

DIVISION 12. FOG CONTROL PROGRAM

Sec. XX-XXX. Definitions

A glossary of key terms, including associated abbreviations, is presented here to facilitate understanding.

- *FOG Control Policy and Procedures Manual* – a document that describe the tools used to implement the FOG Control Program including a sample application, a sample permit, schedule of fees, grease interceptor sizing criteria, an enforcement response plan, and best management practices.
- *Food Service Establishment (FSE)* – facilities that discharge sanitary waste and that prepare and/or package food or beverages for sale or consumption, on or off-site, with the exception of private residences. FSEs include those establishments primarily engaged in activities of preparing, serving, or otherwise making food available for consumption by the public, such as food packagers, grocery stores, bakeries, restaurants, commercial kitchens, caterers, hotels, schools, hospitals, prisons, correctional facilities, and care institutions. Examples of food preparation activities utilized by FSE's include the following: cooking by frying (all methods), baking (all methods), grilling, sautéing, rotisserie cooking, broiling (all methods), boiling, blanching, roasting, toasting, or poaching.
- *General Manager* – the general manager of the Winchester Municipal Utilities Commission, or an authorized deputy, agent or representative.
- *Grease* – a material composed primarily of fats, oil, and grease from animal or vegetable sources. The term fats, oil, and grease (FOG) shall be deemed as grease by definition. Grease does not include petroleum-based products.
- *KPDES permit* – a Kentucky Pollutant Discharge Elimination System permit administered by the State and Federal Regulatory Authority authorizing the direct discharge to waters of the United States of America.
- *Notice of Violation (NOV)* – formal written notices to persons found to be violating any provision of the WMU Code of Ordinance.

- *Publicly owned treatment works (POTW)* – 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 purposes of this article, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the city who are, by contract or agreement with the city, users of the city's POTW.
- *Shall* – is mandatory; *May* is permissive.
- *WMU* – Winchester Municipal Utilities and/or its agents and employees.
- *WMUC* – the Winchester Municipal Utilities Commission.

Sec. XX-XXX. FOG Control Contribution Permits

(a) *Generally.* All FSEs proposing to connect to or to contribute to the POTW shall complete a FOG Control Permit application, and shall obtain a FOG Control Permit or a letter of exemption before connecting to or contributing to the POTW. All existing FSEs connected to or contributing to the POTW shall complete a FOG Control Permit application, and shall obtain a FOG Control Permit or letter of exemption within 180 days after the effective date of this article. This article shall apply to residents of the City of Winchester and to persons or entities outside the city who are, by contract or agreement with the city, users of the POTW. Failure to timely apply for and obtain, if required, a FOG Control Permit by an FDE shall be grounds for discontinuance of sanitary sewer service to an FSE. Except as otherwise provided herein, the General Manager shall administer, implement, and enforce the provisions of this article.

(b) *FOG Control Permit Application.* All FSEs must complete and file with WMU an application for a FOG Control Permit in the form prescribed in the FOG Control Program Policy and Procedures Manual, and must comply with all requirements specified in said Manual. A fee of \$25.00 is required to process the application. WMU shall evaluate the data furnished by the FSE and may require additional information. After evaluation the data furnished, WMU shall issue a FOG Control Permit, or a letter of exemption, or reject such permit subject to the terms and conditions provided herein.

(c) *FOG Control Permit.* Permits shall be issued for a specified time period, not to exceed three (3) years. A permit may be issued for a period of less than one year and a specific expiration date may be stated. The FSE shall apply for permit reissuance at least four (4) months prior to the expiration of the FSE's existing permit. The terms and conditions of the permit may be subject to modification by WMU during the term of the permit as limitations or requirements contained in this article or other applicable regulations are amended or when other just cause exists. The FSE shall be notified of any proposed changes in its permit at least thirty (30) days prior to the effective date of the modification. Any modifications or new conditions in the permit shall include a reasonable schedule for compliance. FOG control permits shall be issued to a specific FSE for a specific operation at a specific location. A permit shall not be assigned, transferred, or sold to a new owner, new FSE, different premises, or a new or changed operation without the written approval of WMU. Any succeeding owner or the FSE operation shall comply with all terms and conditions of the permit and the training provisions of the FOG Control Policy and Procedures Manual.

(d) *Enforcement.*

1. *Suspension of Services:* *FOG Control Permit* WMU may suspend the wastewater treatment service and/or a FOG Control permit when such suspension is necessary, in the opinion of the General Manager, in order to stop an actual or threatened discharge in violation of the ordinance which presents or may present an imminent or substantial endangerment to the health or welfare of persons or to the environment, causes or may cause damage or interference to the POTW, or causes or may cause WMU to violate any condition of its KPDES permit. Any person notified of a suspension of the wastewater treatment service and/or the FOG Control permit or shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, WMU may take such steps as are deemed necessary, including immediate severance of the service connection, to prevent or minimize damage to the POTW or endangerment to any person. WMU shall reinstate the FOG Control permit and/or and/or the wastewater treatment service upon proof of the elimination of the noncomplying discharge. A detailed written statement submitted by the FSE describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to WMU

within fifteen (15) days of the date of occurrence. The General Manager shall report to the WMU Commission as soon as feasible the suspension of any permit hereunder.

2. Revocation: Any FSE who violates the following conditions of this article, or applicable state and federal regulations, is subject to revocation of its permit.
 - (a) Failure of FSE to report factually his/her FOG discharge;
 - (b) Failure of a FSE to report significant changes in operations;
 - (c) Refusal of reasonable access to the FSE's premises for the purpose of inspection or monitoring;
 - (d) Violation of any condition of the permit.

3. Notice of violation: Whenever WMU, through its General Manager, finds that any FSE has violated or is violating this article, his/her FOG Control permit, or any prohibition, limitation or requirement contained herein, the General Manager may serve upon such person a written notice stating the nature of the violation, and a FSE shall, within fifteen (15) days of the date of the notice, submit a plan for satisfactory correction to WMU. WMU will follow WMU's FOG Control Enforcement Response Guide published in WMU's FOG Control Policy and Procedures Manual to evaluate the type of noncompliance, nature of violation, and to determine the appropriate enforcement response. The General Manager shall provide the WMUC with a copy of the notice of violation sent to the FSE.

4. Hearing:
 - (a) Any FSE who has been subject to an enforcement action or suspension of service or notice of violation may request in writing an informal conference with the General Manager. Upon receipt of the request, the General Manager shall hold the informal conference within ten (10) days. If the enforcement action is not resolved, a hearing before the WMUC may be requested by delivery of a written request to the Chairman. Upon receipt of such request, WMUC shall schedule a hearing to be held as soon as practicable after the request is received.

(b) The WMUC may itself conduct the hearing or may designate one of its members to do so.

(c) A FSE who has requested a hearing shall be given timely notice of the time and place of such hearing and shall have the right to present all relevant evidence on behalf of the FSE by testimony of witnesses and demonstrative evidence of its choosing.

(d) Such hearing shall be conducted as an administrative, evidentiary hearing, with testimony taken under oath and recorded stenographically.

(e) Upon a finding by WMUC that a FSE is in violation, the WMUC may issue such orders as may be necessary to procure compliance by the FSE with its permit or this ordinance or to terminate the violations, including ordering sewer service suspended until appropriate corrective action is taken, the imposition of civil penalties of not less than \$100 and not greater than \$1,000 for each violation assessment of the reasonable costs related to the hearing, and such further orders and directives as are necessary and appropriate.

5. Fees: Fees for FOG Control permit applications and FOG Control permits will be assessed under the authorization of Division 10 of the Code Ordinances, of the City of Winchester and according to the current fee schedule published in WMU's FOG Control Policy and Procedure Manual.