

DATE ISSUED: June 12, 2002

REPORT NO. 02-123

ATTENTION: Honorable Mayor and City Council
Docket of June 18, 2002

SUBJECT: New and Amended Fee Structure for the Food Establishment Wastewater Discharge (FEWD) Permit Program

REFERENCE: Manager's Report No. 88-262 dated May 13, 1988

SUMMARY

Issue – Should the City revise its FEWD Permit Program violation fee structure?

Manager's Recommendations – 1. Establish a new FEWD Permit Program permit violation fee structure to commence on July 1, 2002. 2. Communicate in writing to existing FEWD Permit Program permit holders regarding the new fee structures at least 30 calendar days prior to implementation.

Other Recommendations – None.

Fiscal Impact –

1. The proposed FEWD Permit Program permit violation fee structure is based upon comparable fees charged by other public agencies:
 - a. Notice of Violation, 30 day compliance issue: \$150 administrative fee;
 - b. Notice of Violation, Preliminary Hearing required, 90 day compliance issue: \$400 administrative fee;
 - c. Notice of Violation, Show Cause Hearing required, 90 day compliance issue: \$400 administrative fee;
 - d. Notice of Pending Permit Revocation, 15 day compliance issue: no administrative fee; and
 - e. Permit Revocation, 15 day compliance issue, Termination of Service: no administrative fee.
2. The proposed FEWD Permit Program permit violation fee structure is anticipated to result in minimal revenue to the City because of the relatively low number of violations issued to existing FEWD Permit Program permit holders. This proposed violation fee structure allows FEWD staff to recover labor costs associated with administrative activities typical in the Notice of Violation (NOV) process.

BACKGROUND

The FEWD Permit Program was created in 1989 following the adoption of the Municipal Code, Chapter VI, Article 4, Section 64, Division 7, entitled "Food Establishment Wastewater". The Partial Consent Decree between the United States of America and the City of San Diego (CASE NO. 88-1101-B) required the City to accelerate the enforcement of this section of the Municipal Code. As part of that process, an administrative enforcement process was established that set the following fee schedule:

1. Notice of Violation, 30-day compliance issue: \$50 administrative fee;
2. Notice of Violation, Preliminary Hearing required, 90-day compliance issue: \$75 administrative fee;
3. Notice of Violation, Show Cause Hearing required, 90-day compliance issue: \$75 administrative fee;
4. Notice of Pending Permit Revocation, 15-day compliance issue: no administrative fee; and
5. Permit Revocation, 15-day compliance issue, Termination of Service: no administrative fee.

Since January 2000, 350 NOV's have been issued and 16 administrative hearings have been held. In calendar year 2001, 136 grease-related sewer system problems have been investigated with grease contributors identified and remedial actions taken to prevent further grease deposition. In calendar year 2002, 21 grease-related sewer system problems have been investigated with grease contributors identified and remedial actions taken to prevent further grease deposition. In the past three calendar years, only six food establishments have had repeat violations for the same issue; and only four permits have been revoked during the life of the FEWD Permit Program.

DISCUSSION

The FEWD Permit Program manages over 5,445 food establishments, of which 3,902 are permitted and 709 are not required to have permits. Approximately 85% of all food establishments that are required to have grease removal equipment have installed grease traps. The remaining food establishments requiring grease removal equipment have installed grease interceptors. There are 834 additional food establishments now being evaluated to determine applicable permit status. At this time approximately 135 FEWD Program permits are being issued per month.

Since its inception the FEWD Permit Program has undergone many changes and has evolved into an increasingly effective source control program. It is recognized that grease-related spills attributable to food establishments have decreased substantially over the past decade. A major challenge associated with further grease control program improvements in the municipal sewer system involves the continued education of residential sewer users in single-family and multi-family unit dwellings in appropriate grease-management activities to be undertaken within the home. Since 1998, the FEWD Permit Program has attended multi-family unit apartment owner/management conventions, has made presentations at public schools, community group meetings and environmental fairs and has developed a grease education information package for use by interested citizens.

CONCLUSION

The FEWD Program's activities over the past several years have resulted in a significant decrease in grease-related sewage spills from the City's municipal wastewater collection system. In a comparison of calendar years 1996 and 2001, sewer spills caused by grease have been reduced approximately 64%. The proposed violation fee structure will allow FEWD staff to recover labor costs associated with administrative activities typical in the NOV process. The proposed violation fee structure is comparable to the typical cost of a permit holder for proper grease control equipment maintenance.

RECOMMENDATION

To improve implementation of the Food Establishment Wastewater Discharge Program, the City Council requested to provide the City Manager with the authority to:

1. Establish a new FEWD Permit Program permit violation fee structure to commence on July 1, 2002.
2. Communicate in writing to existing FEWD Permit Program permit holders regarding the new fee structures at least 30 calendar days prior to implementation.

ALTERNATIVE

1. Do not establish a new FEWD Permit Program permit violation fee structure to commence on July 1, 2002. This is not recommended since it does not allow for full cost recovery of city activities associated with the administration of Permit holder violations.

Respectfully submitted,

Scott Tulloch
Director
Metropolitan Wastewater Department

Approved: Richard Mendes
Utilities General Manager

MENDES/TULLOCH/CJT:oc