

CITY OF VALDOSTA



ENFORCEMENT RESPONSE PLAN

The Enforcement Response Plan (ERP) is a summary of the enforcement measures and penalties of each ordinance as referenced in the City of Valdosta's approved Stormwater Management Plan. This document is intended to provide general guidance and enforcement actions should be considered on a case by case situation. If and when enforcement changes are needed, the ordinance must be updated prior to revising the ERP.



RE-SUBMITTED NOVEMBER 2015

INTRODUCTION

The Enforcement Response Plan (ERP) describes the actions to be taken for violations associated with the City of Valdosta’s General NPDES Stormwater Permit No. GAG610000. The Stormwater Permit covers all new and existing point source discharges of stormwater from a small municipal separate storm sewer system (MS4) as defined in Title 40 of the Code of Federal Regulations (CFR) Part 122.26 (b)(16) to the waters of the State of Georgia, except for those stormwater discharges identified under Part 1.1.4 of the permit.

In order to be authorized to discharge stormwater from a small MS4, the City prepared and submitted to the Georgia Environmental Protection Division (EPD) a Notice of Intent (NOI) and Storm Water Management Program (SWMP) to ensure permit compliance.

NAMES OF ORDINANCES

This ERP addresses the enforcement process for the following ordinances as identified in the City of Valdosta’s SWMP:

TABLE 1: ORDINANCES

Ordinance Name / Reference	Citation	SWMP Attachment
Illicit Discharge and Illegal Connections	LDR Chapter 310 – Article 3	Attachment A
Soil Erosion, Sedimentation, and Pollution Control	LDR Chapter 306	Attachment F
Refuse Collection and Disposal	Ordinance No. 2013-30 Sec. 4-2003(c)	Attachment G
Stormwater / Post – Development Stormwater Management	Ordinance No. 2006-71 / LDR Chapter 310 – Article 1	Attachment M

TYPES OF ENFORCEMENT MECHANISMS

To ensure the health and safety of our community and compliance with the SWMP, the city has the authority to enforce the ordinances in TABLE 1 through the following actions:

TABLE 2: ENFORCEMENT MECHANISMS

	Illicit Discharge and Illegal Connections¹	Soil Erosion, Sedimentation, and Pollution Control²	Refuse Collection and Disposal	Stormwater³
Verbal Warning		X		
Notice of Violations (NOV)	X	X		X
Citations / Penalties	X	X	X	X
Stop Work Order		X		
Withhold Plan Approval or Other Authorizations		X		X
Suspension, Revocation or Modification of Permit(s)		X		X

¹ See Supplement A for more information OR Attachment A in the SWMP to review the complete ordinance.

² See Supplement B for more information OR Attachment F in the SWMP to review the complete ordinance.

³ See Supplement C for more information OR Attachment M in the SWMP to review the complete ordinance.

DESCRIPTION OF ENFORCEMENT MECHANISMS

When the city receives a complaint and a violation is found, city staff will begin the enforcement steps in the following order, unless an immediate danger to the public health or public safety is found:

Verbal Warnings

This action can be used in the case of a minor violation(s) of the ordinance(s). To ensure compliance, activities could involve a telephone call and/or informal meeting stating the violation and necessary actions for compliance.

Notice of Violations (NOV)

This action is provided in writing to inform the responsible entity that a violation has occurred and/or working without the appropriate permits. The NOV will include the following:

- Name and address of the responsible entity
- Address of the violation
- Description of violation
- Description of remedial measures needed to bring site into compliance
- Required timeframe to be in compliance (when available)
- Statement of the penalty or penalties if the NOV is not corrected
- Statement about the appeal process, except in cases that the violation constitutes an immediate danger to public health or public safety

The type of violation will determine the written response time from the responsible entity to the Responsible Department, but in general it is as follows:

TABLE 3: NOTICE OF VIOLATION

	Illicit Discharge and Illegal Connections	Soil Erosion, Sedimentation, and Pollution Control	Refuse Collection and Disposal	Stormwater
Violator Response Time*	10 days (unless authorized by Director)	5 days (24 hours if immediate danger)	N/A	10 days (24 hours if immediate danger)
Inspection for Compliance	5 days	5 days	N/A	30 days

**The response time begins once the certified letter is received*

City staff will inspect the site to verify that corrective actions have been taken and that the site is brought into compliance.

Citations / Penalties

Citations, civil and/or criminal penalties can be taken against the responsible entity if previous actions have not been met and/or the responsible entity has intentionally violated the ordinances. The severity of the violation will determine the recommended fine and in some cases, each act of violation can constitute a separate offense each day.

TABLE 4: PENALTIES

	Illicit Discharge and Illegal Connections	Soil Erosion, Sedimentation, and Pollution Control	Refuse Collection and Disposal	Stormwater
Fines	Up to \$1,000 / day	Up to \$2,500 / day	1 st Offense \$100 - \$500 2 nd or more Offenses \$350 min.	Up to \$1,000 / day
Jail Time	Up to 60 days	N/A	N/A	Up to 60 days

Stop Work Order

A Stop Work Order can be issued when the violation presents an imminent threat to public health or a water of the state, the responsible entity continues to violate the ordinance(s), and/or is working without the proper permits. The Stop Work Order will remain in effect until the remedial measures have been met as identified in the NOV.

Withhold Plan Approval or Other Authorizations

Plan approval can be withheld until all requirements have been met. If the project is underway, the Certificate of Occupancy (CO) can be withheld until all necessary measurements / requirements are completed.

Suspension, Revocation or Modification of Permit(s)

The permit(s) can be suspended, revoked or modified to ensure compliance with the NOV. Once the responsible entity meets the remedial measures set forth in the NOV and/or identifies a plan to do so, the permit may be reinstated to enable the responsible entity to meet the required remedial measures.

For more information on the how the various steps are enforced within each ordinances, please see Supplements A, B and C and/or the ordinances as identified in Table 1.

TIMEFRAME FOR ENFORCEMENT MECHANISM

Each step has a designated timeframe once the city is made aware of the situation and a violation has been confirmed. Please note that each situation is unique and the city has the authority to skip intermediate steps depending on the violation.

TABLE 5: CITY RESPONSE TIMEFRAME

	Illicit Discharge and Illegal Connections	Soil Erosion, Sedimentation, and Pollution Control	Refuse Collection and Disposal	Stormwater
Verbal Warning	5 days	24 hours	N/A	24 hours
Notice of Violation	5 days	24 hours	N/A	24 hours

For more information on the timeframes for each ordinance, please see Supplements A, B and C and/or the ordinances as identified in Table 1.

DESCRIPTION OF TRACKING

When the city receives a complaint, at a minimum, the following information is to be collected:

- Date of Complaint
- Complaint Received By
- Caller Name (when available)
- Caller Contact Information (when available)
- Location of Concern
- Concern

If a violation is found, then city staff will begin the enforcement steps, document all activities, include the information as required in the NOV, document inspection(s) date(s), and date of violation resolution. All instances of noncompliance will be tracked manually, then summarized electronically and included in the SWMP annual reports.

Supplement A

**ESCALATING ENFORCEMENT
FOR
ILLCIT DISCHARGE AND ILLEGAL CONNECTIONS**

This section of the Enforcement Response Plan addresses the path of escalating enforcement for violations of the City of Valdosta Land Development Regulation Chapter 310 Article 3 Illicit Discharge and Illegal Connections.

Within five days of becoming aware of a possible illicit discharge or illegal connection, City staff will perform an investigation of the site to determine whether or not such a condition exists. If the investigation reveals no violations, City staff shall complete an investigation report summarizing the findings of the investigation.

If the site investigation reveals one or more violations of the ordinance, City staff shall complete an investigation report detailing the violations and initiating enforcement actions. Within five working days of confirming a violation of the ordinance, the Utilities Department shall issue a Notice of Violation to the alleged violator. The notice of violation shall include:

- The name and address of the alleged violator.
- The address or other description of the site upon which the violation is occurring, or has occurred.
- A statement specifying the nature of the violation.
- A description of the remedial measures necessary to restore compliance with the ordinance and a time schedule for the completion of such remedial action.
- A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed.
- A statement that the determination of violation may be appealed to the Director of Utilities by filing a written notice of appeal within 30 days of service of notice of violation.

The notice of violation may require without limitation:

- The performance of monitoring, analyses, and reporting.
- The elimination of illicit discharges and illegal connections.
- That violating discharges, practices, or operations shall cease and desist.
- The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property.
- Payment of costs to cover administrative and abatement costs subject to issuance of a court order.
- The implementation of pollution prevention practices.

In the event the alleged violator fails to take the remedial actions set forth in the notice of violation, or otherwise fails to cure the violations described within the schedule for completion, Utilities Department staff shall contact the City Marshall to issue a citation for the alleged violator to appear in Municipal Court. The City shall seek civil penalties not to exceed \$1,000.00 for each day the violation remains un-remedied after the service of the notice of violation. The City shall also seek an injunction ordering that the violations shall cease and the remedial actions required shall be taken within ten days.

In the event the alleged violator fails to take the remedial action required by both the notice of violation and the Municipal Court injunction, the City may issue a citation to the alleged violator requiring such person to appear in Magistrate Court of Lowndes County court to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed \$1,000 or imprisonment for 60 working days or both. Each act of violation and each day on which any violation occurs shall constitute a separate offense.

Oil or Hazardous Material Spills and Releases

Certain laws of the State of Georgia and rules promulgated by the Georgia Environmental Protection Division require immediate reporting of oil or hazardous materials spills or releases to waters of the state. These include:

OCGA § 12-14-1 [Law] Oil or Hazardous Material Spill or Release Act

Requires immediate reporting of a release of oil in an unknown amount, or an amount that creates a significant sheen on top of state waters, or that creates an emulsion or sludge under state waters.

391-3-6-.05(3) [Rule] Water Quality Control Emergency Actions

Requires immediate reporting of the release of any toxic or taste and color producing substance, or any other substance which would endanger downstream users of the waters of the State, or would damage property. This rule also requires reporting of any such material that is placed so that it might flow, be washed, or fall into such waters.

391-3-15-.08 [Rule] Underground Storage Tank Petroleum Spills

Requires immediate reporting of a spill or overfill of petroleum that exceeds 25 gallons or an amount that creates a significant sheen on state waters.

In the event of becoming aware of a spill or release meeting the criteria of these rules, city staff shall report the event to the Environmental Protection Division Emergency Operations Center (800-241-4113) within 15 minutes of the discovery, unless the responsible party has already made the report. In the event of finding conditions that indicate such a spill without knowledge of the person responsible for the spill, the City shall report the conditions to the Environmental Protection Division Emergency Operations Center and request emergency response immediately (within 15 minutes). After making the report city staff will attempt to determine the source of the spill, and follow the steps of the escalating enforcement policy.

Supplement B

**ESCALATING ENFORCEMENT
FOR
SOIL EROSION, SEDIMENTATION, AND POLLUTION CONTROL**

This section of the Enforcement Response Plan addresses the path of escalating enforcement for violations of the City of Valdosta Land Development Regulation Chapter 306 Soil Erosion, Sedimentation, and Pollution Control. The ordinance states the following;

(A) Failure to Obtain a Permit for Land-Disturbing Activity.

If any person commences any land disturbing activity requiring a land-disturbing permit as prescribed in this chapter without first obtaining said permit, the person shall be subject to revocation of his business license, work permit or other authorization for the specified fines, conduct of a business and associated work activities within the jurisdictional boundaries of the Issuing Authority. See Section 306-3(B)(8). In addition:

- (1) Failure to design install and maintain proper BMP'S shall constitute a violation of Section 306-2(C).
- (2) After the building permit is issued and prior to any land disturbance activity, all BMP's shall be installed. Upon completion of installation, the City Engineer shall be called for inspection and shall have 24 hours to complete said inspection. If approved, the City Engineer shall place his or her stamp on the building permit. If rejected, no stamp shall be placed on the building permit.
- (3) No other site or building inspections will be conducted unless the BMP'S are approved.
- (4) In the event that deficiencies are found after approval, but during construction, a written notice shall be affixed to the permit. Owner shall have 24 hours to take corrective action.
- (5) Failure to make corrections after 24 hours may result in suspension of building inspections, and the issuance of a citation/court summons. Inspections may be suspended until the matter is resolved.
- (6) Most common violations are as follows. Silt fence down and not being maintained, and sediment tracked into street, gravel tracked out into street, concrete trucks washed out into an unprotected area and paint cans and brushes being washed out into an unprotected area.

(B) Stop-Work Orders

- (1) For the first violation of the provisions of this chapter, the City Engineer shall issue to the violator a written warning in the form of written notice to comply. The violator shall have five days to correct the violation. If the violation is not corrected within 5 days after the initial violation, the City shall issue a second written warning to the violator. If the violation is not corrected within 5 days of issuance of second notice to comply, then the City Engineer shall issue a stop-work order requiring that land-disturbing activities and construction activities be stopped, with the exception of the installation and maintenance of temporary or permanent erosion, sedimentation, and pollution controls, until necessary corrective action or mitigation has occurred; provided, however, that, if the violation presents an imminent threat to public health or waters of the state; or if the land-disturbing activities are conducted without obtaining the necessary permit, the City Engineer shall issue an immediate stop-work order in lieu of a warning;
- (2) For a third and each subsequent violation, the City Engineer shall issue an immediate stop-work order;
- (3) All stop-work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred;
- (4) When a violation in the form of taking action without a permit, failure to maintain a stream buffer, or significant amounts of sediment, as determined by the City Engineer, have been or are being discharged into state waters and where BMPs have not been properly designed, installed and maintained, a stop work order shall be issued by the City Engineer. All such stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred. Such stop work orders shall apply to all land disturbing activities on the site with the exception of the installation and maintenance of temporary or permanent soil erosion, sediment, and pollution controls.

City staff performs routine inspection of all permitted construction sites disturbing one acre or more of land or within 200 feet of State waters. If the inspection reveals no violations, City staff shall complete an inspection report summarizing the inspection.

If the site inspection reveals one or more violations of the ordinance, City staff shall complete an inspection report detailing the violations and initiate corrective action with verbal notification. If the noncompliance violation(s) have not been corrected within 24 hours (one working day) of verbal notification of the violation, the Engineering Department shall issue a written Notice of Violation to the alleged violator. The notice of violation shall include:

- The name and address of the alleged violator.
- The address or other description of the site upon which the violation is occurring, or has occurred.
- A statement specifying the nature of the violation.
- A description of the remedial measures necessary to restore compliance with the ordinance and a time schedule for the completion of such remedial action.
- A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed.

If the noncompliance violation(s) have not been corrected within five working days of receipt of written notification of the violation, the Engineering Department shall issue a second written Notice of Violation to the alleged violator.

In the event that the noncompliance violation(s) have not been corrected within five working days of receipt of written notification of the violation, the Engineering Department shall issue an immediate Stop Work Order. All work at the site will be stopped, excluding actions taken specifically to correct the violations, until the noncompliance violations have been corrected. In addition the alleged violator may be subject to the following:

- Withhold Certificate of Occupancy (CO): A CO can be withheld until all necessary measurements / requirements of the Notice of Violation are completed.
- Suspension, Revocation or Modification of Permit(s): The permit(s) can be suspended, revoked or modified to ensure compliance with the Notice of Violation. Once the responsible entity meets the remedial measures set forth in the Notice of Violation and/or identifies a plan to do so, the permit may be reinstated to enable the responsible entity to meet the required remedial measures.
- Civil Penalties / Criminal Penalties: This action can be taken against the responsible entity if previous actions have not been met and/or the responsible entity has intentionally violated the ordinances. The severity of the violation will determine the recommended fine and in some cases, each act of violation can constitute a separate offense each day.

Complaint Resolution

When the city receives a complaint, at a minimum, the following information is to be collected:

- Date of Complaint
- Complaint Received By
- Caller Name (when available)
- Caller Contact Information (when available)
- Location of Concern
- Concern

If a violation is found, then city staff will begin the enforcement steps described above, document all activities, include the information as required in the Notice of Violation, document inspection(s) date(s), and date of violation resolution.

Supplement C

**ESCALATING ENFORCEMENT
FOR
STORMWATER ORDINANCE**

This section of the Enforcement Response Plan addresses the path of escalating enforcement for violations of the City of Valdosta Land Development Regulation Chapter 310 Article 1 Post – Development Stormwater Management.

In Section 310-99 Detention Pond Protection, the ordinance states the following:

Every person owning property, or such person's lessee, upon which a detention pond, swale, gully, inlet, outlet and/or pipe, being part of said property, will maintain that part within the property free of trash, debris, excessive vegetation, excessive sediment and other obstacles that would pollute, contaminate or significantly retard the flow of water through the watercourse.

City staff routinely performs inspections of the total number of stormwater facilities within the city, resulting in all stormwater facilities being inspected at least once every five years. If the facility inspection reveals no violations, City staff shall complete an inspection report summarizing the inspection.

If the site inspection reveals one or more violations of the ordinance, City staff shall complete an inspection report detailing the violations and initiate corrective action with written notification providing a reasonable opportunity, of not less than 10 days, to cure such violation; except, that in the event the violation constitutes an immediate danger to public health or public safety, 24-hours' notice shall be sufficient. The ordinance states the following:

Section 310-100. Violations and Penalties.

- (A) **Violations.** In the event the violation of any provision of this article constitutes an immediate danger to public health, safety, or welfare, the Director of Utilities is authorized to, to take any and all measures provided by law to abate the violation and/or restore the property. The Director of Engineering is authorized to seek reimbursement for costs of the abatement as outlined in subsection (E).
- (B) **Notice of Violation.** If the Director of Utilities determines that a violation of this article has occurred, the Director of Utilities may order compliance by issuing a written notice of violation to the person responsible for the violation.
- (1) The notice of violation shall contain:
- (a) The name and address of the alleged violator.
 - (b) The address or other description of the site upon which the violation is occurring, or has occurred.
 - (c) A statement specifying the nature of the violation.
 - (d) A description of the remedial measures necessary to restore compliance with this article and a time schedule for the completion of such remedial action.
 - (e) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed.
 - (f) A statement that the determination of violation may be appealed to the Director of Engineering by filing a written notice of appeal within 30 days of service of notice of violation.
- (2) Such notice may require without limitation:
- (a) The performance of monitoring, analyses, and reporting.
 - (b) The elimination of illicit discharges and illegal connections.
 - (c) That violating discharges, practices, or operations shall cease and desist.
 - (d) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property.
 - (e) Payment of costs to cover administrative and abatement costs subject to issuance of court order.
 - (f) The implementation of pollution prevention practices.

If the noncompliance violation(s) have not been corrected within 10 working days of receipt of written notification of the violation, the Engineering Department shall issue a second written Notice of Violation to the alleged violator. In addition, as outlined in the ordinance the City can implement the following:

- Civil Penalties. In the event the alleged violator fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within 10 working days, or such greater period as the Director of Engineering shall deem appropriate, after the Director of Engineering has taken one or more of the actions described above, the Director of Engineering may impose a penalty not to exceed \$1,000 for each day the violation remains un-remedied after service of the notice of violation.
- Criminal Penalties. For intentional and flagrant violations of this article, the Director of Utilities may issue a citation to the alleged violator requiring such person to appear in Magistrate Court of Lowndes County court to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed \$1,000 or imprisonment for 60 working days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.
- Violations Deemed a Public Nuisance. In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this article is a threat to public health, safety, welfare, and environment and is declared and deemed a nuisance, and may be abated by injunctive or other equitable relief as provided by law.
- Remedies Not Exclusive. The remedies listed in this article are not exclusive of any other remedies available under any applicable Federal, State or local law. The City of Valdosta may seek cumulative remedies. The City of Valdosta may also recover attorney's fees, court costs, and other expenses associated with enforcement of this article, including sampling and monitoring expenses.

Complaint Resolution

When the city receives a complaint, at a minimum, the following information is to be collected:

- Date of Complaint
- Complaint Received By
- Caller Name (when available)
- Caller Contact Information (when available)
- Location of Concern
- Concern

If a violation is found, then city staff will begin the enforcement steps described above, document all activities, include the information as required in the Notice of Violation, document inspection(s) date(s), and date of violation resolution.