

CITY OF SANTEE



STORM WATER ENFORCEMENT RESPONSE PLAN

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CITY OF SANTEE

STORM WATER

ENFORCEMENT RESPONSE PLAN

I. INTRODUCTION

A. Storm Water Management Program

The City of Santee (City) enforces compliance with the requirements of its Storm Water Management Ordinance (Santee Municipal Code Chapter 9.06)(“Ordinance”), including the BMP requirements outlined in the City’s Guidelines for Surface Water Pollution Prevention included as Appendix C of the City’s Jurisdictional Runoff Management Program (JRMP) document. In accordance with Section E.6 of the Regional Water Quality Control Board, San Diego Region (Regional Water Board) Order No. R9-2013-0001, as amended by Order R9-2015-0001 (Municipal Permit or Permit), compliance with the City’s ordinances will be assessed through a variety of means, including inspections, responses to hotline calls, and routine outfall monitoring. Where violations are observed, the enforcement actions and procedures described in this Enforcement Response Plan (ERP) will be employed to enforce the requirements.

The City typically employs a tiered, escalating enforcement system. However, the City reserves the right to use whatever tools the enforcement official deems most appropriate for a given situation, as dictated by the specifics of each case.

Enforcement actions, including escalated enforcement actions, are described in the following sections. It should be noted that experience and professional judgment of City staff are important in guiding the appropriate response to a violation. Escalated enforcement actions will continue to increase in severity, pursuant to City protocols, to compel compliance as soon as possible.

B. ERP Objectives

This ERP works in conjunction with the Ordinance to effectively administer the City’s storm water quality control programs. The ERP establishes progressive enforcement measures in response to instances of noncompliance and is designed to meet the following objectives:

1. Identify and investigate instances of noncompliance;
2. Establish enforcement responses appropriate to the nature and severity of the violation and the overall degree of noncompliance;
3. Provide a guide to encourage uniform application of enforcement responses for comparable types of violations; and
4. Ensure adequate, consistent, and timely enforcement actions for the protection of the environment and public health, safety and welfare.

II. OVERVIEW OF THE ENFORCEMENT RESPONSE PLAN

This ERP describes how the City will investigate instances of noncompliance with the Ordinance and the types of enforcement responses available to address noncompliance. It establishes a guide for determining the appropriate enforcement response based on the nature, magnitude, effect, duration, and frequency of a violation and any efforts to maintain compliance or eliminate noncompliance. The goal of this ERP is to achieve compliance with the Ordinance for the protection of the environment and the public health, safety, and welfare.

A. Investigations

The City has adopted investigation and monitoring programs for Municipal, Industrial and Commercial, Residential, and Construction facilities, and for all development projects, as part of its Storm Water Management Program. The City also investigates and monitors illicit discharges. The City ensures that pollution prevention methods and BMPs are implemented by enforcing its Ordinance. City inspectors and staff members properly document each observed violation at facilities failing to comply with storm water requirements, and enforcement action is taken where necessary to bring about compliance. Inspectors seek to resolve non-compliance promptly and establish appropriate compliance time frames on a case-by-case basis.

As required by the Municipal Permit, City inspectors will seek to resolve incidents of observed non-compliance within 30 calendar days, or prior to the next rain event, whichever is sooner. In cases where the violation cannot be resolved within the appropriate timeframe, the reason additional time was needed for case resolution will be documented and kept on file.

Discharges related to non-compliance deemed to pose a threat to human or environmental health will be reported will be reported to the Regional Water Board verbally within 24 hours and in writing within five (5) days, as required by Attachment B of the Municipal Permit. Section 3.3.2.5 of the City's JRMP document provides more information on reporting requirements.

The City will notify the Regional Water Board in writing within five (5) calendar days of issuing escalated enforcement to a construction site that poses a significant threat to water quality as a result of violations or other non-compliance with its permits and applicable local ordinances, as required by the Municipal Permit.

1. Municipal Enforcement

During routine municipal facility inspections, City or contract staff will assess facility areas and activities to ensure all are maintained in accordance with City regulations, ordinances, and BMP requirements. If BMPs are found to be deficient or otherwise ineffective, the responsible party or

department will be provided with required corrective actions. If the inspector notes that specific areas of a leased facility require additional BMPs, the City can require the implementation of BMPs in addition to the required minimum for the specific area/activity. If a leased facility continues to be out of compliance, the City may choose to discontinue the lease, which would remove the tenant from that particular site.

If the responsible City staff member or department/division does not perform the necessary corrective actions in response to the direction of their immediate superior, escalated enforcement action will be taken by involving higher ranking representatives within the responsible department or division, who may enact internal disciplinary procedures, until the deficiencies are resolved.

2. Industrial and Commercial Enforcement

a. Fixed Facility Enforcement

The City conducts inspections in accordance with Permit requirements. If the City inspector observes a significant and/or immediate threat to water quality, action will be taken to require the facility owner and/or operator to immediately cease and correct the discharge or activity. Conditions that would warrant such action may include observations of runoff from the industrial site that are not reasonably controlled by the protective measures or observation of a failure in BMPs resulting in or potentially resulting in a release of pollutants to a degree that may substantially degrade water quality. Escalated enforcement measures are used as needed to ensure compliance. The City maintains the authority to require facilities to prepare Storm Water Pollution Prevention Plans or to conduct sampling and analysis where deemed necessary by the City.

b. Mobile Business Enforcement

Most violations associated with mobile businesses are anticipated to be related to illicit discharges. The City's enforcement approach to such discharges will require the discharge to be stopped and the area cleaned of discharged materials when applicable and feasible. Education may also be provided to operators who are not aware of the City's storm water requirements. Businesses that do not possess the materials necessary to implement the required BMPs will likely be required to demonstrate to the City that they have obtained such materials and can properly use them before the City allows such businesses to resume operations in the City. Mobile businesses that do not have City business licenses will be required to obtain them.

3. Residential Enforcement

There are two methods of discovering residential activities contributing to urban runoff. One is through complaint/referral process. Complaints may be received through direct contact with City, contract staff, or through calls to the City's Reporting Hotline. The other route is through observations made by City staff during residential area inspections, during scheduled dry weather outfall monitoring, and during routine City activities such as storm water conveyance system maintenance. Additional, focused investigations of areas upstream of outfalls with obvious pollutants present during the Dry Weather Outfall Monitoring Program and complaint response investigations provide further information about potential problem areas. The City believes that the combination of monitoring, public reporting, direct observations by City staff that are routinely in the field, and targeted additional investigations where necessary provide sufficient oversight of residential areas and activities.

During investigations of incidents reported to the hotline, or discovered during routine MS4 outfall monitoring, that are associated with a residential source, City staff will address issues of storm water concern where feasible, and provide education where appropriate. Violations to the City's Municipal Code will be investigated by authorized enforcement staff. Violations are documented and depending on the nature and severity of the violation, enforcement may consist of any of the enforcement measures described in this Enforcement Response Plan.

Follow-up inspections conducted as a result of residential BMP deficiencies will be performed. Violations will continue to be investigated by City personnel with enforcement authority within a reasonable timeframe.

4. Construction Management Enforcement

The City conducts inspections in accordance with Permit requirements and works closely with all development projects prior to the commencement of construction activities. All construction sites are expected to be aware of the City's BMP requirements. The City seeks to resolve violations as quickly as possible, including prior to rain events where feasible. In cases of significant or repeated non-compliance, the City may hire an outside contractor to implement required BMPs at a construction site when there is at least a 50% chance of rain within the next 72 hours.

When a site is subject to the Construction General Permit (CGP), City staff may also collaborate with Regional Water Board staff on enforcement actions. The City will notify the Regional Water Board in writing within five calendar days of issuing escalated enforcement to a construction site that poses a significant threat to water quality as a result of violations of other noncompliance. Written notification may be provided to the appropriate Regional Water Board staff member by email. The City will also notify the Regional Water Board of any construction sites required to obtain coverage under the CGP that, to the City's knowledge, have not filed NOIs, within five calendar days from the time the City became aware of the circumstances. At minimum, the construction project location and name of owner or operator will be provided to the Regional Water Board. Written notification may be provided electronically by email to Nonfilers_R9@waterboards.ca.gov.

5. Development Planning Enforcement

The City conducts inspection in accordance with Permit requirements. The City's current plan check process includes steps to enforce the implementation of development requirements during construction. Since all structural BMPs are required to be shown on the project's plans, inspectors check to make sure these BMPs have been correctly installed during their routine inspections. If any mistakes in BMP installation are noted during plan checks, the City requires the project to promptly correct these errors until BMP installation is consistent with the specification on the project's approved plans.

Once a project has been completed, ongoing operation and maintenance is verified through inspections or through review of submitted maintenance verification certifications. If an inspector finds maintenance deficiencies with any structural BMPs at a site, he or she first attempts to explain the deficiencies and necessary corrective actions to the responsible party, if the responsible party is present. If the responsible party performs all necessary corrective actions promptly in response to the verbal explanation from the inspector, the case is closed, and the resolution is documented. Otherwise, a written notice is issued to the responsible party. The notice indicates the type and location of each BMP and describes the deficiencies observed by the inspector as well as the required corrective actions. Responsible parties are required to perform the corrective actions and demonstrate that all necessary maintenance activities were completed through a re-inspection with the City inspector or through providing photographs of corrections. The inspector may also request additional documentation or perform a re-inspection at their discretion.

The maintenance condition of structural BMPs are determined through an annual self-certification program where the City requires reports from authorized parties demonstrating proper maintenance and operation of BMPs. If the responsible party fails to provide the annual report, the City will issue a written notice requiring the responsible party to provide the report within a given timeframe.

If a responsible party fails to sufficiently respond to a notice from the City by the response deadline, the inspector may issue a written warning. If the responsible party still fails to perform the necessary corrective actions, the inspector may issue an administrative citation.

Follow-up inspections conducted as a result of structural or treatment control BMP deficiencies will be performed. All enforcement actions will be documented appropriately in the development project's database file. If a development site receives frequent citations or is not responsive to previously issued enforcement actions, more severe actions, such as court actions, will be used as necessary.

6. Illicit Discharge Detection and Elimination Enforcement

The City implements and enforces its ordinances, orders, or other legal authority to prevent illicit discharges and illicit connections to its storm water conveyance system. If the City identifies the

source as a controllable source of non-storm water or as an illicit connection or an illicit discharge (IC/ID), administrative and judicial enforcement measures are used to eliminate IC/IDs.

If a complaint is received that indicates an IC/ID, City staff will conduct a field investigation for complaints with details suggesting an actual or potential discharge to the storm water conveyance system or receiving water body. If investigators find evidence of a violation with the potential to release pollutants or an actual IC/ID, every effort is made to find the responsible party and inform them of the complaint or issue a written warning. Parties found to be responsible for a violation or IC/ID are required to clean up or remove pollutants to the maximum extent practicable. Any refusal by the responsible party to perform cleanup of a violation or discharge will be handled by Code Compliance staff and appropriate enforcement actions will be taken.

The nature of the City's enforcement approach is determined on a case-by-case basis and is based on factors such as the severity of the violation, the threat to human or environmental health, site-specific circumstances, and past compliance history. If the situation is determined to pose an immediate risk to public health or the environment, the City may coordinate with other agencies or teams that are specially trained to assess and mitigate emergency situations as necessary (e.g., those involving hazardous wastes/materials, etc.). The discharge is also reported to the Regional Water Board as required by the Municipal Permit.

Additionally, water observed at major MS4 outfalls and traced to an anthropogenic source(s) is considered an illicit discharge. If the anthropogenic source(s) is/are found to be from a(n) industrial/commercial site, an inspection of the industrial/commercial facility will be performed in a timely manner to investigate the discharge. The inspection report will include a note describing that the inspection was prompted due to recent IC/ID discovery associated with MS4 outfall monitoring. If the anthropogenic source is found to be from a residential area, City staff may provide education and/or a written notification informing the responsible party of the illicit discharge and their responsibility to eliminate it. Follow-up inspections are conducted as necessary to ensure the discharge has been eliminated.

If the anthropogenic source is traced a municipal source, the enforcement actions discussed in Section 4 of the JRMP document is taken.

Any IC/ID observed to have potential to immediately impact human health or the environment is immediately reported to Code Compliance staff and the Fire Department, if necessary, and associated enforcement action(s) will be handled by Code Compliance staff.

B. Determining Enforcement Response to Noncompliance

When the City identifies any violation of the Municipal Code, NPDES permit, compliance order or other regulatory action, City personnel will determine the appropriate enforcement response on the basis of the type, frequency, magnitude, and duration of the violation, as well as on the violation's

potential impact to water quality and public health, safety or welfare, and any good faith efforts to comply with all regulations.

1. Types of Noncompliance

Violations of the Municipal Code, NPDES permits, orders and other regulatory actions may be characterized as administrative violations, monitoring violations, or discharge violations. The magnitude of each type of violation may be characterized as minor or major.

a. Administrative Violation

Administrative violations are generally a failure to provide any required report in a timely manner. Administrative violations may be minor or major.

i. Minor Administrative Violations

Minor administrative violations include, but are not limited to, a *single* instance of any of the following:

- Submitting an incomplete report or application;
- Submitting a late report or other required document;
- Failing to maintain or submit required records;
- Failing to conduct inspections, sampling or monitoring when required;
- Failing to report any spill or other required information; and
- Failing to pay required fees, penalties, or charges within forty-five calendar days from the due date.

ii. Major Administrative Violations

Major administrative violations are generally those violations related to recurring or prolonged noncompliance with reporting requirements or payment of required fees. Examples of major administrative violations include the following:

- Failing to respond to requests for information or administrative orders;
- Failing to meet a compliance date by more than forty-five (45) days;
- Falsifying documents or attempting to mislead the City in any manner;
- Engaging in a pattern of minor administrative violations;
- Refusing entry to authorized City personnel in the course of performing their assigned duties;
- Failing to produce records or accurately report noncompliance;
- Failing to pay any required fees, penalties, or charges within sixty (60) days from the due date; and
- Failing to obtain a required permit for any discharge.

b. Monitoring Violation

Monitoring violations are generally failures to sample or monitor, as required. Monitoring violations may be minor or major.

i. Minor Monitoring Violations

Minor monitoring violations include, but are not limited to, a *single* instance of any of the following:

- Failing to sample or resample within required timeframes;
- Improperly sampling, collecting, locating or analyzing;
- Failing to monitor for all required parameters;
- Failing to properly maintain monitoring equipment; and
- Failing to submit complete and accurate reports.

ii. Major Monitoring Violations

Major monitoring violations include, but are not limited to, the following:

- Repeated minor monitoring violations;
- Intentional tampering with or disabling monitoring equipment.

c. Discharge Violation

Discharge violations generally occur when a discharge fails to comply with any requirement set forth in an Ordinance, permit, order, or other regulatory mechanism. Discharge violations may be minor or major.

i. Minor Discharge Violations

Minor discharge violations are those that, either alone or in combination with other violations, pose no significant threat to any of the following: (A) the public health, safety or welfare, including any City employee or contractor, (B) the City's storm drain system, or (C) the environment. If the following violations do not pose a significant threat, they may be considered minor discharge violations:

- Failing to inform the City of a change in ownership.

ii. Major Discharge Violations

Major discharge violations are those that, either alone or in combination with other violations, pose a threat to any of the of the following: (A) the public health, safety or welfare, including any City

employee or contractor, (B) the City's storm drain system, or (C) the environment. Major discharge violations include, but are not limited to, the following:

- Any discharge that causes or contributes to damage to the storm drain system;
- Any discharge that causes or contributes to a violation of the Permit or any receiving water limitation;
- Any discharge made without a required permit;
- Any discharge made with an expired, suspended or revoked permit;
- Any discharge made in violation of compliance order, cease and desist order or other order or agreement;
- Any discharge that does not comply with a current discharge permit or plan;
- Failing to repair or replace any defective control device, as required by the City;
- Failing to implement any BMP or control device; and
- Failing to correct a minor discharge violation within a specified time period.

d. Unclassified Violation

The City Manager may, in his or her sole discretion, treat any violation that is not otherwise classified herein, as a minor or major violation. The City Manager will consider the type, frequency, magnitude, and duration of the violation, as well as the violation's potential impact to water quality and public health, safety or welfare, and any good faith efforts to comply with all regulations.

2. Types of Enforcement Responses

The City uses a range of enforcement responses to ensure compliance with the Ordinance. Three types of enforcement responses – administrative, civil, and criminal – range from an informal conversation to civil and criminal actions. Some intentional violations may constitute criminal violations of federal, state, and local laws, and the City Manager may seek the assistance of the Environmental Protection Agency or the City Attorney to implement an appropriate enforcement action. This section describes the range of available enforcement responses. Nothing in this ERP limits the City's authority to issue any other order or take any other enforcement action deemed necessary to protect the storm drain system, public health, safety and welfare, or the environment.

a. Administrative Enforcement Responses

The various administrative enforcement measures employed by the City include both verbal and written courtesy notices and warnings, Notices of Violation (NOVs), compliance orders, cease and desist orders, permit revocation, nuisance abatement, stop work orders, enforcement of contracts, administrative citations and monetary penalties, cost recovery, referral to the Regional Water Board, and ineligibility for land development.

i. Written and Verbal Warnings

A written or verbal warning is typically the City's first level of enforcement action when a violation of the Ordinance is observed such as a prohibited non-storm water discharge or a direct connection to the City's storm water conveyance structures. The intent is to point out a problem and encourage compliance without taking a formal enforcement action. Written warnings can be given using a variety of methods including cleanup orders, NOV's, cease and desist orders, and notices and orders to clean, test, or abate.

When written warnings are issued, the violation is noted, a time frame to correct the violation is given, and a follow-up date is scheduled. City staff follow-up with violations as necessary to determine whether or not compliance has been achieved.

ii. Notice of Violation

An NOV may be issued in response to any violation of the Ordinance, any permit, or any order issued by the City. An NOV identifies the provision of any ordinance, permit, or order which has been violated and establishes a compliance date. (SMC § 9.06.320.)

If it is determined by an authorized enforcement staff, meaning any City employee or contractor hired by the City who is assigned to duties involving permits and other City approvals, inspections, or enforcement, that the public interest requires the posting of bond or other security to assure the violation is corrected, such bond or security may be required by the authorized enforcement staff.

iii. Compliance Order

A compliance order may be issued in response to any violation of the Ordinance, any permit, or any order issued by the City. A compliance order specifies the provision of any ordinance, permit, or order which has been violated and establishes a compliance date or schedule. (SMC § 9.06.320.) A compliance order may direct that treatment facilities, devices, or monitoring equipment be installed, that best management practices be utilized, or that self-monitoring and reporting or other actions necessary and appropriate to assure timely compliance with the City's Ordinance be undertaken. A compliance order may contain a compliance schedule with milestones, action plans, compliance meetings, or other measures necessary to achieve and maintain compliance.

iv. Cease and Desist Order

A cease and desist order may be issued to gain immediate compliance when a violation poses a threat to the storm drain system, environment, or public health, safety and welfare. (SMC § 9.06.320.) A cease and desist order may also be issued to any person who violates any ordinance, permit, or order

and may order immediate cessation of impermissible activities, immediate resolution of any source or cause of a continuing violation, and immediate cleanup of any area affected by a violation.

v. Permit Revocation

Violations of the City's Municipal Code may be grounds for permit and/or other city license suspension or revocation in accordance with Santee Municipal Code Chapter 1.14. (SMC § 9.06.320.) City permits, licenses, or other approvals may be suspended or revoked after notice and an opportunity for a hearing. For instance, in severe cases of non-compliance, or significant discharges relating to development and/or construction activities, the City may revoke the building or grading permits that a contractor is working under for the project or deny future permits on the project. The responsible party will then need to re-apply for permits and meet the requirements the City may have placed on the project before resuming the project.

vi. Public Nuisance Abatement

Violations that are deemed to be a threat to public health, safety, and welfare may be identified as a public nuisance and abated by the City. (SMC § 1.10.030.) The City is authorized to abate a declared nuisance that is not completely abated by the owner, lessee, occupant or person having charge or control of the property within the time prescribed by the City. (SMC § 1.10.140.) Violations which create an immediate threat to the public health, safety and welfare may be summarily abated. City costs for pollution detection and abatement, if not paid in full by the discharger in addition to any other penalties, may be made a lien against the property in accordance with the abatement procedure. Costs for pollution detection and abatement may be recovered from the discharger in addition to any other penalties. (SMC § 1.10.150).

vii. Stop Work Orders

Whenever any work is being done contrary to the City's Municipal Code, or other laws or ordinances, an authorized enforcement official or authorized enforcement staff may order the work stopped by notice in writing to any person engaged in doing or causing such work to be done. (SMC § 15.58.950.) Any person receiving a Stop Work Order is required to immediately stop such work until approved by the authorized enforcement official or authorized enforcement staff to proceed with the work.

The City can issue a Stop Work Order for enforcement of required BMPs at construction or industrial/commercial sites. Stop Work Orders are typically given if written warnings have been issued and the violation has not been corrected, or if an observed violation poses a significant threat to water quality. Stop Work Orders prohibit further activity until the problem is resolved. The Stop Work Order will describe the infraction and specify what corrective action must be taken. A copy of the Stop Work Order will be given to the owner or contractor and placed in the site's active inspection file.

To restart work once a Stop Work Order has been issued, the responsible party must request that a City inspector re-inspect the site to verify that the deficiencies have been satisfactorily corrected. Once the inspector or authorized enforcement official verifies that the appropriate corrections have been implemented, activities may resume. (SMC § 15.58.950.)

viii. Enforcement of Contracts

If a contractor is performing work for the City, leasing City property, or otherwise contracts with the City, then the City may use the provisions within the contract for enforcement of non-compliance. Such contract provisions may allow the City to refuse payment, stop work (without time penalties), and/or revoke contracts if contractors performing activities do not comply with all appropriate permits, laws, regulations, and ordinances.

ix. Administrative Citations and Monetary Penalties

The City's authorized enforcement staff may issue storm water field citations for violations of the Ordinance or the Municipal Permit. Violations may be subject to administrative citation and/or fine issued under Municipal Code Chapter 1.14. (SMC § 9.06.320.)

Administrative penalties assessed pursuant to Santee Municipal Code section 9.06.320 shall be assessed at a maximum rate of \$100 for a first violation. The maximum rate shall not exceed \$1,000 per violation per day. The fine amounts shall be cumulative where multiple citations are issued. Administrative citations may be appealed in accordance with Santee Municipal Code Chapter 1.14.

When an administrative citation is issued, the responsible party may request a hearing to contest the enforcement official's determination that a violation of the City's storm water requirements has occurred. Details on the City's hearing and appeals process can be found in section 1.14.060 of the Santee Municipal Code.

x. Cost Recovery

Any person who violates any provision of the Ordinance is liable for all costs incurred by the City to investigate, remedy, and prosecute such violation, including but not limited to attorneys' fees. (SMC § 9.06.320(D).)

xi. Referral to the Regional Water Board

The City refers violations of the Ordinance to the Regional Water Board for enforcement action in accordance with the requirements of the Municipal Permit or plans adopted pursuant to the Municipal Permit. (SMC § 9.06.320(H).)

xii. Ineligibility for Land Development

Any person who fails to perform work on a priority development project, construction project, or land disturbing activity obtaining and complying with a standard storm water quality management plan, storm water pollution prevention plan, or other plan as required by the Ordinance may be ineligible to continue development or construction activities.

In such a case, the City will serve the owner with a notice of intent to file a notice of ineligibility for land development, and a hearing will be held pursuant to the process outlined in Santee Municipal Code section 9.06.320 (F). During the effective dates of a notice of ineligibility, no application for a building permit, administrative permit, site plan, use permit, variance, tentative parcel map, tentative map, parcel map or final map or any other permit for the development of the property on which the violation occurred and which resulted in the notice of ineligibility will be approved.

A notice of ineligibility will remain in effect until the enforcement official files a "Release of Notice of Ineligibility for Land Development." The Release may be filed when the owner implements all required plans and BMPs and remedies any noncompliant site conditions to the Director's satisfaction. (SMC § 9.06.320(F).)

b. Civil Enforcement Responses

The City Attorney is authorized to file civil actions and to seek civil penalties and/or other remedies to enforce the City's ordinances. The penalty for a storm water infraction will be relatively minor for a first offense, but repeated violations will result in escalating fines or misdemeanor charges. There is no requirement that administrative enforcement procedures be pursued before such actions are filed.

i. Injunctive Relief

The City may pursue enforcement by judicial action for preliminary or permanent injunctive relief for any violation of the Storm Water Management Ordinance. (SMC § 9.06.330.)

ii. Civil Action

Civil actions include, but are not limited to, civil abatement actions, injunctions, cost recovery, compensatory damages. (SMC § 9.06.330.) These remedies may be used in addition to other remedies do not limit any other remedies, civil or criminal. (SMC § 9.06.330.)

iii. Arrest or Field Citation

Authorized enforcement staff may arrest without a warrant any person whenever the authorized enforcement staff member has reasonable cause to believe that the person has committed a violation of

the Municipal Code, including the Ordinance, or applicable state codes in his or her presence. Pursuant to California Penal Code Section 836.5 the authorized enforcement official can only arrest a person by issuing a misdemeanor field citation.

c. Criminal Enforcement Responses

The City Attorney is authorized to file criminal actions to enforce the Ordinance. It is unlawful for any person, firm, corporation, or other responsible entity to violate any provision or fail to comply with any of the restrictions or requirements of the Municipal Code, including the Storm Water Ordinance. Notwithstanding any other provisions of the Santee Municipal Code, any person who knowingly or intentionally violates any provision of the Storm Water Management Ordinance is guilty of a misdemeanor punishable by imprisonment in the County Jail for a period not to exceed one year, or a fine not to exceed ten thousand dollars for each day a violation exists, or both. (SMC § 9.06.340.)

3. Criteria for Determining Response to Noncompliance

The previous sections described the types of violations likely to occur and the types of enforcement responses available to the City. This section presents the criteria for determining the most appropriate response to each type of violation. In general, the appropriate enforcement response is determined by the following criteria: (a) the frequency and duration of the violation; (b) the nature, magnitude and potential impact of a violation on water quality or public health, safety or welfare; and (c) good faith efforts to maintain compliance or eliminate noncompliance.

a. Nature, Magnitude, and Effect of the Violation

Violations are evaluated against the potential or actual threat to the environment, to public health, safety and welfare, or to the storm drain system, created by the noncompliance. Any violation which poses a significant potential or actual threat may be considered a major violation. Some violations may be isolated and pose no potential or actual threat. These may be considered minor violations. Some violations, although isolated, may pose a significant potential or actual threat. These may be considered major violations.

b. Duration and Frequency of the Violation

The duration and frequency of a violation are independent factors in determining the appropriate enforcement response. Escalating enforcement actions are available to discourage or correct repeated, frequent, or long-standing violations.

c. Good Faith Efforts to Maintain Compliance or Eliminate Noncompliance

Efforts to maintain compliance or eliminate noncompliance may be considered when determining the appropriate enforcement response. Good faith efforts are prompt and vigorous control measures undertaken with extraordinary effort, rather than a “business-as-usual” approach. A history of compliance may include a person’s efforts in maintaining equipment, utilizing best management practices, and developing and implementing programs to reduce waste and the discharge of pollutants. After assessing the nature, magnitude, effect, duration and frequency of a violation, the City may elect to mitigate an enforcement response on the basis of a person’s good faith efforts to maintain compliance or eliminate noncompliance. In no case, however, will an enforcement response be mitigated to such an extent as to permit any harm or threat to the public health, safety or welfare, the environment, or the storm drain system.

C. Enforcement Response Timelines

As required by the Municipal Permit, City staff will seek to resolve incidents of observed non-compliance within 30 calendar days, or prior to the next rain event, whichever is sooner. The City will notify the Regional Water Board in writing within five (5) calendar days of issuing escalated enforcement to a construction site that poses a significant threat to water quality as a result of violations or other non-compliance with its permits and applicable local ordinances, as required by the Municipal Permit.

The City endeavors to respond within twenty-four (24) hours to major violations posing a threat to public health, safety or welfare, the environment, or the storm drain system. The actual response time may be shorter or longer, depending on any emergent or mitigating circumstances. In cases where the violation cannot be resolved within the appropriate timeframe, the reason additional time was need for case resolution will be documented and kept on file.

D. Personnel Responsibilities and Abbreviations

Specific personnel determine and implement appropriate enforcement responses. The following abbreviations are used in the ERP Guide to indicate personnel responsible for each enforcement response:

- CM City Manager or authorized designee
- PW Public Works Director or authorized designee
- CA City Attorney, at the direction of the City Manager or City Council

The following abbreviations are used in the ERP Guide to indicate type of enforcement response:

- W Warning
- NOV Notice of Violation
- CO Compliance Order

CDO	Cease and Desist Order
PR	Permit Revocation
MP	Monetary Penalty
CR	Cost Recovery
RWB	Referral to Regional Water Board
ILD	Ineligibility for Land Development
PNA	Public Nuisance Abatement
SNA	Summary Nuisance Abatement
SWO	Stop Work Order
EC	Enforcement of Contracts
Civ	Civil Enforcement
Crim	Criminal Enforcement

III. ENFORCEMENT RESPONSE PLAN – GUIDE

<i>A. Administrative Violations</i>			
Type of Violation	Nature, Magnitude, Frequency, Duration, Effect of Violation	Enforcement Response(s)	Responsible Person
Submitting an incomplete report or application	1st violation	W, NOV	PW, PW
	2nd violation	CO, NOV, MP, EC	PW, PW, CM, PW
	Major violation	CO, MP, Civ, CR, EC	PW, CM, CA, CA, PW
Submitting a late report or other required document	1st violation	W, NOV	PW, PW
	2nd violation	CO, NOV, MP, EC	PW, PW, CM, PW
	Major violation	CO, MP, Civ, CR, EC	PW, CM, CA, CA, PW
Failing to submit or maintain required records	1st violation	W, NOV	PW, PW
	2nd violation	CO, NOV, MP, EC	PW, PW, CM, PW
	Major violation	CO, MP, Civ, CR, EC	PW, CM, CA, CA, PW
Failing to conduct inspections, sampling or monitoring when required	1st violation	W, NOV	PW, PW
	2nd violation	CO, NOV, MP, CR, EC	PW, PW, CM, CA, PW
	Major violation	CO, MP, Civ, CR, EC	PW, CM, CA, CA, PW
Failing to report any spill or other required information	1st violation	W, NOV	PW, PW
	2nd violation	CO, NOV, MP, EC	PW, PW, CM, PW
	Major violation	CO, MP, Civ, CR, EC	PW, CM, CA, CA, PW
Failing to pay required fees, penalties, or charges within forty-five calendar days from the due date	1st violation	W, NOV	PW, PW
	2nd violation	CO, NOV, MP, CR, EC	PW, PW, CM, CA, PW
	Major violation	CO, MP, Civ, CR, EC	PW, CM, CA, CA, PW
Failing to respond to requests for information or administrative orders	1st violation	W, NOV	PW, PW
	2nd violation	CO, NOV, MP, EC	PW, PW, CM, PW
	Major violation	CO, MP, Civ, CR, EC	PW, CM, CA, CA, PW
Failing to meet a compliance date by more than forty-five (45) days	1st violation	W, NOV	PW, PW
	2nd violation	CO, NOV, MP, CR, EC	PW, PW, CM, PW
	Major violation	CO, MP, Civ, CR, EC	PW, CM, CA, CA, PW
Falsifying documents or attempting to mislead the City in any manner	1st violation	CO, CDO, PR	PW, PW, CM
	2nd violation	PR, MP, EC	CM, CM, PW
	Major violation	Civ, Crim, CR, EC	CA, CA, CA, PW
Refusing entry to authorized City personnel in the course of performing their assigned duties	1st violation	CO, CDO, PR	PW, PW, CM
	2nd violation	PR, MP, EC	CM, CM, PW
	Major violation	Civ, Crim, CR, EC	CA, CA, CA, PW
Failing to produce records or accurately report noncompliance	1st violation	W, NOV	PW, PW
	2nd violation	CO, NOV, MP, EC	PW, PW, CM, PW
	Major violation	CO, MP, Civ, CR, EC	PW, CM, CA, CA, PW
Failing to pay any required fees, penalties, or charges within sixty (60) days from the due date	1st violation	W, NOV	PW, PW
	2nd violation	CO, NOV, MP	PW, PW, CM
	Major violation	CO, MP, Civ, CR	PW, CM, CA, CA

Failing to obtain a required permit for any discharge	1st violation	CO, CDO, PR, RWB	PW, PW, CM, PW
	2nd violation	PR, MP, RWB, EC	CM, CM, PW, PW
	Major violation	Civ, Crim, RWB, CR, EC	CA, CA, PW, PW
Major violation: repeated minor violation or <u>any</u> violation that harms or threatens the public health, safety or welfare, the environment, or the storm drain system.			

B. Monitoring Violations			
Type of Violation	Nature, Magnitude, Frequency, Duration, Effect of Violation	Enforcement Response	Responsible Person
Failing to sample or resample within required timeframes	1st violation 2nd violation Major violation	CO, CDO, PR, EC PR, MP, EC Civ, Crim, CR, EC	PW, PW, CM, PW CM, CM, PW CA, CA, CA, PW
Improperly sampling, collecting, locating or analyzing	1st violation 2nd violation Major violation	CO, CDO, PR, EC PR, MP, EC Civ, Crim, CR, EC	PW, PW, CM, PW CM, CM, PW CA, CA, CA, PW
Failing to monitor for all required parameters	1st violation 2nd violation Major violation	CO, CDO, PR, EC PR, MP, ILD, EC Civ, Crim, ILD, CR, EC	PW, PW, CM, PW CM, CM, PW, PW CA, CA, PW, CA, PW
Failing to submit complete and accurate monitoring reports	1st violation 2nd violation Major violation	W, NOV, EC CO, NOV, MP, ILD, EC CO, MP, Civ, ILD, CR, EC	PW, PW, PW PW, PW, CM, PW, CA, PW PW, CM, CA, PW, CA, PW
Intentional tampering with or disabling monitoring equipment or BMPs.	1st violation 2nd violation Major violation	NOV, CDO, CO, EC PR, PNA, SNA, ILD, CR, EC PR, PNA, SNA, Civ, Crim, CR, EC	PW, PW, PW, PW CM, CM, CM, PW, CA, PW CM, CM, CM, CA, CA, CA, PW
Major violation: repeated minor violation or <u>any</u> violation that harms or threatens the public health, safety or welfare, the environment, or the storm drain system.			

C. Discharge Violations

Type of Violation	Nature, Magnitude, Frequency, Duration, Effect of Violation	Enforcement Response	Responsible Person
Failing to inform the City of a change in ownership	1st violation 2nd violation Major violation	W, NOV, EC CO, NOV, MP, EC CO, MP, Civ, CA, EC	PW, PW, PW PW, PW, CM, PW PW, CM, CA, CA, PW
Discharge causes or contributes to damage to the storm drain system	1st violation 2nd violation Major violation	NOV, CDO, CO, RWB, ILD, EC PR, PNA, SNA, RWB, ILD, EC PR, PNA, SNA, Civ, Crim, RWB, ILD, CR, EC	PW, PW, PW, PW, PW, PW CM, CM, CM, PW, PW CM, CM, CM, CA, CA, PW, PW, CA, PW
Discharge causes or contributes to a violation of the Permit or any receiving water limitation	1st violation 2nd violation Major violation	NOV, CDO, CO, RWB, EC PR, PNA, SNA, RWB, ILD, EC PR, PNA, SNA, Civ, Crim, RWB, ILD, CR, EC	PW, PW, PW, PW, PW CM, CM, CM, PW, PW, PW CM, CM, CM, CA, CA, PW, PW, CA, PW
Discharge made without a required permit or plan	1st violation 2nd violation Major violation	CO, CDO, PR, RWB, EC PR, MP, RWB, ILD, EC Civ, Crim, RWB, ILD, CR, EC	PW, PW, CM, PW, PW CM, CM, PW, PW, PW CA, CA, PW, PW, CA, PW
Discharge made with an expired, suspended or revoked permit	1st violation 2nd violation Major violation	CO, CDO, PR, RWB, EC PR, MP, RWB, ILD, EC Civ, Crim, RWB, ILD, CR, EC	PW, PW, CM, PW CM, CM, PW, PW, PW CA, CA, PW, PW, CA, PW
Discharge does not comply with a current discharge permit or plan	1st violation 2nd violation Major violation	CO, CDO, PR, RWB, EC PR, MP, RWB, ILD, EC Civ, Crim, RWB, ILD, CR, EC	PW, PW, CM, PW, PW CM, CM, PW, PW, PW CA, CA, PW, PW, CA, PW
Failing to implement spill control, best management practices, or other plans required by the City	1st violation 2nd violation Major violation	CO, CDO, PR, RWB, EC PR, MP, RWB, ILD, EC Civ, Crim, RWB, ILD, CR, EC	PW, PW, CM, PW, PW CM, CM, CM, PW, PW, PW CA, CA, CM, PW, PW, CA, PW
Discharge in violation of compliance order, cease and desist order or other order or agreement	1st violation 2nd violation Major violation	NOV, CDO, CO, RWB, EC PR, PNA, SNA, RWB, ILD, EC PR, PNA, SNA, Civ, Crim, RWB, ILD, CR, EC	PW, PW, PW, PW, PW CM, CM, CM, PW, PW, PW CM, CM, CM, CA, CA, CA PW, PW, CA, PW
Failing to correct a minor discharge violation within a specified time period	1st violation 2nd violation Major violation	CO, CDO, PR, EC PR, MP, EC Civ, Crim, CR, EC	PW, PW, CM, PW CM, CM, PW CA, CA, CA, PW
Failing to implement any required BMP or control	1st violation 2nd violation Major violation	CO, CDO, PR, RWB, EC PR, MP, RWB, ILD, EC Civ, Crim, RWB, ILD, CR, EC	PW, PW, CM, PW, PW CM, CM, PW, PW, PW CA, CA, PW, PW, CA,

			PW
Failing to repair or replace defective control device, as required by City	1st violation	CO, CDO, PR, EC	PW, PW, CM, PW
	2nd violation	PR, MP, EC	CM, CM, CM, PW
	Major violation	Civ, Crim, CR, EC	CA, CA, PW
Major violation: repeated minor violation or <u>any</u> violation that harms or threatens the public health, safety or welfare, the environment, or the storm drain system.			