

1 (Published in the Topeka Metro News September 20, 2006)

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3
4 ORDINANCE NO. 18711

5
6 AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. amending City of
7 Topeka Code §§ 146-196, 146-283, 146-354 through 146-367, and
8 specifically repealing said original sections.
9

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

11 Section 1. City of Topeka Code § 146-196, Definitions, is hereby amended to
12 read as follows:

13 **Definitions.**

14 The following words, terms and phrases, when used in this article, shall have the
15 meanings ascribed to them in this section, except where the context clearly indicates a
16 different meaning:

17 *Act or The Act* means the Federal Water Pollution Control Act, also known as the
18 Clean Water Act, as amended, 33 U.S.C. § 1251 *et seq.*

19 *Approval authority* means the Environmental Protection Agency (EPA) or if the
20 pretreatment program has been formally delegated to the state department of health and
21 environment (KDHE), it shall mean the director of the division of environment of KDHE.

22 *Authorized representative* means:

23 (A) A principal executive officer of at least the level of vice-president, if the
24 industrial user is a corporation;

25 (B) A general partner or proprietor, if the industrial user is a partnership or
26 proprietorship, respectively;

27 (C) A duly authorized representative of the individual designated above, if such
28 representative is responsible for the overall operation of the facilities from which the indirect
29 discharge originates; or

30 (D) A duly authorized representative responsible for the operation of a facility
31 owned and/or operated by the state, federal or local government.

32 *Beneficial uses* means uses of the waters of the state that may be protected against
33 quality degradation which include, but are not necessarily limited to, domestic, municipal,
34 agricultural and industrial supply, power generation, recreation, aesthetic enjoyment,
35 navigation and the preservation and enhancement of fish, wildlife and other aquatic
36 resources or reserves, and other uses, both tangible or intangible, as specified by federal
37 or state law.

38 *BOD* or *BOD* (denoting biochemical oxygen demand) means the quantity of oxygen
39 utilized in the biochemical oxidation of organic matter under standard laboratory procedures
40 in five (5) days at twenty (20°) degrees Celsius, expressed in milligrams per liter.

41 *Building sewer* means a sewer conveying wastewater from the premises of a user to
42 a community sewer.

43 *City* means the City of Topeka, Kansas, for the purpose of administering this article
44 represented by the superintendent of the water pollution control division.

45 *Combined sewer* means a sewer receiving the combination of surface runoff,
46 wastewater, sewage and/or industrial wastes.

47 *Community sewer* means a sewer owned and operated by the city or other public
48 agency, tributary to a treatment facility operated by a public agency.

49 *Composite sample* means a combination of individual samples of water or
50 wastewater taken at selected intervals (generally hourly or some similar specified period),
51 to minimize the effect of the variability of the individual sample. Individual samples may
52 have equal volume or may be roughly proportional to the flow at time of sampling.

53 *Contamination* means an impairment of the quality of the waters of the state by
54 waste to a degree which creates a hazard to the public health. "Contamination" shall
55 include any equivalent effect resulting from the disposal of wastewater, whether or not
56 waters of the state are affected.

57 *Cooling water* means the water discharged from any use such as air conditioning,
58 cooling or refrigeration or to which the only pollutant added is heat.

59 *Department* means the public works department of the city.

60 *Direct discharge* means the discharge of treated or untreated wastewater directly to
61 the waters of the state.

62 *Division* means the Water Pollution Control Division of the City of Topeka Public
63 *Works Department.*

64 *Environmental Protection Agency* or *EPA* means the U.S. Environmental Protection
65 Agency, or where appropriate, the term may also be used as a designation for the
66 administrator or other duly authorized official of such agency.

67 *Foundation drain* means a perforated pipe or a pipe with open joints or porous
68 material installed either outside exterior foundation walls or inside exterior foundation walls
69 or beneath a basement floor for the purpose of preventing the buildup of water pressure
70 and water capillarity beneath the floor.

71 Grease Generator means a business or other commercial enterprise which creates
72 or otherwise discharges grease into the municipal sewer system.

73 *Grab sample* means a sample which is taken from a waste stream on a one-time
74 basis with no regard to the flow in the waste stream and without consideration of time.

75 *Hazardous waste* means a hazardous waste as defined within the Code of Federal
76 Regulations (40 C.F.R. § 261.3).

77 *Holding tank waste* means any waste from holding tanks such as vessels, chemical
78 toilets, campers, trailers, septic tanks and vacuum-pump tank truck.

79 *Indirect discharge* means the discharge or the introduction of nondomestic pollutants
80 from any source regulated under section 307(b) or (c) of the aAct (33 U.S.C. § 1317), into
81 the POTW (including holding tank waste discharged into the system).

82 *Industrial user* means any user contributing industrial waste to the municipal sewer
83 system.

84 *Interference* means a discharge which, alone or in conjunction with a discharge or
85 discharges from other sources, both:

86 (A) Inhibits or disrupts the POTW, its treatment processes or operations, or its
87 sludge processes, use or disposal; and

88 (B) Is a cause of a violation of any requirement of the POTW's NPDES permit
89 (including an increase in the magnitude or duration of a violation) or of the prevention of
90 sewage sludge use or disposal in compliance with statutory provisions and regulations or
91 permits issued thereunder by the state or federal government.

92 *Mass emission rate* means the weight of material discharged to the sewer system
93 during a given time interval. Unless otherwise specified, the "mass emission rate" means
94 pounds per day of a particular constituent or combination of constituents.

95 *Municipal sewer system* means sanitary sewers, pumping stations, sewage
96 treatment plants, main sewers, interceptor sewers, outfall sewers, and works for the
97 collection, transportation, pumping and treating of wastewater, sewage or industrial waste
98 thereto, necessary in the maintenance and operation of the same.

99 *National categorical pretreatment standard or pretreatment standard* means any
100 regulation containing pollutant discharge limits promulgated by the EPA in accordance with
101 section 307(b) and (c) of the aAct (33 U.S.C. § 1317), which applies to a specific category
102 of industrial users.

103 *National pollution discharge elimination system or NPDES permit* means a discharge
104 permit issued by the approval authority pursuant to section 402 of the aAct (33 U.S.C. §
105 1342).

106 *National prohibitive discharge standard or prohibitive discharge standard* means any
107 regulation developed under the authority of section 307(b) of the aAct.

108 *New source* means any building, structure, facility or installation from which there is
109 or may be a discharge of pollutants, the construction of which commenced after the
110 publication of proposed pretreatment standards under section 307(c) of the aAct, which will
111 be applicable to such source if such standards are thereafter promulgated in accordance
112 with that section, provided that such building, structure, facility or installation meets the
113 criteria outlined by 40 C.F.R. § 403.3(k) of the general pretreatment regulations.

114 *Pass through* means a discharge which exits the POTW into waters of the United
115 States in quantities or concentrations which alone or in conjunction with a discharge or
116 discharges from other sources is a cause of a violation of any requirement of the POTW's
117 NPDES permit (including an increase in the magnitude or duration of a violation).

118 *Person* means any individual, partnership, copartnership, firm, company,
119 corporation, association, joint stock company, trust, estate, governmental entity or any
120 other legal entity or other legal representatives, agents or assignees.

121 *PH* means the negative logarithm of the reciprocal concentration of hydrogen ions
122 measured in grams per liter of solution.

123 *Pollutant* means any dredged spoil, solid waste, incinerator residue, sewage,
124 garbage, sewage sludge, munitions, chemical waste, biological material, radioactive
125 material, heat wrecked or discharged equipment, rock, sand, cellar dirt and industrial,
126 municipal and agricultural waste discharged into water.

127 *Pollution* means an alteration of the quality of the waters of the state by waste to a
128 degree which unreasonably affects such waters for beneficial use or facilities which serve
129 such beneficial uses. "Pollution" may include contamination.

130 *Premises* means a parcel of real estate including any improvements thereon which is
131 determined by the department to be a single user for the purpose of receiving, using and
132 paying for service.

133 *Pretreatment* or *treatment* means the reduction of the amount of pollutants, the
134 removal of pollutants or the alteration of the nature of pollutant properties in wastewater to
135 a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants
136 into the municipal sewer system. The reduction or alteration can be obtained by physical,

137 chemical or biological processes or process changes by other means, except by dilution as
138 prohibited by federal regulation.

139 *Pretreatment standard* means any regulation containing pollutant discharge limits
140 promulgated by the EPA in accordance with section 307(b) and (c) of the aAct which
141 applies to industrial users.

142 *Publicly owned treatment works (POTW)* means a treatment works as defined by
143 section 212 of the aAct (33 U.S.C. § 1292), which is owned in this instance by the city. This
144 definition includes any sewers that convey wastewater to the POTW treatment plant, but
145 does not include pipes, sewers or other conveyances not connected to a facility providing
146 treatment. For the purpose of this article, "POTW" also includes any sewers that convey
147 wastewaters to the POTW from persons outside the city who are users of the city's POTW.

148 *Sanitary sewer* means a sewer which carries wastewater, sewage and/or industrial
149 wastes, and to which storm, surface and ground waters are not intentionally admitted.

150 *Sewage* means a combination of the water-carried wastes from users together with
151 such groundwaters, surface waters and stormwaters as may be present.

152 *Sewer* means a pipe or enclosed conduit through which sewage is transported to the
153 POTW treatment plant.

154 *Significant industrial user* means:

155 (A) Users whose average wastewater strength cannot be established because of
156 seasonal or other variations and/or operations;

157 (B) Users whose wastewater strength exceeds the normal range of wastewater
158 strength;

159 (C) Users using an unmetered source of water;

160 (D) Users who fall under those guidelines set forth for federal categorical
161 industries;

162 (E) Users discharging an amount greater than twenty-five thousand (25,000)
163 gallons per day of process wastewater for any day during the preceding twelve (12) month
164 period;

165 (F) Users whose average discharge, measured either by volume of flow, weight
166 of suspended solids, biochemical oxygen demand, or chemical oxygen demand, exceeds
167 two percent (2%) of the average loading on the applicable treatment facility; and

168 (G) Other users determined by the superintendent to require special regulation or
169 source control.

170 *Significant noncompliance* or *SNC* means and refers to any violation of pretreatment
171 requirements (limits, sampling, analysis, reporting and meeting compliance schedules and
172 regulatory deadlines) and is an instance of noncompliance for which the industrial user is
173 liable for enforcement, including penalties. Instances of SNC are industrial user violations
174 which meet one or more of the following criteria:

175 (A) Violations of wastewater discharge limits:

176 (1) Chronic violations: Sixty-six percent (66%) or more of the
177 measurements exceed the same daily maximum limit or the same average
178 limit in a six (6) month period (any magnitude of exceedance).

179 (2) Technical review criteria or "TRC" violations: Thirty-three percent
180 (33%) or more of the measurements exceed the same daily maximum limit or
181 the same average limit by more than the TRC in a six (6) month period.

182 There are two (2) groups of TRCs: BOD, TSS, fats, oil, and grease, where
183 the TRC is 1.4; and group II for all other pollutants, where the TRC is 1.2.

184 (3) Any other violation of an effluent limit (average or daily maximum) that
185 the city believes has caused, alone or in combination with other discharges,
186 interference (e.g., slug loads) or pass-through; or endangered the health of
187 the sewage treatment personnel or the public.

188 (4) Any discharge of a pollutant that has caused imminent endangerment
189 to human health/welfare or to the environment and has resulted in the
190 POTW's exercise of its emergency authority to halt or prevent such a
191 discharge.

192 (B) Violations of compliance schedule milestones, contained in a local control
193 mechanism or enforcement order, for starting construction, completing construction, and
194 attaining final compliance by ninety (90) days or more after the schedule date.

195 (C) Failure to provide reports for compliance schedules, self-monitoring data, or
196 categorical standards (baseline monitoring reports, ninety (90) day compliance reports, and
197 periodic reports) within thirty (30) days from the due date.

198 (D) Failure to accurately report noncompliance.

199 (E) Any other violation or group of violations that the city considers to be
200 significant.

201 *Silver associated process* means any process, manufacturing or service related
202 business which falls within any of the following standard industrial classifications: 2711,
203 2721, 2731, 2732, 2741, 2751 to 2754, and 8062.

204 *Slug* means any discharge of wastewater, sewage or industrial waste which, in
205 concentration of any given constituent or in quantity of flow, exceeds for any period of
206 duration longer than fifteen (15) minutes more than five (5) times its average twenty-four
207 (24) hour concentration or flows during normal operation.

208 *Standard industrial classification* or *SIC* means a classification pursuant to the most
209 recent edition of the Standard Industrial Classification Manual issued by the Executive
210 Office of the President, Office of Management and Budget.

211 *State* means the "State of Kansas."

212 *Stormwater* means any water flow occurring during or following any form of natural
213 precipitation and resulting there from.

214 *Stormwater collection system* shall include all piping, channels, ditches, streams, or
215 any other manmade or natural structure that conveys stormwater runoff.

216 *Superintendent* means the superintendent of the city water pollution control division
217 of the city public works department, or designated representative.

218 *Total suspended solids* means solids that either float on the surface of or are in
219 suspension with water, sewage or other liquids; and which are removable by laboratory
220 filtering.

221 *Toxic pollutant* means any pollutant or combination of pollutants listed as toxic in
222 regulations promulgated by the administrator of the Environmental Protection Agency under
223 the provision of section 307(a)(1) of the aAct.

224 *Unpolluted water* means water to which no constituent has been added, either
225 intentionally or accidentally, which would render such water unacceptable for disposal to
226 storm or natural drainages or directly to surface waters.

227 *User* means any person that discharges, directly or indirectly, causes or permits the
228 discharge of wastewater into a community sewer.

229 *Waste* means substances, whether liquid or solid, associated with human habitation
230 or of human origin or from any producing, manufacturing or processing operation of
231 whatever nature, whether treated or untreated, discharged into or permitted to enter a
232 community sewer.

233 *Wastewater* means waste and water, whether treated or untreated, discharged into
234 or permitted to enter a community sewer.

235 *Waters of the state* means any water, surface or underground, within the boundaries
236 of the state.

237 Section 2. City of Topeka Code § 146-283, Use of Grease Traps, is hereby
238 specifically repealed.

239 ~~Use of grease traps.~~

240 ~~Grease traps shall be installed in accordance with the requirements of article VIII~~
241 ~~of chapter 26 of this Code to ensure compliance with the effluent limitations contained in~~
242 ~~this article. The owner or operator of each establishment shall be responsible for~~
243 ~~servicing and routine cleaning of the grease trap to maintain it in satisfactory operating~~
244 ~~condition. The owner or operator shall also be responsible for removing the cover of the~~
245 ~~grease trap for inspection at the request of any representative of the public works~~
246 ~~department. Any existing establishments not currently using a grease interceptor shall~~
247 ~~be required to install such if future data (laboratory data and/or preventive maintenance~~
248 ~~data) show a need for waste pretreatment requirements regulated by the water pollution~~
249 ~~control division.~~

271 **Quarterly reporting.**

272 Each grease generator shall submit a quarterly grease report on such forms
273 provided by the City to the superintendent. The quarterly grease report shall be submitted
274 on or before the last calendar day of March, June, September, and December in each year.

275 Each quarterly grease report shall provide the following information, including but not
276 limited to, a record of the dates the grease trap and/or grease interceptor was cleaned, the
277 name and contact information for the grease hauler, if applicable, and grease generator
278 contact information. Failure to submit a quarterly grease report or failure to submit a
279 complete report within thirty (30) days of the due date may result in the issuance of a notice
280 of violation and enforcement under Division 2 of this article.

281 Section 5. City of Topeka Code § 146-356, Reserved, is hereby amended by the
282 addition of the following language:

283 **Record keeping.**

284 Each grease generator shall maintain a Grease Trap/Interceptor Maintenance Log
285 such forms provided by the division that shall indicate all dates of trap/interceptor cleaning,
286 disposal method, quantity removed, and the name of the grease hauler that pumped the
287 interceptor or the individual who cleaned the trap. The Grease Trap/Interceptor
288 Maintenance Log shall indicate the cleaning dates for at least the previous twelve (12)
289 months and shall be available for inspection and review by the Superintendent. Failure to
290 maintain a maintenance log shall result in the issuance of a notice of violation and
291 enforcement in accordance with this article.

292 Section 6. City of Topeka Code § 146-357, Reserved, is hereby amended by the
293 addition of the following language:

316 (B) Achievement of a minimum passing graded score of seventy percent (70%)
317 on the grease haulers examination administered by the division.

318 (C) Submitting complete application forms supplied by the division.

319 (D) Submitting a satisfactory public liability insurance policy covering all
320 operations of such applicant or licensee in such business in the city in the sum of at least
321 One Hundred Thousand Dollars (\$100,000.00) for each person injured and containing a
322 limitation of liability of not less than Three Hundred Thousand Dollars (\$300,000.00) in case
323 of injury of two (2) or more persons in any one accident and in the sum of not less than Fifty
324 Thousand Dollars (\$50,000.00) for damage to property. Should any policy be cancelled, the
325 city shall be notified of such cancellation at least thirty (30) days prior to such cancellation
326 becoming effective, and provisions to that effect placing upon the company writing such
327 policy the duty to give such notice shall be incorporated in such policy.

328 (E) Failure to submit a complete application including certificate of insurance and
329 a passing test score and payment of the license fee will be grounds for denial of a license.
330 Submission of an application with false information shall be grounds for suspension of a
331 license.

332 Section 9. City of Topeka Code § 146-360, Reserved, is hereby amended by the
333 addition of the following language:

334 **License Term.**

335 City issued grease hauler licenses shall be valid for three (3) years from the date of
336 issuance.

337 Section 10. City of Topeka Code § 146-361, Reserved, is hereby amended by the
338 addition of the following language:

339 **License Fee.**

340 The license fee for a grease hauler shall be Three Hundred Dollars (\$300.00) for the
341 license term. Additionally, each grease hauler shall pay for each license term a fee of
342 Twenty Dollars (\$20.00) for each vehicle used to haul grease.

343 Section 11. City of Topeka Code § 146-362, Reserved, is hereby amended by the
344 addition of the following language:

345 **Grease hauler license renewal.**

346 A license may be renewed by submitting to the division a renewal form together with
347 the renewal fee at least thirty (30) days prior to the expiration date of the current license.

348 Section 12. City of Topeka Code § 146-363, Reserved, is hereby amended by the
349 addition of the following language:

350 **Grease waste inspection.**

351 Grease wastes pumped from any grease generator shall be subject to inspection,
352 sampling, and analysis to determine compliance with all applicable provisions of these rules
353 and regulations of the superintendent who shall perform or supervise such inspection,
354 sampling, and analysis at any time during the commission of any servicing of any grease
355 trap or interceptor.

356 Section 13. City of Topeka Code § 146-364, Reserved, is hereby amended by the
357 addition of the following language:

358 **Record keeping.**

359 Grease haulers who service, pump, or provide any related services to grease
360 interceptors shall submit a grease interceptor service inspection reports on forms provided

361 by the division. An inspection record shall be made for each grease interceptor serviced
362 during the reporting period.

363 Section 14. City of Topeka Code § 146-365, Reserved, is hereby amended by the
364 addition of the following language:

365 **Late fees.**

366 Grease interceptor inspection reports shall be deemed late, and subject to the
367 enforcement provisions of this division if they are received by the division more than
368 fourteen (14) days after the end of each reporting period.

369 Section 15. City of Topeka Code § 146-366, Reserved, is hereby amended by the
370 addition of the following language:

371 **Suspension or revocation of license.**

372 Failure of any grease hauler to comply with the requirements of this article shall be
373 subject to the following enforcement procedures:

374 (A) Notice of Violation. A notice of violation will be issued to any grease hauler
375 that is found to be in non-compliance with the requirements of this article. The notice shall
376 state the violation and shall give the grease hauler ten (10) business days to remedy or
377 otherwise correct the violation. The grease hauler shall have ten (10) calendar days from
378 the receipt of notice by the grease hauler to correct or otherwise remedy the violation.

379 (B) Grounds for notice of violation. A grease hauler may be issued a notice of
380 violation for any one of the following grounds:

381 (1) Falsification of any information submitted as part of the application for
382 the LGH.

- 383 (2) Failure to comply with any requirements or regulations concerning
384 grease traps/interceptors as provided for in this article.
- 385 (3) Failure to pay required fees, or any other assessed fees.
- 386 (4) Failure to comply with any other license condition.
- 387 (5) Discharging any liquid waste into a non-authorized location.
- 388 (6) Falsifying information required for a discharge manifest, or any other
389 applicable forms, applications or reports required under this article.
- 390 (7) Disposal of waste into the municipal sewer system at any site other
391 than the designated disposal site.
- 392 (8) Any other violation which constitutes an imminent or substantial
393 damage to the health or welfare of persons or the environment.
- 394 (C) License suspension/revocation.
- 395 (1) In the event that a grease hauler shall fail to remedy a violation within
396 the time frame set forth in the notice, the license shall be suspended as
397 follows:
- 398 (a) Upon the first failure to remedy a violation, the grease hauler
399 license will be suspended by the division until such time as the
400 violation has been remedied.
- 401 (b) Upon the second failure to remedy a violation, the grease
402 hauler's license shall be suspended for a period of three (3)
403 months.
- 404 (c) Upon the third failure to remedy a violation, the grease hauler's
405 license shall be suspended for a period of one (1) year. The

406 license suspension shall only be lifted after expiration of the
407 one (1) year period and the grease hauler has applied for a
408 new grease hauler license meriting all requirements of Topeka
409 City Code § 146-359.

410 (2) During any period of any license suspension, a grease hauler may not
411 engage in any grease hauling activities.

412 (3) Upon receipt of a notice of suspension issued by the division, the
413 grease hauler shall have ten (10) days to file a written notice of appeal of the
414 license suspension with the superintendent. An administrative hearing shall be
415 set within ten (10) days of the receipt of the appeal. The suspension of the
416 license shall be stayed until the hearing before the City's administrative hearing
417 officer.

418 Section 16. City of Topeka Code § 146-367, Reserved, is hereby amended by the
419 addition of the following language:

420 **Prohibited acts.**

421 (A) In addition to any other enforcement provisions contained in this article, it
422 shall be unlawful for any person to do the following:

423 (1) Violate any term or condition of the grease hauler license.

424 (2) Failure to follow any filing, reporting, inspection or monitoring
425 requirement required by federal, state, or city law or regulation.

426 (3) Failure to comply with any lawful order or requirement made by the
427 superintendent.

428 (4) Failure to maintain accurate grease interceptor service reports.

429 (5) Disposal of waste at any site other than the designated disposal site.

430 (B) Any person violating this section may be punished by:

431 (1) A fine of not more than four hundred ninety nine dollars (\$499.00).

432 (2) Imprisonment in jail for not more than one hundred seventy nine (179)

433 days; or

434 (3) Both such fine and imprisonment not the exceed the limits set out in

435 subsections (c)(1) and (c)(2).

436 Section 17. Original City of Topeka Code §§ 146-196, 146-283 and 146-354

437 through 146-367 are hereby specifically repealed.

438 Section 18. This ordinance shall take effect and be in force after its passage,

439 approval and publication in the official city newspaper.

440 PASSED and APPROVED by the City Council September 12, 2006.

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William W. Bunten, Mayor

445 ATTEST:

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Iris E. Walker, City Clerk