

ENFORCEMENT RESPONSE PROCEDURE

For More Information

Eric Eckman
7800 Golden Valley Road
Golden Valley, MN 55427
(763) 593-8084
eckman@goldenvalleymn.gov

Enforcement Activities

- Illicit Discharge Detection and Elimination
- Pet Waste
- Salt Storage
- Construction Site Erosion and Sediment Control
- Post-Construction Stormwater Management

Enforcement Types

- Verbal Warnings
- Notice of Violations
- Stop Work Orders
- Administrative Citation
- Civil/Criminal Penalties

Appendices

A – Notice of Violation for Illicit Discharge/Connection

B – Notice of Violation for Construction Site Erosion Control

C – Stop Work Order

1. INTRODUCTION AND BACKGROUND

This Enforcement Response Procedure (ERP) codifies enforcement procedures used by the City of Golden Valley (City) to enforce provisions of its Municipal Separate Storm Sewer System (MS4) General Permit.

1.1 Purpose

The ERP identifies enforcement procedures and criteria by which City staff can determine the enforcement action most appropriate to resolve potential non-compliance with potential stormwater-related violations. Implementation of the ERP will ensure a consistent response throughout the City and avoid confusion, delays, and disputes over enforcement for stormwater pollution prevention.

An effective enforcement program depends on detailed and comprehensive documentation of all contact with the alleged violator and of all evidence establishing the violation. Investigations and enforcement actions must be handled quickly. However, this plan is a guide and any of the enforcement responses may be used at the City's discretion. The City may choose to pursue an enforcement case by skipping intermediate steps.

1.2 Types of Enforcement Activities

The City anticipates the following types of stormwater violations:

- Illicit discharges or connections to the City's MS4
- Improper disposal of pet waste
- Improper storage of deicing salt
- Runoff from construction sites and post-construction stormwater best management practices

Potential violators may include construction contractors, businesses, industries, private citizens, and other governmental agencies. The City will use City Code, permits, and penalties to compel compliance.

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1.3 ERP Administrator and City Representative Defined

The City Administrator shall authorize in writing a person or person(s) to act as the ERP Administrator(s). City representatives shall refer to any employee or consultant authorized by the ERP Administrator to act under this Enforcement Response Plan.

1.4 Enforcement Process Overview

When stormwater non-compliance is identified by the City, enforcement actions will be taken promptly but no later than one business day following identification of the non-compliance. The City will take appropriate sanctions against the violator based on the nature and severity of the situation. Serious discharges or an imminent threat of discharge on a project may require an immediate escalation to a higher level of enforcement. The level of enforcement response will depend upon several of the following factors:

- Severity of the violation: the duration, quality, and quantity of pollutants, and effect on public safety and the environment
- The violator's knowledge (either negligent or intentional) of the regulations being violated
- A history of violations and /or enforcement actions individual or contractor
- The potential deterrent value of the enforcement action

The City will use a progressive enforcement policy, escalating the response when an applicant fails to respond in a timely manner.

2. METHODS OF DISCOVERY OF NON-COMPLIANCE

Reports of a stormwater violations or non-compliance may come from one the following sources:

- Reports from City Staff – Illicit discharges and discharges of sediment or other pollutants from the construction sites, facilities, or other sources within the City's MS4 may be observed by City staff as they conduct normal activities such as driving to or from job sites or when inspecting other activities. Such non-compliances could include water and wind erosion, sediment tracking onto local streets, poor housekeeping, incorrect location of concrete washouts, and failed or ineffective best management practices.
- Permit Compliance Activities – Non-compliances may be discovered through Permit-required inspections or monitoring, including construction site inspections, dry weather screening, and stormwater sampling.
- Contractor Compliance Activities – A construction contractor's failure to comply with the MPCA's Construction General Permit requirements such as conducting and submitting

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inspection reports, obtaining annual certifications, preparing and implementing Stormwater Pollution Prevention Plans (SWPPPs).

- Reports from the Public – Public complaints may come directly to City or through other local, state or federal government agencies.

3. ILLICIT DISCHARGES AND CONNECTION ENFORCEMENT

The MS4 Permit requires the City to implement and enforce a program that ensures that the City effectively prohibits non-stormwater discharges into its MS4. In addition, neighboring property owners are not allowed to occupy, use, or interfere with public ROW without permission. Any discharge/connection without permission is an illegal encroachment on the City's MS4. A discharge/connection can be discovered in two ways, either through routine inspection or due to a complaint.

Notification of observed illicit connections or discharges will be carried forward to the alleged illegal connector/discharger by the ERP Administrator. The City will use the following progressive enforcement policy, escalating the response when a violator fails to respond in a timely manner.

3.1 Warning Notice/Verbal Warning

When an illegal connection/discharge to the City's MS4 system is identified, the City inspector will complete an Illicit Discharge Inspection Form and notify the ERP Administrator immediately, as well as provide notification to other City departments and State agencies as appropriate.

If the source is evident, the ERP Administrator will contact the connector/discharger directly within one business day of discovery by phone or in person to discuss elimination. The communication will include specifying the nature of the violation, the required corrective action, and a follow-up inspection date (within seven (7) calendar days of the incident). The ERP Administrator will also communicate to the connector/discharger that failure to comply is likely to result in escalated enforcement by the City.

If by the follow-up inspection date, the connection/discharge is permitted or resolved, no further action is required. If the discharge is not resolved, the ERP Administrator will proceed with a Notice of Violation or an enforcement response mechanism that is commensurate with the activity.

3.2 Notice of Violation

If a Warning Notice is issued and non-compliance remains and/or if an illegal connection/discharge to the City's MS4 system is severe, the ERP Administrator will issue a Notice of Violation letter to the connector/discharger (Appendix A). The Notice of Violation will include the following information:

- Name and address of the alleged violator
- The address (when available) or a description of the location where the violation occurred
- A statement specifying the nature of the violation

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- The required corrective action, including a time schedule for the completion of such remedial action
- A follow-up inspection date (within seven (7) calendar days) by a City representative
- A statement that the determination of the violation may be appealed to by the City by filing a written notice of appeal within five (5) days of receipt of the Notice of Violation
- Enforcement actions if the corrective action is not satisfactorily completed by the follow-up inspection date, including a statement that should the violator fail to restore compliance within the established time schedule, the work will be done by the City or their designee and the expense shall be charged to the violator

A follow-up inspection will be performed within seven (7) calendar days by a City representative to ensure compliance with the Notice of Violation. If by the follow-up inspection date, the connection/discharge is permitted or resolved, no further action is required. If the connection/discharge has not been corrected, the incident will be referred internally to the City Administrator for further review.

3.3 Removal of Connection/Discharge

The City may remove the illegal connection/discharge if it has not been corrected within a suitable timeframe that has been provided by a previous Notice of Violation. If the City removes the illegal connection/discharge, the responsible party is subject to civil penalties.

3.4 Civil Penalties

If an alleged violator fails to remediate the illicit discharge/connection per the Notice of Violation, the City may impose a penalty not to exceed \$1,000 (depending on the severity of the violation) for each day that the violation remains unremedied after receipt of the Notice of Violation.

4. PET WASTE ENFORCEMENT

Pet waste left uncollected is unsanitary because it contains bacteria and other parasites. Proper pet waste management results in cleaner parks and neighborhoods, with improved aesthetics and lowered potential for diseases to spread. In accordance with City Code, the City requires pet owners to pick up after their pets on City-owned and operated land.

If City staff or their representatives observe pet waste negligence on City-owned property, City staff will use the following progressive enforcement policy, escalating the response when a violator fails to respond in a timely manner.

4.1 Warning Notice/Verbal Warning

This action is a verbal exchange between a City representative and the alleged violator. The City staff member will discuss the nature of the violation and require the alleged violator to remove the pet waste immediately. The City representative may also contact the Golden Valley Police Department to report the incident.

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4.2 Administrative Citation

Licensed City of Golden Valley police officers, reserve officers, and community service officers are authorized to issue Administrative Citations for pet waste violations. If a pet owner has a history of pet waste violations and/or the severity of the violation warrants escalated enforcement, City staff will immediately contact a member of the Golden Valley Police Department to issue an Administrative Citation to the alleged violator.

5. SALT STORAGE ENFORCEMENT

Improper storage, transfer, and placement of bulk amounts of salt or other deicers can result in negative environmental impacts. The City proposes to manage the use of bulk deicing materials on private property to reduce the costly impacts of such use to environmentally sensitive areas by requiring the employment of best management practices to minimize polluted runoff from salt and deicer storage locations.

If City staff or their representative observe non-compliance with the City's Code for salt storage, City staff will use the enforcement policy outlined in *Section 3. Illicit Discharges and Connection Enforcement* of this ERP.

6. CONSTRUCTION SITE EROSION AND SEDIMENT ENFORCEMENT

Applicants for construction activities are to comply with the MPCA's NPDES Construction General Permit (CGP), City, and County permits for regulated construction projects, including the obligation to file a NPDES CGP application and obtain authorization under the NPDES CGP for each construction project or site. The applicant shall also file a Notice of Termination (NOT) for each construction project or site, either terminating their responsibility if final stabilization has been achieved, or transferring it to another owner for completion.

If the City identifies a deficiency in the implementation of the approved Stormwater Pollution Prevention Plan (SWPPP) or amendments and the deficiency is not corrected immediately or by a date requested by the City, the project is in non-compliance. The recommended sequence of enforcement actions is detailed below.

6.1 Verbal Warning

This action is a verbal exchange between the City's inspector and the alleged violator. The communication will include specifying the nature of the violation, the required corrective action, and a follow-up inspection date (within seven (7) calendar days of the incident). The information exchanged will be documented by the inspector and logged in the City of Golden Valley's building permit inspection database.

6.2 Notice of Violation

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A Notice of Violation (NOV) may be issued if the non-compliance continues for seven (7) calendar days after the verbal warning is issued, if the non-compliance cannot be corrected while the inspector is on site, or if the non-compliance is a significant violation.

The NOV will include the following information:

- Name and address of the alleged violator
- The address (when available) or a description of the location where the violation occurred
- A statement specifying the nature of the violation
- The required corrective action, including a time schedule for the completion of such remedial action
- A follow-up inspection date (within seven (7) calendar days) by a City representative
- Enforcement actions if the corrective action is not satisfactorily completed by the follow-up inspection date

Based on the type and severity of the non-compliance, compliance is required within seven (7) calendar days to avoid additional enforcement actions; however, if the situation warrants, a shorter or longer deadline may be permissible. An example Notice of Violation for Construction Site Erosion and Sediment Control is provided in Appendix B.

6.3 Stop Work Order

If the verbal warning and NOV do not result in corrective action by the documented deadline, the City may stop work (full or partial shutdown) at the construction site. Upon successful corrective action in response to a stop work order and upon approval by the City, work may begin at the site. Example Stop Work Orders are provided in Appendix C.

6.3.1. Temporary Suspension of Work

If immediate action is required due to an imminent threat of discharge or if the contractor does not respond to the warning letter within the required time frame, the City may temporarily suspend work on the project until the corrective action has been completed.

6.3.2. Require Corrective Action

The City may require the permit holder to undertake corrective or remedial action to address any release, threatened release, or discharge of the hazardous substance, pollutant or contaminant, water, wastewater, or stormwater.

6.3.3. Revocation of Permit

The City may revoke any permit issued to the permit holder if corrective action is not completed by the documented deadline in the Notice of Violation.

6.3.4. Abatement

The City may correct the deficiency or hire a contractor to correct the deficiency if corrective action is not completed by the documented deadline in the Notice of Violation. The issuance of a permit constitutes a right-of-entry for the City or its contractor to enter the construction site for the purpose of correcting deficiencies in erosion control. If the City corrects the deficiency

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or hires a contractor to correct the deficiency, the City may require reimbursement to the City for all costs incurred in correcting stormwater pollution control deficiencies, pursuant to City Code.

7. POST-CONSTRUCTION STORMWATER ENFORCEMENT

The City requires BMPs installed for the purpose of meeting the post-construction stormwater management standards. During the design, applicants for construction activities must develop a maintenance plan for the BMP and this must be recorded on the deed of the property. In compliance with the City's MS4 Permit, the City must inventory and ensure the long-term operation and maintenance of private post-construction stormwater BMPs installed within the City's jurisdiction. If the City identifies a deficiency, does not receive required inspection documentation, etc., the City may use the following sequence of enforcement to obtain compliance.

7.1 Verbal Warning

This action is a verbal exchange between the City's representative and the alleged violator. The communication will include specifying the nature of the violation, the required corrective action, and a follow-up inspection date (within seven (7) calendar days of the incident). The information exchanged will be documented by the City representative and logged in Cartograph.

7.2 Notice of Violation

A Notice of Violation (NOV) may be issued if the non-compliance continues for seven (7) calendar days after the verbal warning is issued, if the non-compliance cannot be corrected while the inspector is on site, or if the non-compliance is a significant violation.

The NOV will include the following information:

- Name and address of the alleged violator
- The address (when available) or a description of the location where the violation occurred
- A statement specifying the nature of the violation
- The required corrective action, including a time schedule for the completion of such remedial action
- A follow-up inspection date (within seven (7) calendar days) by a City representative
- Enforcement actions if the corrective action is not satisfactorily completed by the follow-up inspection date

Based on the type and severity of the non-compliance, compliance is required within seven (7) calendar days to avoid additional enforcement actions; however, if the situation warrants, a shorter or longer deadline may be permissible.

7.3. Abatement

The City may correct the deficiency or hire a contractor to correct the deficiency if corrective action is not completed by the documented deadline in the Notice of Violation. The long-term

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operation and maintenance agreement with the private BMP owner constitutes a right-of-entry for the City or its contractor to enter the property for the purpose of correcting deficiencies. If the City corrects the deficiency or hires a contractor to correct the deficiency, the City may require reimbursement to the City for all costs incurred, pursuant to City Code.

8. EMERGENCY RESPONSE CONDITIONS

The City's MS4 Permit identifies discharges or flow from firefighting activities and other discharges authorized by the City and/or State Duty Officer that are necessary to protect public health and safety are not subject to enforcement action.

9. REPORTING REQUIREMENTS

The City shall provide a list and description of all violations noted in this ERP and their resolutions, including any enforcement actions taken against contractors, corporations, or other entities in the MS4 Annual Report to the MPCA. At a minimum, the City will document the following information, including verbal warnings, for any enforcement conducted:

- Name of the person responsible for violating the terms and conditions of City Code
- Date(s) and location(s) of the observed violation(s)
- Description of the violation(s)
- Corrective action(s) (including completion schedule) issued by the City
- Referrals to other regulatory agencies (if any)
- Date(s) violation(s) resolved

APPENDIX A

Stop Work Order

Stop Work Order



City of Golden Valley
7800 Golden Valley Road
Golden Valley, MN 55427
(763) 593-8000

Address: _____

Stop Work Notice Number: _____ Date: _____

Notice given to: _____

Notice posted at: _____

As authorized by the Golden Valley City Code, you are hereby directed to stop all construction work for the following reasons:

Name: _____

Signature: _____

Inspector

Phone: _____

Cell: _____

Email: _____

Do not remove this notice until authorized by the City of Golden Valley

DO NOT PROCEED
WITH THIS JOB UNTIL THE ABOVE HAS BEEN APPROVED FOR
CORRECTION BY A MEMBER OF THE CITY STAFF

STOP WORK

VIOLATION OF THE CITY OF GOLDEN VALLEY STORMWATER MANAGEMENT ORDINANCE

**IN ACCORDANCE WITH CHAPTER 107, SECTION 107-4,
OF THE CITY CODE YOU ARE ORDERED TO
STOP WORK AS OF**

**YOU ARE IN VIOLATION OF CHAPTER 107,
SECTION OF THE CITY CODE.**

Description of Violation:

CONTACT THE PUBLIC WORKS DEPARTMENT AT 763-593-8030



APPENDIX B

Notice of Illegal Discharge and Demand for Corrective Action

NOTICE OF ILLEGAL DISCHARGE OR CONNECTION

Person or Business Name

Address

Golden Valley, MN

Dear Property Owner:

The City of Golden Valley is responsible for maintaining the storm sewer system. The Minnesota Pollution Control Agency (MPCA) Municipal Separate Storm Sewer System General Permit requires the City to control the amount of pollutants entering the drainage system. Part of this charge is the detection and elimination of illegal discharges or connections to the system that may contain pollutants or are otherwise not allowed. Left uncorrected, any pollutants entering the system will ultimately impact nearby streams, as storm drainage is not treated at any sort of treatment facility. Any discharge/connection without permission is illegal and requires immediate termination of the discharge.

An inspection of the drainage system has occurred in the vicinity of your property and an illegal connection/discharge was discovered entering into the City system. The discharge/connection was discovered on <insert date> at <insert business name and address>.

Indicators or Source include piping and staining.

Photographs of this discharge/connection are enclosed with this letter. In addition, I have enclosed an aerial photograph showing the location of this discharge/connection.

This discharge or connection must be ceased or removed within 30 days. A follow-up investigation will be conducted after that time to ensure compliance. If the situation is not corrected, the City will take corrective measures, which may include the issuance of a fine. In the alternative, the City may remove the discharge/connection and bill you directly pursuant City Code Chapter 107: Stormwater Management. If the illegal discharge/connection cannot be removed within 30 days, you do not understand this notice, or you disagree that an illegal discharge/connection exists at your property, please contact me with further details or explanation by calling [Phone Number] or by email at [Email].

Sincerely,

[Name]

[Title]

7800 Golden Valley Road

Golden Valley, MN 55427

[Phone Number]

Enclosure (photographs)

Cc: