

Enforcement Response Plan (ERP)

City of Goodlettsville's Stormwater Program

TNS-075345

COMMUNITY DEVELOPMENT SERVICES

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Purpose

The intent of this document is to provide guidance in enforcing the City's existing stormwater management ordinance and to help eliminate illicit discharges to the City's stormwater system.

Documentation

Stormwater ordinances in place are 18-309 and 18-310.

Construction sites that have not been issued a Notice of Termination (N.O.T.) are inspected on a routine basis by both the City and the developer. The City's Inspector is the main contact in charge of routine inspections. The City documents construction site inquiry calls to the office.

Construction sites that have been issued an N.O.T. are required to submit an annual post-construction long-term maintenance agreement report to the City by July 1. The Inspector maintains these files.

Hot Spot/Priority Areas are chosen based on review utilizing the EPA's Hot Spot Site Investigation Form and are required to conduct inspections and submit those reports to the Inspector. Hot Spot locations are provided with their self-inspection checklist, a suggested list of Best Management Practices (BMPs) and a letter from the Inspector briefly explaining the process.

Citizens are able to report illicit discharges to the Stormwater offices via the hotline, website, email, or telephone call to the office. Once received, they are entered into the Call Center database program and emailed to the appropriate personnel for investigation. Personnel have up to seven (7) days to respond to the inquiry.

Drainage infrastructure Information is placed within the GIS system and maps are created identifying potential areas of concern.

Dumping activities are responded to by the Stormwater Department. If possible, waste is gone through to determine person(s) responsible for dumping. Should person(s) responsible be prosecuted, prosecution could fall underneath penalties for violating the stormwater ordinance.

When a complaint is received, the inspector and/or Stormwater Coordinator or assigned employee, checks on the complaint and addresses it accordingly within seven (7) days. Notes are taken and the information is documented.

Site Plan Review

Planning Dept. procedure for submittal of Site Plan/Preliminary Master Plan/Final Master Plan

1. Receipt by Planning Dept. of document from specified project engineering company for review and consideration at the published date of the next Planning Commission meeting.
2. A copy of the document/attachment is forwarded to Public Works, Codes, Engineer and Stormwater, for review.
3. Remaining copies of the document are distributed to staff for review:
 - a. Planning Director
 - b. City Engineer (receives the original stormwater documents attached to document)
 - c. Public Works Director
 - d. Fire Chief
 - e. Codes Director
 - f. Stormwater Coordinator
4. Upon receipt of engineering comments, a staff review meeting is scheduled to discuss outstanding issues of the document relating to all departments.
5. Corrected comments are prepared by the Planning Director and sent to the specified project engineer with a date for resubmittal of the corrected document to the Planning Dept. for final review.
6. Upon receipt of corrected document, the Planning Director will conduct a final review to determine if all outstanding issues have been addressed in accordance with the Goodlettsville Zoning Ordinance and Subdivision Regulations.
7. Copies of the document, any attachments and a staff review report will be delivered to members of the Planning Commission for review prior to the published date of the Planning Commission meeting.

Investigation Procedure

Once City personnel receive an inquiry, they have up to seven (7) days to respond. The inquiry is physically inspected to determine the possible nature of the event. Photographs and a report of the event are kept on file.

Hot Spot/Priority Area determinations occur routinely and on an as-needed basis. Initially, hot spot/priority areas were determined utilizing the EPA's Hot Spot Identification checklist form. Once an area is deemed a hot spot/priority area, they are notified via a letter and/or meeting with the City advising them of such and explaining the procedure to comply. Hot Spot/Priority Areas are to self-inspect utilizing a checklist provided to them by the City or on website. The Inspector follows up on the documentation submitted. If documentation raises concerns, the Inspector inspects the property. If the site does not comply, enforcement actions from the stormwater ordinance are in effect.

Dry Weather Screenings occur routinely and on an as-needed basis, this is through contract with Western Kentucky University.

Follow-up inspections are encouraged to keep tabs on the illicit discharge. Documentation and test results of investigations should include the location(s), date, inspector's name(s), time, parameter(s), sampling result(s), source of flow, etc. As much information that can be obtained should be and be in writing and kept within the Inspector's office.

Should clean-up be required, personnel will advise appropriate City department(s) to assist with clean-up. Hazmat related clean-ups can be handled by (1) the City's fire department, (2) a local environmental clean-up company, and/or (3) TEMA (Tennessee Emergency Management Agency). If materials must be tested, an appropriate testing lab will be consulted. If the source of the illicit discharge can be determined, the responsible party/ies is/are contacted by the City.

Hazardous spills are directed to the City of Goodlettsville Fire Department and they handle the haz-mat emergency per their policy.

Enforcement

Under the authority provided in Tennessee Code Annotated 68-221-1106 it is declared that any person violating the provisions of this article may be assessed a civil penalty by the City of Goodlettsville 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 offense.

Written Notification

The first step in resolving an issue is to provide written notification via a warning letter or email. Within seven (7) days of the receipt date of the notice, an explanation of the violation and a plan for the satisfactory correction and prevention therefore, to include specific required actions, shall be submitted to the Stormwater Department. Submission of a plan does not relieve the discharger of any liability for any violations occurring before, during, or after receipt of the notice of violation.

Consent Order

The Administrator is empowered to enter into consent orders, assurances of voluntary compliance or other similar documents establishing an agreement with the person responsible for non-compliance. Such orders will include specific action to be taken by the person to correct the non-compliance within a specific time frame. Consent orders shall have the same force and effect as either Notice of Violation or Cease and Desist Orders.

Show Cause Hearing

The Administrator may order any violator to show cause why a proposed enforcement action should not be taken. Notice shall be served on the person(s) which specifies the time and place for the meeting, the proposed enforcement action, the reason(s) 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 at least ten (10) days prior to the hearing.

Notice of Violation

The Administrator may issue an order to the violator directing that, following a specific time period, adequate structures, devices, etc. be installed or procedures implemented and properly operated. Orders may also contain such other requirements as might be necessary and appropriate to address the non-compliance issue.

Cease and Desist Orders/Enforcement Escalation

The Administrator may issue an order to cease and desist for all such violations and direct those persons in non-compliance to: (1) comply forthwith or (2) take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

Penalties

Any persons committing any act declared unlawful under the City's stormwater ordinance or who fails to comply with any lawful communication or notice to abate or take corrective action by the City of Goodlettsville shall be guilty of a civil offense.

Under the authority provided in Tennessee Code Annotated 68-221-1106 it is declared that any person violating the provisions of this article may be assessed a civil penalty by the City of Goodlettsville 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 offense.

When measuring civil penalties, the Administrator may consider (a) the harm done to the public health or 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 effectiveness of action taken by the violator to cease the violation (e) any unusual or extraordinary enforcement costs incurred by the City of Goodlettsville (f) any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment

In addition to the civil penalty, the City of Goodlettsville may recover (a) all damages proximately caused by the violator to the municipality, which may include any reasonable expenses incurred in investigating violations of, and enforcing compliance

with, this article, or any other actual damages caused by the violation (b) the cost of the municipality's maintenance of stormwater facilities when the owner of such facilities fails to maintain them as required.

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.

Appeals to be in writing. The appeal shall be in writing and filed with the municipal recorder or clerk within fifteen (15) days after the civil penalty and/or damage assessment is served in any manner authorized by law.

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 forty-five (45) days. A minimum of ten (10) days prior notice of the time, date, and location of said hearing shall be published in a daily newspaper of general circulation and/or on the city's website. The notice shall also be provided to the aggrieved party by registered mail and 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.

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. (Ord. #04-651, Jan. 2005, as replaced by Ord. #15-830, Feb. 2015)

City of Goodlettsville Hearing Authority is established under Title 18, Chapter 2, Section 18-207 of the Goodlettsville Municipal Code.