



City of Columbia

Stormwater Regulations

Adopted September 12, 2024

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Amendments

Number	Date	Ordinance #
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Chapter 1: General provisions

1.1 Title

These regulations shall hereinafter be known and cited as the Stormwater Ordinance of Columbia, Tennessee. They may be referenced within this document as standards, specifications, or regulations.

1.2 Purpose

The purpose of the Stormwater Ordinance is to:

- A. protect, maintain, and enhance the environment of the City of Columbia and the public health, safety and the general welfare of the citizens of the city, by controlling discharges of pollutants to the city's Municipal Separate Storm Sewer System (MS4) and to maintain and improve the quality of the receiving waters into which the stormwater outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and groundwater of the city;
- B. Enable the city to comply with the National Pollution Discharge Elimination System (NPDES) permit and applicable regulations, 40 CFR 122.26 for stormwater discharges; and,
- C. Allow the city to exercise the powers granted in Tennessee Code Annotated (TCA) § 68-221-1105

1.3 Jurisdiction

The Stormwater Management Ordinance shall apply to all properties within the corporate limits of the City of Columbia, except agricultural land management activities subject to United States Department of Agriculture (USDA) regulations.

1.4 Compliance Officer

It shall be the duty of the Columbia City Engineer (hereinafter referred to as the "Compliance Officer" or "City Engineer" or his/her designee to enforce these regulations and to bring to the attention of legal counsel any violations or lack of compliance herewith.

1.5 Severability

It is hereby declared to be the intention of the City Council of Columbia, Tennessee, that the provisions of this Ordinance are separable. If any court of competent jurisdiction shall adjudge any provision of this Ordinance invalid, such judgment shall not affect any other provision of this ordinance not specifically included in said judgment; and if any court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance to a particular property such judgment shall not affect the application of said provisions to any other property not specifically included in said judgment.

1.6 Saving Provision

The Stormwater Ordinance shall not be construed as abating any action now pending under or by virtue of previous applicable regulations or standards, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, or as waiving any right of the governing body under any section or provision existing at the time of adoption of these regulations, or as vacating or annulling any rights obtained by any person by lawful action of the governing body, except as expressly shall be provided otherwise in these regulations.

1.9 Amendments

For the purpose of providing for the public health, safety, and general welfare the City Council may from time to time amend these regulations.

1.10 Appeals

- A. The Columbia Municipal Planning Commission (CMPC) shall hear and decide appeals of orders, decisions, or determinations made by the City Engineer or designee relating to the application and interpretation of the technical provisions of the Stormwater Ordinance.
- B. The application for appeal shall be filed with the City Engineer or designee within ninety (90) calendar days after the ruling by the City Engineer or designee was made, and shall be accompanied by a fee, as determined by the Development Services Department.
- C. The CMPC shall not grant exceptions to the provisions of this ordinance in conflict with the City's MS4 permit and State of Tennessee regulations, rules, and laws.
- D. Each item listed below shall be considered and deemed satisfied by the CMPC prior to the approval of an exception:
 1. The strict application of this ordinance would result in practical difficulties to or undue hardship on the owner of the property;
 2. The situation is not self-created; and
 3. The exception may be granted without substantial detriment to the public good and without sustainably impairing the intent and purpose of this ordinance.
- E. The CMPC shall keep a record of all appeals.

1.11 Inspection

All developments shall be subject to inspection during and upon completion of construction by an authorized representative(s) of the City. Presence or absence of an inspector during construction does not relieve the Developer and/or Contractor from adherence to approved plans and material contained in these specifications or from liability. Materials and/or workmanship found not meeting requirements of approved plans and specifications shall be immediately brought into conformity with said plans and specifications.

1.12 Testing

The City Engineer may require testing to verify construction materials and methodologies applicable to this ordinance. Testing shall be done by an independent testing laboratory, and results shall be submitted to and approved by the City Engineer. The Developer shall provide testing when requested by the City Engineer. Defects disclosed by the tests shall be corrected or rectified at no cost to the City.

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Chapter 2: Land Disturbing Activities

2.1 General

The city adopts as its MS4 stormwater design and best management practices (BMP) manuals for stormwater management, the following publications, which are incorporated by reference in this ordinance as if fully set out herein:

- A. For Construction Site Stormwater Runoff Pollutant Control, “TDEC - Erosion Prevention and Sediment Control Handbook”; most current edition,
- B. For Post Construction Stormwater Runoff, “Tennessee Permanent Stormwater Management and Design Guidance Manual”; most current edition,
- C. A collection of approved BMP’s developed or collected by the City of Columbia that comply with the goals of the MS4 permit and/or the State of Tennessee Construction General Permit (CGP).
- D. The city reserves the right to accept or reject BMP’s or Stormwater Control Methods (SCM)s and engineering methods and calculations not explicitly detailed within the adopted BMP manuals.
- E. The city manual(s) may be updated and expanded from time to time, at the discretion of the governing body of the city, upon the recommendation of the City Engineer or designee, based on improvements in engineering, science, monitoring and local maintenance experience, or changes in federal or state law or regulation. Stormwater facilities that are designed, constructed and maintained in accordance with these BMP criteria will be presumed to meet the minimum water quality performance standards.

2.2 Land Disturbance Permit

2.2.1 Requirement to Obtain

All development that meets one or more of the following criteria must obtain a Land Disturbance Permit;

- A. Development that results in land disturbance of equal to or greater than one (1) acre, or less than one (1) acre if part of a larger plan of common development or sale;
- B. Development that results in ten thousand (10,000) square feet or more of additional impervious surface;
- C. Development less than the requirements listed above may also be required to obtain authorization under this ordinance if:
 - a. The City Engineer or designee has determined that the stormwater discharge from a site is causing, contributing to, or is likely to contribute to a violation of a state or federal water quality standard;
 - b. The City Engineer or designee has determined that the stormwater discharge is, or is likely to be a significant contributor of pollutants to waters of the state;
 - c. Changes in state or federal rules require sites of less than ten thousand (10,000) square feet that are not part of a larger common plan of development or sale to obtain a permit from the authorizing MS4 authority; and
 - d. Any development, regardless of size, that is defined by the City Engineer or designee to be a hotspot land use.

2.2.2 Issuance of Permit

The City Engineer or designee shall issue a Land Disturbance Permit for development that meets the guidelines and requirements of this ordinance as well as all other regulations including but not limited to the Engineering Standards and Specifications, Zoning Ordinance, Access Management Ordinance, and Subdivision Regulations. Application for a permit shall be accompanied by a fee as specified in Engineering Fee Schedule.

A pre-construction meeting with the City Engineer or designee shall be held with the Primary Permittee or designee, Operator(s), and EPSC Professional(s) prior to the issuance of a Land Disturbance Permit.

Prior to commencement of land disturbing activities, the Operator(s) must request an inspection of the site with applicable EPSC practices in place, as designated at the pre-construction meeting. This inspection is not a substitute for Construction General Permit (CGP) initial site assessment requirements.

If coverage under the Construction General Permit (CGP) is required, prior to the pre-construction meeting, proof of Notice of Coverage of the CGP must be provided to the city. Proof of Notice of Termination of the CGP must be also be provided before termination of the Land Disturbance Permit.

Copies of additional applicable local, state or federal permits (i.e.: ARAP, etc.) must also be provided upon request. If requested, these permits must be provided before the issuance of any land disturbance permit or the equivalent.

2.2.3 Termination

The Primary Permittee shall notify the City Engineer once all areas have been stabilized and vegetated, all permanent stormwater controls have been installed, and all construction activities have been completed related to the corresponding Land Disturbance Permit to be granted a Notice of Termination. This shall be completed prior to the release of all performance sureties.

The Primary Permittee shall be responsible for all standards and practices required under this Chapter, regardless of individual lot ownership, until a Notice of Termination is issued by the City Engineer.

2.2.4 Expiration

Every Land Disturbance Permit shall expire and become null and void if substantial work authorized by such permit has not commenced within one hundred and eighty (180) calendar days of issuance, or is not complete within eighteen (18) months from the date of the commencement of construction. Expiration of a Land Disturbance Permit does not release Operator(s) from the requirements of this Chapter. Once a permit has expired, a new permit shall be applied for and shall be accompanied by a fee as specified in the Engineering Fee Schedule.

2.2.5 Extension

Prior to the expiration of the Land Disturbance Permit, the Primary Permittee must request a Land Disturbance Permit extension from the City Engineer or designee.

2.3 Construction Site Stormwater Runoff Control

All land disturbing activities shall exercise erosion prevention and sediment control (EPSC) consistent with the intent of this chapter and the State of Tennessee Construction General Permit.

2.3.1 Sites Receiving a Land Disturbance Permit

All construction sites receiving a Land Disturbance Permit shall follow the requirements of the State of Tennessee's Construction General Permit (CGP) and those set forth in this Chapter (whichever is more stringent) including the following:

- A. The design-storm for EPSC practices shall be consistent with the Tennessee Construction General Permit;
- B. Land disturbing activities may commence once EPSC practices have been installed and are operational to the City's satisfaction and the Land Disturbance Permit has been issued;
- C. All construction site operators must control wastes such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site.
- D. The city may require more stringent EPSC practices on properties adjacent to impaired waters, or within impaired watersheds, watersheds with TMDLs, or sites in close proximity to water resources. This may include measures that limit or eliminate, with a greater safety factor, the potential for Sediment or other forms of water pollution from entering Sensitive Areas as designated by TDEC or the City Engineer;
- E. The city may require more stringent EPSC practices on properties containing or adjacent to slopes greater than 30 percent.
- F. Unwarranted acceleration of erosion or sedimentation, or transport of other pollutants or forms of pollution, due to various land development activities shall be controlled;
- G. If deemed appropriate, the City may require the addition, removal or modification of EPSC measures and/or EPSC locations at any time during the construction process to ensure proper EPSC performance;
- H. The City may impose enforcement actions outlined in **Chapter 5** if any site, development, or construction is found to be in violation of this ordinance or the CGP in order to achieve EPSC compliance.

2.4 Post Construction Stormwater Quality

- A. The water quality treatment design storm is a 1-year, 24-hour storm event as defined by NOAA Atlas 14. The water quality treatment volume (WQTV) is a portion of the runoff generated from impervious surfaces at a new development or redevelopment project by the design storm, as set forth below.
- B. Roof runoff is considered to be contaminated and may be not be excluded from the WQTV.
- C. SCMs shall be located in common or open space lots on residential developments requiring plats. All other development shall be required to locate SCMs in a Public Drainage Easement.
- D. When adjacent to or in the vicinity of a stream, wetland, pond, or other aquatic resource, the invert elevation of the outlet control structure shall be no lower than one (1.0) foot above the top of bank.
- E. In areas with a base flood elevation established, the invert elevation of the outlet control structure shall be no lower than the base flood elevation.
- F. SCMs must be designed, at a minimum, to achieve an overall treatment efficiency of 80% TSS removal from the WQTV. The quantity of the WQTV depends on the type of treatment provided, as established in **Table 1**.

Table 1: Water Quality Treatment Volume and the Corresponding SCM Treatment Type

SCM Type	WQTV	Examples
Type A	runoff generated from the first 1 inch of the design storm	bioretention, stormwater wetlands, and infiltration systems.
Type B	runoff generated from the first 1.25 inches of the design storm	Biologically active filtration with underdrains with a minimum of 12 inches of water storage. Bioretention, pervious pavers and pavements, green roofs
Type C	runoff generated from the first 2.5 inches of the design storm or the first 75% of the design storm, whichever is less	extended detention ponds, wet ponds, sand or gravel filtration, and settling ponds
Type D	maximum runoff generated from the entire design storm	hydrodynamic separators, baffle box settling, and flow-through manufactured treatment devices (MTDs), and treatment trains using MTDs

2.4.1 Treatment Trains

Treatment trains using MTDs must provide an overall treatment efficiency of at least 80% TSS reduction utilizing the following formula:

$$R = A + B - \frac{A \times B}{100}$$

Where:

R = total TSS percent removal from application of both SCMs,

A = the TSS percent removal rate applicable to the first SCM, and

B = the TSS percent removal rate applicable to the second SCM.

TSS removal rates for MTD must be evaluated using industry-wide standards.

TSS removal rates for other SCMs must be from published reference literature.

Treatment trains using infiltration, evaporation, transpiration, reuse, or biologically active filtration followed by sand or gravel filtration, settling ponds, extended detention ponds or wet ponds may subtract the treated WQTV of the upstream SCMs from the WQTV of the downstream SCMs.

2.5 Performance Surety

The City Engineer or designee may, at its discretion, require the submittal of a performance security or performance bond prior to issuance of a permit or Certificate of Occupancy in order to ensure that the storm water practices are installed by the permit holder as required by the approved Stormwater Management Plan. The amount of the surety shall be the total estimated construction cost of the structural BMPs approved under the permit plus any reasonably foreseeable additional related costs, e.g., for damages or enforcement. The performance surety shall contain forfeiture provisions for failure to complete work specified in the stormwater management plan. The applicant shall provide an itemized construction cost estimate complete with unit prices which shall be subject to acceptance, amendment or rejection by the City Engineer or designee. Alternatively, the City Engineer or designee shall have the right to calculate the amount of construction cost estimates.

The performance surety shall be released in full only upon submission of as-built plans and written certification by a registered professional engineer licensed to practice in Tennessee that the structural BMP has been installed in accordance with the approved plan and other applicable provisions of this title. The City Engineer or designee will make a final inspection of the structural BMP to ensure that it is in compliance with the approved plan and the provisions of this chapter. Provisions for a partial pro-rata release of the performance surety based on the completion of various development stages can be made at the discretion of the City Engineer or designee.

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Chapter 3: Operation, Maintenance, and Inspection.

3.1 Inspection of Stormwater Management Facilities

Periodic inspections of facilities shall be performed, documented, and reported in accordance with this chapter.

3.1.1 Records of Installation, Inspection, and Maintenance activities

Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation of the stormwater facility, inspection, and of all maintenance and repairs to the facility, and shall retain the records for at least six (6) years. These records shall be made available to the City during inspection of the facility and at other reasonable times upon request.

3.1.2 Failure to Meet or Maintain Design or Maintenance Standards.

If a responsible party fails or refuses to meet the design or maintenance standards required for stormwater facilities under this chapter, the City, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the City shall notify in writing the party responsible for maintenance of the stormwater management facility. Upon receipt of that notice, the responsible person shall have thirty (30) days to effect maintenance and repair of the facility in an approved manner. In the event that corrective action is not undertaken within that time, the City may take necessary corrective action. The cost of any action by the City under this section shall be charged to the responsible party.

3.2 Existing Locations and New Developments – Maintenance Agreement

Where the stormwater facility is located on property that is subject to a Land Disturbance Permit or the development provides for permanent stormwater facilities, the owners of the property must execute an inspection and maintenance agreement that shall operate as a deed restriction binding on the current property owners and all subsequent property owners and their lessees and assigns, including but not limited to, homeowner associations or other groups or entities.

3.1.1 Maintenance Agreement

The maintenance agreement shall:

- A. Assign responsibility for the maintenance of the stormwater facilities to the owners/operators, a third party, or the City of Columbia for all stormwater facilities and SCMs.
- B. Provide for a periodic inspection responsible party in accordance with the requirements of **Section 3.5** for the purpose of documenting maintenance and repair needs and to ensure compliance with the requirements of this ordinance. It shall also grant permission to the City to enter the property at reasonable times and to inspect the stormwater facility to ensure that it is being properly maintained.
- C. Provide that the minimum maintenance and repair needs include, but are not limited to: the removal of silt, litter and other debris, the cutting of grass, cutting and vegetation removal, and the replacement of landscape vegetation, in detention and retention basins, and inlets and drainage pipes and any other stormwater facilities. It shall also provide that the property owners shall be responsible for additional maintenance and repair needs consistent with the needs and standards outlined in the MS4 BMP manual(s).
- D. Provide that maintenance needs must be addressed in a timely manner, on a schedule to be determined by the City Engineer or designee.
- E. Provide that if the property is not maintained or repaired within the prescribed schedule, the City of Columbia may perform the maintenance and repair at its expense, and bill the same to the property owner. The maintenance agreement shall also provide that the City of Columbia cost of performing the maintenance shall be a lien against the property.

3.3 Existing Locations – No Maintenance Agreement.

The City Engineer or designee shall in writing notify the owners of existing locations and developments of specific drainage, erosion or sediment problems affecting or caused by such locations and developments, and the specific actions required to correct those problems. The notice shall also specify a reasonable time for compliance. Discharges from existing BMP's that have not been maintained and/or inspected in accordance with this ordinance shall be regarded as illicit.

The City may, to the extent authorized by state and federal law, enter and inspect private property for the purpose of determining if there are illicit non-stormwater discharges, and to establish inspection programs to verify that all stormwater management facilities are functioning within design limits. These inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of the city's NPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other BMP's.

3.4 Requirements for All Existing Locations and Ongoing Developments

The following requirements shall apply to all locations and development at which land disturbing activities are currently occurring or have previously occurred:

- A. Denuded areas must be vegetated or covered under the standards and guidelines specified in this Ordinance and the CGP and on a schedule acceptable to the City Engineer or designee.
- B. Cuts and slopes must be properly covered with appropriate vegetation and/or retaining walls constructed.

3.5 Owner/Operator Inspections

The owners and/or the operators of stormwater management practices shall:

- A. Perform routine inspections to ensure that the BMP's are properly functioning. These inspections shall be conducted on an annual basis, at a minimum. These inspections shall be conducted by a person familiar with control measures implemented at a site. Owners or operators shall maintain documentation of these inspections. The City of Columbia may require submittal of this documentation.
- B. Perform comprehensive inspection of all stormwater management facilities and practices. These inspections shall be conducted once every five (5) years, at a minimum. Such inspections must be conducted by either a professional engineer or landscape architect, licensed in the State of Tennessee. Complete inspection reports for these five (5) year inspections shall include:
 - a. Facility type,
 - b. Inspection date,
 - c. Latitude and longitude and nearest street address,
 - d. BMP owner and operator information (e.g. name, address, phone number, fax, and email),
 - e. A description of BMP condition including: vegetation and soils; inlet and outlet channels and structures; embankments, slopes, and safety benches; spillways, weirs, and other control structures; and any sediment and debris accumulation,
 - f. Photographic documentation of BMP's, and
 - g. Specific maintenance items or violations that need to be corrected by the BMP owner along with deadlines and re-inspection dates.
- C. Owners or operators shall maintain documentation of these inspections. The City of Columbia may require submittal of this documentation.

3.6 Corrections of Problems Subject to Appeal

Corrective measures imposed by the City Engineer or designee under this section are subject to appeal under **Section 5.3**.

Chapter 4: Illicit Discharges

4.1 Prohibition of illicit discharges

No person shall introduce or cause to be introduced into the municipal separate storm sewer system any discharge that is not composed entirely of stormwater or any discharge that flows from a stormwater facility that is not inspected in accordance with section §14-412 shall be an illicit discharge.

Non-stormwater discharges shall include, but shall not be limited to:

- sanitary wastewater
- car wash wastewater
- radiator flushing disposal
- spills from roadway crashes
- carpet cleaning wastewater
- effluent from septic tanks
- improper oil disposal,
- laundry wastewater/gray water
- improper disposal of auto and household toxics.

The commencement, conduct or continuance of any non-stormwater discharge to the municipal separate storm sewer system is prohibited. except as described as follows:

- A. Uncontaminated discharges from the following sources:
- Water line flushing or other potable water sources;
 - Landscape irrigation or lawn watering with potable water;
 - Diverted stream flows;
 - Rising ground water;
 - Groundwater infiltration to storm drains;
 - Pumped groundwater;
 - Foundation or footing drains;
 - Crawl space pumps;
 - Air conditioning condensation;
 - Springs;
 - Non-commercial washing of vehicles;
 - Natural riparian habitat or wetland flows;
 - Swimming pools (if dechlorinated - typically less than one PPM chlorine);
 - Firefighting activities;
 - Any other uncontaminated water source.
- B. Discharges specified in writing by the city as being necessary to protect public health and safety.
- C. Dye testing is an allowable discharge if the city has so specified in writing.
- D. Discharges authorized by the Construction General Permit (CGP):
- Dewatering of collected stormwater and groundwater
 - Waters used to wash dust and soils from vehicles where detergents are not used and detention and/or filtering is provided before the water leaves site. Wash removal of process materials such as oil, asphalt or concrete is not authorized.
 - Water used to control dust
 - Potable water sources, including waterline flushings, from which chlorine has been removed to the maximum extent practicable.
 - Routine external building washdown that does not use detergents or other chemicals.
 - Uncontaminated, non-turbid groundwater or spring water.
 - Foundation or footing drains where flows are not contaminated with pollutants (e.g., lubricants and fluids from mechanized equipment, process materials such as solvents, heavy metals, etc.).
 - Discharges from emergency fire-fighting activities.
 - Fire hydrant flushings.
 - Landscape irrigation.
 - Pavement wash waters, provided spills or leaks of toxic or hazardous substances have not occurred (unless all spill material has been removed) and where soaps, solvents, and detergents are not used.
 - Uncontaminated air conditioning or compressor condensate.

4.2 Prohibition of Illicit Connections

The construction, use, maintenance or continued existence of illicit connections to the municipal separate storm sewer system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

Reduction of Stormwater Pollutants by the Use of BMP's.

Any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, the BMP's necessary to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section. Discharges from existing BMP's that have not been maintained and/or inspected in accordance with this ordinance shall be regarded as illicit.

Notification of spills

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into, the municipal separate storm sewer system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, the person shall notify the city in person or by telephone, fax, or email, no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the city within three (3) business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

Dumping

No person shall dump or otherwise deposit outside an authorized landfill, convenience center or other authorized garbage or trash collection point, any trash or garbage of any kind or description on any private or public property, occupied or unoccupied, inside the city.

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Chapter 5: Enforcement

5.1 Enforcement Authority

The City Engineer or designee shall have the authority to issue notices of violation and citations, and to impose the civil penalties provided in this section. Measures authorized include:

- A. **Verbal Warnings**
- B. **Written Notices**
- C. **Citations with Administrative Penalties**
- D. **Stop Work Orders**
- E. **Withholding of Plan Approvals or Other Authorizations**
- F. **Additional Measures**

The Enforcement Response Plan (ERP) shall guide the City Engineer or designee in selecting the appropriate enforcement action or penalty. The Enforcement Response Plan (ERP) is attached to this Ordinance in **Appendix A**.

5.1.1 Verbal Warning

Verbal warnings may be given at the discretion of the inspector when it appears the condition can be corrected by the violator within a reasonable time, which time shall be approved by the inspector.

5.1.2 Written Notice

Whenever City Engineer or designee finds that any permittee or any other person discharging stormwater has violated or is violating this ordinance or a permit or order issued hereunder, the City Engineer or designee may serve upon such person written notice of the violation. Within ten (10) days 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 City Engineer or designee. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation.

5.1.3 Consent Orders

The City of Columbia is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the person to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to paragraphs (d) and (e) below.

5.1.4 Show Cause Hearing

The City Engineer or designee may order any person who violates this chapter or permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the person specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the violator 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.

5.1.5 Compliance Order

When the City Engineer or designee finds that any person has violated or continues to violate this chapter or a permit or order issued thereunder, the City Engineer or designee may issue an order to the violator directing that, following a specific time period, adequate structures or devices be installed and/or procedures be implemented and properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the construction of appropriate structures, installation of devices, self-monitoring, and management practices.

5.1.6 Cease and Desist and Stop Work Orders

When the City Engineer or designee finds that any person has violated or continues to violate this chapter or any permit or order issued hereunder, the City Engineer or designee may issue a stop work order or an order to cease and desist all such violations and direct those persons in noncompliance to:

- A. Comply forthwith; or
- B. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation; including halting operations except for terminating the discharge and installing appropriate control measures.

5.1.7 Suspension, Revocation, or Modification of Permit

The City of Columbia may suspend, revoke or modify the permit authorizing the land development project or any other project of the applicant or other responsible person within the city. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated upon such conditions as the City Engineer or designee may deem necessary to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

5.1.8 Conflicting standards

Whenever there is a conflict between any standard contained in this chapter and in the BMP manual(s) adopted by the City under this ordinance, the strictest standard shall prevail.

5.2 Penalties.

5.2.1 Violations

Any person who shall commit any act declared unlawful under this chapter, who violates any provision of this chapter, who violates the provisions of any permit issued pursuant to this chapter, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by the City of Columbia, shall be guilty of a civil offense.

5.2.2 Penalties

Under the authority provided in Tennessee Code Annotated §68-221-1106, the city declares that any person violating the provisions of this chapter may be assessed a civil penalty by the City of Columbia of not less than fifty dollars (\$50.00) and not more than five thousand dollars (\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation.

5.2.3 Measuring Civil Penalties

In assessing a civil penalty, the City of Columbia may consider:

- A. The harm done to the public health or the environment;
- B. Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;
- C. The economic benefit gained by the violator;
- D. The amount of effort put forth by the violator to remedy this violation;
- E. Any unusual or extraordinary enforcement costs incurred by the City;
- F. The amount of penalty established by ordinance or resolution for specific categories of violations; and
- G. Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

5.2.4 Recovery of Damages and Costs

In addition to the civil penalties, the City may recover:

- A. All damages proximately caused by the violator to the city, which may include any reasonable expenses incurred in investigating violations of, and enforcing compliance with, this chapter, or any other actual damages caused by the violation.
- B. The costs of the city's maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by this chapter.

5.2.5 Referral to TDEC

Where the City has used progressive enforcement to achieve compliance with this ordinance, and in the judgment of the city has not been successful, the city may refer the violation to TDEC. For the purposes of this provision, “progressive enforcement” shall mean two (2) follow-up inspections and two (2) warning letters. In addition, enforcement referrals to TDEC must include, at a minimum, the following information:

- A. Construction project or industrial facility location;
- B. Name of owner or operator;
- C. Estimated construction project or size or type of industrial activity (including SIC code, if known);
- D. Records of communications with the owner or operator regarding the violation, including at least two follow-up inspections, two warning letters or notices of violation, and any response from the owner or operator.

5.2.6 Other Remedies

The city may bring legal action to enjoin the continuing violation of this chapter, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.

5.2.7 Remedies Cumulative

The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted.

5.3 Appeals

Pursuant to Tennessee Code Annotated § 68-221-1106(d), any person aggrieved by the imposition of a civil penalty or damage assessment as provided by this chapter may appeal said penalty or damage assessment to the city's governing body.

5.3.1 Appeals to be in Writing

The appeal shall be in writing and filed with the municipal recorder or clerk within thirty (30) days after the civil penalty and/or damage assessment is served in any manner authorized by law.

5.3.2 Public hearing

Upon receipt of an appeal, the city's governing body, or other appeals board established by the city's governing body shall hold a public hearing within thirty (30) days. Ten (10) days prior notice of the time, date, and location of said hearing shall be published in a daily newspaper of general circulation. Ten (10) days' notice by registered mail shall also be provided to the aggrieved party, such notice to be sent to the address provided by the aggrieved party at the time of appeal. The decision of the governing body of the city shall be final.

5.3.3 Appealing Decisions of the City's Governing Body

Any alleged violator may appeal a decision of the city's governing body pursuant to the provisions of Tennessee Code Annotated, title 27, chapter 8.

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Chapter 6: Definitions

For the purpose of this chapter, the following definitions shall apply: Words used in the singular shall include the plural, and the plural shall include the singular; words used in the present tense shall include the future tense. The word “shall” is mandatory and not discretionary. The word “may” is permissive. Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster’s Dictionary.

Administrative or Civil Penalties

Under the authority provided in Tennessee Code Annotated § 68-221-1106, the city declares that any person violating the provisions of this chapter may be assessed a civil penalty by the city of not less than fifty dollars (\$50.00) and not more than five thousand dollars (\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation.

As-built plans

Drawings depicting conditions as they were actually constructed.

Best Management Practices (BMP)

Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to waters of the state. BMP’s also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Borrow Pit

An excavation from which erodible material (typically soil) is removed to be fill for another site. There is no processing or separation of erodible material conducted at the site. Given the nature of activity and pollutants present at such excavation, a borrow pit is considered a construction activity for the purpose of this permit.

Buffer Zone

A setback from the top of water body’s bank of undisturbed vegetation, including trees, shrubs and herbaceous vegetation; enhanced or restored vegetation; or the re-establishment of native vegetation bordering streams, ponds, wetlands, springs, reservoirs or lakes, which exists or is established to protect those water bodies. The goal of the water quality buffer is to preserve undisturbed vegetation that is native to the streamside habitat in the area of the project. Vegetated, preferably native, water quality buffers protect water bodies by providing structural integrity and canopy cover, as well as stormwater infiltration, filtration and evapotranspiration. For Buffer Zone requirements see the Engineering Standards and Specifications (ESS).

Channel

A natural or artificial watercourse with a definite bed and banks that conducts flowing water continuously or periodically.

Common plan of development or sale

Broadly defined as any announcement or documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating construction activities may occur on a specific plot. A common plan of development or sale identifies a situation in which multiple areas of disturbance are occurring on contiguous areas. This applies because the activities may take place at different times, on different schedules, by different operators.

Design storm event

A hypothetical storm event, of a given frequency interval and duration, used in the analysis and design of a stormwater facility. The estimated design rainfall amounts, for any return period interval in terms of either 24-hour depths or intensities for any duration, can be found by accessing the following NOAA National Weather Service Atlas 14 data for the Columbia, Tennessee station ID: 40-1957.

Contaminant

Any physical, chemical, biological, or radiological substance or matter in water.

Development

Any man-made change to improved or unimproved real estate, including but not limited to, Buildings or other Structures, mining, dredging, Filling, Grading, paving, excavating, drilling operations, or permanent storage of materials (as defined as materials of like nature stored in whole or in part for more than six months).

Discharge

Dispose, deposit, spill, pour, inject, seep, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means including any direct or indirect entry of any solid or liquid matter into the municipal separate storm sewer system.

Easement

An acquired privilege or right of use or enjoyment that a person, party, firm, corporation, city or other legal entity has in the land of another.

Erosion

The removal of soil particles by the action of water, wind, ice or other geological agents, whether naturally occurring or acting in conjunction with or promoted by human activities or effects.

Erosion Prevention and Sediment Control (EPSC) Plan

A written plan including drawings or other graphic representations) that is designed to minimize the erosion and sediment runoff at a site during construction activities.

Hotspot

An area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater. The following land uses and activities are deemed stormwater hot spots, but that term is not limited to only these land uses:

Illicit Connections

Illegal and/or unauthorized connections to the municipal separate storm sewer system whether or not such connections result in discharges into that system.

Illicit Discharge

Any discharge to the municipal separate storm sewer system that is not composed entirely of stormwater and not specifically exempted under **Chapter 4**.

Improved Sinkhole

A natural surface depression that has been altered in order to direct fluids into the hole opening. Improved sinkhole is a type of injection well regulated under TDEC's Underground Injection Control (UIC) program. Underground injection constitutes an intentional disposal of waste waters in natural depressions, open fractures, and crevices (such as those commonly associated with weathering of limestone).

Inspector

A person that has successfully completed (has a valid certification from) the "Fundamentals of Erosion Prevention and Sediment Control Level I" course or equivalent course. An inspector performs and documents the required inspections, paying particular attention to time-sensitive permit requirements such as stabilization and maintenance activities. An inspector may also have the following responsibilities:

- A. Oversee the requirements of other construction-related permits, such as Aquatic Resources Alteration Permit (ARAP) or Corps of Engineers permit for construction activities in or around waters of the state;
- B. Update field SWPPP's;
- C. Conduct pre-construction inspection to verify that undisturbed areas have been properly marked and initial measures have been installed; and
- D. Inform the permit holder of activities that may be necessary to gain or remain in compliance with the Construction General Permit (CGP) and other environmental permits.

Land Disturbing Activity

Any activity on property that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land-disturbing activities include, but are not limited to, development, re-development, demolition, construction, reconstruction, clearing, grading, filling, and excavation.

Maintenance

Any activity that is necessary to keep a stormwater facility in good working order so as to function as designed. Maintenance shall include complete reconstruction of a stormwater facility if reconstruction is needed in order to restore the facility to its original operational design parameters. Maintenance shall also include the correction of any problem on the site property that may directly impair the functions of the stormwater facility.

Maintenance Agreement

A document recorded in the land records that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

Municipal Separate Storm Sewer System (MS4)

The conveyances owned or operated by the city for the collection and transportation of stormwater, including the roads and streets and their drainage systems, catch basins, curbs, gutters, ditches, man-made channels, and storm drains, and where the context indicates, it means the municipality that owns the separate storm sewer system.

National Pollutant Discharge Elimination System (NPDES) Permit

A permit issued pursuant to 33 U.S.C. 1342.

Off-site Facility

A structural BMP located outside the subject property boundary described in the permit application for land development activity.

On-site Facility

A structural BMP located within the subject property boundary described in the permit application for land development activity.

Operator

Any person associated with construction activities that has either design control over construction plans and specifications or day to day operational control over activities on site that are necessary to comply with the SWPPP.

Peak flow

The maximum instantaneous rate of flow of water at a particular point resulting from a storm event.

Person

Any and all persons, natural or artificial, including any individual, firm or association and any municipal or private corporation organized or existing under the laws of this or any other state or country.

Redevelopment

The alteration of developed land. Redevelopment is not intended to include such activities as exterior remodeling, which would not be expected to cause adverse stormwater quality impacts.

Roadway Prism

A portion of the right-of-way between the back of ditch (at the elevation of the adjoining roadway shoulder) or the back of sidewalk and including the roadway ditches, traveled way, shoulders and auxiliary lanes.

Runoff

A portion of the precipitation on a drainage area that is discharged from the area into the municipal separate storm sewer system.

Sediment

Solid material, both inorganic and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface either above or below sea level.

Sedimentation

The process of soil particles suspended in stormwater settling out of solution.

Soils Report

A study of soils on a subject property with the primary purpose of characterizing and describing the soils. The soils report shall be prepared by a qualified soils engineer, who shall be directly involved in the soil characterization either by performing the investigation or by directly supervising employees conducting the investigation.

Stabilization

Adequate measures, vegetative, and/or structural, that will prevent erosion from occurring.

Stormwater

Stormwater runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration and drainage.

Stormwater Entity

The entity designated by the city to administer the stormwater management ordinance, and other stormwater rules and regulations adopted by the city.

Stormwater Management

The programs to maintain quality and quantity of stormwater runoff to pre-development levels.

Stormwater Management Facilities

The drainage structures, conduits, ponds, ditches, combined sewers, sewers, and all device appurtenances by means of which stormwater is collected, transported, pumped, treated, or disposed.

Stormwater Management Plan (SWMP)

The set of drawings and other documents that comprise all the information and specifications for the programs, drainage systems, structures, BMP's, concepts and techniques intended to maintain or restore quality and quantity of stormwater runoff to pre-development levels.

Stormwater Pollution Prevention Plan (SWPPP)

A written plan that includes site map(s), an identification of construction/contractor activities that could cause pollutants in the stormwater, and a description of measures or practices to control these pollutants. It must be prepared and approved before construction begins. In order to effectively reduce erosion and sedimentation impacts, Best Management Practices (BMP's) must be designed, installed, and maintained during land disturbing activities. The SWPPP should be prepared in accordance with the current Tennessee Erosion and Sediment Control Handbook. The handbook is intended for use during the design and construction of projects that require erosion and sediment controls to protect waters of the state. It also aids in the development of SWPPPs and other reports, plans, or specifications required when participating in Tennessee's water quality regulations. All SWPPP's shall be prepared and updated in accordance with Section 3 of the General NPDES Permit for Discharges of Stormwater Associated with Construction Activities.

Stormwater Runoff

Flow on the surface of the ground, resulting from precipitation.

Structural BMP's

Facilities that are constructed to provide control of stormwater runoff.

Surface Water

Waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other water courses, lakes and reservoirs.

Waste Site

An area where waste material from a construction site is deposited. When the material is erodible, such as soil, the site must be treated as a construction site.

Water Quality Buffer

See “Buffer”.

Watercourse

A permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

Watershed

All the land area that contributes runoff to a particular point along a waterway.

Waters or Waters of the State

Any and all water, public or private, on or beneath the surface of the ground, which are contained within, flow through, or border upon Tennessee or any portion thereof except those bodies of water confined to and retained within the limits of private property in single ownership which do not combine or effect a junction with natural surface or underground waters.

Wetland

Areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted to life in saturated soil conditions. Wetlands include, but are not limited to, swamps, marshes, bogs, and similar areas.

Wet Weather Conveyances

Man-made or natural watercourses, including natural watercourses that have been modified by channelization, that flow only in direct response to precipitation runoff in their immediate locality and whose channels are above the groundwater table and are not suitable for drinking water supplies; and in which hydrological and biological analyses indicate that, under normal weather conditions, due to naturally occurring ephemeral or low flow, there is not sufficient water to support fish or multiple populations of obligate lotic aquatic organisms whose life cycle includes an aquatic phase of at least two months. (Rules and Regulations of the State of Tennessee, Chapter 1200-4-3-.04(3)).



Appendix A: Stormwater Enforcement Response Plan

Introduction

The intent of this document is to provide guidance to city officials in enforcing the Stormwater Ordinance. It should be used only as a guide while recognizing that each situation is unique. The provisions of this enforcement response plan are not mandatory. Actual enforcement procedures should consider any unusual aspects of a violation or condition, as well as special characteristics of an enforcement action in determining the proper response.

While the purpose is to provide guidance for administration of the Stormwater Ordinance, it is not intended to limit the judgment and flexibility of the City Engineer or designee in determining the appropriate response.

Initiation of investigations of violations shall take place within seven (7) days of receipt of complaint.

Minor infractions may be resolved by a verbal notice, telephone call or warning letter advising the owner/operator/person of the nature of the violation. If such action fails to generate a response by the owner/operator/person, further enforcement actions as provided by the ordinance may be taken.

Enforcement Response

The order of this precedence for enforcement responses outlined in this guide should not be construed to prevent the City Engineer or his/her designee from taking stronger action without first implementing less stringent steps, if in his/her opinion, a more forceful response is necessary.

A show cause hearing should be held prior to any enforcement action other than a telephone call, warning letter, or notice of violation (NOV). The City of Columbia may order any person who violates the Stormwater management ordinance, permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the person specifying the time and the place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the violator 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.

Documented Phone Calls or Informal Discussions

In the case of most minor violations of a permit or ordinance, a telephone call or informal meeting may be sufficient to obtain the desired compliance. Phone calls must be documented by contemporaneous notes. A copy of the notes should be placed in the owner's master file and another mailed to the owner.

Likewise if an informal discussion is held, notes shall be kept summarizing the discussion. Copies of the notes should be distributed to all entities involved. Anyone wishing to take exception to the notes should be required to respond in writing.

Warning Letter

A warning letter is the lowest level of formal response to a violation. It is intended for minor violations which would not cause harm to the environment.

Notice of Violation

A notice of violation (NOV) is an official notification to inform a non-compliant owner of a violation of the Stormwater management ordinance. Within ten (10) business days of receipt of the notice, a written explanation of the violation and a plan for satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the owner to the City Engineer. Inspection to ensure performance of any corrective actions may be conducted by the City Engineer at his/her discretion. Submission of this plan is in no way relieves the owner of liability for any violations occurring before or after receipt of the Notice of Violation.

Administrative Orders

Administrative Orders are enforcement documents which direct owners to perform or to cease specific activities. Administrative orders may also invoke a penalty. There are three (3) primary types of administrative orders: consent orders; compliance orders; and cease and desist orders.

Consent Orders

Consent Orders are entered into between the City and the owners to assure compliance as to specific actions to be taken by the owner to correct non-compliance within a specific time period. The City Engineer may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any owner responsible for noncompliance within a time period specified in the document. Such documents shall have the same force and effect administrative orders issued pursuant to paragraphs (d) and (e) of Section 21-109 of the Stormwater Management Ordinance.

Compliance Orders

Compliance Orders may be issued when the City Engineer finds that the owner has violated, or continues to violate the ordinance or an order issued thereunder. It is similar to a consent order except that the consent of the owner is not implied in its issuance. When the City Engineer finds that an owner has violated or continues to violate a section of the Stormwater Management Ordinance or a permit or order issued thereunder, the City Engineer may issue an order to the owner responsible for the violation directing that the owner come into compliance within a specified time, and such order may include assessment of a civil penalty to be paid if the owner does not come into compliance within the time provided. 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 offsite. A compliance order does not relieve the owner of liability for any violation, including any continuing violation. Issuance of a compliance order shall not bar against or a prerequisite for taking any other action against the owner.

Cease and Desist Orders

Cease and Desist Orders may be issued when the City Engineer finds that an owner has violated, or continues to violate, the Stormwater Management Ordinance or an order issued thereunder. The order shall require that the owner:

- A. Comply forthwith; and,
- B. Take such appropriate remedial or preventative action as may be needed or deemed necessary to properly address a continuing or threatened violation, including halting operations and terminating the discharge. Issuance of a cease and desist order shall not bar against or a prerequisite for taking any other action against the owner.

Contents of Administrative Orders

- A. Title – the title specifies the type of order being issued, to whom it is being issued, summarizes the purpose of the order, and contains an identification number.
- B. Legal Authority – The authority under which the order is issued (the Stormwater Management Ordinance).
- C. The Finding of Noncompliance – All violations must be described including the dates, the specific permit and/or ordinance provisions violated, and any damages known and attributable to the violation.
- D. Required Activity – All orders should specify the required actions such as installation of BMP's, additional inspections, appearance at show cause hearings, etc.

- E. Milestone Dates for Corrective Actions – When compliance schedules are appropriate, all milestone dates must be established including due dates for required written reports.
- F. Supplemental Clauses – The document should contain standard clauses providing that:
 - a. Compliance with the terms and conditions of the administrative order shall not be construed to relieve the owner of its obligation to comply with applicable state, federal, or local law, or the permit;
 - b. Violation of the administrative order itself may subject the owner to additional penalties as set in the Stormwater Management Ordinance;
 - c. No provision of the order shall be construed to limit the city’s authority to issue supplementary or additional orders, or to take action deemed necessary to implement this program or ordinance;
 - d. The orders shall be binding upon the owner, its officers, directors, agents, employees, successors, assigns, and all persons, firms or corporations acting under, through or on behalf of the owner.

Administrative orders issued as a result of a violation of the Stormwater Management Ordinance shall contain a penalty as determined using Tables “A” and “B” in this document. Administrative orders may also be used to advise an owner to the need of take, or cease, certain actions, and in such case may or may not be associated with penalties as defined in the ordinance or in this guide.

Other Remedies

The City of Columbia may bring legal action to enjoin the continuing violation of the Stormwater Management Ordinance, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.

Civil Injunction

A civil injunction may be requested at any time, for any violation, if in the opinion of the City Engineer in consultation with the City Attorney, such action is needed or appropriate.

Criminal Referral

In cases where criminal acts are suspected, after consultation with the City Attorney, information shall be gathered and forwarded to the District Attorney of the appropriate jurisdiction for action. Criminal prosecution, if pursued, shall be in addition to other actions authorized by the Stormwater Management Ordinance.

Civil Penalties

The Stormwater Ordinance authorizes assessment of civil penalties of not less than fifty dollars (\$50.00) and not to exceed five thousand dollars (\$5,000.00) per day for each day of violation. Additionally, the Stormwater Ordinance authorizes the City Engineer or designee to assess a civil penalty for actual damages incurred by the City. Before assessment of any civil penalty, a show cause hearing must be held with the non-compliant owner.

If a violation results in conditions requiring the expenditure of public funds for mitigation of damages, a penalty shall be assessed in such amount as to offset the public funds expended. This will in no way reduce or offset the liability of the owner with respect to damages incurred.

Response Guide Tables

The following tables indicate how point values are assigned for each violation, considering the severity, duration, degree of harm, and compliance history of the owner. All possible violations may not be listed; however, this does not preclude an appropriate enforcement response.

In **Table A** three columns are associated with each listed violation – the “Initial Points” column, the “Repeat Value” column, and the “Cumulative” column. If no history of violations is noted, the value in the “Initial Points” column may be used with conjunction with **Table B** to assess a typical response to the violation.

If the user has a history of similar violations, the initial point value plus the product of the number of the previous occurrences times the repeat value should be used as shown in the following formula:

$$T = I + (N \times R)$$

Where:

T = Total Point Value

I = Initial Point Value for a single violation

N = Number of previous occurrences

*R = Repeat Value from **Table A***

Should more than one violation be noted at a time, the cumulative column should be consulted. If violations are cumulative in nature, the sum of the individual point values should be used to judge the response. If not, the greater individual values should be used to judge response, with the documentation for that response noting all violations.

Once a point value is determined, **Table B** should be consulted for recommended responses. **Table B** provides a schedule of appropriate responses based upon the number of “points” determined by **Table A**

Example

An owner violated the terms of the Stormwater Management Ordinance. This violation is considered significant and causes harm. Investigation reveals the owner has been sited twice in the past for the same violation:

$$T = I + (N \times R)$$

Therefore:

$$T = 3 + (2 \times 1) = 5$$

Where:

3 = Points charged for isolated but significant discharge from **Table A**

2 = Number of previous occurrences; and

1 = Repeat value from **Table A**

Resulting Options: Administrative Order with up to a \$500.00 penalty from **Table B**.

Table A: Violation Response Guide

Erosion Prevention and Sediment Control			
Description of Violation	Initial Points	Repeat Value	Cumulative
Violation of a Single Requirement:			
Not Significant	1	1	Yes
Significant, no harm	2	1	Yes
Significant, causes harm	2	1	Yes
Violation of More than one Requirement:			
Not Significant	2	1	Yes
Significant, no harm	3	1	Yes
Significant, causes harm	4	1	Yes
Unauthorized Discharges			
Illicit Discharges:			
Owner unaware of requirement, no harm	1	N/A	No
Owner unaware of requirement, harm	2	N/A	No
Owner aware of requirement, no harm	2	1	Yes
Owner aware of requirement, harm	3	1	Yes
Illicit Connections:			
Owner unaware of requirement, no harm	1	N/A	No
Owner unaware of requirement, harm	2	N/A	No
Owner aware of requirement, no harm	2	1	Yes
Owner aware of requirement, harm	3	1	Yes
Inspection			
Entry denied	2	2	Yes
Inspection Records Incomplete	1	2	No
Inspection Records Not Available	1	2	No
Maintenance			
Failure to properly operate and maintain BMPs	1	1	Yes
Stormwater Management			
Pre-Construction:			
Failure to obtain NOC	2	1	No
Failure to obtain grading permit	2	1	No
Failure to provide performance bond/letter of credit	2	1	No
Post Construction:			
Failure to provide water quality BMPs	2	2	No
Failure to provide channel protection	2	2	No
Failure to provide downstream impact analysis	2	2	No

Table B: Violation Response Guide

Point Total	Action
1	Written Warning
2	Notice of Violation
3	Administrative Order with up to a \$150 Penalty
4	Administrative Order with up to a \$300 Penalty
5	Administrative Order with up to a \$500 Penalty
6	Administrative Order with up to a \$1000 Penalty
7	Administrative Order with up to a \$2000 Penalty
8	Administrative Order with up to a \$3000 Penalty
9	Administrative Order with up to a \$4000 Penalty
10	Administrative Order with up to a \$5000 Penalty

Cease and Desist Order

A civil injunction may be requested at any time, for any violation, if in the opinion of the City Engineer in consultation with the City Attorney, such action is needed or appropriate.

Criminal Action

In cases where criminal acts are suspected by the director, after consultation with the City Attorney, information shall be gathered and forwarded to the District Attorney of the appropriate county for action. Criminal prosecution, if pursued, shall be in addition to other actions authorized by the Stormwater Management Ordinance.