**CITY OF REIDSVILLE FATS, OILS, AND GREASE ENFORCEMENT RESPONSE PLAN**

**Section 1- Introduction**

This Fats, Oils, and Grease Enforcement Response Plan [FOG ERP] document is a statement of policy by the City of Reidsville. It is NOT a regulation, code or statute and the City has the authority to amend this policy at any time in order to more effectively implement the City of Reidsville Sewer Use and Pretreatment Ordinance regarding Fats, Oils and Grease Control. This plan has been developed for guidance and is not intended to create legal rights or obligations, or to limit the enforcement discretion of the FOG Coordinator or the City of Reidsville.

This FOG Enforcement Response Plan is an effective way to ensure that the City of Reidsville takes fair, consistent and equitable enforcement actions against food service establishments (FSE) for violations of the City of Reidsville Sewer User and Pretreatment Ordinance. It should be noted that, even with an FOG ERP, judgment and flexibility will be needed at times in response to unusual instances of noncompliance. Some violations may require a response that deviates from the ERP depending on the particulars of the situation.

The enforcement philosophy of the City of Reidsville is progressive, in that problems are addressed at the lowest level and with the least formality possible consistent with the specific violation. However, no enforcement procedure is contingent upon the completion of any “lesser” activity.

In general, enforcement actions against the food service establishment (FSE) will be taken in accordance with this Enforcement Response Plan, however, the enforcement actions listed here are not exclusive and the City of Reidsville reserves the right to implement other enforcement responses available to it under the Sewer User and Pretreatment Ordinance and North Carolina law, separately or in combination with these responses.

**Section 2 - Enforcement Actions Available For Fats, Oils and Grease Control**

The City of Reidsville is empowered by North Carolina General Statutes (NCGS) 143-215.6A and the City of Reidsville Sewer Use and Pretreatment Ordinance to take a wide variety of enforcement actions. The following is a list of those actions.

1. **Informal Enforcement Notification / Actions**
2. **Notice of Deficiency [NOD] and/or Notice to Correct [NTC]**

Written notice that a violation/deficiency has occurred and should be corrected. In general, NTCs are used for minor isolated violations or as an initial step leading to an escalated enforcement response. NODs/NTCs are documented and kept on file.

1. **Enforcement Meeting**

An informal meeting used to gather information concerning noncompliance, discuss steps to alleviate noncompliance and determine the commitment level of the food service establishment.

1. **Initiation of Self- Monitoring**

Notice to the property owner or FSE owner to begin self-monitoring the effluent from the food preparation process discharge from the facility.

1. **Employee Training Requirement**

When the FOG coordinator feels that a violation has been caused by a food service establishment employee training may be required to obtain knowledge concerning FOG Ordinance/SUO requirements.

1. **Formal Enforcement Notification / Actions**
2. **Notice of Violation [NOV]**

A NOV is a written notice to the noncompliant property owner or FSE owner that a violation has occurred. A NOV includes a statement detailing the legal authority under which the City issued the NOV, a description of the violation(s) and the date(s) the violation(s) occurred. A NOV may require a response from the property owner or FSE owner that details the causes of the violation(s), and the correction action taken to correct the violation and prevent similar violations from occurring. In general a NOV is considered to be a more serious enforcement action than a NOD/NTC.

1. **Civil Penalties**

Administrative penalty issued to a property owner or FSE owner who fails to comply with any provision of the FOG Ordinance and/or any applicable provision

 of the SUO. The City of Reidsville Sewer Use and Pretreatment Ordinance authorizes penalties of up to ten thousand dollars ($10,000.00) per day per violation.

1. **Consent Orders [CO]**

A voluntary agreement with a non-compliant property owner or FSE owner that includes specific acts to be taken by the discharger to correct the noncompliance within a time period also specified in the order. COs may incorporate schedules of compliance (SOC), administrative penalties and/or termination of sanitary sewer service. Such documents shall have the same force and effect as administrative orders and shall be judicially enforceable.

1. **Administrative Order [AO]**

Administrative Orders [AOs] are enforcement documents that direct food service establishments to undertake and/or to cease specified activities by specified deadlines. The terms of an AO may or may not be negotiated with food service establishments. AOs may incorporate compliance schedules, administrative penalties and/or termination of sanitary sewer service.

1. **Payment of Remediation/Clean- Up Costs and/or Cost Recovery**

Notice to pay to the City of Reidsville costs associated with the clean-up or decontamination of a site after the discharge of substances into the sanitary sewer, , surface waters and/or to the environment that cause interference, pass-through or sanitary sewer blockage. This Includes clean up and decontamination of all structures/areas including residential, commercial, surface waters and the environment.

1. **Termination of (Sewer) Service [TOS]**

Termination of Service [TOS] is the revocation of a food service establishment’s privilege to discharge wastewater from food preparation processes into the sanitary sewer system. TOS is used when the discharge from a FSE presents imminent endangerment to the health or welfare of persons, or the environment or threatens to interfere with the operation of the POTW collection system. TOS is also used as an escalating enforcement action when a noncompliant food service establishment fails to respond adequately to previous enforcement actions. TOS may be accomplished by physical severance of the FSE’s connection to the sanitary sewer system, issuance

of an AO [Cease and Desist], which compels the FSE to immediately terminate its discharge, or a court ruling.

The Public Works Director reserves the right to assess the maximum penalty for any violation.

**Section 3 - Personnel Responsible for Enforcement Actions**

The City of Reidsville FOG Coordinator is responsible for all enforcement actions. The Public Works Director may be requested to review escalated penalties prior to issuance.

**Section 4 - Enforcement Considerations**

In determining which enforcement measure(s) to use and the amount of any civil penalties, the FOG Coordinator may consider the following:

1. The degree and extent of the impact/harm to the natural resources of the State, the public health, the POTW or public or private property as a result of the violation including effect on sanitary sewer , storm water sewer or surface water.
2. The duration and magnitude of the violation;
3. The cost of repairing the damage to the POTW collection system, public or private property and/or the natural resources of the State;
4. Whether the violation was committed negligently, grossly negligently, recklessly negligently, willfully or intentionally;
5. The amount of money saved, if any, by noncompliance, including the cost of continuing to discharge in noncompliance instead of stopping operations;
6. Cost incurred by the FSE in correcting the problem and FSE cooperation and good faith effort to resolve noncompliance.
7. The prior record of the FSE in complying or failing to comply with the requirements of the Sewer Use and Pretreatment Ordinance, or other applicable law or regulation;
8. The cost to the City [including legal fees, sampling/analytical costs, engineering/consulting fees, etc.] required, in the opinion of the City, to take necessary investigative/enforcement action, determine the nature and extent of damage, prevent further damage and repair any damage.
9. The cost to the City for any civil penalties, fines, legal costs and/or other costs associated with any enforcement action or legal action taken against the City of Reidsville for Wastewater Collection System Permit violations, NPDES violations or other violations caused by the FSE violation(s).
10. Violation(s) resulting from vandalism or the action of third-party entities
11. Deficiencies or violations occurring as a result of circumstances beyond the FSE’s control as determined by the FOG Coordinator

**Section 5 - Investigation of Noncompliance**

The FOG Coordinator will investigate compliance with the FOG Ordinance in the following ways:

1. On-site inspections of Food Service Establishments, including scheduled and unscheduled visits;
2. Review of documentation of required cleaning/maintenance of grease retention units;
3. Review of records/activities required to be documented and maintained by the User;
4. Review of procedures and implementation of Enforceable Best Management Practices
5. Investigation of sanitary sewer overflows and spill and illegal discharges

**Section 6 - ENFORCEMENT TIER LEVELS:**

**ENFORCEMENT TIER LEVELS/ACTIONS**

**TIER I** Notice of Deficiency/Notice to Correct – No Civil Penalty Assessed

**TIER II** Notice of Violation – Civil Penalty of $0 - $50 Assessed

**TIER III** Notice of Violation – Civil Penalty of $75 - $100 Assessed

**TIER IV** Notice of Violation – Civil Penalty of $150 - $500 Assessed

**TIER V** Notice of Violation – Civil Penalty of $500 - $1000 Assessed

**TIER VI** Notice of Violation - Civil Penalty of $1000 - $10,000 Assessed (Possible Consent Order or Administrative Order)

**TIER VII** Consent Order/Administrative Order with Stipulated Penalties

**TIER VIII** C/O/A/O with Stipulated Penalties and Termination of [Sewer] Service (TOS)

*Note that Reimbursements Costs are in addition to any civil penalties assessed.*

**Section 7 – Types of Violations**

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| --- | --- | --- | --- | --- |
| **Type of Violation** | **1st****Occurrence** | **2nd****Occurrence** | **3rd****Occurrence** | **4th or more****Occurrences** |
| Failure to maintain on site records | TIER I | TIER III-TIER V |  |  |
| Failure to pump grease trap/Interceptor | TIER IV | TIER V | TIER V | TIER V |
| Failure to maintain necessary equipment (T’s, grease trap / interceptor not watertight, baffles) | TIER II | TIER IV | TIER VI | TIER VII |
| Source of sewer blockage | TIER I | TIER II-IV | TIER VI | TIER VI |
| Source of blockage causing sanitary sewer overflow | TIER I | TIER II-IV | TIER VI | TIER VI |
| Falsification of maintenance records | TIER I | TIER V | TIER V | TIERVI |