

**Ordinance Number: 2017- 378**

**WHEREAS**, the City of Dothan, Alabama determined that the improper disposal of fats, oils, and grease (FOG) is a cause of sanitary sewer overflows (SSO's) and sewer line obstructions in the sewer collection system posing a significant risk to the public health, safety and welfare, and the environment and;

**WHEREAS**, it is an essential function of government to protect the public from the possibility of contamination or pollution by the reduction and/or elimination of sanitary sewer overflows caused by FOG related problems, and;

**WHEREAS**, the Dothan Board of Commissioners pursuant to an EPA Administrative Order on Consent (No. CWA-04-2012-4780) approved Ordinance 2015-366 establishing a FOG control program to reduce sewer FOG accumulations, and;

**WHEREAS**, Section 102-385(g) of the Dothan City Code of Ordinances requires establishment of this Enforcement Response Guide to ensure a consistent enforcement response to violations of Ordinance 2015-366 and for FOG related sanitary sewer overflows and obstructions attributed to multi-dwelling units as set forth in City of Dothan Part II-Code of Ordinances, Chapter 102-Utilities, Article IV-Sewer, Section 102-231 paragraph 10.

**BE IT ORDAINED**, by the Board of Commissioners of the City of Dothan, Alabama following public hearing as required by law as follows:

**Section 1.** That an Enforcement Response Guide is hereby created as follows:

**ENFORCEMENT RESPONSE GUIDE**

**I. ENFORCEMENT REMEDIES AVAILABLE TO THE CITY**

The following list is arranged from least severe to most severe:

1. FSE Site Visit or Re-inspection
2. Noncompliance Notification (NCN) *{described below}*
3. Notice of Violation (NOV) *{described below}*
4. Suspension of Utilities and/or Business License
5. Refer to Municipal Court for Prosecution

**II. Definitions**

**NONCOMPLIANCE NOTIFICATION (NCN):** The Noncompliance Notification (NCN) is an official communication from the City that a violation of the FOG Ordinance has occurred. The NCN is issued for any problems identified with the grease control equipment operation, maintenance, components or other violation as set forth in the FOG Ordinance. The response timeframe (due date) for corrective measures varies depending on the severity and nature of the violation. The NCN documents the initial attempt of the City to resolve the violation. Authenticated copies of NCN's may serve as evidence in judicial proceedings. Failure to respond by the designated due date on a NCN, will result in the issuance of a Notice of Violation (NOV) and escalated enforcement action.

**NOTICE OF VIOLATION (NOV):** The Notice of Violation (NOV) is an escalation of the NCN and identifies a specific violation of the City's FOG Ordinance. The NOV requires the user to correct the non-compliance according to a schedule of actions contained in this ordinance. Authenticated copies of the NOV may serve as evidence in judicial proceedings. Failure to respond by the designated due date on a NOV will result in escalation in enforcement action.

**MDU** – Multiple dwelling unit

**III. CITY STAFF RESPONSIBILITIES:** The FOG Program Coordinator oversees all collection and screening of data, organization of enforcement actions, review of actions taken and general management of enforcement response procedures. The FOG Program Coordinator and FOG inspectors are authorized to administer a NCN enforcement remedy. The Building Official or his designees is authorized to administer Notices of Violation.

**IV. ABBREVIATIONS FOR ENFORCEMENT RESPONSE TABLE**

<b>Abbreviation</b>	<b>Name</b>
FOG	Fats, Oils, and Grease
FSE	Food Service Establishment
GCE	Grease Control Equipment
GGI	Gravity Grease Interceptor
GWH	Grease Waste Hauler
HGI	Hydro-Mechanical Grease Interceptor
MDU	Multi-family Dwelling Unit
POTW	Publically Owned Treatment Works
NCN	Non-Compliance Notification
NOV	Notice of Violation
SSO	Sanitary Sewer Overflow

**V. Enforcement of FOG Related Sewer Overflow and Obstruction from MDUs.**

The City of Dothan regulates FOG discharges into the sanitary sewer system under the City’s FOG control ordinance. FOG related overflow or blockages attributable to multiple-family dwelling units (MDUs) are the responsibility of the property owner(s). Since the MDU owns the private infrastructure (sewer laterals and collection lines within the property), they are responsible for any restriction or blockage that occurs in the publicly owned treatment works (including collection lines) as a result of a prohibited discharge. City of Dothan Part II-Code of Ordinances, Chapter 102-Utilities, Article IV-Sewer, Section 102-231 paragraph (10) specifically references “grease” as a prohibited discharge item.

Therefore, the City of Dothan will regard the owner of an MDU as the responsible party for blockages or damage to public sewer infrastructure under City of Dothan Part II-Code of Ordinances, Chapter 102-Utilities, Article IV-Sewer and Ordinance No. 2015-366. The Enforcement Response Plan (ERP) will apply to all offenses within a 60 month period as set forth in Table VII sub-part IV.

**Penalty Assessment**

Violation penalty fees of \$100 to \$500 for each offense are authorized in Section 102-385 of Ordinance 2015-366. The City has categorized the various types of violations, and assigned a penalty to each category within this range. Penalty categories are determined by using the Enforcement Response Table (included below). All penalty assessments will be administered in judicial court. In addition, suspension of utilities and business license may be appropriate. Penalties must be paid prior to business license renewal.

**VI. Enforcement Response Category and Penalty Table**

<b>Category</b>	<b>Monetary Penalty (Plus Additional Actions as Set Forth in Table VII.)</b>
0	None
1	\$100.00
2	\$250.00
3	\$400.00
4	\$500.00

Assessments for damages to the POTW, and any penalties, costs, and attorney's fees incurred by the City as the result of the illegal activity, as well as the expenses involved in enforcement, are not part of this penalty assessment procedure.

**VII. ENFORCEMENT RESPONSE TABLES**

<b>I. Recordkeeping and Reporting Violations</b>		
<b>Incident</b>	<b>Category Level</b>	<b>Action Taken</b>
a. No or insufficient records of grease control equipment maintenance or cleaning, or unable to locate records.		
<b>First Notification</b>	0	Issue NCN – Require immediate record keeping
<b>Reinspection Fails</b> Failure to comply with NCN by deadline.	0	Issue 1 <sup>st</sup> NOV – 7 day reinspection.
<b>Reinspection Fails</b> Failure to comply with 1 <sup>st</sup> NOV deadline.	2	Refer 1 <sup>st</sup> NOV to municipal court for prosecution. \$250 penalty, suspension of business license and utilities for 7 days. 7 day reinspection.
<b>Reinspection Fails</b> Failure to comply with 2 <sup>nd</sup> NOV by deadline.	4	Refer 2 <sup>nd</sup> NOV to municipal court for prosecution. \$500 penalty, suspension of business license and utilities until compliance is met.
<b>Additional Violations</b>	3	Issue NOV for each re-occurrence – Refer all previous NOV violation notices to municipal court for prosecution. \$400 penalty, suspension of business license and utilities and until compliance is met.
b. Falsification of any maintenance records or documents	4	Issue NOV – Refer to municipal court for prosecution. \$500 penalty. For FSEs, suspension of business license and utilities and until compliance is met. For GWH or plumbing companies, removal of the company from the "Approved Grease Waste Hauler/Plumber Company List" for a minimum of 2 years.

<b>II. Grease Control Equipment Components and Maintenance Violations</b>		
<p>a. GCE (GGI and HGI) structural failure or associated plumbing failure/damage (baffle wall collapsed, walls deteriorated, tank leaking, associated grease waste line or outlet piping leaking, infiltration/inflow into tank).</p> <p>b. Failure to Install grease control equipment (including any approved alternative).</p> <p>c. Failure to complete and submit a GCE certification; or failure to respond or correct failed GGI or HGI certification deficiency.</p> <p>d. GCE component violation (Improper components, missing components, manhole access not over all chambers, or components installed incorrectly).</p>		
<b>Incident</b>	<b>Penalty Category</b>	<b>Action Taken</b>
<b>First Notification</b>	0	Issue NCN – 7 day reinspection.
<b>Reinspection Fails</b> Failure to comply with NCN by deadline.	0	Issue 1 <sup>st</sup> NOV - 7 day reinspection.
<b>Reinspection Fails</b> Failure to comply with 1 <sup>st</sup> NOV deadline.	2	Refer NCN and 1 <sup>st</sup> NOV to municipal court for prosecution. \$250 penalty, suspension of business license and utilities for 7 days. 7 day reinspection.
<b>Reinspection Fails</b> Failure to comply with 1 <sup>st</sup> NOV by deadline.	0	Issue 2 <sup>nd</sup> NOV. 7 day reinspection.
<b>Reinspection Fails</b> Failure to comply with 2 <sup>nd</sup> NOV by deadline.	4	Issue 2 <sup>nd</sup> NOV – Refer 2 <sup>nd</sup> NOV to municipal court for prosecution. \$500 penalty, suspension of business license and utilities until compliance is met.
<p>e. Grease Control Equipment (GGI or HGI) not maintained (pumped or cleaned) or installed as required, including approved alternatives.  When GGI has &gt; 25% FOG and solids, or &gt; 90 days pump frequency  When HGI has &gt; 25% FOG and solids, or &gt; 7 days pump frequency</p>		
<b>First Notification</b>	0	Issue NCN – 7 day deadline to pump & clean
<b>Reinspection Fails</b> Failure to comply with NCN by deadline.	0	Issue 1 <sup>st</sup> NOV - 7 day reinspection.
<b>Reinspection Fails</b> Failure to comply with 1 <sup>st</sup> NOV deadline.	2	Refer NCN and 1 <sup>st</sup> NOV to municipal court for prosecution. \$250 penalty, suspension of business license and utilities for 7 days. 7 day reinspection
<b>Reinspection Fails</b> Failure to comply with 1 <sup>st</sup> NOV by deadline.	0	Issue 2 <sup>nd</sup> NOV - 7 day reinspection.
<b>Reinspection Fails</b> Failure to comply with 2 <sup>nd</sup> NOV by deadline.	4	Refer 2 <sup>nd</sup> NOV to municipal court for prosecution. \$500 penalty, suspension of business license and utilities until compliance is met.
<b>Additional Violations</b>	4	Issue NOV for each re-occurrence. Refer all previous NOV notices to municipal court for prosecution. \$500 penalty, suspension of business license and utilities until compliance is met.

<b>II. Grease Control Equipment Components and Maintenance Violations - Continued</b>		
f. Improper connection or failure of outlet piping or lateral connection to the sanitary sewer or connection/cross connection to a storm water conveyance.		
<b>Incident</b>	<b>Penalty Category</b>	<b>Action Taken</b>
<b>First Notification</b>	0	Issue 1 <sup>st</sup> NOV – 15 day reinspection.
<b>Reinspection Fails</b> Failure to comply with 1 <sup>st</sup> NOV by deadline.	4	Refer NOV to municipal court for prosecution. \$500 penalty, suspension of business license and utilities until compliance is met.

<b>III. General Non-Compliance Violations</b>		
a. Failure to allow access for inspectors to adequately inspect FSE and/or access the GCE.		
b. Improper disposal of brown grease waste (evidence of dumping brown grease into the sewer, stormwater, mop sink, grease waste bin, or any disposal method other than approved by the FOG Ordinance).		
c. Improper disposal of yellow grease waste (Evidence of: discharge of yellow grease into the sewer, stormwater, mop/utility sink, any sink, toilet/urinal, floor drain, grease control equipment, any outdoor area whereas to present a safety hazard or be conveyed into the environment, or any disposal method other than approved by the FOG Ordinance).		
<b>Incident</b>	<b>Penalty Category</b>	<b>Action Taken</b>
<b>First Notification</b>	0	Issue 1 <sup>st</sup> NOV – immediate access required.
<b>Access not Granted</b>	3	Refer 1 <sup>st</sup> NOV to municipal court for prosecution. Suspension of business license and utilities. \$400 penalty, suspension of business license and utilities until compliance is met.
<b>Additional Violations</b>	4	Issue NOV for each re-occurrence – Refer all previous NOV notices to municipal court for prosecution. \$500 penalty, suspension of business license and utilities until compliance is met.
d. Safety hazard in grease control equipment area (i.e. missing manhole cover, manhole cover damaged or not made of material of suitable strength, danger to public)		
<b>First Notification</b>	0	Issue 1 <sup>st</sup> NOV – requirement to barricade area - Notify building official – Notify Health Department – 24 hr. deadline to correct.
<b>Reinspection Fails</b> Failure to comply with 1 <sup>st</sup> NOV by deadline.	4	Refer 1 <sup>st</sup> NOV to municipal court for prosecution. \$500 penalty, suspension of business license and utilities until compliance is met.

<b>III. General Non-Compliance Violations – Continued</b>		
e. Facility using additives or chemicals that emulsify or otherwise cause FOG to be discharged into the sewer system.		
<b>Incident</b>	<b>Penalty Category</b>	<b>Action Taken</b>
<b>First Notification</b>	0	Issue NCN - 7 day reinspection
<b>Reinspection Fails</b> Failure to comply with NCN by deadline.	0	Issue 1 <sup>st</sup> NOV - 7 day reinspection.
<b>Reinspection Fails</b> Failure to comply with 1 <sup>st</sup> NOV deadline.	3	Refer 1 <sup>st</sup> NOV to municipal court for prosecution. \$400 penalty, suspension of business license and utilities for 7 days. Reinspect in 7 days.
<b>Reinspection Fails</b> Failure to comply with 1 <sup>st</sup> NOV by deadline.	0	Issue 2 <sup>nd</sup> NOV - 7 day reinspection.
<b>Reinspection Fails</b> Failure to comply with 2 <sup>nd</sup> NOV by deadline.	4	Refer 2 <sup>nd</sup> NOV to municipal court for prosecution. \$500 penalty, suspension of business license and utilities until compliance is met.
<b>Additional Violations</b>	4	Issue NOV for each re-occurrence – Refer all previous NOV to municipal court for prosecution. \$500 penalty, suspension of business license and utilities until compliance is met.
f. Missing, damaged, improper, or grated cleanout covers.		
g. Oil & grease spilled/leaking in environment around the grease waste bin, dumpster area or any outdoor area(s) that presents a safety or environmental impact.		
<b>First Notification</b>	0	Issue NCN – 7 day reinspection
<b>Reinspection Fails</b> Failure to comply with NCN by deadline.	0	Issue 1 <sup>st</sup> NOV - 7 day reinspection.
<b>Reinspection Fails</b> Failure to comply with 1 <sup>st</sup> NOV by deadline.	1	Refer 1 <sup>st</sup> NOV to municipal court for prosecution. \$100 penalty, suspension of business license and utilities for 7 days. Reinspect in 7 days.
<b>Reinspection Fails</b> Failure to comply with 1 <sup>st</sup> NOV by deadline.	0	Issue 2 <sup>nd</sup> NOV. - 7 day reinspection.
<b>Reinspection Fails</b> Failure to comply with 2 <sup>nd</sup> NOV by deadline.	2	Refer 2 <sup>nd</sup> NOV to municipal court for prosecution. 7 day deadline to correct deficiencies. \$250 penalty, suspension of business license and utilities until compliance is met.
<b>Additional Violations</b>	2	Issue NOV for each occurrence – Refer all previous NOV notices to municipal court for prosecution. \$250 penalty, suspension of business license and utilities until compliance is met. Reinspect in 7 days.

<b>III. General Non-Compliance Violations - Continued</b>		
h. Failure of new or existing FSE to notify the City's FOG Program or submit documentation of FOG upgrades.		
<b>Incident</b>	<b>Penalty Category</b>	<b>Action Taken</b>
<b>First Notification</b>	0	Issue NCN – 7 day reinspection
<b>Reinspection Fails</b> Failure to comply with NCN by deadline.	0	Issue 1 <sup>st</sup> NOV - 7 day reinspection.
<b>Reinspection Fails</b> Failure to comply with 1 <sup>st</sup> NOV by deadline.	1	Refer 1 <sup>st</sup> NOV to municipal court for prosecution. \$100 penalty, suspension of business license and utilities for 7 days. Reinspect in 7 days.
<b>Additional Violations</b>	2	Issue NOV for each reoccurrence – Refer previous NOV notices to municipal court for prosecution. \$250 penalty, suspension of business license and utilities until compliance is met.
i. GWH or plumbing company failure to comply with the "Approved Grease Waste Hauler/Plumber Company Agreement".		
j. GWH or plumbing company performing work on GCE and not on the City's "Approved Grease Control Equipment List" and/or assigning an employee to perform said GCE work that does not have a City of Dothan issued GCE certification.		
<b>Incident</b>	<b>Penalty Category</b>	<b>Action Taken</b>
<b>First Notification</b>	0	Issue NCN – 24 hr. inspection
<b>Reinspection Fails</b> Failure to comply with NCN by deadline.	0	Issue 1 <sup>st</sup> NOV - 24 hr. reinspection
<b>Reinspection Fails</b> Failure to comply with 1 <sup>st</sup> NOV by deadline.	4	Refer 1 <sup>st</sup> NOV to municipal court for prosecution. \$500 penalty and removal of the company from the "Approved Grease Waste Hauler/Plumber Company List" for 90 days.
<b>Additional Violations</b>	4	Issue NOV for each reoccurrence – Refer all previous NOV notices to municipal court for prosecution. \$500 penalty and removal of the company from the "Approved Grease Waste Hauler/Plumber Company List" for a minimum of 2 years. Company must be recertified before being placed on the City's "Approved GWH/Plumber's Company List".

**III. General Non-Compliance Violations – Continued**

- k. Failure to properly implement/follow best management practices (BMP's) – Including not displaying required posters, illicit trash in GCE resulting from failure to use floor grates/sink strainer baskets, washing floor mats or other grease laden equipment outside other than in a utility/mop sink.
- l. FOG impact violation outside of building from exhaust hood ventilation system.

<b>Incident</b>	<b>Penalty Category</b>	<b>Action Taken</b>
<b>First Notification</b>	0	Issue NCN – 24 hr. reinspection
<b>Reinspection Fails</b> Failure to comply with NCN by deadline.	0	Issue 1 <sup>st</sup> NOV - 24 hr. reinspection
<b>Reinspection Fails</b> Failure to comply with 1 <sup>st</sup> NOV by deadline.	1	Refer 1 <sup>st</sup> NOV to municipal court for prosecution. \$100 penalty suspension of business license and utilities for 7 days. Reinspect in 24 hours.
<b>Reinspection Fails</b> Issue 2 <sup>nd</sup> NOV. Failure to comply by deadline.	2	Refer 2 <sup>nd</sup> NOV to municipal court for prosecution. \$250 penalty and suspension of business license and utilities until compliance is met. Reinspect in 24 hours.
<b>Additional Violations</b>	3	Issue NOV for each occurrence. Refer all previous NOV notices to municipal court for prosecution. \$400 penalty, suspension of business license and utilities until compliance is met. 15 day deadline to clean exhaust hood ventilation system & properly remediate outside FOG impact and properly dispose of all associated wastewater at City approved disposal location.

**IV. Multi-Dwelling Units (MDUs) – FOG Related Violations**

Incident	Penalty Category	Action Taken
a. FOG related sanitary sewer overflow (SSO) and obstruction violations		
<b>First Notification</b>	0	Issue NCN – Require MDU to distribute educational flyers on prohibitive discharges and proper maintenance to all present tenants and new tenants as lease is signed. 14 day reinspection
<b>Reinspection Fails</b> Failure to comply with NCN by deadline.	0	Issue 1 <sup>st</sup> NOV – 7 day inspection.
<b>Reinspection Fails</b> Failure to comply with 1 <sup>st</sup> NOV by deadline.	2	Refer NCN & 1 <sup>st</sup> NOV to municipal court for prosecution. \$250 penalty plus cost of restriction/overflow removal & clean-up. – 7 day reinspection.
<b>Reinspection Fails</b> Failure to comply with 2 <sup>nd</sup> NOV by deadline. Issue 2 <sup>nd</sup> NOV	3	Refer 2 <sup>nd</sup> NOV to municipal court for prosecution. \$400 penalty plus cost of restriction/overflow removal & clean-up. – 7 day reinspection.
<b>Reinspection Fails</b> Failure to comply with 2 <sup>nd</sup> NOV by deadline. Issue 3 <sup>rd</sup> NOV.	4	Refer 3 <sup>rd</sup> NOV to municipal court for prosecution. \$500 penalty plus cost of restriction/overflow removal & clean-up. Special requirement to install pretreatment equipment to prevent continuation of non-compliance.

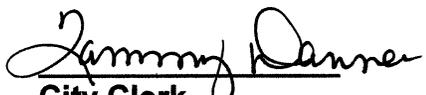
**Section 2.** Should any provision or section of this Ordinance be declared invalid, such declaration shall not affect any other provisions or sections of this Ordinance, which provisions or sections shall remain in full force and effect.

**Section 3.** After publication as required by law, this ordinance shall become effective immediately.

**PASSED, ADOPTED AND APPROVED** on November 21, 2017

  
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Mayor

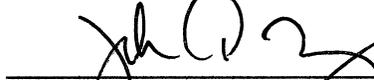
**ATTEST:**

  
\_\_\_\_\_  
City Clerk

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**Associate Commissioner District 1**

  
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**Associate Commissioner District 2**

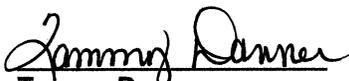
  
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**Associate Commissioner District 3**

  
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**Associate Commissioner District 4**

  
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**Associate Commissioner District 5**

  
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**Associate Commissioner District 6**  
**BOARD OF CITY COMMISSIONERS**

I, hereby certify that the above Ordinance was published in THE DOTHAN EAGLE, a newspaper of general circulation and published in the City of Dothan, Alabama on November 23, 2017.

  
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Tammy Danner  
City Clerk