mobile as are or may hereafter be recognized by the health department and/or the state department of agriculture.

Fresh Air System/Fixtures means a system that provides free circulation of air, which will prevent contamination from back flow or back siphonage, e.g. compartment sinks, dishwashers, floor drains, meat sinks, vegetable sinks, wok stations, and mop sinks.

Georgia State Permitted Transporter means a transporter as that term is defined by O.C.G.A. § 12-15-20 and as may hereinafter be amended.

Grease trap means an inside mechanism no less than one hundred (100) pounds and no more than three hundred (300) pounds in size, with baffle and flow control installed before the master trap.

Hot Flushing means a situation, prohibited in the City of Winder, that occurs when the FOG interceptor is too close to a hot water using device so the water does not cool sufficiently in the interceptor to allow the FOG to coagulate and float to the top and FOG is instead carried out to the sewer system.

"Limited food preparation establishment" means an establishment that is engaged only in reheating or serving of ready to eat food products and as a result, discharges wastewater containing less than 100 mg/L of FOG per operating business day. A limited food preparation establishment does not include any operation that changes the form, flavor, or consistency of food.

New Construction means any structure, planned or under construction, where a sewer connection is required by law or regulation but has not been approved by the City of Winder.

Non-hazardous Manifest means a receipt that is retained by the generator of wastes for disposing of FOG, liquids, or other wastes as required by the City of Winder.

Plumbing Drainage Institute Rating means interceptors that are tested, rated, and certified in conformance with Standard Plumbing Drainage Institute- GIOI by the Plumbing and Drainage Institute.

Regulatory Agencies means those agencies having regulatory jurisdiction over the operations of the City of Winder including, but not limited to: the United States Environmental Protection Agency, Region IV, Georgia and Washington, DC (EPA); the Georgia Department of Natural Resources (DNR); the Georgia Division of Public Health; the Georgia Environmental Protection Division (EPD); or any regulatory agency or body as may be established by federal, state, or local law.

Remodeling or remodeled means a physical change or operational change in a structure that requires an issuance of or revision to a business license or a building permit.

Septic Tank means a hollow chambered tank without a baffle, T's, and flow control to restrict FOG from entering the Cities sewer system.

Sewer System means the Sanitary Sewer system as defined in section 23-14 of this Code and as may hereinafter be amended.

Shovel Inspection means a FOG Compliance Inspector who uses a shovel to determine the condition of the FOG interceptor.

Sludge means any solid, semi-solid or liquid decant, supernate or supernate from a manufacturing process, utility service. or pretreatment facility.

Sludge Judge Inspection means a test in which the FOG Compliance Inspector uses an instrument; usually a clear hollow plastic tube to pull and measure a core sample from the FOG interceptor to determine its condition.

Standard Plumbing Drainage Institute - G101 means a comprehensive engineering and testing program developed to establish flow rates and FOG holding capacity for uniform rating of FOG interceptors.

Total Solids means the sum of suspended and dissolved solids within a sample.

Twenty (25) Percent Rule means the requirement for FOG interceptors to be maintained such that the combined FOG solids accumulation does not exceed twenty-five (25) percent of the design hydraulic capacity of the FOG interceptor.

Visual Inspection means an in-person observation by a FOG Compliance Inspector to determine if a shovel inspection and/or a sludge judge inspection is necessary to determine the condition of the FOG interceptor.

Waste means sewage and any and all other waste substances, liquid, solid, or gaseous, associated with human habitation or of human or animal nature intended for disposal.

Wastewater constituents and characteristics means the individual chemical, physical, and bacteriological parameters, including volume and flow rate and such other parameters that serve to define, classify, or measure the quality and quantity of wastewater.

Sec.23-161. Purpose, Scope, and Policy.

This ordinance is designed to facilitate the maximum beneficial public use of the City of Winder's sewer system while preventing blockages and overflows of sewer system resulting from discharges of FOG into the City of Winder's sewer system and to specify appropriate FOG discharge requirements for all facilities emitting FOG.

By enactment of this ordinance, the City of Winder intends to exercise its authority over sizing, location, maintenance, and material of grease traps and/or interceptors within the city limits of Winder.

The provisions of this ordinance shall apply to the direct or indirect discharge of all wastewater or waste containing FOG discharged into the City of Winder sewer system.

This ordinance establishes quantity and quality standards on all wastewater and/or waste discharges containing FOG; which may alone or collectively cause or contribute to FOG accumulation in the sewer system causing or potentially causing or contributing to the occurrence of sanitary sewer overflows and blockages.

Sec.23-162 Transporters of Non-hazardous Commercial Waste. O.C.G.A. § 12-15-20 *et seq.* sets forth a permitting scheme for transporters of commercial waste and provides a regulatory method for the clean and sanitary removal of commercial waste. O.C.G.A. § 12-15-23 specifically authorizes local governments to enforce compliance with the provisions of the state law described in this section. O.C.G.A. § 12-15-20 and 12-15-21 as currently enacted and as may hereinafter be amended, is therefore adopted by reference as if set out fully in this section.

Sec. 23-163. Best Management Practices.

(a). All persons disposing of FOG shall be required to properly dispose of FOG using all of the following best management practices:

- (1) Dispose of FOG in covered collection containers;
- (2) Place food scraps from dishes into trashcans and garbage bags and dispose of properly;
- (3) Avoid disposing of food scraps in garbage disposers to help maintain interceptor volume;
- (4) Allow FOG to cool first before it is skimmed, scraped, or wiped ,off of all preparation and servicing surfaces;
- (5) Pre-wash dishes and pans with cold water before putting them in the dishwasher;
- (6) Cover the kitchen sink drain with screening and empty debris into the garbage as needed;
- (7) Cover the floor drain with a fine screen and empty into the garbage can as needed; and
- (8) Recycle used fryer oil.

(b). All persons disposing of FOG shall not use any of the following practices when disposing of FOG:

- (1) Pouring FOG down the drain;
- (2) Putting food scraps down the drain; or
- (3) Running hot water over dishes, pans, fryers, woks, and griddles to rinse FOG down the drain (also known as hot flush);

Sec.23-164 Requirements for Interceptor and Specific Plumbing Connections.

- (a). All food service establishments shall only introduce pre-treated wastewater acceptable to the City of Winder. Under the requirements and standards established herein before discharging, directly or indirectly, into any City of Winder sewer system.
- (b). No more than 100 mg/L of FOG shall be discharged per operating business day. The FOG Generator shall bear all of the expense of proving compliance with the 100-mg/L threshold.
- (c). Any food service establishment required to provide FOG pre-treatment shall install, operate, and maintain an appropriately designed and adequately sized FOG interceptor that has been approved by the City.
- (d). The testing procedures for waste constituents and characteristics shall be as provided in 40 CFR 136 (Code of Federal Regulations).
- (e). FOG interceptors shall be connected to the food service establishment's lateral sewer line after all fixtures which may introduce FOG have been connected and shall have fresh air connected, as defined in this Article. Fresh air fixtures include but are not limited to sinks, dishwashers, garbage disposals, automatic hood wash units, floor drains in food preparation and storage areas, and any other fixtures, which have a potential to introduce FOG. Wastewater from sanitary sewer fixtures and other similar fixtures shall not be introduced into the FOG interceptor.
- (f). FOG interceptors shall not be connected to septic tanks.
- (g). All food service establishments that have dumpster pad/trash compactor drains on site and are connected to the sewer system shall have a separate interceptor (no less than one thousand (1000) gallons in size) installed and functioning at all times. The sloping area to the outside drain and the drain shall be covered either by the dumpster/compactor or a canopy to prevent inflow and infiltration of rainwater and will be subject to all Stormwater regulations and requirements.
- (h). Any drains that lead to the sewer system including but not limited to trench drains, enclosed dock drains, carwash drains, elevator drains, and other similar types of drains shall have an oil water debris interceptor of no less than one thousand (1000) gallons and no more than three thousand (3000) gallons in capacity.

Sec. 23-165 FOG Interceptor Physical Specifications Requirements.

- (a). All interior FOG Interceptors shall:
 - (1) Be a minimum of one hundred (100) pounds in capacity as defined by the Plumbing Drainage Institute;
 - (2) Be made of corrosion-resistant coated metal;

- (3) Be properly sized based on the results of an inspection and FOG Evaluation;
- (4) Contain properly installed and functioning baffle walls and other flow control devices necessary to achieve the appropriate retention time;
- (5) Have at least a thirty (30) minute interior retention time before gray water is discharged into the sewer system;
- (6) Tie all of the fresh air fixtures to the FOG interceptor;
- (7) Have 15-foot distance between the FOG interceptor and the last fresh air fixture and have a proper flow control device;
- (8) Have a temperature of discharge entering the interior FOG interceptor that does not exceed one hundred and forty (140) degrees Fahrenheit; and
- (9) Be plumbing drainage institute rated, be accessible for inspection, and be installed in accordance with the manufacturer's specifications by a licensed plumber and not a representative and/or an apprentice of the licensed plumber.

(b). All exterior FOG Interceptors shall:

- (1) Be a minimum of one thousand (1000) gallons in capacity;
- (2) Be properly sized based on the results of an inspection and FOG evaluation;
- (3) Be constructed of re-enforced materials suitable for load bearing and water tight to prevent inflow and infiltration;
- (4) Be pre-cast with a minimum of three thousand (3,000) psi concrete per applicable American Society for Testing and Materials standards with four (4) to seven (7) percent air entrapment;
- (5) Have an invert elevation of the inlet between three (3) inches to six (6) inches above the invert elevation of the outlet;
- (6) Contain a properly installed and functioning baffle wall and other flow control devices necessary to achieve an adequate time for FOG to properly separate but not to exceed twenty four (24) hours;
- (7) Contain inlet and outlet T's made of Schedule 40 PVC piping and at a 90degree angle with a minimum diameter of the inlet and outlet piping to be six (6) inches;
- (8) Include the outlet T six (6) inches from the manhole cover;
- (9) Include T piping of the inlet and outlet that is within eighteen (18) inches of the bottom and at least five (5) inches above the static liquid level of the tank;
- (10) Have the FOG interceptor set level on a consolidated, stable base so that no settling or tipping of the FOG interceptor can occur;
- (11) Connect a U of the fresh air fixtures to the FOG interceptor;

- (12) Have the outlet discharge line from the FOG interceptor directly connected to a sewer line tapped into the collection main;
- (13) Have solid manhole covers to prevent inflow and infiltration;
- (14) Have two (2) or more manholes for entry to each chamber of hydraulic liquid mass;
- (15) Be accessible for inspections and have no permanent or temporary structure or container placed directly over the FOG interceptor or installed in areas subject to traffic; and
- (16) be installed by a licensed plumber

(c). The contents of any fryer oil containers shall not be mixed with any other FOG interceptor waste or any other non-toxic or toxic substances.

Sec.23-166 Maintenance Requirements for New and Existing FSE's

(a). The depth of FOG (floating and settled) in the FOG interceptor shall not be equal to or greater than twenty (25) percent of the total operating depth of the interceptor.

(b). *General Requirements for FOG Interceptors.* In order to maintain FOG interceptors, all food service establishments shall remove the sludge, floating materials, solids, and wastewater, and shall scrape all excessive solids from the walls, floor, baffles, and all pipe work and shall pump interior and exterior FOG Interceptors dry as set forth in this Article and as required by the terms and conditions of the permit.

(1) FOG interceptors shall be kept free from any inflow/infiltration such as grit, rocks, gravel, sand, eating utensils, cigarettes, shells, towels, rags, etc., as such inflow reduces the effectiveness of the FOG interceptor; thereby increasing the need for more frequent cleaning.

(2) To insure that the FOG interceptor can be maintained properly, the FOG interceptor needs to be free from any obstruction that would hinder the maintenance, function, and inspection of the interceptor.

(3) A Georgia State Permitted Transporter shall perform all maintenance of FOG interceptors. All Georgia State Permitted Transporters working in the City of Winder shall have an active Georgia waste transporter's permit and a City of Winder transporters permit in the manner and form set forth by O.C.G.A. §12-15-20 et seq. Transporters working in the City of Winder are required to leave a copy of a nonhazardous waste manifest with the food service establishment. Maintenance schedules may vary based on individual circumstances to protect the sewer system.

(4) The FOG Compliance inspector has the authority to change the FOG interceptors cleaning cycles for any FOG generator at any time.

(5) The discharge or introduction of any additives to the sewer system is unlawful and prohibited. The direct introduction of additives into the FOG interceptor is prohibited. Additives include but are not limited to biological agents such as enzymes, bacteria, and/or degreasing agents.

(6) The FOG generator shall be responsible for the proper removal and disposal of the FOG interceptor waste by a Georgia State Permitted Waste Transporter and maintenance of records of disposal as specified in this section. All waste removed from each FOG interceptor must be disposed of at an appropriate disposal facility designed to receive such waste.

(7) No FOG interceptor pumpage shall be discharged to the sewer system as otherwise prohibited in this Article.

(8) Every FOG interceptor shall be required to have a Georgia nonhazardous waste manifest. The Georgia non-hazardous waste manifest must be complete with all information required by this Article and state law.

(9) Mechanical FOG interceptors are prohibited in the City of Winder.

(c). *Exterior FOG Interceptors.* Maintenance of exterior FOG interceptors shall be performed prior to the exterior FOG interceptor reaching 25% capacity. Skimming, decanting, and/or any reintroduction of water into exterior FOG interceptors shall not be allowed under any conditions.

(d). *Interior FOG Interceptors.* Interior FOG Interceptors maintenance shall be performed once every thirty (30) days, and all of the fresh air and/or safe way plumbing fixtures shall be connected. In-house cleaning of interior FOG interceptors is prohibited. To insure proper FOG interceptor maintenance, interior FOG interceptors shall be free from any obstruction that would hinder the maintenance of the interceptor. Interior FOG interceptors shall be easily accessible with a minimum clearance of thirty-six (36) inches. Interior FOG interceptors are only allowed for food service establishments locating within the Downtown Restaurant District AND the FOG Control Program Manager deems that installation of an exterior FOG interceptor would not be feasible.

(e). *Interior and Exterior FOG Interceptor Records.* All food service establishments shall maintain records of the date and time of all cleaning and maintenance. Every FOG interceptor manifest shall be placed in a logbook, folder, or three ring note book. This book shall be

made available on demand by the FOG Compliance Inspector during inspection. All records of at least three (3) years shall be kept on-site and available. These records shall include:

- (1) A logbook of FOG interceptor and/or FOG control device cleaning and maintenance;
- (2) A record of best management practices being implemented, including employee training;
- (3) Copies of records and manifests of waste transporting interceptor contents;
- (4) Records of any spills and/or cleaning of the lateral sewer line; and
- (5) Records of sampling data and sludge height monitoring for FOG and solids accumulation in the FOG interceptors.

Sec.23-167 Notification of Spills by the food service establishment.

(a). In the event that any food service establishment is unable to comply with any permit condition due to a breakdown of equipment, accidents, or human error or the food service establishment has reasonable opportunity to know that his/her/its discharge shall exceed the discharge provisions of the FOG wastewater discharge permit or this Article, the food service establishments shall immediately notify the FOG Control Program Manager or designee by telephone at the number specified in the Permit. If the material discharged to the sewer has the potential to cause or result in sewer blockages or sanitary sewer overflows, the food service establishment shall immediately notify the FOG Control Program Manager or designee by telephone at the number specified in the Permit and the Director of the Barrow County Health Department or designee by telephone at the published numbers for such departments.

(b). All food service establishments shall provide written notification of this oral or telephonic notification to the FOG Control Program Manager at the address specified in the Permit no later than five (5) working days from the date of the incident. The written notification shall state the date of the incident, the reasons for the discharge or spill, what steps were taken to immediately correct the problem, and what steps are being taken to prevent the problem from recurring.

(c). Such notification shall not relieve a food service establishment of any expense, loss, damage, or other liability which may be incurred as a result of damage or loss to the City of Winder or any other damage or loss to person or property; nor will such notification relieve a food service establishment from payment of any fees or imposition of any other liability which may be authorized by this Article or other applicable law.

Sec.23-168 FOG Wastewater Discharge Permit.

(a). Food service establishments proposing to discharge or currently discharging wastewater that contain FOG into the City of Winder sewer system shall obtain a FOG wastewater discharge permit annually or cease ongoing operation until such permit is obtained. In addition to any other penalties authorized by law, failure to obtain such a permit shall subject the food service establishment to the potential of the disconnection of water service, until such permit is obtained.

(b). FOG wastewater discharge permits shall be subject to all provisions of this Article and all other regulations, charges for use, and fees established by the City of Winder. The City of Winder in accordance with this Article and applicable law shall have the authority to enforce the conditions of FOG wastewater discharge permits.

(c). The FOG wastewater discharge permit shall be issued upon: (1) receipt of a complete application, (2) compliance with this Article, (3) compliance with the applicable provisions of this Code and (3) the proper installation and maintenance of a FOG interceptor that complies with the applicable provisions of this Code. A permit will be issued or denied within thirty (30) days based on compliance with this section. If the permit is not issued or denied within the time frame specified herein, the permit shall be deemed issued and approved.

Sec.23-169 FOG Wastewater Discharge Permit Application.

(a). All food service establishments are required to obtain a FOG wastewater discharge permit and shall complete and file with the City of Winder prior to commencing or continuing discharges, an application for a wastewater discharge permit in a form prescribed by the City of Winder along with any applicable fees. The applicant shall submit, in units and terms appropriate for evaluation, the following information:

- (1) Name, address, telephone number, assessor's parcel number(s), description of the food service establishment, operation, cuisine, service activities, and, as applicable, clients using the applicant's services;
- (2) Whichever is applicable, the name and address of any and all principals/owners/major shareholders of the food service establishment, articles of incorporation, certificate of organization most recent registration with the Secretary of State, and a copy of the owner's business license; .
- (3) Name and address of property owner or lessee and the property manager for the property where the food service establishment is located; and
- (4) Any other information specified in the application form.

(b). Applicants may be required to submit site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, FOG control devices, FOG interceptors, or other pretreatment equipment and appurtenances by size, location, and elevation for evaluation.

(c). Other information related to the applicant's business operations and potential discharge may be requested to properly evaluate the permit application.

(d). After evaluation of the data furnished, the City of Winder may issue a FOG wastewater discharge permit, subject to the terms and conditions set forth in this Article and as otherwise determined by the FOG Control Program Manager to be appropriate to protect the City of Winder's sewer system.

(e). The FOG wastewater discharge permit and application fee shall be paid by the applicant in an amount established from time to time by action of the City Council. Payment of the application permit fee must be received by the City of Winder at the time of filing the application for the permit. A food service establishment shall also pay any delinquent invoices or payments due the City, such as taxes, fee or utility charges, in full prior to any permit renewal.

(f). An application shall not be considered complete until all the information required by this section is provided to the FOG Control Program Manager or designee. The FOG Control Program Manager shall have fifteen (15) business days from receipt of such information to advise a food service establishment that an application is not complete.

Sec.23-170. FOG Wastewater Discharge Permit Conditions. The issuance of a FOG wastewater discharge permit may contain any of the following conditions or limits:

(a). Limits on discharge of FOG (100 mg/L), which may cause or contribute to sanitary sewer overflows and/or sewer blockages;

(b). Requirements for proper operation and maintenance of FOG interceptors and other FOG control devices;

(c). FOG interceptor maintenance frequency and schedule;

(d). Requirements for implementation of best management practices and installation of adequate FOG interceptor and/or FOG control device;

(e). Requirements for maintaining and reporting status of best management practices;

(f). Requirements for maintaining and submitting logs and records, including waste hauling records and waste manifests;

(g). Requirements to self-monitor the discharge to the sewer system and periodically assess and report on the condition of the sewer lateral;

(h). Requirements for the food service establishment to construct, operate and maintain, at its own expense, a FOG control device(s) and sampling facilities;

(i). Additional requirements as otherwise determined to be reasonably appropriate by the FOG Control Program Manager to protect the City of

Winder's sewer system or as specified by other regulatory agencies;
and

(j). Other terms and conditions, which may be reasonably applicable to ensure compliance with this Article.

Sec.23-171 FOG Wastewater Discharge Permit Modification of Terms and Conditions.

(a). The terms and conditions of an issued permit may be modified by the FOG Control Program Manager if there is a change in:

- (1) The generator's current or anticipated operating data;
- (2) City of Winder current or anticipated operating data;
- (3) In the requirements of Regulatory Agencies, which affect the City of Winder; or
- (4) A determination by the FOG Control Program Manager and his or her designee that such modification is required to comply with the provisions of this Article.

(b). The Food service establishment may request a modification to the terms and conditions of an issued permit. The request shall be in writing stating the requested change and the reasons for the change. The FOG Control Program Manager shall review the request, make a determination on the request, and respond in writing within thirty (30) days of receipt of the request.

(c). The food service establishment shall be informed of any change in the permit limits, conditions, or requirements at least forty-five (45) days prior to the effective date of the change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance, not to exceed forty-five (45) days.

Sec.23-172 Permits for New and Existing Facilities, Grandfathering, and Effective Date.

(a). *New Facilities.* Food service establishments, which are newly proposed, constructed, or existing facilities which will be expanded or renovated, shall be required to install a properly sized FOG interceptor according to the requirements set forth in this Article and such FOG interceptors shall be permitted and installed prior to the issuance of a certificate of occupancy for the food service establishment. New food service establishments locating within existing buildings that are located within the Downtown Restaurants District may be exempt from installing an external FOG interceptor if the FOG Control Program Manager deems that it is not feasible. In the event that an external FOG interceptor is deemed to be infeasible, the new food service establishment must install in internal FOG interceptor

(b). *Existing Facilities.* The City of Winder requires all existing food service establishments to install, operate, and maintain a FOG

interceptor that complies with the requirements set forth in this Article. All food service establishments shall repair or replace any non-complaint plumbing or the existing FOG interceptor within ninety (90) days of written notification by

The City of Winder if any one or more of the following conditions exist or occur:

(1) The facility is found to produce any product that creates FOG as a byproduct;

(2) The facility does not have a FOG interceptor;

(3) The facility has an undersized, irreparable, improperly configured, or defective FOG interceptor;

(4) Remodeling of the food preparation or kitchen waste plumbing system is performed which requires a plumbing permit to be issued by the City of Winder;

(5) The existing facility is sold or undergoes a change of ownership or expansion;

(6) The existing facility does not have plumbing connection to a FOG interceptor in compliance with the requirements of the City of Winder; or

(7) If a food service establishment changes its business name.

(c). *Grandfathering*. If an existing food service establishment is housed in a structure that because of its architectural or historical restrictions or as defined by the Downtown Restaurant District and determined by FOG Control Program Manager that an external FOG interceptor is not feasible because, the owner will not have the ability to install an external FOG interceptor, or be able to upgrade the existing FOG interceptor, then the establishment may keep the current FOG interceptor in place provided that all fresh air fixtures must be tied into the current FOG interceptor, and the FOG interceptor must be at least fifteen (15) feet from the last fresh air fixture. Additionally, the FOG interceptor must be cleaned every thirty (30) days at a minimum by a Georgia State Permitted Transporter. In the event that any remodeling of such a food service establishment is undertaken or if the food service establishment changes ownership, then a FOG interceptor that complies with all applicable requirements of this code shall be installed.

(d). *Notification of Planned Changes*. All food service establishments shall notify the FOG Compliance Manager at least ninety (90) days in writing in advance prior to any change of ownership, facility expansion/remodeling, or process modifications that may result in new or substantially increased FOG discharges or a change in the nature of the discharge. All food service establishments shall submit any information requested by the City of Winder for evaluation of the effect of such expansion on the Food service establishment's FOG discharge to the sewer system.

Sec.23-173 FOG Wastewater Discharge Permit Duration and Renewal. FOG wastewater discharge permits shall be issued annually. At least thirty (30) days prior to the expiration of the permit. The user shall apply for renewal of the permit in accordance with the provisions of this Article.

Sec.23-174. Exemption from FOG Wastewater Discharge Permit. A Limited Food Preparation Establishment is not considered a Food Service Establishment and is exempt from obtaining a FOG wastewater discharge permit.

Sec.23-175. Non-Transferability of Permits and Fees.

A. FOG wastewater discharge permits issued under this Article is for a specific food service establishment, for a specific operation, and create no vested rights.

B. No permit holder shall assign, transfer, or sell any FOG wastewater discharge permit issued under this Article nor use any such permit for or on any premises or for facilities or operations or discharges not expressly encompassed within the underlying permit.

C. A permitting fee that covers the administrative costs of City of Winder for administering the FOG program shall be established by City of Winder and assessed to each facility subject to this Article.

Sec.23-176. Payment of Charges.

All fees established by this Article are due and payable upon receipt of notice thereof. Accounts shall become delinquent if not paid within thirty (30) days of the date of mailing, or if personally delivered, the date of delivery. Any invoice outstanding and unpaid after ninety (90) days shall be cause for immediate initiation of permit revocation proceedings or immediate suspension of the permit.

Sec.23-177. Inspections and Authority to Enforce

(a). *Authority to Inspect.* The compliance inspectors shall inspect food service establishments on both an unscheduled and unannounced basis or on a scheduled basis. All food service establishments may be inspected up to four (4) times per year. Inspection of a FOG interceptor shall be performed at frequencies necessary to protect the capacity of the sewer system against the accumulation of FOG in an amount that would exceed the twenty-five (25) percent rule.

Inspection shall include all fixtures, equipment, food processing, and storage areas, and shall include a review of the processes that produce wastewater discharged from a facility through the FOG interceptor.

Any deficiencies shall be noted, including but not to be limited to:

- (1) Failure to report changes in operations or wastewater constituents and characteristics;
- (2) Failure to properly maintain the FOG interceptor;
- (3) Failure to maintain logs, files, records, or access for inspection or monitoring activities;
- (4) Failure to obtain or renew the FOG discharge permits in a timely manner; or
- (5) Any other violations of this Article or state law that requires correction by the food service establishment.

(b). *Right of Entry.* Where it is necessary to make an inspection to enforce the provisions of this Article or where the FOG Control Program Manager or designee has reasonable cause to believe that there exists in a building or structure or upon a premises, a condition which is contrary to or in violation of the applicable provisions of this code, the FOG Control Program Manager or designee is authorized to enter the building, structure or premises at reasonable times to inspect or perform any of the duties imposed by the applicable provisions of this code. If such building, structure, or premises is occupied, the inspector shall present credentials to the occupant and shall request entry. If such building, structure, or premises is unoccupied, the inspector shall first make a reasonable effort to locate the owner or other person having charge or control of the building, structure, or premises and request entry. If entry is refused, the inspector shall have recourse to the remedies provided by law for entry. In the event of an emergency involving actual or imminent sanitary sewer overflow, the inspector may access adjoining businesses or properties that share a sewer system with a food service establishment in order to prevent or remediate an actual or imminent sewer overflow.

Sec.23-178. Non-compliance fees, letters, and schedules. It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Article. Any person who has violated or continues to violate the provisions of this Article, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.

(a). *Re-inspection Fee.* Any food service establishment in noncompliance with the terms and conditions specified in its permit or with any provision of this Article shall pay a noncompliance fee. The purpose of the noncompliance fee is to compensate the City of Winder for costs of additional inspections, follow-ups, sampling, monitoring, laboratory analysis, treatment, disposal, and administrative processing incurred as a result of the noncompliance and shall be in addition to and not in lieu of any penalties as may be assessed pursuant to this

Article. Noncompliance fees shall be in the amount established from time to time by action of the City Council.

(b). *Non-Compliance Letters.* Immediately following every inspection and/or FOG evaluation the food service establishment inspected shall receive a letter indicating the results of the inspection. A certified letter of non-compliance means the food service establishment is in violation of the applicable provisions of this Article. Letters of non-compliance shall include a description of the code section being violated and the immediate course of action the food service establishment shall be required to take to come into compliance. Failure to comply with a letter of non-compliance is also a violation of this Article.

(c). *Compliance Schedule.* Upon determination that a food service establishment is non compliant with the terms and conditions specified in its permit or any provision of this Article or needs to construct and/or acquire and install a FOG interceptor, the FOG Control Program Manager may also issue and require the food service establishment to abide by a compliance schedule. The issuance of a compliance schedule may contain terms and conditions including but not limited to requirements for installation of a FOG interceptor and facilities, submittal of drawings or reports, audit of waste hauling records, best management and waste minimization practices, payment of fees, or other provisions to ensure compliance with this Article.

(d). *Fees/Penalties.* The City may charge fees, set from time to time by the mayor and council to cover all administrative and inspection costs. The City may charge penalties, set from time to time by the mayor and council for violations of this Article. The FOG Control Program Manager shall not issue a compliance schedule until such time as all amounts owed by the food service establishment to the City of Winder, due are paid in full. If compliance is not achieved in accordance with the terms and conditions of a compliance schedule, the FOG Control Program Manager may issue an order suspending or revoking the FOG wastewater discharge permit.

Sec.23-179. Permit Suspension and Revocation.

(a). *Permit Suspension and Revocation.* The FOG Control Program Manager may suspend or revoke any permit when it is determined that a food service establishment:

- (1) Fails to comply with the terms and conditions of a non-compliance letter or compliance schedule order;
- (2) Destroys, removes, conceals, or knowingly provides a false statement, representation, record, report, or other document to the City of Winder;
- (3) Refuses to provide records, reports, plans, or other documents required by the City of Winder to determine permit

terms or conditions, discharge compliance, or compliance with this Article;

(4) Falsifies, tampers with, destroys, or knowingly renders inaccurate any monitoring device or sample collection method;

(5) Does not make timely payment of all amounts owed to the City of Winder for user charges, permit fees, or any other fees imposed pursuant to this Article;

(6) Causes interference, a sewer blockage, or a sanitary sewer overflow in the sewer system, violates FOG interceptor maintenance requirements, violates any condition or limit of its FOG wastewater discharge permit, or violates any provision of his Article; or

(7) Refuses to accept a notice by personal service or certified mail.

(b). *Notification.*

(1) When the FOG Control Program Manager has reason to believe that grounds exist for permit suspension or revocation, he/she shall give written notice thereof by certified mail to the food service establishment setting forth a statement of the facts and grounds deemed to exist. The food service establishment shall have an opportunity to respond to the allegations set forth in the notice by presenting written or oral evidence within ten (10) calendar days after the notice. The Director shall render a final decision in writing within thirty (30) calendar days following receipt of the FSE's response. The written decision and order of the Director shall be sent by certified mail to the food service establishment at the food service establishment's business address. Upon an order of suspension or revocation by the FOG Control Program Manager becoming final, the food service establishment shall immediately cease and desist its discharge and shall have no right to discharge any wastewater containing FOG directly or indirectly into the City of Winder's sewer system for the duration of the suspension. All costs for physically terminating and reinstating service shall be paid by the food service establishment. Any owner or responsible management employee of the food service establishment shall be bound by the order of suspension or revocation. Upon an order of revocation by the FOG Control Program Manager becoming final, the food service establishment shall permanently lose all rights to discharge any wastewater containing FOG directly or indirectly to the City of Winder's sewer system. All costs for physical termination shall be paid by the food service establishment. An order of permit suspension or revocation issued by the FOG Control Program Manager shall be final in all respects on the sixteenth (16th) day after it is mailed to the food service

establishment unless responded to by the FSE, in which case the decision of the Director is final when issued.

(c). *Damage to Facilities or Interruption of Normal Operations of the Sewer System.* Any person who discharges any waste which causes contributes to any sewer blockage, sanitary sewer overflows, obstruction, interference, damage, or any other impairment to the City of Winder's sewer system and/or equipment, or to the operation of those facilities and/or equipment shall be liable for all costs required to clean and/or repair the facilities and/or equipment, together with expenses incurred by the City of Winder to resume normal operations. A service charge of twenty-five (25) percent of City of Winder's costs shall be added to the costs and charges to reimburse the City of Winder for miscellaneous overhead, including administrative personnel and record keeping. The total amount shall be payable within forty five (45) days of invoicing by the City of Winder. Any person who discharges a waste which causes or contributes to the City of Winder violating its discharge requirements established by any Regulatory Agency incurring additional expenses or suffering losses or damage to the facilities and/or equipment shall be liable for any costs or expenses incurred by City of Winder, including regulatory fines, penalties, and assessments made by other agencies or a court.

(d). *Termination of Water Service to the Food Service Establishment.*

City of Winder, by order of the FOG Control Program Manager, may physically terminate water service to any property as follows:

- (1) If so ordered in any order of suspension or revocation of a permit; or
- (2) Upon the failure of a person not holding a valid FOG Wastewater Discharge Permit to immediately cease the discharge, whether direct or indirect, to the City of Winder's sewer system after the issuance of a final order or suspension or revocation.
- (3) All costs for physical termination of the water service shall be paid by the owner or operator of the food service establishment as well as all costs for reinstating service.

(e). *Emergency Suspension Order.* The City of Winder may, by order of the FOG Control Program Manager or designee suspend water service when the FOG Control Program Manager or designee determines that such suspension is necessary in order to stop an actual or impending discharge which presents or may present an imminent or substantial endangerment to the health and welfare of persons, or to the environment, or may cause sanitary sewer overflows, sewer blockages, interference to the City of Winder's sewer facilities, or may cause the City of Winder to violate any state or federal law or regulation. Any discharger notified of and subject to an Emergency

Suspension Order shall immediately cease and desist the discharge of all wastewater containing FOG to the sewer system.

Sec.23-180. Civil Penalties.

(a). Any person that does anything prohibited or fails to do anything required by this Article, upon violation, shall be subject to penalties. Where any offense or violation continues from day to day, each day's continuance thereof shall be deemed a separate offense.

(b). Upon a second and subsequent violation within a twelve (12) month period measured from the date of the first, of any violation of this Article, the City shall impose a fine of not less than five hundred (500.00) dollars.

(c). Upon a third and subsequent violation within a twelve (12) month period measured from the date of the first, of any violation of this Article, the City shall impose a fine of not less than one thousand (1000.00) dollars.

(d). The penalties provided in this section are not cumulative and shall not prohibit the City of Winder from pursuing any other civil or criminal remedies authorized by this code, state, or federal law.

Section 23-181 *Criminal Penalties*. For intentional and flagrant violations of this Article, the City of Winder may issue a citation to the alleged violator requiring such person to appear in City of Winder Municipal court to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed \$1,000 or imprisonment for 60 days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

EFFECTIVE DATE

This Ordinance shall become fully effective six (6) months after adoption by the City Council. During this six (6) month period, food service establishments shall comply with the inspection and permitting. Any food service establishments found to be not in compliance with this Ordinance or for failure to not have obtained the required permit(s) delineated in this Ordinance shall be fined. After the expiration of this six (6) month period, all existing and newly constructed or remodeled food service establishments shall comply with all applicable requirements of this Ordinance.

SEVERABILITY

Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such

decision shall not affect the validity of the ordinance as a whole nor any part thereof other than the part so declared to be invalid or unconstitutional. All ordinances or resolutions, or parts thereof, in conflict with this ordinance are repealed.

SO ORDAINED, this _____ day of _____, 2009.

Mayor

ATTEST:

City Clerk