

ORDINANCE NO. 8201

AN ORDINANCE AMENDING CHAPTER 46 (UTILITIES), ARTICLE III (SEWERS), DIVISION 2 (CONNECTIONS) AND DIVISION 4 (INDUSTRIAL WASTES), AND CERTAIN SECTIONS THEREIN, AND ADDING NEW AND SUBSTITUTE PROVISIONS, AND REPEALING THE PREVIOUS SECTIONS SO AMENDED.

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

Section 1. Section 46-92 of the Leavenworth Code of Ordinances is hereby deleted in its entirety and amended to read as follows:

Sec. 46-92. - Unlawful connections.

It is and shall be unlawful to connect an open gutter, cesspool, privy vault or any drain of any kind whatsoever of the surface water from the roof or yard to a sanitary sewer, or to connect any sanitary sewer or sanitary sewage to any drainage or stormwater sewer. In addition, it is and shall be unlawful for any property owner to maintain any sewer service line from the structure to the main, to include the connection at the main, that allows the flow of sewage or other waste into the soil around the service line and/or connection or that allows ground water (inflow and infiltration) into the service line, connection, or main.

Section 2. A new Section 46-93 is hereby added to the Leavenworth Code of Ordinances, to read as follows:

Sec. 46-93. – Failure repair; fees.

Upon notification by the city of any unlawful service line or connection, the property owner shall have thirty (30) days from the date of notice to repair the service line or connection. Failure on the part of the property to make the necessary repairs will result in the City initiating the repairs and assessing the property owner for all costs of the repairs and the appropriate administrative fee as prescribed in the city fee schedule, as amended. All fees not paid within thirty (30) days after completion of the repairs by the city, shall result in the costs being assessed to the property in accordance with the standard practices for the assessment of other fees.

Section 3. Chapter 46, Article III, Division 2 of the Leavenworth Code of Ordinances, is hereby amended to provide that Secs. 46-94 through 46-112 are reserved, as follows:

Secs. 46-94—46-112. Reserved.

Section 4. Section 46-150 of the Leavenworth Code of Ordinances is hereby deleted in its entirety and amended to read as follows:

Sec. 46-150. – Prohibited wastes.

The following wastes shall not be discharged into the city sewers:

- (1) Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit, except where the volume of discharge represents a significant portion of the flow through a particular sewer, a lower limit may be prescribed to prevent odor nuisance.
- (2) Stormwater and surface drain water.
- (3) Wastes having a pH less than 5.5 or more than 10.0 or otherwise having chemical properties which are hazardous or are capable of causing damage to the sewage works or personnel.
- (4) Garbage or waste that has not been properly shredded.
- (5) Insoluble oils, fats and greases. So-called soluble oils may be permitted to the extent of 100 mg/L; provided, that subsequent dilution in the sewers or treatment plant does not result in separation.
- (6) Gasoline, naphtha, benzene, oil and other flammable or explosive liquids, solids or gases.
- (7) Any waste which contains more than 100 mg/L of fat, oil and grease (exclusive of soap).
- (8) Any corrosive, noxious or malodorous material or substance which either singly or by reaction with other wastes is capable of causing damage to the sewage works or creating a public nuisance or hazard or preventing entry into the sewers for maintenance and repair.
- (9) Any material or substance not specifically mentioned in this section which is in itself corrosive, irritating to human beings and animals, toxic or noxious or which by interaction with other wastes could produce undesirable effects including deleterious action on the sewage works, adversely affect any treatment process, constitute a hazard to human beings or animals or have an adverse effect upon the receiving stream.
- (10) Grease-laden Waste – effluent discharge that is produced from food processing, food preparation, or other sources where grease, fats, and oils enter automatic dishwasher pre-rinse stations, sinks, or other appurtenances.

Section 5. Chapter 46, Article III, Division 4 of the Leavenworth Code of Ordinances, is hereby amended to provide that Secs. 46-155 through 46-199 are reserved, as follows:

Secs. 46-155—46-199. Reserved.

Section 6. A new Division 5 is hereby added to Chapter 46, Article III the Leavenworth Code of Ordinances, to read as follows:

**DIVISION 5.—REGULATING AND PERMITTING THE OPERATION OF
FACILITIES PRODUCING GREASE-LADEN WASTE AND SERVICE
PROVIDERS FOR GREASE INTERCEPTION DEVICES**

Sec. 46-200. – Definitions.

The following words and terms, as used in this division, shall be deemed to mean and be construed as follows:

Automatic Grease Removal Device – a plumbing appurtenance installed in a sanitary drainage system to intercept free-flowing fats, oils, and grease from wastewater discharge. Such a device operates on a time or event-controlled basis and has the ability to remove free-floating fats, oils, and grease automatically without the intervention from the user, except for maintenance.

Grease Interceptor – a plumbing appurtenance installed in a sanitary drainage system to intercept oily and greasy wastes from a wastewater discharge. Such device has the ability to intercept free-flowing fats and oils with a flow rate **greater than 50 gallon per minute.**

Grease Trap - (also known as grease interceptor, grease recovery device and grease converter) is a plumbing device designed to intercept most greases and solids before they enter a wastewater disposal system. They are used to reduce the amount of fats, oils and greases (FOGs) that enter the main sewers with a flow rate less than 50 gallon per minute.

Food Service Establishment – any facility that prepares and/or packages food for sale or consumption, on or off site, with the exception of private residences. The term “food service establishment” includes, but is not limited to food courts, food manufacturers, food processors, food packagers, restaurants, grocery stores, delicatessens, bakeries, lounges, hospitals, hotels, nursing homes, churches, college dining halls, Greek housing (sororities and fraternities), prisons, and cafeterias in schools.

Grease-Laden Waste – Effluent discharge that is produced from food processing, food preparation, or other sources where grease, fats, oils, and grease enter automatic dishwasher pre-rinse stations, sinks, or other appurtenances.

Sec.46-201. – Grease Discharge Permit Required; Application, Term, and Fee.

- (a) It shall be unlawful for any person, firm, or corporation to operate a facility in which grease-laden waste is produced without obtaining a grease discharge permit for each grease removal device located at the facility. Provided that, “facility” shall not include any individual dwelling unit as such term is defined by the latest adopted building codes of the city. All food service establishments shall be presumed to be facilities in which grease-laden waste is produced.
- (b) The owner, manager, or agent of a facility shall make written application to the Director of Public Works, or a designee, on a form furnished by the city. The application shall be accompanied by the appropriate fee per the city fee schedule, as amended, and for renewals, shall include a copy of the maintenance log per Section 46-203(g) below. Facilities have until the last working day of the month in which their permit expires, per paragraph (c) of this section, to complete the requirements to renew their permit. Permits

issued pursuant to this division are nontransferable. A new permit application and fee shall be required for each change of ownership of a licensed facility.

- (c) Permits shall be renewed annually by May 1.
- (d) The Director of Public Works, or a designee, shall issue or renew a permit for a facility that complies with the terms of this division. The Director of Public Works may modify the terms and conditions of any permit, in order to protect the sanitary sewer system. The permit holder shall receive at least thirty (30) day notice of such modification, except in the event of an emergency as described in Section 46-204(e) below.
- (e) The permit fee shall be as stated in the city fee schedule, as amended, for a grease removal device and only one fee per facility. Permit fees shall not be prorated for permits in effect for less than the full calendar year. If a facility fails to submit all needed documents to renew its permit(s) prior to expiration, an additional late fee, as stated in the city fee schedule, will be assessed for each month until the documents are received. A facility that is late in renewing its permit shall be in violation of this ordinance and any assessed late fees shall be in addition to the penalties provided for in Section 46-206(c) and (d) below.

Sec. 46-202. – Conditions of the Grease Discharge Permit; Variances

Each facility with a grease discharge permit is subject to the requirements of this section. Failure to abide by these requirements shall be unlawful. The requirements are as follows:

- (a) Each facility shall install and maintain grease removal devices as required by the latest adopted Plumbing Code of the city. If the facility's existing grease removal devices are not adequately sized for the facility's activities, the facility shall replace the devices to meet the requirements of the latest adopted Plumbing Code of the city. Installations in existence prior to the adoption of this section shall not be required to replace the existing grease removal device provided a maintenance plan is submitted and approved by the Director of Public Works, or designee, that ensures grease-laden wastes will not enter the city's wastewater system.
- (b) The permit holder shall ensure the inspection of, and shall maintain, and require all employees, agents, and other representatives to maintain the grease removal devices in accordance with the requirements of Section 46-203 below and the best management practices approved by the Director of Public Works and in accordance with the manufacturer's installation and maintenance instructions.
- (c) The permit holder shall allow the facility to be inspected by the city, and the permit holder shall make grease removal devices accessible and exposed for inspection purposes, in connection with the issuance or renewal of a grease discharge permit, or at any reasonable time, without prior notice, to confirm the permit holder's compliance with this division. Such inspections may include measuring, testing, or sampling.

- (d) A permit holder may make written request to the Director of Public Works for a variance from any of the requirements of this division. Such written request must be made on a form provided by the city. The Director of Public Works, or a designee, will issue a written response to the variance request within thirty (30) days. Denials may be appealed to the City Manager through the process described in Section 46-204(f) below.

Sec. 46-203. – Maintenance of Grease Interceptors and Devices; Best Management Practices; Pumping and Minimum Pumping Frequency; Inspection; Maintenance Log.

- (a) Illegal Discharge – It is and shall be unlawful for the permit holder to discharge grease-laden waste into the sanitary sewer collection system without using a functional grease removal device. It is and shall be unlawful for the permit holder to direct or allow any person to discharge grease-laden waste into the sanitary sewer collection system without using a functional grease removing device.
- (b) Pumping – All grease removal devices shall be maintained by the user at the user's expense. Maintenance shall include the complete removal of all contents, including floating materials, wastewater, and bottom sludge and solids by a registered service provider pursuant to Section 46-205 below. Decanting or discharging of removed waste back into the grease removal device from which the waste was removed or any other grease removal device, for the purpose of reducing the volume to be disposed, is prohibited.
- (c) Minimum Pumping Frequency – Grease removal devices must be pumped out completely a minimum of once every 180 days, or more frequently as needed, to prevent carryover of grease into the sanitary sewer collection system.
- (d) Best Management Practices – The Director of Public Works shall adopt best management practices to ensure continual and effective operation of grease removal devices, and the Director may update or modify the best management practices to meet or exceed industry standards. The permit holder shall comply with, and cause the permit holder's employees, agents, and other representatives to comply with, the best management practices adopted by the Director of Public Works.
- (e) Spills – If grease-laden waste spills onto the public right-of-way, parking area, driveway, or other location that may cause run-off into the stormwater management system, the spill shall be immediately cleaned up in a manner that complies with the best management practices approved by the Director of Public Works. The permit holder shall notify the Director of Public Works, or a designee, that such spill occurred by as soon as possible. If the permit holder fails to clean the spill to the City's satisfaction, then the spill constitutes, and shall be treated as a nuisance pursuant to Chapter 28 of the City Code of Ordinances, and a violation of Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a), of which prohibits the unauthorized discharge of pollutants from a point source into any waters or tributary of navigable waters of the United States and thereby creates a nuisance and hazard to the community as

defined by the Environmental Protection Agency and shall be subject to additional enforcement in accordance with those provisions.

- (f) Inspection – The permit holder shall have all Automatic Grease Removal Devices, Grease Traps and Grease Interceptors inspected by a registered service provider pursuant to Section 46-205 on an annual basis. Such registered service provider may not be the permit holder or an employee of the permit holder. Grease removal devices must be emptied by the service provider at the time of service or cleaning. The results of the inspection shall be recorded on the maintenance log described in paragraph (g) below or the service manifest from the disposal/service provider and shall be reported on a separate inspection form produced by the city and submitted to the city within fifteen (15) days of the inspection date. An inspection report will only be considered valid for permit renewal if it has been completed within sixty (60) days prior to the permit expiration date per Section 46-201(c).

If the inspector notes deficiencies in a grease removal device, the permit holder shall ensure that a city licensed plumbing contractor obtain a plumbing permit from the Leavenworth Building Inspection Division, if required, and make necessary repairs to ensure compliance within sixty (60) days of the date of the inspection, unless an extension is approved by the Director of Public Works. The permit holder shall provide documentation of such repairs to the Director of Public Works, and allow inspection thereof, within fifteen (15) days of the completion of the repairs.

- (g) Maintenance Log – On a form furnished by the city, each permit holder shall maintain a true and accurate log for each of the grease removal devices which provides for entry of the following information:

- (1) The date of each pumping service; the name of the person performing the service and the name of the company with which the service provider is affiliated; the amount removed; the condition of the device; and the signature of the manager or authorized representative of the facility in which the grease removal device is located; and
- (2) All of the information regarding the annual inspection required by paragraph (f); the name of the person performing the inspection; and the name of the company with which the inspector is affiliated.
- (3) The manifest with all the required information from the pumping service in Section 46-203(g)(1) above may be attached to the maintenance log in lieu of written entry of the information.

The maintenance log shall be kept in a readily accessible location and made immediately available upon request of a city representative. Each permit holder shall submit a copy of the previous year's maintenance log when renewing their annual permit and shall maintain copies of the log for three (3) years. If a maintenance log is lost and cannot be submitted, the permit holder shall have an opportunity to verify all of the information required by the maintenance log in a manner acceptable to the city, any failure to do so within

ten (10) days following the city's request shall be unlawful and a violation of this division.

Sec. 46-204 – Denial, Suspension, Revocation of Permit, or Water Service Disconnect.

- (a) The Director of Public Works may deny, revoke, or suspend a permit, and/ or request disconnection of the water service for any of the following reasons:
 - (1) Failure to submit a complete application or pay any fees;
 - (2) Fraud, misrepresentation, or false statement in the permit application or inspection and repair records; or
 - (3) Failure to comply with any of the provisions of this or any other city ordinance or other law.
- (b) Such denial, revocation, suspension, or discontinuance shall not become effective until the applicant/permit holder has been served a notice. The notice shall state the reason for noncompliance and include a time period for the applicant/permit holder to comply. Service (serving of notice) may be accomplished by personal service, or regular mail. Service by regular mail shall be deemed complete three (3) days after the city has placed the notice in the US mail. Such notice shall inform the applicant/permit holder of the action taken and shall notify the person of the right to appeal, pursuant to Section 46-204(f). Such action shall be effective upon the seventh day following service upon the applicant/permit holder, unless an appeal is filed. If an appeal is filed, such action shall be stayed until the final written decision on the appeal is rendered.
- (c) In any suspension of the license, the Director of Public Works may place such conditions upon the suspension as deemed advisable. Any conditions of the suspension shall be set forth in the notice.
- (d) Operating a facility after the effective date of a permit's denial, revocation, or suspension is and shall be unlawful.
- (e) Emergency Suspension – The Director of Public Works may pursue immediate suspension of the water service when, in the opinion of the Director of Public Works, such suspension is necessary to stop an actual or threatened discharge which presents or may present an imminent or substantial danger to the public health, safety, or welfare, or to prevent interference with, or a threat to, the sanitary sewer collection system. If the person notified of such suspension fails to comply with the order, the director shall take steps necessary to discontinue water service. The person may file a written appeal to such order with the City Manager, within two (2) business days of the order being made, and the appeal shall be heard within two (2) business days of the filing. Service shall remain suspended during the appeal period. Service shall be reinstated when the condition causing the threat is corrected, or if the person successfully appeals the director's order.

- (f) Appeal and Hearing – A person receiving any notice or order may appeal the requirements contained therein pursuant to this subsection, except in the case of an emergency order, which shall comply with the process set forth in Section 46-204(e). The person must file a written appeal with the City Manager within seven (7) days of receiving service, and the appeal must state why the requirements should be modified or should not apply to the recipient. The City Manager will hold a hearing, at which the person must be heard, within seven (7) days of receiving the appeal.

Sec. 46-205. – Registration and Inspection.

- (a) The city will establish and manage registration for all persons, firms, or businesses that desire to be authorized to pump, clean, and/or inspect grease removal devices within the sanitary sewer service area. The registration shall be for a period of three (3) years at which time the person, firm, or business must re-register. The registration required by the city shall be in addition to any other permits, registrations, or occupational licenses required by federal, state, and local agencies having lawful jurisdiction. The registration is not transferable. There are no fees required to be registered.
- (b) Pumping and Cleaning – Any person, firm, or business desirous of collecting, pumping, or hauling wastes from, or cleaning Automatic Grease Removal Devices, Grease Traps and Grease Interceptors from businesses located within the sanitary sewer service area shall be required to register with the city. It is and shall be unlawful for any person, firm, or business to pump out or clean grease removal devices within the sanitary sewer service area without being registered.
- (c) Inspection – A registered service provider person, firm, or business may also perform inspections of grease removal devices per Section 46-203(f). Food service establishment owners, or employees thereof, may complete the inspection in an un-official capacity, but they will not be qualified to perform the official inspections required by the ordinance. It is and shall be unlawful for any person or employee of a firm or business to perform inspections of a grease removal device within the sanitary sewer service area that is not registered.
- (d) Plumbers – Any plumber desirous of installing, repairing, and/or inspecting automatic grease removal devices or grease interceptors within the sanitary sewer service area per Section 46-205 shall be licensed through the Building Inspection Division of the City of Leavenworth. Plumbers shall also be required to be a registered service provider through the city for the purpose of performing inspections. It is and shall be unlawful for any plumber to perform inspections or repairs of grease removal devices within the sanitary sewer service area without being licensed, registered, and certified.

Sec. 46-206 – Enforcement.

- (a) Before additional action is taken to enforce the provisions of this division, a person or entity found to be in violation shall first be served with a notice of violation. Notice will be deemed sufficient if it is delivered by personal service

or regular mail and adequately describes the nature of the violation and outlines a reasonable timeline for the alleged violator to come into compliance of at least ten (10) days following the date of notice. Notice shall be deemed given immediately in the case of personal service and in the case of service by regular mail, three (3) days after the date of mailing.

- (1) Upon the finding of a suspected violation or illicit discharge into the sanitary sewer collection system, the City Inspector shall be notified to do an immediate and unannounced inspection of the grease removal devices in the suspect facility.
 - (2) If a violation of the maintenance requirements for the grease removal device has been identified, the facility shall be responsible for all costs associated with the cleaning and removal of the violation in the sanitary sewer collection system. All cleaning and removal costs will be in accordance with the city fee schedule, as amended. Any fee imposed for cleaning of the sanitary sewer collection system and/or removal of grease from the sanitary sewer collection system that has not been paid within thirty (30) days of receipt of the billing, shall be deemed a violation of this ordinance. Service shall be in accordance with Section 46-206(a).
- (b) Following the expiration of the time period granted in paragraph (a), a person or entity found to be in violation of this division shall be guilty of a misdemeanor.
 - (c) A fine not to exceed \$500.00 shall be levied upon a first conviction. Each day of violation shall constitute a separate offense.
 - (d) A fine not less than \$500.00 and not to exceed \$1,000.00 shall be levied upon a second and subsequent conviction. Each day shall constitute a separate offense.

Section 7. Sections 46-92, 46-93, and 46-150 of the Leavenworth Code of Ordinances, in existence as of and prior to the adoption of this ordinance, and all other sections in conflict with the terms of this ordinance, are hereby repealed.

Section 8. This ordinance shall take effect and be in force from and after its publication in the official city newspaper as provided by law.

PASSED and APPROVED by the Governing Body on the 13th day of December 2022.

/s/ Camalla M. Leonhard

Camalla M. Leonhard, Mayor

{SEAL}

ATTEST:

/s/ Sarah Bodensteiner

Sarah Bodensteiner, City Clerk