

City of Princeton
Industrial Pretreatment
Enforcement Response Plan
(ERP)

City of Princeton, Indiana
Wastewater Department

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Prepared by:



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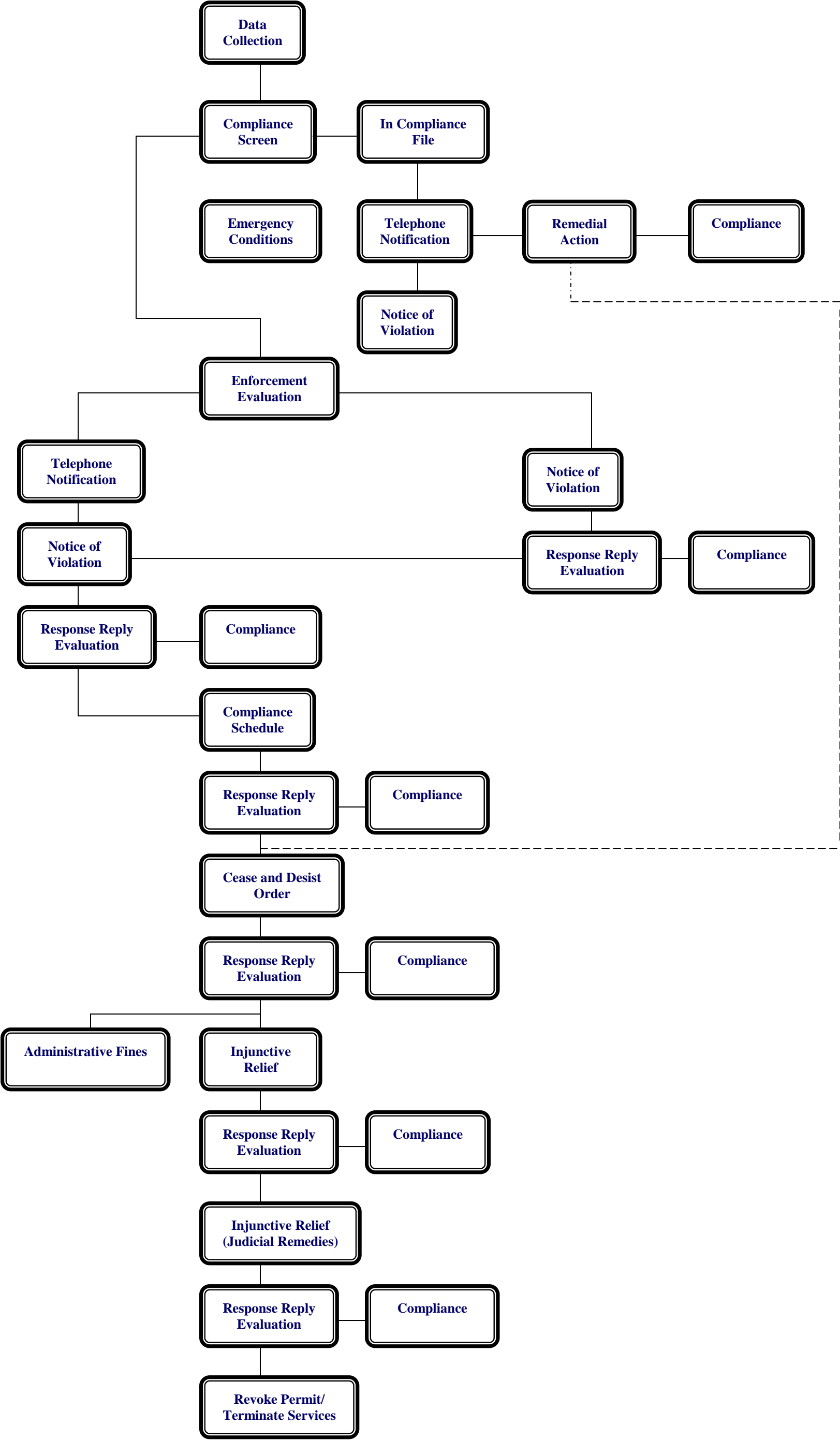
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SECTION 1 - CATEGORIES OF NON-COMPLIANCE

The following categories of noncompliance of industrial and commercial users shall be subject to enforcement procedures initiated by the City of Princeton, Indiana.

- A. Failure to submit required reports (Baseline Monitoring Report, Self Monitoring Reports, Compliance Schedule Reports, and Monthly Reports).
- B. Failure to meet interim or final compliance schedule scheduled dates.
- C. Violations of maximum or average pollutant limitation for industry specific categories (categorical standards).
- D. Violations of prohibited discharges under the National Industrial Treatment Standards (40 CFR 403.5).
- E. Violations of local limits outlined in Ordinance No. 2016-14.
- F. Violations of a Major or Minor Contributor Permit.
- G. Industrial user's falsification of information submitted to the POTW.
- H. Treatment plant upsets and interferences tracked to an industrial user.
- I. Failure to comply with Best Management Practices (BMPs) and report implementation accordingly.

SECTION 2 - FLOW CHART OF ENFORCEMENT RESPONSE PLAN



SECTION 3 - NARRATIVE DESCRIPTION OF ENFORCEMENT RESPONSE PROCEDURES

The following shows the enforcement response procedures of the City of Princeton, Indiana:

A. Data Collection

This process involves the collection of all available information from inspections, monitoring, reporting, plant upsets and private complaints.

B. Inspections

This process involves the inspection of all Significant Industrial Users (SIUs) for conformance with all applicable categorical standards and ordinance limitations and conditions. Inspection frequency shall be at minimum one time per year although more frequent inspection and monitoring may be conducted as appropriate due to the nature of the SIUs operation or compliance status. The wastewater superintendent or his designee is responsible for conducting SIU inspections.

C. Compliance Screening

This process involves the review of all available information and monitoring data to sort out noncomplying dischargers for appropriate enforcement response. This initial review will assess, as appropriate, compliance with required schedules, compliance with reporting features and/or compliance with applicable categorical standards and local ordinance limitation conditions.

D. Emergency Response

If evaluation of the data reveals an Emergency Condition, the City will take appropriate measures to bring the violator into compliance, through immediate telephone contact with the discharger, identifying the problem specifics and requesting immediate corrective measures. If required more formal measures such as cease and desist orders, injunctive relief or termination of the service shall be placed into effect so as to achieve compliance or eliminate the problem occurrence.

E. Enforcement Evaluation for Noncompliance

The violations and conditions identified during the screening processes are reviewed to make a determination relative to the nature of the violation and the type of enforcement necessary. This process is accomplished by using the criteria outlined under Section 4, Enforcement Response Guide.

F. Insignificant Noncompliance

This process consists of notifying the industrial user by Notice of Violation, (mailed certified with return receipt requested). This Notice of Violation outlines the specifics of the incident and seeks remedial action and response of the discharger. The City will then evaluate the response reply to the Notice of Violation and make a determination as

to whether the discharger has returned to compliance. If compliance is not achieved, the incident will return to Enforcement Evaluation for further action.

G. Significant Noncompliance

This process consists of notifying the industrial user by telephone and Notice of Violation (mailed certified with return receipt requested). The Notice of Violation outlines the specifics of the incident (more serious, chronic types of noncompliance as set out under Section 4, Enforcement Response Guide) and seeks remedial action and response of the discharger. The City will then evaluate the response reply to the Notice of Violation and make a determination as to whether the discharger has returned to compliance. If compliance is not achieved, the City will initiate Formal Enforcement Action. Instances of Significant Non-Compliance (SNC) are Industrial User Violations which meet one or more of the following criteria:

1. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six- (6-) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in the City of Princeton Wastewater Department Sewer Use Ordinance and/or Individual Industrial Pretreatment Permit;
2. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six- (6-) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined by the City of Princeton Wastewater Department Sewer Use Ordinance and/or Individual Industrial Pretreatment Permit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
3. Any other violation of a Pretreatment Standard or Requirement as defined by the City of Princeton Wastewater Department Sewer Use Ordinance and/or Individual Industrial Pretreatment Permit (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the Wastewater Department Superintendent determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public;
4. Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Wastewater Department Superintendent's exercise of its emergency authority to halt or prevent such a discharge;
5. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

6. Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
7. Failure to accurately report noncompliance; or
8. Any other violation(s), which may include a violation of Best Management Practices, which the Wastewater Department Superintendent determines will adversely affect the operation or implementation of the local pretreatment program.

H. Formal Action

1. Notification of Violation

When the Superintendent finds that a user has violated, or continues to violate, any provision of Ordinance No. 2016-14, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Superintendent may serve upon that user a written Notice of Violation. Within ten (10) working days of the receipt of such notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Superintendent. 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. Nothing in this section shall limit the authority of the Common Council of the City of Princeton to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

2. Consent Orders

The Common Council of the City of Princeton may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 10.4 and 10.5 of Ordinance No. 2016-14 and shall be judicially enforceable.

3. Show Cause Hearing

The Superintendent may order a user which has violated, or continues to violate, any provision of Ordinance No. 2016-14, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, to appear before the Princeton City Council and show cause why the 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, the reasons for such action, and a request that the user show cause why the 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 fifteen (15) days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

4. Compliance Orders

When the Superintendent finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Common Council of the City of Princeton may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

5. Cease and Desist Orders

When the Superintendent finds that a user has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Common Council City of Princeton may issue an order to the user directing it to cease and desist all such violations and directing the user to:

- A. Immediately comply with all requirements; and
- B. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

6. Administrative Fines

- A. When the Wastewater Superintendent finds that an Industrial User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Wastewater Superintendent may impose a fine of no more than two thousand five hundred dollars (\$2,500) per day, per violation for a first violation nor

more than seven thousand five hundred dollars (\$7,500) per day, per violation for subsequent violations, in accordance with IC 36-1-3-8(a)(10)(B). Such fines shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.

- B. Unpaid charges, fines, and penalties shall, after sixty (60) calendar days, be assessed an additional penalty of ten percent (10%) of the unpaid balance, and interest shall accrue thereafter at the current calculated interest rate per month.

A lien against the user's property will be sought for unpaid charges, fines, and penalties.

- C. Users desiring to dispute such fines must file a written request for the Princeton City Council to reconsider the fine along with full payment of the fine amount within thirty (30) days of being notified of the fine. Where a request has merit, the Princeton City Council may convene a hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The Common Council of the City of Princeton may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

- D. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

7. Emergency Suspensions

The Superintendent may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Superintendent may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

- A. Any user notified of a suspension or its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Superintendent may take such 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 Superintendent may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Superintendent that the period of endangerment has passed, unless the termination proceedings in Section 10.8 of Ordinance No. 2016-14 are initiated against the user.

- B. The user that is responsible, in whole or in part, for any discharge presenting 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 Superintendent prior to the date of any show cause or termination hearing under Section 10.3 or 10.8 of Ordinance No. 2016-14.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

8. Termination of Discharge

In addition to the provisions of Section 5.6 of Ordinance No. 2016-14, any user who violates the following conditions is subject to discharge termination:

- A. Violation of wastewater discharge 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 volume, constituents, and characteristics prior to discharge;
- D. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or
- E. Violation of the pretreatment standards in Section 2.1, 2.3 or 2.4 of Ordinance No. 2016-14.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 10.3 of Ordinance No. 2016-14 why the proposed action should not be taken. Exercise of this option by the Common Council of the City of Princeton shall not be a bar to, or a prerequisite for, taking any other action against the user.

9. Right of Appeal

Any user affected by any decision, action, or determination, including Cease and Desist Orders, made by any Princeton representative; e.g., Inspector, Superintendent, Common Council, interpreting or implementing the provisions of this ordinance, or any permit issued herein, may file with the Superintendent a written request for reconsideration within ten (10) days of such a decision, action, or determination, setting forth in detail the facts supporting the user's request for reconsideration.

If the ruling made by the Superintendent is unsatisfactory to the person requesting reconsideration, he may within ten (10) days from the notification of the Superintendent, file a written appeal to the Common Council of the City of

Princeton. The written appeal shall be heard by the Board within thirty (30) days from the date of filing. The Common Council of the City of Princeton shall make a final ruling on the appeal within fifteen (15) days of the close of the meeting. The Common Council of the City of Princeton's decision, action, or determination shall remain in effect during such period of reconsideration.

I. Judicial Enforcement Action

1. Injunctive Relief

When the Superintendent finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Common Council of the City of Princeton may petition the appropriate Gibson County Court through the City of Princeton's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by Ordinance No. 2016-14 on activities of the user. The Common Council of the City of Princeton may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

2. Civil Penalties

- A. When the Wastewater Superintendent finds that an Industrial User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Wastewater Superintendent may impose a fine of no more than two thousand five hundred dollars (\$2,500) per day, per violation for a first violation nor more than seven thousand five hundred dollars (\$7,500) per day, per violation for subsequent violations, in accordance with IC 36-1-3-8(a)(10)(B). Such fines shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.
- B. The Common Council of the City of Princeton may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City of Princeton.
- C. In determining the amount of civil 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 of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

- D. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

3. Criminal Prosecution

- A. A user who willfully or negligently violates any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$2,500 per violation, per day, or imprisonment for not more than one (1) year, or both.
- B. A user who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of not more than \$2,500, or be subject to imprisonment for not more than one (1) year, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage under State law.
- C. A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this ordinance, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under Ordinance No. 2016-14 shall, upon conviction, be punished by a fine of not more than \$2,500 per violation, per day, or imprisonment for not more than one (1) year, or both.
- D. In the event of a second conviction, a user shall be punished by a fine of not more than \$2,500 per violation, per day, or imprisonment for not more than one (1) year, or both.

4. Remedies Nonexclusive

The remedies provided for in Ordinance No. 2016-14 are not exclusive. The Common Council of the City of Princeton may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the City's enforcement response plan. However, the Common Council of the City of Princeton may take other action against any user when the circumstances warrant and may include the notification of the City of Princeton Police Department, County Sheriff's Department, Indiana State Police, IDEM or the USEPA. Further, the Common Council of the City of Princeton is empowered to take more than one enforcement action against any noncompliant user.

SECTION 4 - ENFORCEMENT RESPONSE GUIDE

A. Enforcement Evaluation Factors and Range of Enforcement Guide

1. Sampling, Monitoring and Reporting

Noncompliance	Circumstances	Range of Response
1. Failure to Sample, Monitor, or Report (routine reports, BMRs).	Isolated or infrequent.	Written Notice of Violation (NOV) requiring a reporting within 5 days. No response leads to significant noncompliance, then formal action, then cease and desist order.
2. Failure to Sample, Monitor, Report or Notify	IU does not respond to letters, does not follow through on verbal or written agreement, or administrative order.	Civil penalties, injunction relief, follow, then show cause hearings leading to termination of service.
3. Failure to Notify of Effluent Limit Violation or Slug Discharge	Isolated or infrequent. No known effects.	NOV
4. Failure to Notify of Effluent Limit Violation of Slug Discharge	Frequent or continued violation.	Same as (1) above.
5. Failure to Notify of Effluent Limit Violation of Slug Discharge	Known environmental or POTW damage results.	Same as (2) above, but could include emergency considerations which accelerate enforcement features leading to termination of service.
6. Minor Sampling, Monitoring or Reporting Deficiencies (computational or typographical errors)	Isolated or infrequent.	NOV. Corrections to be made on next submittal.
7. Major or Gross Sampling, Monitoring or Reporting Deficiencies (missing information, late reports)	Isolated or infrequent.	Telephone notification, NOV, followed by formal action (compliance schedules).
8. Major or Gross Reporting Deficiencies	Continued. Remains uncorrected 30 days or more.	CD or judicial action leading to show cause hearing and termination of service.

2. Compliance Schedules (Construction Phases or Planning)

Noncompliance	Circumstances	Range of Response
9. Reporting False Information	Any instance.	Same as (1) above.
10. Missed Interim Date	Will not cause late final date or other interim dates.	NOV
11. Missed Interim Date	Will result in other missed interim dates. Violation for good or valid cause.	Same as (1) above.
12. Missed Interim Date	Will result in other missed interim dates. No good or valid cause.	Telephone notification, NOV, then formal action, then cease and desist with civil penalty recommendations.
13. Missed Final Date	Violation due to outside force (force majeure event) (strike, act of God, etc.).	Contact permittee and require documentation of good or valid cause.
14. Missed Final Date	90 days or more outstanding. Failure or refusal to comply without good or valid cause.	Same as (2) above.
15. Failure to Install Monitoring Equipment	Continued.	Telephone notification, NOV, formal action (compliance schedules) to begin monitoring (using outside contracts, if necessary) <u>and</u> install equipment within minimal time. Continued noncompliance leads to termination of service.

3. Effluent Limitation Non-Compliance

Noncompliance	Circumstances	Range of Response
16. Exceeding Final Limits (categorical, local or prohibited).	Infrequent or isolated minor violation.	NOV
17. Exceeding Final Limits	Infrequent or isolated major violations exceed the limits by TRC of a single effluent limit.	Same as (1) above.
18. Exceeding Final Limits	Four (4) or more violations of the same effluent limits or two (2) violations which exceed TRC.	Telephone notification, NOV, formal action (compliance schedules, and if necessary, CD with civil penalties recommended.
19. Exceeding Interim Limits	Results in known environmental or Wastewater Utility damage.	Same as (18) above, but could include emergency considerations which accelerate enforcement features leading to termination of service.
20. Reported Slug Load	Isolated without known damage.	NOV
21. Reported Slug Load	Isolated with known interference, pass through or damage.	Same as (19) above.
22. Reported Slug Load	Recurring.	Same as (1) above.
23. Discharge Without a Permit or Approval	One time without known environmental or Wastewater Utility damage.	Telephone notification, NOV, formal action, then CD if necessary.
24. Discharge Without a Permit or Approval	One time which results in environmental damage or continuing violation.	Same as (1) above, including civil penalties, but could include emergency considerations which accelerate enforcement features leading to termination of service.
25. Discharge Without a Permit	Continuing violation with known environmental or Wastewater Utility damage.	Same as (5) above.

4. Non-Compliance Detected Through Inspections or Field Investigation

Noncompliance	Circumstances	Range of Response
26. Minor Violation of Analytical Procedures	Any instance.	NOV
27. Major Violation of Analytical Procedures	No evidence of intent.	NOV
28. Major Violation of Analytical Procedures	Evidence of negligence or intent.	Same as (23) above.
29. Minor Violation of Permit Condition	No evidence of negligence or intent.	NOV
30. Minor Violation of Permit Condition	Evidence of negligence or intent.	Same as (1) above.

B. Measurement of Enforcement Effectiveness

This Range of Enforcement Guide addresses a broad range of Industrial Treatment violations. It is not intended to cover all types of violations. The responses in this guide are suggested responses. The Common Council of the City of Princeton may use alternative enforcement responses that are equally effective. The measure of the effectiveness of an enforcement response includes:

1. Whether the noncomplying source returns to compliance as expeditiously as possible;
2. Whether the enforcement response establishes the appropriate deterrent effect for the particular violator and for other potential violators; and
3. Whether the enforcement response promotes fairness of government treatment as between comparable violators, as well as between complying and noncomplying parties.
4. This guide has been developed for guidance and is not intended to create legal rights or obligations, or to limit the enforcement discretion of the City of Princeton Wastewater Department.

C. Timeframe for Responses

1. All violations will be identified and documented within ten (10) working days of receiving compliance information.
2. Initial enforcement responses involving contact with the industrial user and requesting information on corrective or preventative action(s) will occur within thirty (30) days of violation detection.

3. Follow-up actions for continuing or reoccurring 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 (SNC) will be addressed with an enforceable order within sixty (60) days of the identification of significant non-compliance.

D. Officials/Personnel Responsible for Enforcement Response

1. The City's Wastewater Superintendent or his designee, is responsible for all tracking, inspection, sampling and administrative activity associated with compliance and enforcement of the City's Industrial Pretreatment Program. These activities include, but are not limited to, the following:
 - a. I.U. Permit Development (Permit issuance is by Common Council of the City of Princeton's authority and signature)
 - b. Data Collection/Tracking
 - c. Inspection (Yearly or as necessary)
 - d. Emergency Response
 - e. Enforcement/Compliance Evaluation
 - f. Telephone Notification
 - g. Compliance Meetings
 - h. Written Notice of Violation
 - i. Response Reply Evaluation
 - j. Compliance Directives and Schedule Development
2. As enforcement activity is elevated to the level of cease and desist order, the City Attorney or his designee will provide legal oversight and assistance to the City's Wastewater Superintendent.
 - a. Cease and Desist Order
 - b. Response Reply Evaluation
 - c. Injunctive Relief
 - d. Response Reply Evaluation
 - e. Show Cause Hearing
 - f. Response Reply Evaluation
 - g. Permit Revocation/Service Termination