

ORDINANCE NO. 10-2198

BE IT ORDAINED by the City Council of the City of Hoover, Alabama, in regular meeting duly assembled, a quorum being present, as follows:

SECTION 1. GREASE CONTROL PROGRAM ADOPTED. The *Municipal Code of the City of Hoover, Alabama* (“Code”) is hereby amended by adding the following division to the Code as Chapter 15, Article II, Division 6:

DIVISION 6. GREASE CONTROL PROGRAM.

Section 15-110. PURPOSE; INTENT; APPLICATION. The City of Hoover Engineering Department has the responsibility to collect, convey, and treat sanitary sewage in the Inverness and Riverchase Wastewater Systems. The purpose of this division is to protect the health, safety, and general welfare of the citizens of the City of Hoover, Alabama through the regulation of fat, oil and grease discharges into sanitary sewer systems to the maximum extent practicable as required by federal and state law.

Fats, oils, and grease (“FOG”) that are disposed directly into a sanitary sewer system cool, solidify, and combine with other foreign materials in sewer lines and restrict or completely block flow through the sewer lines. When sewer lines are blocked, wastewater backs up until it overflows from manholes and/or building plumbing fixtures into storm drains, creeks, or buildings. These overflows are termed Sanitary Sewer Overflows (“SSOs”) and are a violation of the Clean Water Act. These SSOs subject the City to fines and other legal actions at the discretion of the regulatory agencies, such as the Alabama Department of Environmental Management (“ADEM”) and the Environmental Protection Agency (“EPA”). The City finds that food service facilities within the City that utilize the City’s sanitary sewer system or any other sanitary sewer system within the City’s limits have the potential to discharge FOG into such systems and that this Program will enable the inspection and monitoring by the City of such food service facilities. Further, this article establishes methods for controlling the introduction of FOG by food service facilities into the City of Hoover’s sanitary sewer system and/or any other sanitary sewer system not regulated by a county agency in order to comply with regulatory requirements.

This Grease Control Program is one of many actions taken by the City to minimize the occurrence of SSOs. This Program shall be evaluated periodically by the Official and modified as necessary to maximize its effectiveness.

The Grease Control Program does not regulate and is not applicable to temporary food service facilities and/or mobile food units as defined in Section 15-112 herein.

Any food service facility which has the potential to discharge FOG into a sewer system owned and maintained by any county agency, but within the limits of the City or the City’s police jurisdiction, is required to be in compliance with that county agency’s FOG ordinance. If

no such ordinance exists or if the receiving sewer is considered to be private, then the food service facility must follow the requirements contained in this division.

Section 15-111. PROGRAM ADMINISTRATION. The City Engineer of the City of Hoover shall administer, implement, and enforce the provisions of this division, on behalf of the City, and shall act as the Official for the provisions of this division. Any powers granted or duties imposed upon the Official may be delegated in writing by the City Engineer to persons or entities acting in the beneficial interest of or in the employ of the City. Any references to the Official in this division shall include the Official and his or her designee unless stated otherwise herein.

Section 15-112. DEFINITIONS. For the purposes of this division, the following words, terms, and phrases shall have the meaning ascribed to them in this section.

Alternative grease removal technology means an automatically operated mechanical device specifically designed to remove grease from the waste stream.

Applicant means the owner or agent of any food service facility submitting an application for a Food Service Facility Grease Control Permit to the City of Hoover's Engineering Department.

Automatic Grease Removal Device means a plumbing appurtenance that is installed in a sanitary drainage system to intercept free-floating 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 intervention from the User, except for maintenance.

Best Management Practices ("BMPs") means any program, process, operating method, or measure that controls, prevents, removes, or reduces the discharge of FOG.

Commercial dishwasher means, for the purposes of these regulations, any dishwashing device that is capable of either producing or using water heated to a temperature of 140 degrees Fahrenheit or greater.

FOG means fats, oils, and grease.

Food means any raw, cooked, or processed edible substance, iced beverage, or ingredient intended for human consumption.

Food service facility means any facility engaged in the preparation of food for human consumption and/or serving meals, lunches, short orders, sandwiches, frozen desserts, or other edible products. The term includes restaurants, coffee shops, cafeterias, short order cafes, luncheonettes, taverns, lunchrooms, places which manufacture retail sandwiches, soda fountains, institutional cafeterias, catering establishments, and similar facilities by whatever name called.

Fryer oil means oil that is used and/or reused in fryers for the preparation of foods such as fried chicken and french fries.

Grease means fats, oils, and grease used for the purpose of preparing food or resulting from food preparation and includes all elements of FOG. The terms grease and FOG may be used interchangeably herein.

Grease Interceptor means a plumbing appurtenance that is installed in a sanitary drainage system to intercept oily and greasy wastes from a wastewater discharge. Such device has the ability to intercept free-floating fats and oils.

Maintenance means the complete removal of all grease interceptor contents including floatable materials, wastewater, sludge and solids. The grease interceptor must be thoroughly cleaned to remove grease and scum from inner walls and baffles. The interceptor must be filled with cold potable water to complete maintenance operation.

Mobile food unit means a self propelled or vehicle mounted unit intended to be used as a food service facility. Mobile food units are not regulated by this Program.

Owner means the owner of the real property on which a food service facility that discharges wastewater into a sanitary sewer collection system is located.

Permit means a written authorization to discharge into the City's sanitary sewer collection system or any other sanitary sewer collection system granted by the Official under the City of Hoover's Grease Control Program to the owner of a food service facility or to his/her/its authorized agent.

Permittee means an Applicant to which or to whom a Permit is issued.

Program means the City of Hoover's Grease Control Program.

Sampling vault means the last point downstream of a grease interceptor that is specially constructed to allow inspection and sampling prior to discharge of effluence into a sanitary sewer collection system.

Temporary food service facility means a food service facility that has no permanent sewer connection and operates at the same location for a period of time not to exceed fourteen (14) days and must be in conjunction with a single event, such as a fair, carnival, circus, exhibition, or similar temporary gathering. Temporary food service facilities are not regulated by this Program.

User means the owner, agent, or operator of a food service facility that discharges wastewater into a sanitary sewer collection system.

Section 15-113. GREASE CONTROL PROGRAM REQUIREMENTS.

(a) PERMIT REQUIRED FOR FOOD SERVICE FACILITIES; PROGRAM FEES.

In order to operate within the City, each User must apply for and obtain a Grease Control Program Permit or exemption therefrom. Existing food service facilities must apply for a Permit within sixty (60) days from the effective date of this division. No Permit fee shall be assessed to Permit Applicants. Applicants with more than one food service facility shall obtain a Permit for each food service facility. Permits are issued on a calendar year basis and must be renewed by the Applicant on an annual basis between January 1 and March 1. A food service facility shall not conduct business without a current Permit. The City reserves the right to non-renew a Permit in the event of non-compliance by a Permittee with the terms of this division and/or with any Permit conditions. Permits are non-transferable. A new Permit is required for a change of ownership or location.

To obtain a Permit, an Applicant must obtain a Permit application from the City's Engineering Department and fully complete such application. Applicants must sign Permit application to certify that the information contained therein is true, accurate and complete prior to submitting the application for review. The submission of untruthful, inaccurate or incomplete information on a Permit application may result in denial of such application, revocation of an existing Permit, and/or disconnection of an Applicant or Permittee from the City's sewer system. Program applications shall be returned to the City's Engineering Department. Within thirty (30) calendar days of receipt thereof, the City's Engineering Department shall evaluate such Permit application, inspect all grease control devices within the food service facility for which permitting is sought, and notify the Applicant of the City's acceptance or denial of the Applicants' Permit application. If the Applicant's grease control devices meet the requirements set forth in this division, then the Official shall issue a Permit.

If the existing food service facility's grease control devices do not meet the requirements set forth in this division, the Official may deny the Permit application or may issue the Permit under the condition that certain upgrades to the food service facility are to be completed for proper compliance with this division. A schedule for completion of the required upgrades shall also be included on the Permit. The applicant will be given a maximum of one year from the date of Permit issuance to complete the required upgrades.

A re-inspection fee of \$200.00 per grease control device shall be assessed to an Applicant or Permittee by the City each time a food service facility fails an inspection of such device by the Official and must be re-inspected. The non-payment of any re-inspection fee by an Applicant or Permittee is deemed a violation of this division.

The Official will evaluate Program fees periodically and may request that the City Council adjust such fees, if necessary, based on the cost of operation of the Program.

The issuance of a Permit shall not excuse the Applicant and/or food service facility from the need to obtain other required state and local permits or licenses.

(b) **PERMIT CONDITIONS.** The Official may place conditions on the issuance of a Permit as required to ensure compliance with the provisions of this division as well as the intent of this Program. Such conditions may include, but are not limited to, the following:

- a. Frequency of inspections;
- b. Maintenance requirements;
- c. Compliance schedule;
- d. Requirements for retaining records;
- e. Permittee's statement of permission for the Official and/or other duly authorized employee of the City to enter upon the Permittee/User's property without prior notification for the purpose of inspection, observation, photography, records examinations, records copying, measurement, and sampling or testing to determine compliance with this division; and/or
- f. Other conditions deemed by the Official necessary to ensure compliance with the intent of this Program and other applicable ordinances, laws and regulations of the City, state or federal government.

(c) **PERMIT DENIAL; APPEAL.** Within thirty (30) calendar days of a decision to deny a Permit application, the Official shall notify the Applicant in writing of the specific cause for the denial. The Applicant who is denied a Permit under this Program shall have the right to appeal such denial to the Hoover Code Appeals Board. The appeal shall be filed in writing by the Applicant with the Official within seven (7) days of receipt of the notice of denial from the Official. Thereafter, a hearing on the appeal before the Hoover Code Appeals Board shall take place within ten (10) days from the date of receipt of the notice of appeal. The decision of the Hoover Code Appeals Board shall be final.

Cross Reference: Hoover Code Appeals Board, Chapter 6, Article I, Section 6-5.

(d) **EXEMPTION FROM PERMIT REQUIREMENT.** Food service facilities not otherwise excluded herein and which do not discharge FOG into a sanitary sewer system may request an exemption from the Permit requirement set forth in this division.

To obtain an exemption, food service facilities must follow the application process set forth in Section 15-113(a). Applications for which an exemption is requested are not subject to any application fee stated in Section 15-113(a). Following inspection, the Official will determine whether the Applicant is entitled to an exemption and issue such exemption accordingly. In the event that a food service facility is not granted an

exemption hereunder, then the Applicant shall be required to follow the application process set forth in Section 15-113 herein.

Any exemption granted will remain in effect indefinitely until such time as there is a change in food service operations within the exempt food service facility which results in the generation of FOG into a sanitary sewer system.

Food service facilities which are granted an exemption from the Permit requirement remain subject to inspection by the City and are required to notify the Official if changes are made to the food service facility which results in the generation of FOG into a sanitary sewer system. The failure to notify the Official of such FOG generation shall be considered a violation of this division.

Section 15-114. BEST MANAGEMENT PRACTICES REQUIRED. All Food Service Facilities shall develop, implement and follow Best Management Practices (“BMPs”) in order to minimize the discharge of FOG into a sanitary sewer system.

Section 15-115. GREASE CONTROL DEVICE REQUIREMENTS AND SPECIFICATIONS. New food service facilities that discharge FOG into a sanitary sewer system shall install, operate, and maintain properly sized grease control devices as indicated in this section. New food service facilities must have all devices installed and operating properly prior to beginning food service operations.

Existing food service facilities must apply for a Permit within sixty (60) days of the effective date of this division. Existing food service facilities may be required to modify existing grease control devices or to install new or additional grease control devices as deemed necessary by the Official and to operate and maintain said devices as described in this division. Permits issued will contain the timeframe for complying with such requirements. Existing food service facilities must have all required devices properly installed and operational within the timeframe established in the Permit.

(a) **GREASE CONTROL DEVICES.** Grease control devices shall be sized and installed in accordance with the *International Plumbing Code* most recently adopted by the City.

(b) **ALTERNATIVE GREASE REMOVAL TECHNOLOGIES.** The Official may approve the use of alternative grease removal technologies, e.g. skimmers, for controlling FOG discharge into a sanitary sewer system in lieu of a standard grease interceptor and/or automatic grease removal device if the Official determines the device employing such technology to be at least as effective as a standard grease interceptor and/or automatic grease removal device.

The burden for justifying the alternative technology is on the User, Permittee, and/or Owner. The following must be provided to the Official for the purposes of evaluation of the proposed technology:

(1) A proposal that is specific to the food service facility submitting specific, detailed information that justifies how the alternative device is at least as protective as the standard devices described in this division; and

(2) Complete technical information regarding the performance of the technology and proof of effectiveness in removing FOG from the waste stream including, but not limited to:

- (i) specifications for maintenance service and frequency;
- (ii) the manufacturer's installation and operation manuals; and
- (iii) any other information the Official deems appropriate to make his/her decision.

If the alternative technology is approved, the User, Permittee, and/or Owner shall install and maintain the device in accordance with the manufacturer's installation and operation specifications. Maintenance on the approved device shall be performed at least as often as stipulated in the Permit, even if the manufacturer specifies less frequent maintenance.

(c) **GREASE CONTROL DEVICE SAMPLING VAULT.** The Official may require the installation of a grease control device sampling vault at any time in a food service facility if extenuating circumstances dictate the necessity for such installation and/or if issues or problems are present at the site of the facility which require such sampling vault installation.

Section 15-116. MAINTENANCE REQUIREMENTS FOR GREASE CONTROL DEVICES (INDOOR AND OUTDOOR); SPECIAL EVENTS.

(a) **MAINTENANCE REQUIRED.** Grease interceptor maintenance shall include the following minimum services:

- a. Complete removal of all grease interceptor contents, including floatable materials, wastewater, sludge, and solids, rather than skimming the top grease layer;
- b. Thorough cleaning of the grease interceptor to remove grease and scum from inner walls and baffles;
- c. Filling cleaned grease interceptor with cold potable water after cleaning to complete maintenance operation; and
- d. Completion of middle section of the grease disposal manifest form and proper disposal of the grease interceptor waste.

(b) **MAINTENANCE STANDARD; FREQUENCY OF MAINTENANCE**

(1) **OUTDOOR GREASE INTERCEPTORS.** The maintenance standard for outdoor grease interceptors shall be the 25 Percent Rule which requires that the depth of oil and grease (floating and settled) in an outdoor interceptor shall be less than 25 percent of the total operating depth of the interceptor. The total operating depth is determined by measuring the internal depth from the outlet water elevation to the bottom of the outdoor grease interceptor. Maintenance of outdoor interceptors shall be performed by the User as frequently as necessary to protect a sanitary sewer system against the accumulation of FOG. Maintenance shall be performed as determined by User inspection and application of the 25 Percent Rule, or at intervals specified in the Permit, whichever is more frequent. In any case, maintenance must be performed by the User at least quarterly.

(2) **INDOOR GREASE INTERCEPTORS.** Maintenance of indoor grease interceptors shall be performed as frequently as necessary to protect a sanitary sewer system against the accumulation of FOG. Maintenance shall be performed as required by User inspection, sampling, manufacturer's recommendations and/or at intervals specified in the Permit, whichever is more frequent. In any case, maintenance must be performed by the User at least monthly.

(c) **MAINTENANCE AND RECORDS RESPONSIBILITY.** The Permittee and/or User shall be responsible for the proper removal and disposal of the grease interceptor waste. All waste removed from each grease interceptor must be disposed of properly at an appropriate facility designed to receive grease interceptor waste.

The Permittee and/or User shall also be responsible for retaining records of the maintenance of grease interceptors including grease disposal manifests, permits, permit applications, correspondence, sampling data and any other documentation that may be requested by the Official or his/her designee. These records shall include the dates of service, volume of waste removed, waste hauler, and disposal site of waste. These records shall be kept on-site at the location of the food service facility for a period of three (3) years and are subject to review by the Official during normal business hours without prior notification.

(d) **SPECIAL EVENTS.** Food service facilities which operate infrequently or only for special events may request a modification to the maintenance schedule specified above. The Official may authorize a maintenance frequency related to the operation of the food service facility. To request such a modification, the Permittee and/or User shall submit a written request for a modified maintenance schedule which includes all details of operation to the Official for review.

Section 15-117. ALTERNATIVE TECHNOLOGY GREASE REMOVAL DEVICES. Any alternative technology grease removal devices utilized by a food service facility must comply with this division. Any alternative technology grease removal device found to be in non-compliance with the provisions of this division is deemed a nuisance by the City. If a User, Permittee and/or Owner is unable to cure any nuisance created by such device, then the installation of conventional grease removal devices may be required at the expense of the User, Permittee and/or Owner.

Section 15-118. COMPLIANCE WITH GREASE CONTROL PROGRAM. The Official shall evaluate compliance with the Program based on the following criteria:

Implementation of Best Management Practices [BMPs];
Grease control device(s) kept in compliance with 25% Rule;
Required regular maintenance of grease control device(s);
Documentation of maintenance and proper disposal;
Employee education and training in Program requirements; and
Current Grease Control Program Permit.

Section 15-119. PROHIBITIONS. The introduction of bacteriological, chemical, or enzymatic elements into the grease interceptor is specifically prohibited. Disposal of fryer oil into a sanitary sewer system is also specifically prohibited.

Section 15-120. GREASE HAULERS . All grease haulers shall be licensed by the Jefferson and/or Shelby County Department of Health and hold a Septic Tank Haulers' Permit. Grease manifests shall accompany all grease interceptor waste to the disposal site. The grease hauler shall complete the middle portion of the grease disposal manifest, deliver the manifest to the disposal site for completion and return such portion to the food service facility. Top skimming, decanting or back flushing of the grease interceptor or its contents for the purpose of reducing the volume of waste to be hauled is prohibited. Vehicles capable of separating water from grease shall not discharge separated water into the grease interceptor or wastewater collection system.

Section 15-121. INSPECTIONS BY THE OFFICIAL. A food service facility and its premises may be inspected at the discretion of the Official. Such inspections shall be performed by the Official a minimum of once per year. In the event any Permittee, User and/or any food service facility denies the Official the right of entry, to or upon the premises of the food service facility for purposes of inspection, sampling, inspecting and copying records, or performing such other duties as shall be imposed upon him by this division, the Official shall use such legal procedures as shall be necessary to obtain entry in order to discharge his/her duties under this division.

Section 15-122. VIOLATIONS; ENFORCEMENT; APPEAL.

(a) **VIOLATIONS; PUBLIC NUISANCE.** It shall be unlawful for any person to violate any provision of or fail to comply with any requirement of this division. Any person who has violated or continues to violate any provision of this division may be

subject to the enforcement actions outlined herein, may be restrained by injunction or otherwise abated in a manner provided by law, and/or may become liable to the City for the damages caused by reason of such violation. In addition to the enforcement processes and penalties provided herein, any condition caused or permitted to exist in violation of any of the provisions of this division is a threat to public health, safety, and welfare, and is declared and deemed to be a nuisance. The Official may take all appropriate measures to abate the nuisance and may institute a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance as allowed by law.

(b) **NOTICE OF NON-COMPLIANCE.** If the Official determines that a food service facility is in non-compliance with the requirements of this division, a written Notice of Non-Compliance shall be issued by the Official to the User and/or Permittee. Nothing in this subsection shall limit the authority of the Official to take emergency action under Section 15-123(b) hereof without first issuing a Notice of Non-Compliance. The failure of a person to comply with a Notice of Non-Compliance issued by the Official, which has not been appealed within the time allowed in Section 15-122(e), shall be deemed a violation of this division.

Any food service facility which receives three (3) Notices of Non-Compliance within a twenty-four (24) month period is deemed to be a nuisance by the City.

(1) **REASONS FOR ISSUANCE OF NOTICE.** The primary reasons for the issuance of a Notice of Non-Compliance are, but are not limited to, the failure to:

- (i) obtain a Permit as required;
- (ii) install a grease interceptor within the time required by the Official;
- (iii) provide a collection drum or container for segregating oils, grease, and/or greasy solids;
- (iv) properly maintain, clean/pump out, the grease interceptor at a frequency that ensures efficient operation;
- (v) repair grease interceptor within the time required by the Official;
- (vi) maintain grease interceptor maintenance records (Grease Disposal Manifest) on the site of the food service facility;
- (vii) provide grease interceptor maintenance records (Grease Disposal Manifest) to the Official within a reasonable time upon request;

(viii) pay any fee(s) and/or fine(s) established and due under this division; and/or

(ix) provide the Official with access to such food service facility and its premises on a given date in order to observe conditions, obtain information, and/or perform sampling related to the facility's discharges to a sanitary sewer collection system.

(2) **CONTENTS OF NOTICE.** A Notice of Non-Compliance shall contain:

(i) The name and address of the User, Permittee, or Owner;

(ii) The address of the food service facility upon which the non-compliance is occurring or has occurred;

(iii) A statement specifying the nature of the non-compliance;

(iv) A description of the remedial and/or restoration measures necessary to restore compliance with this division and a deadline for the completion of such remedial and/or restoration action;

(v) A statement of the penalty or penalties that shall or may be assessed against the person to whom the Notice of Non-Compliance is directed;

(vi) A statement that the determination of non-compliance may be appealed to the Hoover Code Appeals Board by filing a written notice of appeal with the Board within seven (7) days of receipt service of a Notice of Non-Compliance; and

(vii) A statement specifying that, should the violator(s) fail to restore compliance with this division within the established time schedule, the work may be done by the City and the expense thereof shall be charged to the violator(s) as allowed hereunder and collected as allowed by law.

(3) **METHODS OF DELIVERY.** Delivery of a Notice of Non-Compliance shall be sent to the address of such party which is in the records of the City or is otherwise known to the City and shall be effectuated by personal delivery, certified mail (return receipt requested), registered mail (return receipt requested), or a generally recognized overnight carrier.

(c) **TIMEFRAME FOR COMPLIANCE.** After receipt of a Notice of Non-Compliance, the User, Permittee and/or Owner must correct the reason for non-compliance within seven (7) days or within such other time period as established in

writing by the Official. Following the completion of this period, the food service facility will be re-inspected for compliance with the provisions of this division.

If a food service facility is found to be in compliance during the re-inspection, the Official's inspection schedule may return to routine at the Official's discretion. If a food service facility fails a re-inspection, the Official shall issue another written Notice of Non-Compliance setting forth requirements that must be performed immediately. The Official shall conduct a second re-inspection within twenty-four (24) hours of the failed re-inspection. If a food service facility thereafter fails a third re-inspection, then the Official may proceed with revocation of an existing Permit and/or disconnection of an Applicant or Permittee from the City's sewer system.

(d) **RE-INSPECTION FEE.** A User, Permittee and/or Owner shall be required to pay a re-inspection fee of \$200.00 per grease control device for each re-inspection by the Official. All re-inspection fees incurred must be paid to the City within thirty (30) days from the date of re-inspection. Non-payment of these fees is considered a violation of this division.

(e) **APPEAL.** Notwithstanding the provisions of Section 15-123(b), any person receiving a Notice of Violation may appeal the determination of the Official to the Hoover Code Appeals Board. Such appeal shall be filed in writing with the Official within seven (7) days of service of a Notice of Non-Compliance from the Official. Thereafter, a hearing on the appeal before the Hoover Code Appeals Board shall take place within ten (10) days from the date of receipt of the notice of appeal. The decision of the Hoover Code Appeals Board shall be final.

Cross Reference: Hoover Code Appeals Board, Chapter 6, Article I, Section 6-5.

Section 15-123. ENFORCEMENT REMEDIES. In the event of non-compliance by a User, Permittee and/or Owner with the requirements of this division as noticed in a Notice of Non-Compliance, the Official may utilize any or all of the following methods as he/she deems necessary to enforce the provisions of this division.

(a) **PERMIT REVOCATION AND/OR SEWER SYSTEM DISCONNECTION.** The Official shall have the authority to revoke any Permit issued under this division and/or require disconnection by a food service facility from the City's sewer system for any violation hereunder.

(b) **EMERGENCY ABATEMENT.** The Official is authorized to require immediate abatement of any violation of this division that constitutes an immediate threat to the health, safety or well-being of the public and/or the environment. Any person notified in writing of an emergency order directed to such person under this section shall immediately comply and stop or eliminate any discharges into the City sewer system. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the Official may take such steps as deemed necessary to prevent or minimize harm the public, including taking any and all measures required to abate and remediate the

violation. Any expense related to abatement and remediation undertaken by the Official shall be fully reimbursed to the City as provided herein by the User, Permittee, Owner and/or other responsible party. Any relief obtained under this section shall not prevent the Official from seeking other and further relief authorized under this division.

(c) **INJUNCTIVE RELIEF AND/OR CIVIL REMEDIES.** It shall be unlawful for any person to violate any provision or fail to comply with any requirement of this division. If a person has violated or continues to violate the provisions of this division, the Official may petition the appropriate court for a preliminary and/or permanent injunction restraining the User, Permittee an/or Owner from activities which would create violations of this article or compelling the person to perform abatement or remediation of any violation.

The City, with the consent of the City Council, may also initiate civil proceedings in any court of competent jurisdiction seeking monetary damages for any damages caused to the City's sewer system by any person, and may seek other equitable relief to enforce compliance with the provisions of this division or to force compliance with any lawful orders of any authorized enforcement agency. Any and all costs of such action, including attorneys' fees, trial expenses, court costs and damages to the City's sewer system shall be paid by the violator as provided in Section 15-125 herein.

(d) **CRIMINAL PENALTIES.** Any person that has violated or continues to violate this division or allows this division to be violated, shall be guilty of a violation and may be liable to criminal prosecution to the fullest extent of the law, and upon conviction, shall be subject to a criminal penalty of not greater than Five Hundred Dollars (\$500) dollars per violation and/or imprisonment for a period of time not to exceed six (6) months. Each violation and/or each day upon which any violation occurs constitutes a separate offense.

(e) **ABATEMENT BY THE CITY.** If a violation has not been corrected pursuant to the requirements set forth in the Notice of Non-Compliance, or, in the event of an appeal, within seven (7) days following the decision of the Hoover Code Appeals Board upholding the decision of the Official, then the Official may enter upon the food service facility premises and is authorized to take any and all measures necessary to abate the violation(s) of this division on the property. Such entry shall be made during normal business hours, after giving reasonable written notice to the Permittee, User, and Owner thereof, and after the presentation of proper City credentials by the Official upon entering upon the site of the food service facility. It shall be unlawful and a violation of this division for any person, Permittee, User, Owner, and/or agent therefor to refuse to allow the Official and/ or a contractor designated by the Official to enter upon the Premises for the purposes set forth herein.

Within thirty (30) days after abatement, the Permittee, User and Owner shall be notified in writing by the Official of the total cost of such abatement, including administrative costs and any other costs incident thereto. If the amount due is not paid

within thirty (30) days following the date of such cost bill, then the City shall proceed to collect such amounts as allowed by law.

Section 15-124. APPEAL OF CERTAIN ENFORCEMENT REMEDIES.

Notwithstanding the provisions of Section 15-123(b), any person may appeal the Official's decision under Section 15-123(a) to the City Council. This written notice of appeal must be received by the Official within seven (7) days following the date of the Official's enforcement decision. Thereafter, a hearing on the appeal before the City Council shall take place within thirty (30) days from the date of receipt of the appeal by the Official. The decision of the City Council shall be final.

Section 15-125. REMEDIES NOT EXCLUSIVE; COSTS RECOVERABLE BY CITY. The remedies listed in this division are not exclusive of any other remedies available under any applicable federal, state or local law. It is within the discretion of the City and/or authorized enforcement agency to seek cumulative remedies.

The City may recover all attorney's fees, trial expenses, court costs and any and all other costs and expenses associated with enforcement of this division as allowed by law, including, but not limited to, (i) sampling and monitoring expenses, (ii) fines to the City, (iii) costs associated with the clean up and/or decontamination of a site after the discharge of substances into the City's sanitary sewer collection system, stormwater system and/or the environment that cause interference, pass-through or sanitary sewer blockage, (iv) and/or any other losses by the City resulting directly or indirectly from a violation of this division.

Section 15-126 – 15-140. RESERVED.

SECTION 2. ORDINANCE CUMULATIVE; COMPATIBILITY WITH OTHER REGULATIONS. This Ordinance shall not be construed to modify or to repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this Ordinance are in addition to and cumulative to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this Ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health, the City's sanitary sewer system, the City's stormwater system, and/or the environment shall control.

SECTION 3. LEGAL RIGHTS NOT IMPAIRED. That nothing in this Ordinance shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

SECTION 4. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City of Hoover hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional. Any provision found herein to be in direct contravention with state law or federal law either presently existing or

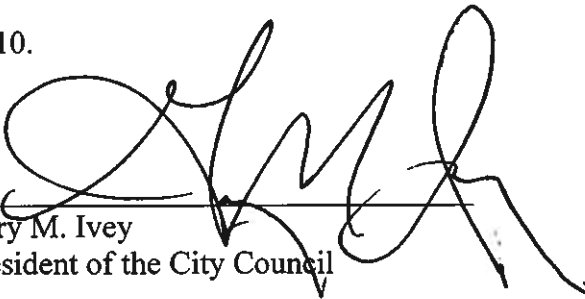
enacted after the date of passage of this Ordinance shall be superseded by such law and rendered unenforceable without effect to those provisions found herein that are not in contravention with state and/or federal law.

SECTION 5. PUBLICATION OF ORDINANCE. That the City Clerk of the City of Hoover is hereby ordered and directed to cause this Ordinance to be published and that a copy of this Ordinance be entered upon the Minutes of the meeting of the City Council.

SECTION 6. EFFECTIVE DATE. That this Ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect on January 2, 2011 and shall continue in full force and effect from month to month and year to year from its effective date until repealed.

THEREFORE, BE IT RESOLVED, that the City Council of the City of Hoover does hereby ordain and enact the foregoing Ordinance for the City of Hoover, Alabama.

Done this the 15th day of November, 2010.



Gary M. Ivey
President of the City Council

APPROVED:

Tony Petelos, Mayor

ATTESTED:

Margie Handley, City Clerk