City of Tempe
Stormwater Enforcement
Overview

- Enforcement Criteria
- General Responsibilities
- Stormwater Enforcement Response
- Domestic Sources
- Enforcement Timeframe
- Point Assessment Criteria
- Table B / Fines
- Suggestions
Enforcement Criteria

- Permit No. AZS000005-2010, Appendix A(III)(G) Required Enforcement Response Plan ("ERP").

- Decision Made to Combine Enforcement Responsibilities.

- Followed Requirements of 40 CFR Part 403, Section 8, Paragraph (f)(5).
Enforcement Criteria

- ERP specifies how the “City” will investigate and respond to instances of noncompliance.

- Applicable to the following Articles of the Tempe City Code:
  - Chapter 12, Article VI: Stormwater Pollution Control
  - Chapter 27: Sewers and Sewage Disposal
  - Chapter 33, Article V: Cross-Connection Control

- Collectively, the “Human Health and Environmental Protection Ordinances” or “HHEP Ordinances.”
General Responsibilities

Public Works Director ("Director")

- Responsible for administration and enforcement of the HHEP Ordinances
- Appropriate application of the ERP to suspected Violations.
- Director may delegate authority to City staff as authorized by the TCC.
General Responsibilities

Deputy Public Works Director - Water responsible for

- The appropriate application of the ERP and will;
- Conduct Show Cause Hearings;
- Issue Administrative Orders following a Show Cause Hearing;
- Approve assessment of Administrative Fines;
- Approve termination or emergency suspension of water or wastewater services;
General Responsibilities

Environmental Services Manager and Compliance Group

- Responsible for ensuring fair and consistent implementation Ord.;
- Ensure enforcement activities are consistent with the ERP;
- Review all suspected Violations;
- Sign Notices of Violation;
- Sign Administrative Orders;
- Consult with City Attorney regarding Enforcement;
- Make recommendations to the City Attorney regarding initiating Judicial Enforcement.
General Responsibilities

The City Attorney’s Office will:

- Provide assistance and advice on legal/regulatory issues, developments, and changes;
- Advise City staff during Administrative Enforcement matters as required;
- Consult with Environmental Services Manager on Administrative Enforcement actions and review Administrative Orders issued by the Manager;
- Manage and prosecute Judicial Enforcement on behalf of the City.
Response to any Violation of Chapter 12, Article VI, may include, but is not limited to, the following:

- Contact by Inspector;
- Provide BMP and Code requirements and/or prohibitions;
- Warning letter;
- Written order to immediately remove pollutant and/or source from MS4 and to restore City of Tempe property to conditions acceptable to Director;
- Written order to implement or correct BMP activities.
Stormwater Enforcement Response

- Issuance of Notice of Violation and AO’s which may include:
  - Affirmative obligations; i.e., increased sweeping or track out pad maintenance;
  - Prohibited actions or obligations to cease and desist;
  - Other appropriate orders;
- Administrative Fines;
- Emergency suspension or permanent termination of water and wastewater service;
- Hearing to show cause;
- Publication of significant violators and imposition of fines
- Judicial enforcement action, including injunctive relief and criminal prosecution
Domestic Sources

Enforcement of violations from domestic sources shall be limited to the following items unless Director determines circumstances warrant additional enforcement measures.

- Contact by Inspector;
- Provide BMP and Code requirements and/or prohibitions;
- Warning letter;
- Written order to immediately remove pollutant and/or source from MS4 and to restore City of Tempe property to conditions acceptable to Director;
Domestic Sources

On May 1, 2019, a discharge of nonstorm-related water was allowed to enter the municipal sewage storm sewer system (MSS) as the result of past and water being dumped into the gutter and leaking a catch basin located at the northeast corner of Almeda Drive and Country Club Way. An inspection of the area provided evidence that the discharge originated at your residence.

On May 2, 2019, Michelle Lorenzo, Environmental Compliance Supervisor, observed you cleaning a paint bucket and washing with water into the gutter in front of your home. Ms. Lorenzo spoke with you and was told that nonstorm-related water is prohibited to enter the storm sewers and stated that proper disposal of water outside paint is permitted to be disposed of in streets connected to the sanitary sewer system. Ms. Lorenzo stated that she observed you cleaning the discharge from the gutter as she was leaving, and we appreciate your cooperation and understanding in this matter.

Below is information for future reference:

Chapter 12, Article VI, Section 12-180 of the Tempe City Code defines the public storm drain system as:

...all of any part of the storm drains, drainages pipes, gutters, culverts, sewers, street, roads, highways, commercial areas, or public or public service, power, light, water, gas, gas, water, or other public right of way or public storm drain system of any substances that are transported mainly of storm water.

Chapter 12, Article VI, Section 12-125 of the Tempe City Code states:

(a) Unless expressly authorized or exempted by this article, no person shall cause or allow the release to a public right of way or public storm drain system of any substance that is not composed mainly of storm water.

(b) Unless expressly authorized or exempted by this article, no person shall cause or allow the release to a public right of way or public storm drain system of any substance that is not composed mainly of storm water.

Respectfully,

Michael Golden
Environmental Compliance Supervisor

MOUs

David McNeil, Environmental Services Manager, City of Tempe
Jeremy Mabie, Environmental Compliance Inspector, City of Tempe
Michelle Lorenzo, Environmental Compliance Inspector, City of Tempe
Enforcement Time Frames

Responses to initial Stormwater Violations will be:

- Initiated within ten (10) days of discovery or,

- At the discretion of the Environmental Services Manager;

Whenever use of an NOV as an enforcement response is selected, immediate issuance is allowed.
Enforcement Time Frames

Emergency Situations, Imminent danger

- Issuance of cease and desist orders;
- Water or wastewater service termination;
- Revocation / termination of any permit issued by the Department;
- At the recommendation of Director to another Director, termination of permits issued by that respective Department.
Point Assessment Criteria

- Application of enforcement to be equitable and consistent;
- Violation points developed for each classification of Violation;
- Severity of the Violation;
- Potential for environmental harm or facility damage
- Cost of the Violation to the City and its operations.
- Each Violation by an RP shall result in points being assigned to RP.
Point Assessment Criteria

- When Violations are discovered, assessed points applied to the RP.
- SNC calculated at the end of every quarter for the six (6) months preceding the end of the quarter;
- When points equal or exceeds 4 points fine assessed;
- If applicable, publication of those in SNC can occur;
- Termination of service or cease and desist orders.
Table B

- Violation of ordinance not specified in Table B may be awarded points at the discretion of the Director.

- The description of the violation is for ease of reference only. For the specific violation, consult the corresponding ordinance section cited.
### Table B

<table>
<thead>
<tr>
<th>Code</th>
<th>Violation</th>
<th>Points</th>
<th>Enforcement Response</th>
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</thead>
<tbody>
<tr>
<td>SW-1</td>
<td>Discharging any substance to the public right-of-way and/or the public storm drain system that is not composed entirely of storm water - 1&lt;sup&gt;st&lt;/sup&gt; occurrence (non-domestic).</td>
<td>2.0</td>
<td>WL, NOV</td>
<td>§ 12-125(a)</td>
</tr>
<tr>
<td>SW-2</td>
<td>Discharging any substance to the public right-of-way and/or the public storm drain system that is not composed entirely of storm water - 2&lt;sup&gt;nd&lt;/sup&gt; or greater occurrence (non-domestic).</td>
<td>4.0</td>
<td>WL, NOV</td>
<td>§ 12-125(a)</td>
</tr>
<tr>
<td>SW-3</td>
<td>Discharging any substance to the public right-of-way and/or the public storm drain system that is not composed entirely of storm water (domestic).</td>
<td>Provide BMP pamphlet, WL</td>
<td>§ 12-125(a)</td>
<td></td>
</tr>
</tbody>
</table>
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<tr>
<td>SW-4</td>
<td>Improper use, storage, spill, dump of material in a manner which could cause or contribute to the addition of pollutants to the storm system - 1(^{st}) occurrence.</td>
<td>2.0</td>
<td>WL, NOV</td>
<td>§ 12-125(b)</td>
</tr>
<tr>
<td>SW-5</td>
<td>Improper use, storage, spill, dump of material from a commercial/industrial activity in a manner which could cause or contribute to the addition of pollutants to the storm system - 2(^{nd}) or greater occurrence within any two consecutive quarters.</td>
<td>4.0</td>
<td>NOV, AO</td>
<td>§ 12-125(b)</td>
</tr>
<tr>
<td>SW-6</td>
<td>Establishment, use, maintenance, or continuance of any connection to the public storm sewer system which has caused or will likely cause a Violation.</td>
<td>1.0</td>
<td>WL, NOV</td>
<td>§ 12-125(f)</td>
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<td>Points</td>
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<tr>
<td>SW-7</td>
<td>Failure to remove any connection to the public storm drain system after written notification has been issued as required by §12-125(f).</td>
<td>2.0</td>
<td>AO</td>
<td>§ 12-125(f)</td>
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<td>SW-8</td>
<td>Failure to clean up any release or discharge which may result in pollutant(s) entering the public storm drain system.</td>
<td>1.0</td>
<td>WL, NOV</td>
<td>§ 12-126(a)</td>
</tr>
<tr>
<td>SW-9</td>
<td>Failure to notify the City of discharge or release of pollutant into the public storm drain system.</td>
<td>2.0</td>
<td>WL, NOV</td>
<td>§ 12-126(b)</td>
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<td>SW-10</td>
<td>Failure to implement BMP(s)</td>
<td>1.0</td>
<td>WL, NOV</td>
<td>§ 12-127</td>
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<tr>
<td>SW-11</td>
<td>Discharge of exempt discharges that are determined to be a significant source of pollutant or could place the City in violation with its AZPDES Permit.</td>
<td>2.0</td>
<td>WL, NOV</td>
<td>§ 12-125(c)</td>
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</tbody>
</table>
When an RP is assigned (4) points or more during any consecutive two-quarter period, the Director or his delegated representative will assess an Administrative Fine with a base value of $2500 dollars.
In addition to the base Administrative, each quarter (0.25) point assessed in excess of 4 points shall be assigned a dollar value of $156.25. For each quarter point, the following values will be applied:

<table>
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<tr>
<th></th>
<th>0.25</th>
<th>0.50</th>
<th>0.75</th>
<th>1.0</th>
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<th>1.75</th>
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<tr>
<td>$156.25</td>
<td>$312.50</td>
<td>$468.75</td>
<td>$625.00</td>
<td>$781.25</td>
<td>$937.50</td>
<td>$1,093.75</td>
<td>$1,250.00</td>
<td></td>
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<tr>
<td>2.25</td>
<td>2.50</td>
<td>2.75</td>
<td>3.0</td>
<td>3.25</td>
<td>3.50</td>
<td>3.75</td>
<td>4.0</td>
<td>$1,406.25</td>
</tr>
</tbody>
</table>
Table B – Commercial Warning Letter

City of Tempe
Public Works Department
Environmental Services

Jan 21, 2013

To: [Name]

From: [Name]

RE: Storage of Used Cooking Oil

As you are aware, the Environmental Services Section of the Public Works Department has received numerous complaints regarding the storage of used cooking oil near the location at 1201 W. Paradise Valley Blvd., Tempe, AZ 85281. The storage of used cooking oil in this manner is not only a violation of the City of Tempe Ordinance, but also poses a serious health hazard.

As a result of the complaints and the failure to keep the area clean, the Environmental Services Section has decided to stop the storage of used cooking oil in this manner. We have notified the property owner and have provided alternative solutions for the proper disposal of used cooking oil.

We appreciate your cooperation in this matter.

Sincerely,

[Signature]

[Name]
Environmental Compliance Supervisor

[City of Tempe, Arizona]

CC: [Names of other recipients]
Table B – Commercial NOV/AO

NOTICE OF VIOLATION
CITY OF TEMPE
ENVIRONMENTAL SERVICES SECTION

IN THE MATTER OF
Condorson Irrigation LLC
2543 West Clean Water Trail
Apache, Arizona 85628

NOTICE OF VIOLATION
• UNAUTHORIZED DISCHARGE OF NON-STORM WATER SUBSTANCE INTO THE PUBLIC STORM DRAIN SYSTEM

LEGAL AUTHORITY
The following findings are made and this Notice of Violation issued pursuant to the authority under Tempe City Code, Chapter 12.

FINDINGS
1. Condorson Irrigation is a business conducted by 3-Cross Irrigation LLC ("Owner"). Owner has been engaged within the boundaries of the City of Tempe ("City") at 806 South Mill Avenue, Tempe, Arizona 85281.
2. The City has been authorized under the Arizona Pollution Discharge Prevention System (APDES) Stormwater Permit Program pursuant to the Clean Water Act and State law, to administer, regulate, and enforce the provisions of the stormwater ordinance in Tempe.
3. The City's Storm Water Pollution Control Ordinance, Tempe City Code, Section 12-116, et seq., prohibits a person from causing or allowing the release to a public...
Suggestions

- Work Together
- Notice Early & Often
- Continued Presence
Suggestions

- “Don’t encourage bad behavior, encourage good behavior;”
- “Going after good people is easy, going after bad people is hard;”
- “Be careful what you write;”
- “Leave personal issues out of it.”