



**EXECUTIVE REGULATORY OVERSIGHT COMMITTEE  
Community Development/Public Works Center  
1500 Monroe Street, First Floor Conf. Rm. 1B**

**TUESDAY, SEPTEMBER 30, 2014  
2:00 P.M.**

**AGENDA**

1. Call to Order/Review of Affidavit of Publication
2. Approval of Minutes – July 9, 2014
3. AMENDMENT TO THE GREASE MANAGEMENT ORDINANCE NO. 05-02 – ASST. COUNTY ATTORNEY, JOHN FREDYMA
4. Adjournment – Next Meeting Date: November 12, 2014



# Draft

## MINUTES REPORT EXECUTIVE REGULATORY OVERSIGHT COMMITTEE WEDNESDAY, JULY 9, 2014

### Committee Members Present:

Randy Mercer, Chairman  
Bill Ennen  
Jim Ink

Bob Knight  
Darin Larson  
Matthew Petra

Michael Reitmann  
Mike Roeder  
Buck Ward

### Committee Members Absent:

Hal Arkin  
Carl Barraco, Jr.

Bill DeDeugd  
Tracy Hayden

Stephanie Kolenut  
Terry Miller

### Lee County Government & Representatives Present:

Michael Jacob, Assist. County Attorney  
Neysa Borkert, Assist. County Attorney  
John Fredyma, Assist. County Attorney  
Joe Adams, Intern, County Attorney  
Pam Houck, Zoning Director

Nettie Richardson, Zoning Princ. Planner  
Tony Palermo, Zoning Senior Planner  
Sharon Jenkins-Owens, Planning  
Rob Price, Sr. Engineer, Dev. Services  
Bryan Miller, Lee County DOT

### Consultants and Public Participants:

Lindsay Rodriguez, Waldrop Engineering  
Alexis Crespo, Waldrop Engineering

Dennis Van Roekel, North Olga Panel

### Introduction

Mr. Randy Mercer called the meeting to order at 2:05 p.m. in the first floor conference room of the Community Development/Public Works Center, 1500 Monroe Street, Ft. Myers, Florida.

Mr. Michael Jacob, Assistant County Attorney, reviewed the Affidavit of Posting of Meeting and found it legally sufficient as to form and content.

### Approve Meeting Minutes – March 12, 2014

**Mr. Buck Ward made a motion to approve the March 12, 2014 minutes. Mr. Bob Knight seconded. The motion carried unanimously.**

### North Olga Land Development Code – Alexis Crespo of Waldrop Engineering

Mr. Tony Palermo gave an introduction saying the amendments are to implement Goal 35 of the Lee Plan, creating the North Olga community. He said over the past 2 years we've received good input and there are a short series of issues they want to address, including required community meetings for zoning actions and some development orders. The regulations have been vetted by staff. Alexis Crespo and Waldrop Engineering were thanked for doing a terrific job, and all the teams involved in reviewing them.

Ms. Alexis Crespo said the North Olga community is bound by the Caloosahatchee River to

the south, State Road 31 to the west, the Caloosahatchee Regional Park & Bob James and the Telegraph Creek 2020 property to the east, and the Charlotte County line to the north. There are about 9,500 acres. To the east is the Alva community planning area and to the west is Bayshore, so it's a very active community planning area of Lee County. She said the panel wants community meetings when Comp Plan amendments, zoning actions and developments orders come up and they want to address basic design standards to preserve the character of the area, which is predominantly agricultural with some large lot residential communities. She said Babcock is to the north, which has put some development potential in the area in the past, and may do so again in the next couple of years, with the widening of State Road 31. So, they'd like to get standards in place so the area can remain rural, have enhanced design standards like other communities, and continue to play a role in the community review process.

Mr. Mercer asked what is the ratio of residential to commercial? Ms. Crespo said there is the Owl Creek Boat Works which is industrial marine, and there are some farming type uses such as the State Road 31 Farmers Market, but that's under the right to farm act and not treated as a commercial use.

Mr. Mike Roeder asked if Sec. 10-296(1) for permits for working in the right-of-way is in response to an issue or problem. Mr. Jacob said it's really not related to the North Olga community but we realized while it may be understood that you need a right-of-way permit for certain activities, it's not actually in the Land Development Code for some areas so that's why it's in there. He said he didn't think it's actually going to go forward with this ordinance but, if it does come back in the future, it may come back as a different ordinance. It was put into this draft to get into the books a regulation that we all assumed was in there. Mr. Mercer said we recommend that it's deleted from this code.

Mr. Knight asked if this is strictly to be a residential community or is there anything set for non-residential. Ms. Crespo said in the Comp Plan we've encouraged the building up of local economy, but right now all the future land use is entirely rural or DR/GR and because of that it doesn't allow commercial uses. We weren't able to touch on too much commercial in our code because it would be inconsistent with the Comp Plan. She said there are people along the SR 31 corridor on the eastern side who are considering applying for Comp Plan amendments for commercial in anticipation of that roadway widening, so we can address it at that point.

Mr. Ward said he objects to including development orders in the community review because it's extraneous and gratuitous, and it should be a case of compliance with the code. He said it adds time and expense to getting a project permit. Ms. Crespo there's a 400 acre parcel known as the Broadlands to the north of North River Road and they came in under the AG-2 zoning and got a development order for 384 single-family lots, so the intent for having a development orders reviewed is not so much that we can modify their proposal if it meets the code, it's more allowing the community to be aware of anything significant. Mr. Ward said couldn't staff notify the community instead? Ms. Crespo said we can present that to the panel.

Mr. Jim Ink said Sec. 33-1666 specifies trees to go in dry detention, but more generic would be to put “appropriate native trees” because some of those trees may or may not work in the dry detention depending on how it’s designed.

Mr. Ink said regarding Sec. 33-1671 in the building materials, hardy board which is cementitious board may not fit technically in those standards but should be an allowable use, so there should be some way of allowing cementitious horizontal siding because more people are going to use it.

Mr. Knight said in Sec. 33-1672(c) neon and fluorescent colors on trim should be prohibited because you’re trying to go to earth tones. Mr. Dennis Van Roekel of the North Olga Panel said they were trying to keep to earth tones but not limit people too much. Ms. Crespo said we may want to go back to the prohibitive language we had. Mr. Ink said black should be left in because it’s an appropriate trim color for an old Florida house, but the neon and fluorescent should be stricken.

Mr. Mercer said to summarize EROC’s comments/suggested modifications are:

- Sec. 33-1633(1) Exclude development orders from going before the panel.
- Sec. 33-1666 Put “appropriate native trees” in dry detention basins instead of listing five specific tree names.
- Sec.33-1671 Add hardy board cementitious product to the list of exterior building materials.
- Sec. 10-296 (construction in ROW) Recommend to strike it from this Ordinance.

**Mr. Bob Knight moved to approve with the suggested change comments. Mr. Darin Larson seconded. The motion carried unanimously.**

**Amendment to the Pine Island Golf Cart Ordinance No. 13-08 – Assistant County Attorney, John Fredyma**

Mr. John Fredyma said this is an amendment to an existing ordinance that was adopted last year which allows golf carts on a number of roads and road segments in Pine Island. He said one change is to add another road segment and the other change is to remove an erroneous reference in the Attachment “A” which is a list of road segments.

**Mr. Jim Ink made a motion to approve. Mr. Bill Ennen seconded. The motion carried unanimously.**

**Lee County Noise Ordinance – Assistant County Attorney, Neysa Borkert**

Ms. Neysa Borkert said this is a repeal and replacement of the existing County noise ordinance that applies to all of unincorporated Lee County. At the end of 2012 a Florida Supreme court case deemed one Florida statute dealing with noise and the noise emitted from car stereos unconstitutional in certain provisions. So, you can’t say you can’t have loud music from your car radio, but you can do a Civil War reenactment that makes just as much noise. That was basically the impetus of the holding in that case. As a result, the Lee County Sheriff’s office reviewed their noise ordinance and determined that since it included some exceptions, it was unconstitutional and unenforceable. The original

ordinance was enacted in 1993 and was amended three times since, so it was piecemeal put together. We went through the entire ordinance, took out some language that had also previously been deemed as unconstitutional, removed some exceptions, looked at some updated cases and revised the language to meet the standards in the updated cases. Now all sounds are treated the same across the board, no matter what the source. We believe we now have an enforceable noise ordinance that can also be prosecuted effectively. We have worked with John Holloway and Abby Smith of the Sheriff's office and the State Attorney's office has also reviewed this. None of the decibel level limitations have been changed. What has changed is plainly audible language that had been deemed as unenforceable in a previous case. Instead, there's a noise disturbance standard that doesn't require deputies to have a sound meter on them to determine noise disturbance, or if the sound meter's not working. Another issue would be if a neighbor was having a loud party and you know it's over the decibel limits but you can't get an ambient noise level reading, the officer could look at other things to determine it's a noise disturbance and they could site the person in that manner. She said the sound is now measured from the receiving property instead of at the property boundary that is emitting the sound so the deputy doesn't have to figure out where the property boundary line is. Ms. Borkert said she sent this draft to the City of Bonita Springs and the Town of Fort Myers Beach, who plan to adopt whatever the County adopts so the Sheriff's office has the same standards to enforce throughout the entire County.

Mr. Knight said from a construction standpoint he gets nervous when building next to a house because some equipment easily exceeds the decibel limits, and this states certain things have to have mufflers which is more costly. Ms. Borkert said this standard did not change, but in the situation where there would be a problem, a method of relief would be to get a waiver from the County Manager.

Mr. Matthew Petra said what about during holidays? Ms. Borkert said in Table 1 it states impulsive sounds of short duration with an abrupt onset may be increased 10 dBA from 7:00 AM to 10:00 PM, so you could have a maximum of 76 dBA. There must also be an ambient noise level established, so if you're near a highway there may not be enough of a differentiation.

**Mr. Michael Reitmann made a motion to approve. Mr. Bill Ennen seconded. The motion carried unanimously.**

### **ADJOURNMENT**

There was no further discussion or new business. Mr. Jim Ink moved to adjourn. The meeting was adjourned at 2:52 p.m.

The next meeting was tentatively scheduled for September 10, 2014.

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Lee County  
Grease Management  
Ordinance Amendment

John Fredyma,  
Assistant County  
Attorney

## EROC ORDINANCE EVALUATION GUIDELINES

### Proposed Ordinance:

- 1. What is the public interest that the Ordinance is designed to protect?**  
This Ordinance is designed to protect the public health. The purpose of the Ordinance Revision is to decrease the intake of fats, oils, and grease (FOG) into the wastewater collection system, minimizing or preventing sanitary sewer overflows (SSOs) and their associated adverse impacts on human health and the environment.
- 2. Can the identified public interest be protected by means other than legislation (e.g., better enforcement, education programs, administrative code in lieu of ordinance, etc.)? If so, would other means be more cost effective?** No, not effectively. While Lee County Utilities (LCU) could attempt to protect the public health by continuing to conduct bi-annual inspections of the interceptors, this approach would not be cost effective. The additional cost of these inspections, along with the cost of maintaining lift stations adversely impacted by FOG, would have to be distributed among all LCU customers, not just to those businesses which discharge FOG into the sanitary sewer.
- 3. Is the regulation required by State or Federal law? If so, to what extent does the County have the authority to solve the problem in a different manner?** No. The Environmental Protection Agency and the Florida Department of Environmental Protection do require that LCU have a Capacity, Management, Operations, and Maintenance (CMOM) program to protect and extend the life of sewer system assets and abate SSOs. The Grease Management Ordinance is a part of LCU's CMOM Program.
- 4. Does the regulation duplicate State or Federal programs? If so, why?** No
- 5. Does the regulation contain market-based incentives? If not, could that be used effectively?** No, the regulation does not provide incentives for compliance. However, getting set up on a regular pumping program with a grease hauler may allow businesses to obtain bulk pumping discounts for signing ongoing service contracts.

6. **Is the regulation narrowly drafted to avoid imposing a burden on persons or activities that are not affecting the public interest?** Yes, the requirements to service grease interceptors and traps only apply to those food service establishments that produce fats, oils, and grease.
7. **Does the regulation impose a burden on a few property owners for the benefit of the public as a whole? If so, does it provide any form of compensation?** No. The responsibility of servicing the grease interceptor/traps will apply only to the food service establishments that generate the grease. This ordinance revision will decrease the need for frequent inspections and for cleaning of lift stations contaminated with grease. These changes and the cost savings will benefit all customers of LCU since rates will not need to be adjusted to account for increased inspections and lift station maintenance.
8. **Does the regulation impact vested rights?** No
9. **Does the regulation provide prompt and efficient relief mechanisms for exceptional cases?** Yes, there is a variance procedure available to food service establishments which determine that pumping every 90 calendar days is unnecessary to remain in compliance with the appropriate criteria. The facility may make written application to LCU for a variance from the pumping requirements at no charge to them.
10. **Even though there is an interest to be protected, is it really worth another regulation?** A grease ordinance mandating service of the interceptors/traps is already in place. This revision provides increased consistency of customer compliance and more effective management of the maintenance of private grease interceptors in order to decrease the amount of FOG introduced into the LCU wastewater collection system, while also decreasing the need for inspections.
11. **Has this approach been tried in other jurisdictions? If so, what was the result? If not, what are the reasons?** Yes. Other cities and counties throughout Florida, including Orange County, Charlotte County, Pinellas County, Hillsborough County, the City of St. Petersburg, and the City of Gainesville have similar or more stringent requirements. All of these jurisdictions indicated that the Ordinance requirements increased compliance. Many of these municipalities



require pumping on a monthly basis. This approach was considered, however it would be more costly for businesses and quarterly pumping is likely sufficient for most establishments with properly sized interceptors.

- 12. If this regulation is enacted, how much will it cost on an annual basis, both public and private? If this regulation is not enacted, what will be the public and private cost?** The cost to most food service establishments will not change. Service of the grease interceptors/traps is already required. The 90 day schedule should not present an increased burden as food service establishments which do not generate enough grease to require increased pumping will be able to obtain a variance at no cost.

LCU currently inspects interceptors bi-annually. Once the Ordinance is updated, the costs to the LCU rate payers will decrease since, with the proposed changes, staff will now inspect annually or as needed. The need for fewer inspections frees up staff to perform preventative maintenance. This allows a more proactive and cost effective approach to grease management. As more consistent compliance is achieved, LCU anticipates fewer grease blockages in lines and less interference with wastewater treatment plant operations.

LEE COUNTY ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING LEE COUNTY ORDINANCE NO 05-02 RELATING TO GREASE MANAGEMENT IN LEE COUNTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION, INCLUSION IN CODE AND SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, the Board of County Commissioners of Lee County, Florida is the governing body in and for Lee County, Florida; and

WHEREAS, the Board of County Commissioners of Lee County, Florida is authorized pursuant to Chapter 125, Florida Statutes, to enact Ordinances necessary in the exercise of its powers; and

WHEREAS, wastewater discharges containing high concentrations of fats, oils and grease from restaurants and other food service establishments contribute to more than half of the blockages or sanitary sewer overflows in the Lee County Utilities' wastewater collection system; and

WHEREAS, the County desires to be proactive in complying with the Clean Water Act (CWA) and cooperating with the Environmental Protection Agency (EPA) initiative to abate sanitary sewer overflows within unincorporated Lee County in order to protect the public health and the quality of surface water; and

WHEREAS, Lee County adopted Ordinances relating to Grease Management and Water and Sewer regulations which contained provisions related to Grease Management; and,

WHEREAS, Lee County now desires to amend Ordinance 05-02 to further effectuate the intent of Ordinance 05-02, which addresses all aspects of Grease Management establishing uniform requirements, provisions and regulations.

WHEREAS, Lee County desires to provide increased compliance and consistency across Food Service Establishments to provide more effective maintenance of all grease traps and interceptors to further decrease grease blockages and potential interference with wastewater treatment plant operations.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA:

**SECTION ONE: AMENDMENT TO ORDINANCE 05-02.**

Lee County Ordinance 05-02 is hereby amended as follows, with deleted text identified with strike through and additional text identified with underlining.

**SECTION ONE: SHORT TITLE, PURPOSE AND TERRITORIAL SCOPE**

~~The County has developed a Grease Management program that includes a change to the County code. All prior Lee County Ordinances related to Grease Management are repealed specifically, Lee County Ordinances No. 97-16 and 85-11 are hereby repealed. Sections A2.04, A2.05, and A2.06 of Lee County Ordinance 83-11, and Section II.3.(c) and (d) of Lee County Ordinance 87-24 are hereby repealed.~~

- A. This Ordinance will be known and cited as the Lee County Grease Management Ordinance.
- B. The purpose of this Ordinance is to establish uniform requirements for food service establishments discharging grease wastewater into the Lee County Utilities wastewater collection system and to enable the County to comply with all applicable Federal and State laws, including those, which apply to sanitary sewer overflows.
- C. The territorial scope of this Ordinance includes all areas of incorporated and unincorporated Lee County in which the wastewater collection system is owned and maintained by Lee County Utilities.

**SECTION TWO: DEFINITIONS**

For the purpose of this article, the following words and phrases are defined and shall have the meaning assigned except in those instances where the context clearly indicates a different meaning. The words “shall” and “will” are mandatory and not discretionary. The word “may” is permissive.

- A. *Control Authority* shall mean the Lee County Utilities Director or designee.
- B. *Environmental Protection Agency (EPA)* shall mean the Federal Environmental Protection Agency of the United States, its Administrator, or other duly authorized representative of said agency.
- C. *Food Service Establishment* shall mean any facility engaged in

preparing and/or packaging food or beverages for sale or consumption, on or off site, with the exception of private residences. Food service establishments shall include, but are not limited to food courts, food manufacturers, food packagers, restaurants, grocery stores, convenience stores, bakeries, cafeterias, lounges, hospitals, correctional facilities, hotels, nursing homes, churches, and schools.

- D. *Floatable Grease* shall mean oil, fat or grease in a physical state such that it will separate, by gravity, from wastewater by treatment in an approved pretreatment device.
- E. *Garbage Grinder* shall mean a device that shreds or grinds up solid or semisolid waste materials into smaller particles for discharge into the wastewater collection system.
- F. *Grab Sample* shall mean a sample that is taken from a wastewater discharge on a one-time basis with no regard to the volume of flow in the discharge.
- G. *Gray Water* shall mean all of the liquid contained in a grease interceptor that lies below the floating grease layer and above the food solids layer.
- H. *Grease* shall mean a material either liquid or solid, composed primarily of fat, oil and grease from animal or vegetable sources. The terms “fats, oils and grease” (FOG) and “oil and grease” shall be included within this definition.
- I. *Grease Interceptor* shall mean a device whose rated flow exceeds 50 gpm, which has a minimum storage capacity of 750 gallons or more, and is located underground and outside a food service establishment. This device is designed to collect, contain and remove food wastes and grease from the waste stream while allowing the balance of the liquid waste to discharge to the wastewater collection system by gravity.
- J. *Grease Laden Waste* shall mean liquid waste from the kitchen fixtures which contains 100 mg or more grease/L.
- K. *Grease Trap* shall mean a device, whose rated flow is less than 50 gpm, located inside a food service establishment and designed to collect, contain and remove food wastes and grease from the waste

stream while allowing the balance of the liquid waste to discharge to the wastewater collection system by gravity.

- L. *Notice of Violation (NOV)* shall mean a written notice informing a user that a violation of this Ordinance has occurred.
- M. *Notify* shall mean contact by telephone, in person, or via certified United States Mail, return receipt requested.
- N. *Premises* shall mean a parcel of real estate or portion thereof including any improvements thereon which is determined by the Control Authority to be a single user for the purposes of receiving, using and paying for sewer services.
- O. *Pretreatment Review Committee* shall mean a panel made up of the following individuals whose main function is to review user appeals relating to grease issues, Chief Building Inspector or designee, Utilities Director or designee, and the Pretreatment Coordinator or designee. The County Attorney or designee shall serve as a non-voting member of the panel providing substantive and procedural legal advice to the Pretreatment Review Committee.
- P. *Publicly Owned Treatment Works (POTW)* shall mean a treatment works, also referred to as a Wastewater Treatment Plant, as defined by Section 212,CWA, (33 U.S.C. 1292) which is owned by the County. Any devices and systems used to pump, store, treat, recycle and reclaim municipal sewage or industrial wastes of a liquid nature. POTW shall include piping and County owned and maintained lift stations and pump stations that convey wastewater to the POTW. Any sewers that convey waste waters to the POTW from persons outside the County who are users of the POTW by contract or agreement with the County.
- Q. *Replacement Costs* shall mean expenditures for obtaining and installing equipment, accessories or appurtenances necessary to retain design capacity and performance of the POTW throughout the jurisdiction of the County.
- R. *Sanitary Sewer Overflow* shall mean releases of untreated sewage into the environment.
- S. *Utilities Director* shall mean the person designated by the County to administer the activities of the Utilities Division, supervise the

operation of the POTW, maintain records of such operation, prepare operating budgets and make recommendations to the Lee County Board of County Commissioners concerning activities within his responsibility and authority. The Utilities Director shall comply with all applicable public participation requirements of Section 101(e) of the CWA.

- T. *Wastewater* shall mean the liquid and water containing industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, institutions and any other source, whether treated or untreated which is contributed to or permitted to enter the POTW.

**SECTION THREE: FOOD SERVICE ESTABLISHMENTS**

- A. General: All food service establishments are required to have a grease trap or grease interceptor as per the requirements of the Florida –Building Code as may be amended from time to time. A grease trap/interceptor inspection fee of one dollar twenty cents (\$1.20) per interceptor/trap, per month ~~is hereby~~ was formerly imposed and is hereby retained. This rate may be amended from time to time through a Rate Resolution approved by the Lee County Board of County Commissioners pursuant to this Ordinance. Such fee shall be paid through the Lee County Utilities monthly service bill by all food service establishments required to install and maintain grease traps/interceptors pursuant to State regulations.
- B. New Facilities: Upon the effective date of this Ordinance, food service establishments which are newly proposed or constructed, or existing facilities which will be expanded or renovated, where such facility did not previously exist, shall be required to install, operate and maintain a grease interceptor or grease trap according to the requirements of the Florida Building Code. All new food service establishments shall be required to complete and submit a Grease Management Facility Survey prior to commencing discharge to the wastewater collection system.
- C. Existing Facilities: For the purposes of sizing and installation of grease interceptors, all food service establishments existing within the County prior to the effective date of this Ordinance shall be permitted to operate and maintain existing grease interceptors or grease traps provided same are in efficient operating condition. Upon the effective date of this Ordinance, each existing facility shall be required to complete and submit a Grease Management Facility

Survey. The Control Authority shall provide the survey form to all food service establishments identified. All food service establishments are required, under the terms of this Ordinance, to complete and submit the form within 30 calendar days of receipt. Failure to do so will result in a \$50 fine. All fees and fines[AND FINES?]shall be added to the monthly service bill of the food service establishment. †The County Control Authority may require an existing food service establishment to install, operate and maintain a new grease interceptor or trap that complies with the requirements of this Ordinance or to modify or repair any noncompliant plumbing or existing interceptor or trap within ninety (90) days of written notification by the County when any one or more of the following conditions exist:

1. The facility is found to be contributing oils and grease in quantities sufficient to cause line stoppages or necessitate increased maintenance on the wastewater collection system; and/or
2. The facility is found to be contributing oils and grease in quantities in excess of 100 mg/L; and/or,
3. The facility has an undersized, irreparable or defective grease interceptor or trap; and/or,
4. The facility has a garbage grinder; and/or,
5. Remodeling of the food preparation or kitchen waste plumbing system is performed which requires a plumbing or building permit to be issued; and/or,
6. The existing facility is sold or undergoes a change of ownership.

D. Plumbing Connections: Grease interceptors or traps shall be located in the food service establishment's lateral sewer line between all fixtures, which may introduce grease into the sewer system and the connection to the County's wastewater collection system. Such fixtures shall include but not be limited to, sinks, dishwashers, automatic hood wash units, floor drains in food preparation and storage areas, and any other fixture which is determined to be a potential source of grease. Garbage grinders installed within food service establishments shall be plumbed through the grease interceptor(s) and a solids interceptor shall separate the discharge before connecting to the grease trap. Solids interceptors and grease interceptors shall be sized and rated for the discharge of the garbage grinder. Wastewater from sanitary facilities and other similar fixtures shall not be introduced into the grease interceptor or trap under any circumstances.

- E. Grease Traps: Approval of the installation of a grease trap instead of a grease interceptor at a new food service establishment shall be as specified in the Florida Building Code. All food service establishments shall comply with the following guidelines:
1. Inspection, Cleaning and Maintenance: Each food service establishment shall be solely responsible for the cost of trap installation, inspection, cleaning and maintenance. Cleaning and maintenance must be performed weekly or at each time when the total volume of captured grease and solid material displaces more than twenty percent (20%) of the total volume of the unit. ~~Each food service establishment shall determine the frequency at which their grease trap shall be cleaned, but~~ All grease traps shall be opened, inspected, cleaned, and maintained at a minimum of once per week.
  2. Repairs: The food service establishment shall be responsible for the cost and scheduling of all repairs to its grease trap(s). Repairs required by the Control Authority shall be completed within ten (10) calendar days after the date of written notice of required repairs is received by the facility, unless the County approves in writing of a different schedule.
  3. Disposal: Grease and solid materials removed from a grease trap shall be disposed of in the solid waste disposal system.
  4. Record Keeping: Each food service establishment shall maintain a logbook or file of all trap maintenance, including the time and date of the maintenance, name(s) of individual or company that performed the maintenance, details of any repairs required and dates of repair completion, and any other records pertaining to the trap. The records shall be retained for a period of three years and be made available upon request by the control authority.
  5. Quarterly reporting: Each food service establishment shall submit a quarterly report to the Control Authority in a manner provided by the Control Authority. Reports shall be due on or before the 15<sup>th</sup> day of January, April, July, and October in each year. Each report shall record the number of times the trap(s) has been cleaned since the last report and the name(s) of individual or company that performed the



cleanings. Each report shall note any repairs that were made to the trap including the dates that the repairs were performed. Reports shall be submitted as required and shall be subject to a late fee of \$50.00 if received after the 15<sup>th</sup> day of the month specified.

F. Grease Interceptors: Grease interceptors shall be installed at all new food service establishments as specified by the Florida Building Code. All food service establishments shall comply with the following guidelines:

1. Inspection, Pumping, and Maintenance: Each food service establishment shall be responsible for the costs of installing, inspecting, pumping, cleaning and maintaining its grease interceptor. Pumping services shall include the initial complete removal of all contents, including floating materials, wastewater and bottom sludge and solids from the interceptor. Grease interceptor cleaning shall include scraping excessive solids from the walls, floors, baffles and all pipe work. The return of gray water back into the grease interceptor ~~from which the wastes were removed is allowable, provided that grease and solids are not returned to the interceptor. The grease hauler shall wait at least twenty (20) minutes to allow the interceptor waste to separate in the truck tank before attempting to re-introduce the gray water to the interceptor.~~ is prohibited. It shall be the responsibility of each food service establishment to inspect its grease interceptor during the pumping procedure to ensure that the interceptor is properly cleaned out and that all fittings and fixtures inside the interceptor are in working condition and functioning properly.
2. Interceptor Pumping Frequency: Each food service establishment shall have all of its grease interceptor (s) pumped at a minimum every 90 calendar days.
3. Additional Interceptor Pumping Requirements: In addition to required pumping, the Control Authority may determine the that additional frequency at which its pumping of the grease interceptor(s) shall be pumped is required according to the following criteria:
  - a. When the floatable grease layer exceeds six inches (6") in depth as measured by an approved dipping

- method; or,
- b. When the settleable solids layer exceeds eight inches (8") in depth as measured by an approved dipping method; or,
- ~~c. When the total volume of settleable solids is more than three quarters (3/4) of the total clearance of the outlet pipe located at the bottom of the interceptor; or,~~
- ~~d. When the total volume of captured grease and solid material displaces more than twenty percent (20%) of the capacity of the interceptor as calculated using an approved dipping method; or,~~
- ~~e. When the interceptor is not retaining/capturing oils and greases; or the oil/grease concentration of the water being discharged, as determined through sampling and analysis, is greater than 100 mg/L.~~

4 Variance procedure. If a food service establishment determines that pumping every 90 calendar days is unnecessary to remain in compliance with the criteria of paragraph 3 above, the facility may make written application to the Control Authority for a variance from the pumping requirements. The variance procedure shall be as follows:

- a. The food service establishment shall submit an application for a variance on a form provided by the Control Authority. The application shall include the next date and time the facility intends to have its interceptor pumped and cleaned and an affidavit from the applicant stating that it shall permit no further pumping or cleaning of the interceptor until the Control Authority has completed its evaluation and notified the applicant of the appropriate pumping frequency.
- b. The Control Authority shall inspect the interceptor on the specified date during or after the pump-out procedure.
- c. If the interceptor is in good working condition during the initial inspection, the Control Authority shall re-inspect the interceptor approximately 90 days after the initial inspection.
- d. After the initial re-inspection, the Control Authority shall inspect the interceptor at intervals of approximately every 14 working days to determine grease and solids levels using an approved dipping method.

- e. If during re-inspection the level of grease reaches six inches or the level of solids reaches eight inches, the Control Authority shall use the number of days from the initial pumping date to the final re-inspection date as the new pumping frequency requirement to be included in the variance granted. If these thresholds are not reached the Control Authority shall continue to inspect the interceptor at intervals of approximately every 14 working days
- f. When the level of grease exceeds six inches or the level of solids exceeds eight inches, the Control Authority shall use the number of days from the initial pumping date to the previous re-inspection as the new pumping frequency to be included in the variance granted.
- g. Where two or more interceptors are connected in series, one variance application process shall apply to both interceptors. The two or more interceptors shall all be pumped initially on the same day and the variance for the first interceptor shall be determined when the grease or solids criteria are reached. The first interceptor shall not be pumped at this time and the variance process shall continue to monitor the second interceptor until either the grease or solids criteria are reached. At this time both interceptors shall be pumped and the new variances for the first and second interceptors will be issued. Additional interceptors will be handled on a case by case basis.
- h. If there is any evidence that the interceptor has been tampered with or pumped out during the variance procedure, the procedure will be declared null and void and a new application will be required from the food service establishment to re-start the procedure.
- i. The authorized variance shall remain valid until there is either a change in ownership of the food service establishment or remodeling of the kitchen occurs which requires a County plumbing permit to be issued unless there is evidence that the interceptors are no longer remaining in compliance with the criteria of paragraph 2 above.
- j. In any event, pump-out and cleaning of an interceptor shall be required at least once every 180 days with no return of gray water to the interceptor.

k. Failure to provide complete pump-out of interceptor at the required intervals may result in revocation of the approved variance.

5. Repairs:

Each food service establishment shall be responsible for the cost and scheduling of all repairs to its grease interceptor(s). Repairs required by the Control Authority shall be completed within ten (10) calendar days after written notice is received by the facility unless the Control Authority establishes a different compliance date.

4.6 Disposal:

Wastes removed from each grease interceptor shall be disposed of at a facility permitted to receive such wastes or at a location designated by the County for such purposes. Neither grease, nor solid materials, nor gray water removed from interceptors shall be returned to any grease interceptor, private sewer line or to any portion of the County's wastewater collection system.

7. Record keeping. Each food service establishment shall maintain a logbook or file of all interceptor maintenance, including the time and date of the maintenance, the name(s) of individual or company that performed the maintenance, details of any repairs required and dates of repair completion, and any other records pertaining to the interceptor. The records shall be retained for a period of three years and shall be made available upon request by the control authority.

8. Quarterly reporting. Each food service establishment shall submit a quarterly report to the Control Authority in a manner provided by the Control Authority. Reports shall be due on or before the 15<sup>th</sup> day of January, April, July, and October in each year. Each report shall record the number of times the interceptor(s) has been cleaned since the last report and the name, address, and registration number of each grease hauler who serviced the interceptor(s). Each report shall include copies of either the grease hauler's receipt or manifest. If a variance has been granted, the alternate cleaning frequency shall also be reported. Each report shall note any repairs that were made to the interceptor including the dates that the repairs were performed. Reports shall be

submitted as required and shall be subject to a late fee of \$50.00 if received by the Control Authority after the 15<sup>th</sup> day of the month specified.

- G. Interceptor Additives: Any chemicals, enzymes, emulsifiers, live bacteria or other grease cutters or additives shall be approved by the Control Authority prior to their use by the food service establishment or the grease hauler. ~~Material~~ Safety Data Sheets and any other applicable information concerning the composition, frequency of use and mode of action of the proposed additive shall be sent to the Control Authority together with a written statement outlining the proposed use of the additive(s). Based upon the information received and any other information solicited from the potential user or supplier, the Control Authority shall permit or deny the use of the additive in writing. Permission to use any specific additive may be withdrawn by the Control Authority at any time.
- H. Alternative Grease Removal Devices or Technologies: Alternative devices and technologies such as automatic grease removal systems shall be subject to written approval by the Control Authority prior to installation. Approval of the device shall be based on demonstrated (proven) removal efficiencies and reliability of operation. The Control Authority may approve these types of devices depending on manufacturers' specifications on a case-by-case basis. The food service establishment may be required to furnish analytical data demonstrating that grease discharge concentrations to the County wastewater collection system will not exceed the established limitation.

**SECTION FOUR: ENTRY, INSPECTION AND SAMPLING**

- A. Entry: All food service establishments shall allow the Control Authority, bearing proper credentials and identification, access to all parts of the premises during reasonable business hours, for the purpose of inspection, observation, and sampling in accordance with the provisions of this Ordinance. Any user refusing the Control Authority entry to or upon the premises of the user for the purposes of inspection, sampling effluents or performing such other duties as required by this Ordinance shall constitute a violation of the terms of this Ordinance. The Control Authority may seek a warrant or use any other legally available procedures to discharge their duties.
- B. Inspection and Sampling: The Control Authority may inspect the

facilities of any food service establishment, to ascertain compliance with this Ordinance. Grease interceptors and traps shall be inspected as necessary to insure compliance with specific grease trap/interceptor requirements and to determine if proper cleaning and maintenance schedules are being performed. The Control Authority may collect effluent samples to determine compliance. The Control Authority shall re-inspect any user that received a deficiency notice after the original inspection. In the event that the user did not miss a scheduled 90 day pumping and is compliant with all of the other deficiencies upon first re-inspection, there shall be no charge for the re-inspection. In the event of continuing non-compliance, successive re-inspections will be scheduled and appropriate fees shall be charged to the user for the first and all successive re-inspections. Such fees may be charged to the appropriate account of the Lee County Utilities Water & Sewer bill.

**SECTION FIVE: ENFORCEMENT, REVIEW COMMITTEE, MEETINGS, CITATION, INJUNCTIVE RELIEF AND DAMAGE ASSESSMENTS**

A. Enforcement Response Plan:

1. Failure to Provide a Quarterly Report

Upon missing a quarterly reporting deadline, for the first time within a calendar year, a food service establishment may [CHANGED FROM SHALL TO MAY TO PROVIDE FLEXIBILITY. IF ITS LISTED AS SHALL, THAT DENOTES YOU HAVE TO DO IT REGARDLESS OF REASONS.] be fined \$50. The report shall then be submitted as required within 15 additional calendar days. Failure to submit the missed report, or a second failure to submit a quarterly report on time may result in an additional \$100 fine. A third failure to provide a quarterly report within a calendar year may result in a fine of up to \$150.

2. Failure to Perform 90 Day Pump Out

Whenever the Control Authority determines that a grease trap or interceptor has missed a required cleaning or pumping, a noncompliance fee of one hundred fifty dollars (\$150) may be charged to the food service establishment. If an additional 90 Day Pump Out is missed within a calendar year, the fine for the second noncompliance may result in a fine of up to \$250. A third failure to provide a 90 Day Pump out within a calendar year shall result in a fine of up to \$500.

3. Failure to Properly Maintain an Interceptor or Trap

Whenever the Control Authority determines that a grease trap or interceptor—is in need of additional pumping, repairs or other maintenance, or—in the event that an additional grease interceptor is required, the Control Authority shall proceed as prescribed below:—

~~1. The Control Authority conducting the inspection who determines that a violation exists shall immediately notify the owner/manager of the food service establishment that a violation exists and must be addressed promptly.~~

2. Upon learning of a violation, ~~The~~ Control Authority may issue the food service establishment a Notice of Violation (NOV) stating the nature of the violation(s). Upon issuance of a NOV:

- a. The Control Authority shall perform a first re-inspection ten (10) calendar days, after issuance of the NOV, to allow sufficient time for corrective action by the food service establishment to be completed. In the event that the food service establishment is compliant with all of the deficiencies, there shall be no charge for the re-inspection. If all of the deficiencies have not been corrected, a first re-inspection fee of one hundred fifty dollars (\$150) shall be charged to the food service establishment. A second re-inspection will be performed after a minimum of ten (10) additional calendar days have passed. In the event that the food service establishment is compliant with all of the deficiencies, there shall be no additional charge for the re-inspection. If all of the deficiencies have still not been corrected, a second re-inspection fee of two hundred fifty dollars (\$250) shall be charged to the food service establishment. If a third or more re-inspections are required a re-inspection fee of five hundred dollars (\$500) for each successive re-inspection shall be charged to the food service establishment in addition to other enforcement actions if all of the deficiencies have still not been corrected. All fees shall be added to the Lee County Utilities monthly service bill of the food service establishment.
- b. If the food service establishment responds with an acceptable explanation for the violation, and a plan for rectifying the situation, or makes good a deficiency within the prescribed time, enforcement ceases at the

- discretion of the Control Authority.
- c. If a food service establishment continues to violate the provisions set forth in this Ordinance, or fails to initiate/complete corrective action in response to a NOV, the Control Authority may pursue one or more of the following options:
    - i. Pump the grease interceptor and place the appropriate charge on the facility's monthly Lee County Utilities service bill; and/or,
    - ii. Assess further inspection fees as provided; and/or,
    - iii. Terminate water and sewer service.
- B. Pretreatment Review Committee: At any point during the enforcement process, a food service establishment may request a meeting of the Pretreatment Review Committee to appeal any request being made by the Control Authority.
- C. Conciliation Meetings: At any point before or during the enforcement action, the Control Authority may, but is not required to, invite representatives of the user to a conciliation meeting to discuss the violations and methods of correcting the cause of the violation. If the user and Control Authority can agree to appropriate remedial and preventive measures, they shall commit such agreement to writing with provisions for a reasonable compliance schedule. If an agreement is not reached through the conciliation process, the Control Authority shall continue with the enforcement policy as outlined in this Ordinance and take all appropriate action to insure compliance with this Ordinance or other law or regulation.
- D. Civil and Injunctive Relief: Upon approval of the County Attorney or designee, the Control Authority may file, in a court of competent jurisdiction, a suit seeking the issuance of an injunction, damages or other appropriate relief to enforce the provisions of this Ordinance or other applicable law or regulation. Suit may be brought to recover any and all damages suffered by the County as a result of any action or inaction of any user or other person who causes or suffers damage to occur to the POTW or for any other expense, loss or damage of any kind or nature suffered by the County.
- E. Assessment of Damages to Users: When the discharge from a food service establishment causes an obstruction, damage or any other impairment to the facilities or any expense of whatever character or



nature to the County, the Control Authority may charge the expenses incurred by the County. The expenses include services to clear the obstruction, repair the damage to the facility or to recover any other expenses for damage(s) of any kind or nature suffered by the County. The Control Authority shall file a claim with the food service establishment or person causing the damages for any and all expenses or damages suffered by the County. If the claim is ignored or denied, the Control Authority may charge the expense to the Lee County Water and Sewer bill, or notify the County Attorney, or designee, to take such measures as shall be appropriate to recover any expense or damages suffered by the County.

#### **SECTION TWO: CONFLICTS OF LAW**

Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements will apply.

#### **SECTION THREE: SEVERABILITY**

It is the Board of County Commissioner's intent that if any section, subsection, clause or provision of this ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such portion will become a separate provision and will not affect the remaining provisions of this ordinance. The Board of County Commissioners further declares its intent that this ordinance would have been adopted if such unconstitutional provision was not included.

#### **SECTION FOUR: CODIFICATION AND SCRIVENER'S ERRORS**

The Board of County Commissioners intends that this ordinance will be made part of the Lee County Code. Sections of this ordinance can be renumbered or relettered and the word "ordinance" can be changed to "section", "article," or other appropriate word or phrase to accomplish codification, and regardless of whether this ordinance is ever codified, the ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of the County Administrator, County Manager or his designee, without the need for a public hearing.

#### **SECTION FIVE: MODIFICATION**

It is the intent of the Board of County Commissioners that the provisions of this Ordinance may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications shall be incorporated into the final version.

#### **SECTION SIX: EFFECTIVE DATE**

This ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State.

Commissioner \_\_\_\_\_ made a motion to adopt the foregoing ordinance, seconded by Commissioner \_\_\_\_\_. The vote was as follows:

|                     |       |
|---------------------|-------|
| John Manning        | _____ |
| Cecil L Pendergrass | _____ |
| Larry Kiker         | _____ |
| Brian Hamman        | _____ |
| Frank Mann          | _____ |

DULY PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2014.

ATTEST:  
LINDA DOGGETT, CLERK

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

BY: \_\_\_\_\_  
Deputy Clerk

BY: \_\_\_\_\_  
Larry Kiker, Chair

Approved as to Form for the  
Reliance of Lee County Only

By: \_\_\_\_\_  
Office of the County Attorney