

FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA

ORDINANCE #05/12

**ESTABLISHING STANDARDS FOR
FATS, OILS AND GREASE REDUCTION**

Adopted by Resolution #1309/12 of the Fond du Lac Reservation
Business Committee on October 3, 2012.

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FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA

ORDINANCE #05/12

ESTABLISHING STANDARDS FOR FATS, OILS AND GREASE REDUCTION

CHAPTER 1
INTRODUCTION AND AUTHORITY

Section 101 Authority

This Ordinance is enacted by the Fond du Lac Reservation Business Committee pursuant to the inherent sovereign authority of the Fond du Lac Fond du Lac Band of Lake Superior Chippewa, as reserved under the Treaty of LaPointe, 10 Stat. 1109, and as recognized under Section 16 of the Indian Reorganization Act, 25 U.S.C. § 476; under Article VI of the Revised Constitution of the Minnesota Chippewa Tribe; and under the common law of the United States.

Section 102 Purpose

This Ordinance establishes standards for the reduction of fats, oils and grease by requiring proper grease interceptor design, installation, maintenance, reporting and the enforcement of penalties for failure to comply. This Ordinance will protect the health, safety and welfare of the Band by requiring provisions for the reduction of fats, oils and grease, minimizing the impact on the wastewater collection and transmission system.

Section 103 Reservation of Rights

The Reservation Business Committee reserves the right to amend or repeal all or any part of this Ordinance at any time. There shall be no vested private right of any kind created by this Ordinance. All the rights, privileges, or immunities conferred by this Ordinance or by acts done pursuant thereto shall exist subject to the powers of the Fond du Lac Band. Nothing in this Ordinance shall be construed to constitute a waiver of the sovereign immunity of the Fond du Lac Band or a consent to jurisdiction by any government or forum not expressly authorized to exercise jurisdiction under this Ordinance.

CHAPTER 2
DEFINITIONS AND INTERPRETATION

Section 201 **Definitions**

For the purposes of this Ordinance, the following definitions shall apply:

- (a) **"Band"** means the Fond du Lac Band of Lake Superior Chippewa.
- (b) **"Customer"** means any entity which discharges wastewater to the Band's wastewater conveyance system.
- (c) **"Fats, oils and grease"** or **"FOG"** means material, either liquid or solid, composed primarily of fat, oil and grease from animal, vegetable or mineral sources.
- (d) **"Food service facility"** includes the following types of establishments: Full service restaurants, fast food establishments, delicatessens, cafeterias, school cafeterias, church kitchen, hospitals and medical facilities, boarding houses, clubhouses, adult daycare facilities, assisted living facilities, convalescent homes, meat distributors and processing facilities, food processing facilities, grocery stores with food preparation/service areas, bakeries, caterers and or other similar types of operations with commercial kitchen equipment.
- (e) **"Grease interceptor"** means a device designed to capture fats, oils and grease prior to discharge to a sanitary sewer.

CHAPTER 3
FATS, OILS AND GREASE REDUCTION REQUIREMENTS

Section 301 **Requirements**

The installation or upgrade, and maintenance, of grease control equipment at both new and existing FOG generating facilities must meet the following requirements:

- (a) Grease interceptors must be installed at all new FOG generating facilities.
- (b) Existing FOG generating facilities must install an approved, properly operated and maintained grease interceptor when any of the following conditions exist:
 - (1) If the Band determines the discharge of grease from the facility to the sewer has or is creating restrictions in the public sewer or is causing additional sewer maintenance costs.
 - (2) Construction which requires issuance of a building permit from the Band occurs at a food service facility.
- (c) Grease interceptors must be of adequate size and efficiency and at a minimum shall be sized and installed in accordance with the following rules:
 - (1) Grease interceptors shall be placed as near as possible to the fixture and the grease interceptor shall be vented.
 - (2) Sinks or other fixtures served by grease interceptors shall be trapped and vented ahead of the grease interceptor.
 - (3) Grease interceptors, when used, shall have a grease retention capacity in pounds of grease, of at least twice the flow-through rate, in gallons per minute.
 - (4) Grease interceptors shall be equipped with devices to control the rate of water flow through the interceptors so that it does not exceed the rated flow of the interceptor. Air openings on flow control devices must connect to the plumbing vent system.
- (d) Grease interceptors shall be installed in the waste line leading from the sinks, drains or other fixtures where grease

may be introduced, and must be readily accessible for cleaning and inspection.

- (e) FOG generating facilities must maintain records for all grease interceptor cleaning and maintenance activities in a format approved by the Band and have such records available for inspection.
- (f) FOG generating facilities must regularly clean and maintain the grease interceptor and properly dispose of captured material.
 - (1) Each facility must maintain records of the dates and means of disposal.
 - (2) Any removal and hauling of the captured materials not performed by the owner's personnel must be performed in compliance with all applicable laws and regulations by a licensed waste disposal contractor.

Section 302 Variance

The Band may grant a variance or conditional waiver from the minimum requirements in Section 301 if the FOG generating facility demonstrates to the satisfaction of the municipality that any FOG discharge is negligible and will have an insignificant impact on the sewer system. At a minimum, the following conditions apply:

- (a) The FOG generating facility must demonstrate that the discharge from its activities contains less than 100 mg/l of FOG.
- (b) The sampling and testing to demonstrate the concentration of grease in the discharge must be conducted, at the facilities expense, by an independent testing organization in accordance with acceptable industry standards.

Section 303 Inspections

The Band will perform periodic and random FOG equipment inspections, including scheduled inspections of known problem areas. Records of the inspections shall be maintained by the Band. An authorized agent of the Band or employee of the Band may at all reasonable hours, enter any private premises for the purpose of inspecting sewer system connections, plumbing, grease interceptors and appurtenances to assure compliance with this or other applicable laws, regulations and ordinances.

CHAPTER 4
PENALTIES

Section 401 Penalty

Any person found in violation of any provision of this Ordinance shall be subject to a \$500 fine. Penalty proceedings shall be governed by the Civil Code of the Fond du Lac Band of Lake Superior Chippewa, FDL Ordinance #04/92. Any person convicted of a violation of this Ordinance shall be required to pay the reasonable costs of prosecution.

Section 402 Other Civil Remedies

The Band may in its discretion, seek any other civil remedies available to it including remedies at law, in equity or other relief. In the event that such civil remedies are pursued, the Band may seek reimbursement of any and all costs, disbursements, witness expenses or other fees, as well as reasonable attorneys' fees expended by the Band in order to enforce this Ordinance.

Section 403 Other Remedies

Each right or remedy accruing to the Band under this Ordinance or at law is separate and distinct and may, at the Band's discretion, be exercised independently or simultaneously with any other right or remedy.

CHAPTER 5
RECORD RETENTION

Section 501 **Record Retention**

Records required to be maintained under Section 301 shall be retained for a minimum of seven years from the date of creation of the record. Records include written, photographic, recorded, electronic or stored data of any kind.

CHAPTER 6
EFFECTIVE DATE; AMENDMENTS; SEVERABILITY

Section 601 **Effective Date**

The provisions of this Ordinance shall become effective thirty (30) days from adoption by the Reservation Business Committee.

Section 602 **Amendment or Recission**

The Reservation Business Committee may amend this Ordinance as it deems necessary to protect the public health, safety and welfare of the Fond du Lac Reservation. The provisions of this Ordinance may be amended by resolution of the Reservation Business Committee.

Section 603 **Severability**

If any section, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance will not be affected thereby.

CERTIFICATION

We do hereby certify that the foregoing Ordinance #05/12 was duly presented and adopted by Resolution #1309/12 by a vote of 2 for, 0 against, 0 silent, with a quorum of 3 being present at a Special Meeting of the Fond du Lac Reservation Business Committee held on October 3, 2012, on the Fond du Lac Reservation.



Karen R. Diver
Chairwoman



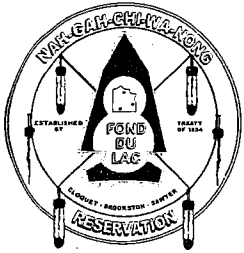
Ferdinand Martineau, Jr.
Secretary/Treasurer

Fond du Lac Band of Lake Superior Chippewa

Reservation Business Committee

1720 Big Lake Rd.
Cloquet, MN 55720
Phone (218) 879-4593
Fax (218) 879-4146

Resolution #1309/12



ENACTING FOND DU LAC ORDINANCE #05/12, ESTABLISHING STANDARDS FOR FATS, OILS AND GREASE REDUCTION

The Fond du Lac Reservation Business Committee, on behalf of the Fond du Lac Band of Lake Superior Chippewa, hereby enacts the following Resolution:

Chairwoman
Karen R. Diver

Secretary/Treasurer
Ferdinand Martineau, Jr.

Dist. I Representative
Wally Dupuis

Dist. II Representative
Sandra M. Shabiash

Dist. III Representative
Kevin R. Dupuis Sr.

Executive Director,
Tribal Programs
Chuck Walt

Executive Director,
Enterprises
Michael Himango

WHEREAS, the Fond du Lac Band of Lake Superior Chippewa are a sovereign people, who occupy the Fond du Lac Reservation and retain their aboriginal rights of self-government and self-determination pursuant to the Treaty of LaPointe of September 30, 1854, 10 Stat. 1109; the Indian Reorganization Act of 1934, 25 U.S.C. § 461 et seq.; the common law of the United States; and as recognized by the United Nations Declaration on the Rights of Indigenous Peoples of September 13, 2007; and


WHEREAS, it is the sovereign obligation of the Fond du Lac Reservation Business Committee, as the duly-constituted governing body of the Fond du Lac Band, to exercise the responsibilities of self-government and management over the Band's affairs; and

WHEREAS, the Reservation Business Committee has determined that it is necessary and in the best interests of the Band to enact an ordinance establishing standards for the reduction of fats, oils and grease by requiring proper grease interceptor design, installation, maintenance, reporting and the enforcement of penalties for failure to comply;


NOW THEREFORE BE IT RESOLVED, that the Reservation Business Committee hereby enacts Fond du Lac Ordinance #05/12, entitled "Establishing Standards for Fats, Oils and Grease Reduction", which shall be effective immediately.

CERTIFICATION

We do hereby certify that the foregoing Resolution was duly presented and acted upon by a vote of 2 for, 0 against, 0 silent, with a quorum of 3 being present at a Special Meeting of the Fond du Lac Reservation Business Committee held on October 3, 2012, on the Fond du Lac Reservation.



Karen R. Diver
Chairwoman



Ferdinand Martineau, Jr.
Secretary/Treasurer