

APPENDIX A
ENFORCEMENT RESPONSE PLAN

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ENFORCEMENT RESPONSE PLAN
SPARTA, TENNESSEE

I. INTRODUCTION

A. Regulations

The City of Sparta, Tennessee, has an approved Industrial Pretreatment Program to protect the Publicly Owned Treatment Works (POTWs) and implement specific enforcement procedures. U. S. Environmental Protection Agency (EPA) has required that all POTWs with pretreatment programs develop and implement an Enforcement Response Plan (ERP) as part of the pretreatment program. The statutory requirements for the ERP are contained in the Federal Register (40 CFR 403).

B. Personnel

The personnel available for taking enforcement action, by title, in the case of instances of noncompliance are as follows:

- (1) Person responsible for receiving self-monitoring reports and determining compliance: **Pretreatment Coordinator**
- (2) Person responsible for providing legal assistance: **City Attorney**
- (3) Person responsible for initiation of enforcement actions: **Pretreatment Coordinator**
- (4) Person responsible for performing monitoring and inspections for the City: **Pretreatment Coordinator**
- (5) Person designated as Pretreatment Coordinator that can sign reports required by the Tennessee Department of Environment and Conservation and can represent Sparta in meetings or correspondence: **Pretreatment Coordinator**

II. PROVISIONS FOR ENFORCEMENT IN EXISTING SEWER USE ORDINANCE

The enforcement Provisions in the current officially approved Sewer Use Ordinance section 18-109 including any adopted revisions, are included herein. The major provisions are as follows:

Enforcement
Affirmative Defenses

III. ENFORCEMENT RESPONSE GUIDE

The centerpiece of the City of Sparta Enforcement Response Plan (ERP) is the Enforcement Response Guide. This guide is a matrix which describes violations and indicates a range of appropriate enforcement options. The Enforcement Response Guide serves two main functions:

- (1) Defines the range of appropriate enforcement actions based on the nature and severity of the violation and other relevant factors.
- (2) Promotes consistent and timely use of enforcement remedies.

The Enforcement Response Guide designates several alternative enforcement options for each type (or pattern) of non-compliance. Thus developed, City personnel who detect non-compliance need only select an appropriate response from the short list of enforcement options indicated by the matrix. There are a number of factors to consider when selecting a response from among the options, including:

Good faith of the user,
Compliance history of the user,
Previous success of enforcement action taken against the particular user,
Violations effect on the receiving waters, and
Violations effect on the POTW.

The Enforcement Response Guide matrix identifies types of violations, indicates initial and follow-up responses, and designates personnel and time frames for those responses. Once the Enforcement Response Guide has been adopted by the City of Sparta, the City should periodically assess its effectiveness in accomplishing pretreatment program goals. This review should be conducted in light of the primary objectives for developing an Enforcement Response Guide, namely:

To insure that the violators return to compliance as quickly as possible,

To penalize non-compliant users for pretreatment violations,

To deter future non-compliance,

To recover any additional expenses incurred that can be attributed to non-compliance.

The terms and abbreviations in the Enforcement Response Guide Matrix are described below:

AO	:	Administrative Order
CA	:	City Attorney
Civil	:	Civil action against the IU seeking equitable relief, monetary penalties, and actual damages.
Criminal Prosecution	:	Pursuing punitive measures against an individual and/or organization through a court of law.
Fine	:	Monetary penalty assessed by control authority officials. Fines should be assessed by the Pretreatment Coordinator and/or City Administrator.
IU	:	Industrial User.
Manager	:	City Administrator
NOV	:	Notice of Violation.
POTW	:	Publicly owned treatment works.
PC	:	Pretreatment Coordinator
S	:	Superintendent of wastewater facility.
Show Cause	:	Formal hearing requiring the IU to appear and demonstrate why the control authority should not take a proposed enforcement action against it. The meeting may also serve as a forum to discuss corrective actions and compliance schedules.

IV. ENFORCEMENT RESPONSES

A. Description of Enforcement Responses

The City of Sparta begins its enforcement process by identifying an industrial user's violation. Once a violation is identified, the City of Sparta must determine whether the violation should be considered significant or non-significant.

The Enforcement Response Guide lists seven types of enforcement responses available to the City of Sparta. The seven types of enforcement responses are listed below and are described further herein:

Notice of Violation,
Administrative Orders,
Administrative Penalties,
Civil Actions,
Criminal Prosecution,
Termination of Permit or Sewer Service, and
Supplemental Enforcement Responses.

(1) Notice of Violation

The notice of violation is an official communication from the City of Sparta to the noncompliant industrial user which informs the user that a sewer use ordinance or IU permit violation has occurred. The NOV will be used in response to a non-significant violation. The NOV may be used in a case of significant noncompliance prior to issuing an AO or pursuing judicial remedies.

Whenever the manager finds that any industrial user has violated or is violating this chapter, or a wastewater permit or order issued there under, the manager may serve upon said user written notice of the violation. Within ten (10) days of the receipt date of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the manager. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation.

(2) Administrative Orders

When the manager finds that an industrial user has violated or continues to violate the ordinance or a permit or order issued there under, the manager may issue an order to the industrial user responsible for the discharge directing that, following a specified time period, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances have been installed and are properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring and management practices.

(3) Administrative Penalties

Notwithstanding any other section of this chapter, any user who is found to have violated any provision of this chapter, or permits and orders issued hereunder, shall be fined not less than fifty dollars (\$50.00) and not to exceed one thousand dollars (\$1,000.00) per violation. Each day on which noncompliance shall occur or be continued shall be deemed a separate and distinct violation. Such assessments may be added to the user's next scheduled sewer service charge and the city shall have such other collection remedies as it has to collect other service charges. Unpaid charges, fines, and penalties shall constitute a lien against the individual user's property. Industrial users desiring to dispute such fines must file a request for the city to reconsider the fine within ten (10) days of being notified of the fine. Where the manager believes a request has merit, he shall convene a hearing on the matter within fifteen (15) days of receiving the request from the industrial user.

(4) Civil Action

Any industrial user who has violated or continues to violate this chapter or any order or permit hereunder shall be liable to the city for a civil penalty of not less than \$100.00 nor more than \$1,000.00, plus actual damages incurred by the POTW per violation per day for as long as the violation continues. In addition to the above described penalty and damages, the city may recover reasonable attorney's fees, court costs, and other expenses associated with the enforcement activities, including sampling and monitoring expenses.

The city shall petition the court to impose, assess, and recover such sums. In determining amount of liability, the court shall take into account all relevant circumstances including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the industrial user's violation, corrective actions by the industrial user, the compliance history of the user, and any other factor as justice requires.

(5) Criminal Prosecution

Violations-generally. Any industrial user who willfully or negligently violates any provision of this chapter or any orders or permits issued hereunder shall, upon conviction, be guilty of a misdemeanor punishable by a fine not to exceed \$1,000 per violation per day or imprisonment for not more than one year, or both.

In the event of a second conviction, the user shall be punishable by a fine not to exceed \$3,000 per violation per day, or imprisonment for not more than three years, or both.

(6) Termination of Sewer Service

Termination of service is the revocation of an industrial user's privilege to discharge industrial wastewater into the City of Sparta's sewer system. Termination of service may be accomplished by physical severance of the system, by issuance of an AO which compels the user to terminate its discharge, or by a court ruling.

Termination of service may result where it is necessary to stop an actual or threatened discharge presenting, or causing, an imminent or substantial endangerment to the health or welfare of persons, the POTW, or the environment. Where repeated violation of the sewer use ordinance or IU permit has occurred and prior enforcement has failed to bring the industry back into compliance, termination of sewer service may be necessary.

(7) Supplemental Enforcement Responses

Industrial users which have had significant violations shall be published annually in the largest local newspaper.

Where an IU has violated or continues to violate the provisions of this ordinance or the IU permit, water service to the industrial user may be severed and service will only recommence (at the user's expense) after it has satisfactorily demonstrated its ability to comply.

B. Procedures for Implementation

The Enforcement Response Guide indicates who is responsible for determining a violation has occurred and what type of enforcement response is required (refer to the Enforcement Response Guide). For purposes of reiteration, the type of violations and person responsible for determining that a violation has occurred are summarized below:

IU Violations	Person responsible for determining that a violation has occurred, and type of enforcement
Unauthorized Discharges	Pretreatment Coordinator Superintendent Manager (City Administrator) City Attorney
Discharge Limit Violation	Pretreatment Coordinator Superintendent Manager (City Administrator) City Attorney
Monitoring and Reporting Violations	Pretreatment Coordinator Superintendent Manager (City Administrator)
Other Permit Violations	Superintendent, Pretreatment Coordinator
Violations detected during site visits	Superintendent, Pretreatment Coordinator

The time frames for determining that a violation has occurred and for issuing the requisite enforcement responses are summarized below:

- (1) All violations will be identified and documented within five (5) days of receiving compliance data.
- (2) Initial enforcement responses, involving contact with the industrial user and requesting information on corrective or preventative action(s), will occur within fifteen (15) days of violation detection.

- (3) Follow up actions for continuing or recurring violations will be taken within sixty (60) days of the initial enforcement response. For all continuing violations, the response will include a compliance schedule.
- (4) Violations which threaten health, property, or environmental quality are considered emergencies and will receive immediate responses such as halting the discharge or terminating service.
- (5) All violations meeting the criteria for significant non-compliance will be addressed with an enforceable order within thirty (30) days of the identification of significant non-compliance.

C. Method of Tracking Enforcement

As part of the Enforcement Response Plan, a tracking system is identified to assist the City of Sparta in determining that a violation has occurred. The method of tracking enforcement is summarized below:

IU Violations	Tracking Method
Unauthorized Discharges	Industrial User Survey Field Monitoring IU Inspection POTW Sampling
Discharge Limit Violation	IU Inspection and Sampling POTW Sampling
Monitoring and Reporting Violations	IU Inspection and Sampling IU Survey Field Monitoring
Other Permit Violations	Industrial User Survey Field Monitoring IU Inspection and Sampling POTW Sampling Collection System Monitoring
Violations detected during site visits	IU Inspection and Sampling

D. Fines and/or Penalties

A guideline for the dollar amounts that can be assessed for each type of offense or for repeat offenses are summarized below. These can include administrative fines, civil penalties and/or criminal penalties.

Noncompliance	Nature of Violation	Fines
Unpermitted Discharge	IU unaware, no harm to POTW	No Fine
	IU unaware, harm to POTW	\$50.00/ Violation
	Failure to apply after Notice	\$500.00
Exceedance of Local or Federal Standard (Permit Limit)	Isolated, no harm to POTW	No Fine
	Recurring, no harm to POTW	\$500.00/ Violation
	Recurring (harm)	\$1000.00/ Violation
Noncompliance	Nature of Violation	Fines
Monitoring and Reporting Violation	Insignificant	No Fine
	Significant Report over 45 days late	\$50.00/per day
	No Report	\$500.00
	Failure to Report Spill (harm)	\$1000.00
	Failure to Monitor as required in Permit	No Fine
	Recurring failure to monitor after NOV	\$500.00
	Failure to install Monitoring Equipment	\$50.00/per day

Noncompliance	Nature of Violation	Fines
	Falsification of Data	\$1000.00
	Missed compliance milestone by less than 30 days; or more than 30 days (with good cause)	\$50.00/per day
	Missed compliance milestone by over 30 days without good cause	\$500.00/per day
Illegal Discharge	Unaware, no harm	No Fine
	Recurring	\$50.00/per day
Inadequate Record Keeping	Recurring	\$500.00
Failure to Report Additional Monitoring	Recurring	\$500.00
Waste streams prediluted in lieu of treatment	Initial Violation	\$500.00/per day
	Recurring	\$500.00/per day
Noncompliance	Nature of Violation	Fines
Failure to mitigate noncompliance or halt production	Results in harm to sewer system	\$1000.00
Failure to properly operate and maintain pretreatment facility	Results in harm to sewer system	\$500.00

ENFORCEMENT

(1) Notice of Violation

Whenever the Superintendent finds that any industrial user has violated or is violating this Ordinance, or a wastewater permit or order issued thereunder, the Manager may serve upon said user written notice of the violation. Within ten

(10) days of the receipt date of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the Manager. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation.

(2) Administrative Order

When the Superintendent finds that an industrial user has violated or continues to violate the ordinance or a permit or order issued there under, the Manager may issue an order to the industrial user responsible for the discharge directing that, following a specified time period, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances have been installed and are properly operated.

Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring, and management practices.

(3) Show Cause Hearing

When the Manager finds that an industrial user has violated this ordinance or permit, he may order any industrial user which causes or contributes to a violation of this Ordinance or wastewater permit or order issued hereunder, to show cause before the Mayor and City Board why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, and the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any principal executive, general partner, or corporate officer. Whether or not a duly notified industrial user appears as noticed, immediate enforcement action may be pursued.

(4) Administrative Penalties

Notwithstanding any other section of this Ordinance, any user who is found to have violated any provision of this Ordinance, or permits and orders issued hereunder, shall be fined not less than fifty dollars (\$50.00) and not exceed one thousand dollars (\$1000.00) per violation. Each day on which noncompliance shall occur or be continued shall be deemed a separate and distinct violation.

Such assessments may be added to the user's next scheduled sewer service charge and the City shall have such other collection remedies as it has to collect other service charges. Unpaid charges, fines, and penalties shall constitute a lien against the individual user's property. Industrial users desiring to dispute such fines must file a request for the City to reconsider the fine within ten (10) days of being notified of the fine. Where the Manager believes a request has merit, he shall convene a hearing on the matter within fifteen (15) days of receiving the request from the industrial user.

(5) Emergency Suspensions

When the Superintendent finds that an individual user has violated this Ordinance or permit, the Manager may suspend the wastewater treatment service and/or wastewater permit of an industrial user whenever such suspension is necessary in order to stop an actual or threatened discharge presenting or causing an imminent or substantial endangered to health or welfare or persons, the POTW, or the environment.

Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate this contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Manager shall take steps as deemed necessary, including immediate severance of the sewer connection to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Manager shall allow the user to recommence its discharge when the endangerment has passed, unless the termination proceedings set forth in Paragraph (6) are initiated against the user.

An industrial user which is responsible, in whole or in part, for imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the Manager prior to the date service is reestablished.

(6) Termination of Permit

Significant industrial users proposing to discharge into the POTW must first obtain a wastewater discharge permit from the City of Sparta. Any user who violates the following conditions of this Ordinance or of a wastewater discharge permit or order, or any State or Federal law, is subject to permit termination:

- a) Violation of permit conditions,
- b) Failure to accurately report the wastewater constituents and characteristics of its discharge,

- c) Failure to report significant changes in operations or wastewater constituents and characteristics, and
- d) Refusal of reasonable access to user's premises for the purpose of inspection, monitoring, or sampling.

Noncompliant industrial users will be notified of the proposed termination of their wastewater permit and be offered an opportunity to show cause under Paragraph (3) of this Article why the proposed action should not be taken.

(7) Judicial Remedies

If any person discharges sewage, industrial wastes, or other wastes into wastewater disposal system contrary to the provisions of this Ordinance or any order or permit issued hereunder, the Manager through the City Attorney may commence an action for appropriate legal and/or equitable relief in the Chancery Court of White County.

(8) Civil Penalties

Any industrial user who has violated or continues to violate this Ordinance or any order or permit hereunder shall be liable to the City for a civil penalty of not less than \$100.00 nor more than \$1000.00, plus actual damages incurred by the POTW per violation per day for as long as the violation continues. In addition to the above described penalty and damages, the City may recover reasonable attorney's fees, court costs, and other expenses associated with the enforcement activities, including sampling and monitoring expenses.

The City shall petition the Court to impose, assess, and recover such sums. In determining amount of liability, the Court shall take into account all relevant circumstances including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the industrial user's violation, corrective actions by the industrial user, the compliance history of the user, and any other factor as justice requires.

(9) Criminal Prosecution

a) Violations-Generally

Any industrial user who willfully or negligently violates any provision of this Ordinance or any orders or permits issued hereunder shall, upon conviction, be guilty of a misdemeanor punishable by a fine not to exceed \$1000.00 per violation per day or imprisonment for not more than a year, or both.

In the event of a second conviction, the user shall be punishable by a fine not to exceed \$3,000 per violation per day, or imprisonment for not more than three years, or both.

b) *Falsifying Information*

Any industrial user knowingly makes false statements, representations, or certifications in any application, record, report, plan, or other document filed or required to be maintained pursuant to this Ordinance, or wastewater permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Ordinance shall, upon conviction, be punished by a fine of not more than \$1000.00 per violation per day or imprisonment for not more than one year, or both.

a) *Annual Publication of Significant Violations*

When the Superintendent finds that an industrial user has violated this Ordinance or permit, the Manager shall publish, at least annually in the largest daily newspaper circulated in the service area, a description of those industrial users which are found to be in significant violation with any provisions of this Ordinance or any permit or order issued hereunder during the period since the previous publication.

b) *Water Supply Severance*

Whenever an industrial user has violated or continues to violate the provisions of this Ordinance or an order or permit issued hereunder, water service to the industrial user may be severed and service will only recommence (at the user's expense) after it has satisfactorily demonstrated its ability to comply.

AFFIRMITIVE DEFENSES

(1) Treatment Upsets

Any industrial user which experiences an upset in operations that places it in a temporary state of noncompliance which is not the result of operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation shall inform the Manager thereof immediately upon becoming aware of the upset. Where such

information is given orally, a written report thereof shall be filed by the user within five (5) days. The report shall contain:

- a) A description of the upset, its cause(s), and impact on the discharger's compliance status
Attachment A: Proposed Revisions to Sewer Use Ordinance Enforcement Provisions
- b) The duration of noncompliance, including exact dates and times of noncompliance and if the noncompliance is continuing, the time by which compliance is reasonably expected to be restored.
- c) All steps taken or planned to reduce, eliminate, and prevent reoccurrence of such an upset.

Attachment A: Proposed Revisions to Sewer Use Ordinance Enforcement Provisions

An industrial user which complies with the notification provisions of this Paragraph in a timely manner shall have an affirmative defense to any enforcement action brought by the Manager for any noncompliance with this Ordinance, or an order or permit issued hereunder which arises out of violations attributable to, and alleged to have occurred, during the period of the documented and verified upset.

(2) Treatment Bypasses

A bypass of the treatment system is prohibited unless all of the following conditions are met:

- a) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage.
- b) There was no feasible alternative to the bypass including the use of auxiliary treatment or retention of the wastewater.
- c) The industrial user properly notified the Manager as described below.

Industrial users must provide immediate notice to the Manager upon discovery of an unanticipated bypass. If necessary, the Manager may require the industrial user to submit a written report explaining the cause(s), nature, and duration of the bypass and the steps being taken to prevent its reoccurrence.

An industrial user may allow a bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it is for essential maintenance to insure efficient operation of the treatment system. Industrial users anticipating a bypass must submit notice to the Manager at least ten (10) days in advance. The Manager may only approve the anticipated

bypass if the circumstances satisfy those set forth above. (as added by Ord. #08-832, Sept. 2008)

APPENDIX B

**ENFORCEMENT RESPONSE GUIDE
MATRIX**

UNAUTHORIZED DISCHARGES (No Permit)

<u>NONCOMPLIANCE</u>	<u>NATURE OF THE VIOLATION</u>	<u>ENFORCEMENT RESPONSES</u>	<u>PERSONNEL</u>	<u>FINE AMOUNT</u>
1. Unpermitted discharge	IU unaware of requirement. No harm to POTW or environment.	Phone call; NOV with application form.	PC	None
	IU unaware of requirement. Harm to POTW.	-AO with fine -Civil Action	PC CA	\$50.00/ violation
	Failure to apply continues after notice by POTW.	-Civil action with fine -Criminal prosecution -Terminate service	CA CA PC	\$500.00
2. Non-permitted discharge (failure to renew)	IU has not submitted application within 10 days of due date.	Phone call; NOV.	PC	None

DISCHARGE LIMIT VIOLATIONS

<u>NONCOMPLIANCE</u>	<u>NATURE OF THE VIOLATION</u>	<u>ENFORCEMENT RESPONSES</u>	<u>PERSONNEL</u>	<u>FINE AMOUNT</u>
1. Exceedance of local or federal standards (permit limit)	Isolated, not significant.	Phone call; NOV.	PC	None
	Isolated, significant. (No harm)	AO to develop spill prevention plan and fine.	PC CA	Up to \$500.00
	Isolated harm to POTW or environment.	-Show cause hearing. -Civil action	PC CA	Actual damages
	Recurring, no harm to POTW or environment.	-AO with fine	PC	\$500.00/ violation
	Recurring, significant (harm)	-AO with fine -Show cause hearing -Civil action -Terminate service	PC PC CA PC	\$1000.00 \$1000.00 \$1000.00 \$1000.00

MONITORING AND REPORTING VIOLATIONS

<u>NONCOMPLIANCE</u>	<u>NATURE OF THE VIOLATION</u>	<u>ENFORCEMENT RESPONSES</u>	<u>PERSONNEL</u>	<u>FINE AMOUNT</u>
1.	Reporting violation.	Phone call of NOV.	S/PC	None
	Report is improperly signed or certified.	-AO	PC	None
	Report is improperly signed or certified after notice by POTW.	-Show cause hearing	PC	None
	Isolated, not significant (e.g. 10 days late)	Phone call; NOV.	S/PC	None
	Significant (e.g. report 60 days or more late).	AO to submit with fine per additional day.	PC	\$50.00/day
	Failure to report spill or changed discharge (results in harm).	-AO with fine -Show cause hearing -Civil action	PC PC CA	
	Failure to report spill or changed discharge (results in harm).	NOV	PC	\$1000.00
	Repeated failure to report spills.	-AO with fine -Civil action -Show cause hearing -Terminate service	PC CA PC PC	\$1000.00 As noted above

MONITORING AND REPORTING VIOLATIONS (continued)

	Falsification.	-Criminal prosecution -Fine, terminate service	CA PC	\$1000.00
2.	Failure to monitor correctly. Failure to monitor all pollutants as required by permit. Recurring failure to monitor.	NOV or AO -AO with fine. -Civil action	S/PC PC CA	None \$500.00
3.	Improper sampling. Failure to install monitoring equipment.	-Criminal prosecution -Terminate service	CA PC	Punitive by court
4.	Evidence of intent. Delay of less than 30 days. Delay of 30 days or more.	-NOV AO to install with fine for each additional day.	S/PC PC	None \$50.00/day
	Recurring, violation of AO. Missed milestone by less than 30 days or will not affect final milestone.	-Civil action -Criminal prosecution -Terminate service	CA CA PC	\$50.00/day
5.	Compliance schedules (in permit).	NOV or AO with fine.	PC	\$50.00/day

MONITORING AND REPORTING VIOLATIONS (continued)

Missed milestone by more than 30 days, or will affect milestone (good cause for delay).	AO with fine.	PC	\$50.00/day
Missed milestone by more than 30 days, or will affect final milestone (no good cause for delay).	-Show cause hearing -Civil action -Terminate service	PC CA PC	\$500.00/ day
Recurring violation or violation of schedule in AO.	-Civil action -Criminal prosecution -Terminate service	CA CA	Actual damages

OTHER PERMIT VIOLATIONS

<u>NONCOMPLIANCE</u>	<u>NATURE OF THE VIOLATION</u>	<u>ENFORCEMENT RESPONSES</u>	<u>PERSONNEL</u>	<u>FINE AMOUNT</u>
Waste streams are diluted in lieu of 1. treatment.	Initial violation.	AO with fine.	PC	\$500.00/ day
	Recurring.	-Show cause hearing -Terminate service	PC PC	\$500.00/ day

OTHER PERMIT VIOLATIONS (continued)

Failure to mitigate noncompliance or halt production.	Does not result in harm.	NOV	PC	None
2. Failure to properly operate and maintain pretreatment facility	Does result in harm.	-AO with fine -Civil action	PC CA	\$1000.00
3. Failure to properly operate and maintain pretreatment facility	Does not result in harm.	NOV	S/PC	None
	Does result in harm.	-AO with fine -Civil action	PC CA	\$500.00

VIOLATIONS DETECTED DURING SITE VISITS

<u>NONCOMPLIANCE</u>	<u>NATURE OF THE VIOLATION</u>	<u>ENFORCEMENT RESPONSES</u>	<u>PERSONNEL</u>	<u>FINE AMOUNT</u>
1. Entry denial	Entry denied or consent withdrawn, copies of records denied.	Obtain warrant and return to IU	S/PC	None
2. Illegal discharge	Unaware of discharge and no harm to POTW or the environment.	AO	PC	None
	Discharge causes harm or evidence of intent/negligence	-Civil action -Criminal prosecution	CA CA	\$50.00/day

VIOLATIONS DETECTED DURING SITE VISITS (continued)

	Recurring violation of AO.	Terminate service	PC	\$50.00/day
	Unintentional sampling at incorrect location.	NOV	S/PC	None
	Unintentionally using incorrect sample type.	NOV	S/PC	None
	Unintentionally using incorrect sample collection techniques.	NOV	S/PC	None
	Inspector finds files incomplete to missing (no evidence of intent).	NOV	S/PC	None
	Recurring	AO with fine.	PC	\$500.00
	Inspection finds additional files.	NOV	S/PC	None
	Recurring.	AO with fine.	PC	\$500.00
3.	Improper sampling.			
4.	Inadequate record keeping.			
5.	Failure to report additional monitoring.			

APPENDIX C

Fats, Oils & Grease (FOG) Management Policy**Basis:**

The City of Sparta, TN Fats, Oils & Grease (FOG) Management Policy is based on the City of Sparta Sewer Use Ordinance Title 18, and United States Environmental Protection Agency (Region IV) Capacity, Management, Operation and Maintenance Policy.

Scope & Purpose:

To prevent sanitary and combined sewer system blockages, obstructions and overflows due to the contribution and accumulation of fats, oils and grease (FOG) from food service establishments, commercial facilities and industrial facilities.

Definitions:

1. Fats, Oils, & Grease (FOG): Organic polar compounds derived from animal and/or plant sources. FOG may be referred to as "grease" or "greases" in this section.
2. Food Service Establishment (FSE): Any establishment, business or facility engaged in preparing, serving or making food available for consumption. These facilities include: restaurants, cafeterias, markets, grocery stores, hospitals, nursing homes, retirement centers, prisons, schools, churches, camps, caterers, and manufacturers. Single family residences are not a FSE, however, multi-residential facilities may be considered a FSE at the discretion of the City or Manager. Food Service Establishments will be classified as follows:
 - Class 1:** Deli - engaged in the sale of cold-cut and microwaved sandwiches/subs with no frying or grilling on site, Ice Cream shops and beverage bars as defined by NAICS 72213, Mobile Food Vendors as defined by NAICS 722330
 - Class 2:** Limited-Service Restaurants (a.k.a. Fast Food Facilities) as defined by NAICS 722211 and Caterers as defined by NAICS 722320
 - Class 3:** Full Service Restaurants as defined by NAICS 722110
 - Class 4:** Buffet and Cafeteria Facilities as defined by NAICS 72212
 - Class 5:** Institutions (Schools, Hospitals, Prisons, etc) as defined by NAICS 722310 but not to exclude self-run operations.

3. (Brown) Grease: Fats, oils and grease that is discharged to the grease control equipment, or is from kitchen or food prep wastewater.
4. (Yellow) Grease: Fats, oils and grease that has not been in contact or contaminated from other sources (water, wastewater, solid waste, etc ...) and can be recycled.
5. Grease Control Equipment (GCE): A device for separating and retaining wastewater FOG prior to wastewater exiting the FSE and entering the City of Sparta sewer system. The GCE is so constructed as to separate and trap or hold fats, oils and grease substances from entering the City of Sparta sewer system. Devices include grease interceptors, grease traps, or other devices approved by the Director.
6. Grease Interceptor: Grease Control Equipment identified as a large tank, usually 1,000 gallon to 2,000 gallon capacity with proper inlet and outlet Ts, that provides FOG control for a FSE. Grease interceptors will be located outside the FSE, unless a variance request has been granted.
7. Grease Trap: Grease Control Equipment identified as an "under the sink" trap, a small container with baffles, or a floor trap. For a FSE approved to install a grease trap, the minimum size requirement is the equivalent of a 20-gallon per minute/40 pound capacity trap. All grease traps will have flow control restrictor and a vent pipe.
8. Grease Recycle Container: Container used for the storage of yellow grease.
9. NAICS - North American Industry Classification System. The website is found at: (<http://www.census.gov/epcd/www/naics.html>)
10. Tee or T (Influent & Effluent): A T-shaped pipe extending from the ground surface below grade into the grease interceptor to a depth allowing recovery (discharge) of the water layer located under the layer of FOG. Influent & Effluent T's are recommended to be made of PVC or equivalent material, and extend to within 12" to 15" of the bottom of the interceptor.
11. (Black) Water: Wastewater containing human waste, from sanitary fixtures such as toilets and urinals.
12. (Gray) Water: Refers to all other wastewater other than black water as defined in this section.

General Requirements:

1. All existing Food Service Establishments (FSEs) are required to have grease control equipment (GCE) installed, maintained and operating properly.
2. All FSEs will be required to maintain records of cleaning and maintenance of GCE. GCE maintenance records include, at a minimum, the date of cleaning/maintenance, company or person conducting the cleaning/maintenance, amount or volume of grease wastewater removed. A grease waste hauler completed manifest will meet this requirement.
3. GCE maintenance records will be available at the FSE premises so they can be provided to City of Sparta personnel or their representative, and/or the Health Department. The FSE shall maintain GCE maintenance records for three (3) years.
4. No FSE will discharge oil and grease in concentrations that exceed the City of Sparta instantaneous grab limit for oil and grease.
5. All FSEs are required to dispose of yellow grease in an approved container, where contents will not be discharged to any storm water grate, drain or conveyance. Yellow grease, or any oils or grease, poured or discharged into the FSE sewer lines or City of Sparta sewer system is a violation of this ordinance.
6. Owners of Commercial Property will be held responsible for wastewater discharges from leaseholder on their property.

New Food Service Establishment, Upgrading of Existing Food Service Establishment or Change of Ownership of Existing Food Service Establishment Requirement: Any new FSE, upgrading of an existing FSE or change of ownership of existing FSE will be required to install and maintain a grease interceptor. Food service establishments in one of these categories must submit a FOG plan to the City of Sparta for approval. The FOG plan includes identification of all cooking and food preparation equipment (i.e. fryers, grills, woks, etc ...); the number and size of dishwashers, sinks, floor drains, and other plumbing fixtures; type of FSE classification; type of food to be served; and plans for the grease interceptor dimensions and location. The City of Sparta will review the FOG plan with the grease interceptor sizing and approve, or make changes as necessary, to aid in the protection of a FOG discharge from the FSE.

Existing Food Service Establishments will be phased in to compliance through their FSE permit and a Compliance Schedule. The Compliance Schedule will be an Agreed Schedule, with all Food Service Establishments coming into compliance with this policy no later than **May 1, 2008**.

Variance to Grease Interceptor Installation: At the discretion of the Manager, some FSEs may receive a variance from the required installation of a grease interceptor.

Grease Control Equipment Sizing:

Minimum acceptable size of grease control equipment for each FSE Classification will be as follows:

- Class 1:** Deli, Ice Cream shops, Beverage Bars, Mobil Food Vendors- 20 gallons per minute/40 pound Grease Trap
- Class 2:** Limited-Service Restaurants 1Caterers-1,000 gallon Grease Interceptor
- Class 3:** Full Service Restaurants- 1,000 gallon Grease Interceptor
- Class 4:** Buffet and Cafeteria Facilities- 1,500 gallon Grease Interceptor
- Class 5:** Institutions (Schools, Hospitals, Prisons, etc)- 2,000 gallon Grease Interceptor

To calculate the appropriate size GCE, the following formula will be used:
 Fixture Units (total) x Facility type multiplier x 36 (retention time) =Size of Interceptor (gals.)

Should the size of the interceptor calculate to 499 gallons or less with the formula above:

Size of interceptor (gals.) x 0.75 (max. cap. of sink) = Flow (gpm) x hours (work day) = Acceptable Flow rate with retention time

Grease Control Equipment Specifications

Grease Control Equipment must remove fats, oils, & grease at or below the City of Sparta Sewer Use Ordinance Limit for Oil and Grease. Failure to comply will require enforcement action in accordance with the City of Sparta Food Service Establishment Enforcement Response Guide.

Grease traps must have the Plumbing Drainage Institute certification. The minimum acceptable size is rated at 20 gpm / 40lbs. All grease traps will be installed as per manufacturer specifications, which include the flow restrictor and venting prior to the discharge entering the grease trap.

Grease Interceptors

Piping Design

1. The inlet and outlet piping shall have 2-way cleanout tees installed
2. The inlet piping shall enter the receiving chamber 2 1/2" above the invert of the outlet piping.

3. On the inlet pipe, inside the receiving chamber, a sanitary tee of the same size pipe in the vertical position with the top unplugged shall be provided as a turndown. To provide air circulation and to prevent "air lock", a pipe (nipple) installed in the top tee shall extend to a minimum of 6" clearance from the interceptor ceiling, but not less than the inlet pipe diameter. A pipe installed in the bottom of the tee shall extend to a point of 2/3 the depth of the tank. **See illustration.**
4. The outlet piping shall be no smaller than the inlet piping, but in no case smaller than 4" ID.
5. The outlet piping shall extend to 12" above the floor of the interceptor and shall be made of a noncollapsible material.
6. The outlet piping shall contain a tee installed vertically with a pipe (nipple) installed in the top of the tee to extend to a minimum of 6" clearance from the interceptor ceiling, but not less than the pipe diameter, with the top open. **See illustration.**

Baffles

1. The grease interceptor shall have a non-flexing (i.e. Concrete, steel, etc.) baffle the full width of the interceptor, sealed to the walls and the floor, and extend from the floor to within 6" of the ceiling. The baffle shall have an inverted 90 degree sweep fitting at least equal in diameter size to the inlet piping, but in no case less than 6" ID. The bottom of the sweep shall be placed in the vertical position in the inlet compartment 12" above the floor. The sweep shall rise to the horizontal portion, which shall extend through the baffle into the outlet compartment. The baffle wall shall be sealed to the sweep. **See illustration.**
2. The inlet compartment shall be 2/3 of the total liquid capacity with the outlet compartment at 1/3 liquid capacity of the interceptor.

Access Openings (Manholes)

1. Access to grease interceptors shall be provided by a minimum of 1 manhole per interceptor division (baffle chamber) and of 24-inch minimum dimensions terminating 1 inch above finished grade with cast iron frame and cover. An 8" thick concrete pad extending a minimum of 12" beyond the outside dimension of the manhole frame shall be provided. One manhole shall be located above the inlet tee hatch and the other manhole shall be located above the outlet tee hatch. A minimum of 24" of clear opening above each manhole access shall be maintained to facilitate maintenance, cleaning, pumping, and inspections.
2. Access openings shall be mechanically sealed and gas tight to contain odors and bacteria and to exclude vermin and ground water, in a manner that permits regular re-uses.
3. The manholes are to be accessible for inspection by the Department.

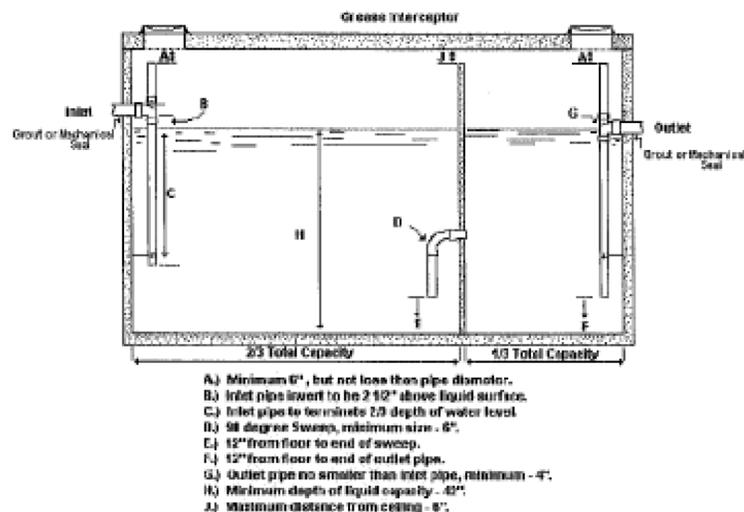
Additional Requirements

Water Tight - Precast concrete grease interceptors shall be constructed to be watertight. A static water test shall be conducted by the installer and timed so as to permit verification through visual inspection by regulatory agent. The water test shall consist of plugging the outlet (and the inlet if necessary) and filling the tank(s) with water to the tank top a minimum of 24 hours before the inspection. The tank shall not lose water during this test period. Certification by the plumbing contractor shall be supplied to the City of Sparta prior to final approval of grease control equipment.

Location - Grease Control Equipment shall be located so as to be readily accessible for cleaning, maintenance, and inspections. They should be located close to the fixture(s) discharging the greasy wastestream.

Responsibility - Removal of the grease from the wastewater routed to a public or private sanitary system, is the responsibility of the user/owner.

Construction Material - Grease Interceptors shall be constructed of sound durable materials, not subject to excessive corrosion or decay, and shall be water and gas tight. Each interceptor shall be structurally designed to withstand any anticipated load to be placed on the interceptor (i.e. vehicular traffic in parking or driving areas).



Grease Interceptor Cleaning/Maintenance Requirements

1. Grease Interceptor minimum size will be 1,000 gallon capacity, and maximum size will be 2,500 gallon capacity. If the FSE needs additional capacity, then grease interceptors will be installed in series.
2. Partial pump of interceptor contents or on-site pump & treatment of interceptor contents will not be allowed due to reintroduction of fats, oils and grease to the interceptor and pursuant to the Code Federal Regulation (CFR) § 403.5 (b) (8), which states "Specific prohibitions. In addition, the following pollutants shall not be introduced into a POTW: Any trucked or hauled pollutants, except at discharge points designated by the POTW".
3. Grease interceptors must be pumped-in-full when the total accumulations of surface FOG (including floating solids) and settled solids reaches twenty-five percent (25%) of the grease interceptor's overall liquid depth. This criterion is referred to as the "25 Percent Rule". At no time, shall the cleaning frequency exceed 90 days unless approved by the City of Sparta. Approval will be granted on a case by case situation with submittal by the FSE documenting proof of proposed frequency. Some existing FSEs in Class 2 through 5 will need to consider monthly pumping to meet this requirement.
4. Grease interceptor effluent-T will be inspected during cleaning and maintenance and the condition noted by the grease waste hauler's company or individual conducting the maintenance. Effluent-T's that are loose, defective, or not attached must be repaired or replaced immediately.
5. Grease interceptors must have access manholes over the influent-T and effluent-T for inspection and ease of cleaning/maintenance. Access manholes will be provided for all separate compartments of interceptors for complete cleaning (i.e. interceptor with two main baffles or three compartments will have access manholes at each compartment).

Grease Trap Cleaning / Maintenance Requirements

1. **All** grease traps will have flow control restrictor and vented. Failure to have flow restrictor and venting will be considered a violation.
2. Grease Trap minimum size requirement is a 20 gallon per minute / 40 pound capacity trap.
3. Grease Traps will be cleaned of complete fats, oils, and grease and food solids at a minimum of every two (2) weeks, unless less cleaning frequency is authorized by the City of Sparta. If the combination of FOG and food solids content of the grease trap is greater than 50%, then the grease trap must be cleaned every week, or as frequently as needed to prevent 50% of capacity being taken from FOG and food solids.

4. Grease Trap waste should be sealed or placed in a container to prevent leachate from leaking, and then disposed.
5. Grease Trap waste should not be mixed with yellow grease in the grease recycle container.

Food Service Establishment FOG Permits and Inspections

The City of Sparta may issue FOG permits to food service establishments to control FOG discharges to the Sparta sewer system, prevent obstruction and interference to the POTW, and prevent sanitary sewer overflows. Also, the City of Sparta, or their authorized representative, will conduct inspections of food service establishments for grease control equipment installation and maintenance, types of food served and preparation of food, impact to the Sparta sewer system, and review of best management practices. The City of Sparta, or their authorized representative, has the right to enter the food service establishments' premises to determine impacts to the City sewer system. The City of Sparta will conduct any additional monitoring of the food service establishment to determine compliance with the FOG management policy and the Sparta Sewer Use Ordinance Title 18.

Fees

The City of Sparta may charge FOG permit, inspection or monitoring fees to the food service establishments to get reimbursement for the FOG program costs. The basis for fees is City of Sparta Sewer Use Ordinance Title 18, Section 18-111.

"Additives" Prohibition for use as Grease Management and Control

1. Additives include but are not limited to products that contain solvents, emulsifiers, surfactants, caustics, acids, enzymes and bacteria.
2. At no time will additives be used just prior to under the sink or floor grease traps.
3. The use of additives is prohibited with the following exceptions:
 - a. Additives may be used to clean the FSE drain lines but only in such quantities that it will not cause fats, oil and grease to be discharged from the grease control equipment to the sewer system, or cause temporary breakdown of FOG that will later re-congeal in the downstream sewer system.
 - b. If the product used can be proven to contain 100% bacteria, with no other additives. Approval of the use of the product must come from the City and FSE must submit a full disclosure MSDS and certified sample results from the manufacturer of the product.

4. The use of approved additives will in no way be considered as a substitution to the maintenance procedures required herein.

Enforcement Action

Enforcement Action may be taken against the FSE, but is not limited to, the following reasons: failure to clean or pump grease control equipment, failure to maintain grease control equipment including inspection and installation of properly functioning effluent-T and baffles, failure to install grease control equipment, failure to control FOG discharge from the FSE, contributing to a sewer line blockage or obstruction, contributing to a Sanitary Sewer Overflow, and use of additives in such quantities so that FOG is pushed downstream of the FSE.

Fats, Oils and Grease blockage in downstream manhole from FSE:

If FSE inspections and field investigations by City of Sparta, or their authorized representative, determine that any fats, oils and grease interference or blockage in the sewer system, a sewage pumping station, or the wastewater treatment plant is caused by a particular food service establishment, then that food service establishment shall reimburse the City of Sparta for all labor, equipment, supplies and disposal costs incurred by the City of Sparta to clean the interference or blockage. The charges will be added to the FSEs water/wastewater bill. Failure to reimburse the City of Sparta will result in termination of water service.

FSE failure to maintain GCE after Notification or NOV due date:

If a FSE fails to pump, clean or maintain their GCE after a Noncompliance Notification or Notice of Violation due date, the City of Sparta may chose to pump/clean the GCE to prevent additional FOG problems downstream. The FSE will be charged for the cost of pumping and maintaining the FSE's GCE at a rate of 1.5 times the cost to the City of Sparta. Mechanical failure of the GCE will be considered a violation of the City of Sparta Sewer Use Ordinance which pertains to the construction and maintenance of pretreatment facilities and subject to penalties of up to \$10,000/day for each day in violation.

Penalties

Penalties will be issued as per the City of Sparta, Tennessee FSE Enforcement Response Guide.

APPENDIX D

FOOD SERVICE ESTABLISHMENT ENFORCEMENT RESPONSE GUIDE

This Food Service Establishment Enforcement Response Guide (FSE-ERG) was developed to ensure a consistent response to all food service establishments that cause, or have the potential to cause, interference, obstruction, sanitary sewer overflows, bypasses, or stormwater inflow to the City of Sparta wastewater collection system and WWTP. Food Service Establishments are nondomestic users and are monitored by the City of Sparta Pretreatment Section. This FSE-ERG is intended to be used for food service establishments only. Refer to the City of Sparta Fats, Oils & Grease Management Policy for additional information on the City of Sparta FOG management program.

SIGNIFICANT NONCOMPLIANCE OF WASTEWATER DISCHARGE LIMITS

The E.P.A. has defined "significant noncompliance" as violations that meet one or more of the following criteria:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66%) percent or more of all of the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;
- (2) Technical Review criteria (TRC) violations, defined here as those in which thirty-three (33%) percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily average maximum limit, or the average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH). The following compatible pollutants are exempt from TRC consideration if they exceed the surcharge level but do not exceed upper ceiling: BOD, TSS, FOG;
- (3) Any other violations of a pretreatment effluent limit (daily maximum or longer-term average) that the Control Authority determines has caused, alone or in combination with other discharges, interference or passthrough (including endangered the health of POTW personnel or the general public);
- (4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.

- (5) Failure to meet within 90 days after the schedule date a compliance schedule milestones contained in a local control mechanism or enforcement order for starting construction, completing construction, and attaining final compliance;
- (6) Failure to provide, within 30 days after the due date, required reports, such as baseline monitoring reports, 90-days compliance reports, periodic self monitoring reports, and reports on compliance with compliance schedules;
- (7) Failure to accurately report noncompliance;
- (8) Any other violation or group of violations that the Control Authority determines will adversely affect the operation or implementation of the local pretreatment program.

Generally, an isolated instance of noncompliance or a Category 0 violation can be met with an informal response or Noncompliance Notification (NCN). Any Category 1 to Category 4 violations should be responded to with an escalation in enforcement that requires a return to compliance by a specific deadline.

NONCOMPLIANCE NOTIFICATION (NCN)

Generally issued by the inspector/field personnel, the Noncompliance Notification (NCN) is an official communication from the City of Sparta to the non-compliant user that deficiencies have been identified. Most NCN's allow the non-compliant user a 30 day period to respond to the deficiencies. Failure to respond to an NCN will result in the issuance of a Notice of Violation. NCNs may be issued to food service establishments for the following deficiencies:

- Grease Interceptor Effluent (outlet) T not acceptable
- Grease Interceptor Effluent (outlet) T not visible or accessible for inspection
- Grease Interceptor mid-wall baffle or side walls indicates deterioration of concrete
- Grease Interceptor FOG and food solids layer are greater than 25% of the capacity of the interceptor tank, or interceptor was not pumped within last 90 days
- FOG evident in downstream sewer line from this facility
- Facility has no grease control equipment installed
- No Records of interceptor or trap maintenance available at the facility
- Sewer cleanout covers missing or damaged, allowing rainfall inflow to sanitary sewer

- FOG on ground, around recycle bin or dumpster, causing stormwater impact

NOTICE OF VIOLATION (NOV)

Generally issued by the inspector/field personnel, the Notice of Violation (NOV) is an official communication from the City to the non-compliant user that informs the user that the pretreatment violation has occurred. The NOV is issued for relatively minor or infrequent violations of pretreatment standards and requirements and should be issued within five (5) working days of the identification of a violation. A NOV does not contain assessment of penalties or cost recovery. The NOV provides the user with an opportunity to correct the noncompliance on its own initiative rather than according to a schedule of actions determined by the City. The NOV documents the initial attempts of the City to resolve the noncompliance. Authenticated copies of NOV's may serve as evidence in judicial proceedings.

SCHEDULE OF COMPLIANCE

A Schedule of Compliance is a detailed list of the steps to be taken by a non-compliant facility whereby compliance with all pretreatment regulations will be achieved. This schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable Pretreatment Standards (e.g. hiring an engineer, completing preliminary plans, executing contracts for components, commencing construction, etc.).

ADMINISTRATIVE PENALTIES

An administrative penalty is a monetary penalty assessed by the City for violations of pretreatment standards and requirements. Administrative penalties are to be used as an escalated enforcement action and are punitive in nature and are not related to a specific cost born by the City. Instead, the amount of the penalty should recapture any economic benefit gained by noncompliance and/or deter future violations. An Administrative Order is to be used to assess an administrative penalty.

ADMINISTRATIVE ORDERS

Administrative Orders (AO) are to be issued by the Industrial Waste Coordinator, or the Director of the City of Sparta Wastewater Department. Administrative Orders are enforcement documents that direct users to undertake and/or to cease specified activities. Administrative Orders are to be

used as the first formal response to significant noncompliance, and may incorporate compliance schedules, administrative penalties, assessments for costs incurred during investigation and/or enforcement, attorney's fees, assessments for damages and termination of service. The City has adopted four (4) general types of AOs: Compliance Orders, Show Cause Orders, Cease and Desist Orders, and Agreed Orders.

COMPLIANCE ORDER

A Compliance Order directs the User to achieve or restore compliance by a specified date and is the primary means of assessing penalties and costs. The Compliance Order will document the noncompliance and state required actions to be accomplished by specific dates and is issued by the City.

SHOW CAUSE ORDER

An Order to Show Cause directs the User to appear before the City, explain its noncompliance, and show cause why more severe enforcement action should not be pursued. The hearing is open to the public and may be formal (i.e. conducted according to the rules of evidence, with verbatim transcripts and cross-examination of witnesses) or informal. The results of all hearings, along with any data and testimony (recorded by tape machine or stenographer) submitted as evidence, are available to the public and may serve as evidentiary support for future enforcement actions.

CEASE and DESIST ORDER

A Cease and Desist Order directs a noncompliant User to cease illegal or unauthorized discharge immediately or to terminate discharge altogether. To preserve the usefulness of this order in emergency situations, penalties should not be assessed in this document. A Cease and Desist order will be used in situations where the discharge is causing interference, pass through, environmental harm, or otherwise creating an emergency situation. The order may be issued immediately upon discovery of an emergency situation or following a hearing. In an emergency, the order to cease and desist may be given by telephone with a subsequent written order to be served by the City before the close of business on the next working day. If the User fails to comply with the order, the City may take independent action to halt the discharge.

AGREED ORDER

The Agreed Order is an agreement between the City and the User. The Agreed Order normally contains three elements: (1) compliance schedules with specific milestone dates; (2) stipulated penalties, damages, and/or remedial actions; and (3) signature by the City and the User representative. An Agreed order is appropriate when the User assumes the responsibility for its noncompliance and is willing (in good faith) to correct the causes.

PENALTY ASSESSMENT

Determining a penalty amount that reflects the violation's significance is extremely important. If the penalty is too small, its deterrent value is lost and the User may regard the amount as a tax or nominal charge to pollute. If the penalty is too great, it could bankrupt the industry (making necessary investment in pretreatment equipment impossible or potentially forcing unnecessary closure). The City has categorized the various types of violations, and assigned a penalty range to each category. Penalty categories are determined by using the Enforcement Response Table (attached). All penalty assessments will be approved and signed by the City or their designee. Penalty amounts are considered to be an economic deterrent to the illegal activity. Penalty ranges have been designed to recover any economic benefit gained by the violator through non-compliance.

CATEGORY 0 = NO PENALTY

CATEGORY 1 = \$50.00 to \$500.00

CATEGORY 2 = \$50.00 to \$1,000.00

CATEGORY 3 = \$50.00 to \$10,000.00

CATEGORY 4 = DIRECT LEGAL ACTION - Any penalties and/or costs to be assessed at the maximum penalty allowable by applicable law and included as part of the legal action.

Assessments for damages or destruction of the facilities of the POTW, and any penalties, costs, and attorney's fees incurred by the pretreatment agency as the result of the illegal activity, as well as the expenses involved in enforcement, are not part of this penalty assessment procedure and would be in addition to any penalties assessed as described above.

Abbreviations:

FSE: Food Service Establishment

NCN: Noncompliance Notification

NOV: Notice of Violation

AO: Administrative Order

FOG: Fats, oils and grease

FSE: Food Service Establishment

GCE: Grease Control Equipment

POTW: Publicly Owned Treatment Works

SC: Show Cause

SPS: Sewerage Pumping Station

WWTP: Wastewater Treatment Plant

City of Sparta, TN Food Service Establishment Enforcement Response Guide

<u>Incident</u>	<u>Category Level</u>	<u>Action Taken</u>
1. Failure to install grease control equipment, or		
2. Grease Interceptor structural failure (baffle wall collapsed, walls deteriorated, tank leaking, infiltration/inflow in tank), or		
3. Failure to install proper effluent (outlet T), or		
4. No access to effluent (outlet T) to determine compliance		
A. Initial Notification - Noncompliance Notification of problem, with response due date.	0	Issue NCN -30 day deadline for response
B. Second Notification - Failure to comply with NCN. Issue NOV and 15 additional days to comply	1	Issue NOV -15 day deadline
C. Third Notification - Issue \$500 AO and 30 additional days to comply.	2	Issue AO \$500
D. Fourth Notification - Failure to comply with AO, Issue \$250 / day penalty.	3	\$250/day
2. Facility contributing FOG to downstream manhole, SPS, or WWTP. Classify degree of impact for appropriate response:		
A. Slight FOG impact (slight coating of FOG in POTW less than 1/4" coverage - 1/2 of pipe)	0	NCN - 30 day response
B. Moderate FOG impact (moderate coating FOG in	2	NOV - 30 day deadline

<u>Incident</u>	<u>Category Level</u>	<u>Action Taken</u>
POTW, less than 1/2," coverage - 1/2 of pipe)		Reimburse cleaning costs to City, Require interceptor mid-wall sweep.
C. Heavy FOG impact (heavy coating FOG in POTW, causing obstruction and/or interference in sewer line)	3	Reimburse cleaning costs to City & AO - \$1,000 Require Interceptor Mid-wall sweep
C. Heavy FOG impact (facility's discharge caused by pass or sanitary sewer overflow)	4	Direct Legal Action
6. Grease Control Equipment not maintained (pumped or cleaned) *Interceptor has > 25% FOG and solids, or > 90 days *Trap cleaned > monthly		
A. 1 Incident within 24 month period	0	NCN - 30 days
B. 2 Incidents within 24 month period	1	NOV - 15 days
C. 3 Incidents within 24 month period	2	NOV - \$500
D. 4 Incidents within 24 month period	3	SC - \$1000
E. 5 Incidents within 24 month period	3	City pumps GCE Charges FSE, + \$1000
7. Failure to respond to any notification letter within 30 days		Escalation of Enforcement
8. No records of grease control equipment maintenance or cleaning at facility		
A. 1 Incident within 24 month period	0	NCN
B. 2 Incidents within 24 month period	1	NOV

C.	3 Incidents within 24 month period	2	NOV - \$100
D.	4 Incidents within 24 month period	3	NOV - \$250
E.	5 Incidents within 24 month period	3	NOV - \$500
9.	Failure to allow access for inspectors to adequately assess grease control equipment	4	Show Cause
10.	Safety hazard at grease control equipment area (i.e. missing manhole cover, manhole cover damaged or not made of material of suitable strength)		Notify Health Dept/ Codes and issue NCN
11.	Facility in violation of numerical FOG limit		
A.	FOG concentration in excess of limit but less than 2x of limit	1	NOV - \$100
B.	FOG concentration between 2x to 4x of limit	1	NOV - \$250
C.	FOG concentration in excess of 4x of limit	2	NOV - min. \$300- \$500
12.	Facility using additives or chemicals that emulsify or otherwise cause FOG to be discharged to the City sewer system	3	Show Cause
13.	Failure of new facility, or an existing facility that upgrades their facility, to notify City, or submit Grease Control Equipment information.	1	Issue NOV & require GCE Inquiry
14.	Missing or damaged sewer cleanout covers, or any rainfall inflow		
	To city sewer	0	
	First Notification	0	NCN-30 days
	Second Notification	1	NOV-15 days
	Third Notification (repeat fine after every 15 days if unresolved)	3	NOV-\$500