

City of Tempe Stormwater Enforcement



Overview

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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;
- ❑ Implement enforcement responsibilities in the TCC, Sections 12-116, 27-2, and 33-101.

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.

Stormwater Enforcement Response

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

City of Tempe
P.O. Box 6632
6602 S. Priole Rd.
Tempe, AZ 85289
480.350.7676



Public Works Department
Environmental Services

May 9, 2013

[Redacted]

RE: Discharge of Water Not Comprised Entirely of Storm Water Into the MS4

Dear Mr. [Redacted]:

On May 1, 2013, a discharge of nonstorm-related water was allowed to enter the municipal separate storm sewer system ("MS4") as the result of paint and water being dumped into the gutter and reaching a catch basin located at the northeast corner of Alameda Drive and Country Club Way. An inspection of the area provided evidence that the discharge originated at your residence.

On May 2, 2013, Michele Loranca, Environmental Compliance Inspector, observed you cleaning a paint bucket and washing white water into the gutter in front of your home. Ms. Loranca spoke with you and explained that nonstorm related water is prohibited to enter the storm system, and advised that proper disposal of water soluble paint is permitted to be disposed of into drains connected to the sanitary sewer system. Ms. Loranca 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 12-118 of the Tempe City Code defines the public storm drain system as:

...all or any part of the storm drains, ditches, pipes, graded areas, and gutters located within public easements, public rights-of-way, public parks, streets, roads, highways, common areas, or required onsite retention areas, or publicly owned real property that are used for collecting, holding, or conveying 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 entirely of storm water.

(b) Unless expressly authorized or exempted by this article, no person shall use, store, spill, dump, or dispose of materials in a manner that those materials could cause or contribute to the addition of pollutants to storm water.

For additional information regarding this matter, please contact me at 480-350-2674, weekdays between the hours of 8:00 a.m. and 4:30 p.m.

Respectfully,


Michael Golden
Environmental Compliance Supervisor

MC/ds

cc: David McNeil, Environmental Services Manager, City of Tempe
Jeremy Mikus, Environmental Programs Supervisor, City of Tempe
Michele Loranca, 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

Code	Violation	Points	Enforcement Response	Code Reference
SW-1	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 st occurrence (non-domestic).	2.0	WL, NOV	§ 12-125(a)
SW-2	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 nd or greater occurrence (non-domestic).	4.0	WL, NOV	§ 12-125(a)
SW-3	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).		Provide BMP pamphlet, WL	§ 12-125(a)

Table B

Code	Violation	Points	Enforcement Response	Code Reference
SW-4	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.	2.0	WL, NOV	§ 12-125(b)
SW-5	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.	4.0	NOV, AO	§ 12-125(b)
SW-6	Establishment, use, maintenance, or continuance of any connection to the public storm sewer system which has caused or will likely cause a Violation.	1.0	WL, NOV	§ 12-125(f)

Table B

Code	Violation	Points	Enforcement Response	Code Reference
SW-7	Failure to remove any connection to the public storm drain system after written notification has been issued as required by §12-125(f).	2.0	AO	§ 12-125(f)
SW-8	Failure to clean up any release or discharge which may result in pollutant(s) entering the public storm drain system.	1.0	WL, NOV	§ 12-126(a)
SW-9	Failure to notify the City of discharge or release of pollutant into the public storm drain system.	2.0	WL, NOV	§ 12-126(b)
SW-10	Failure to implement BMP(s)	1.0	WL, NOV	§ 12-127
SW-11	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.	2.0	WL, NOV	§ 12-125(c)

Table B - Fines

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.

Table B - Fines

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 A

0.25	0.50	0.75	1.0	1.25	1.50	1.75	2.0
\$156.25	\$312.50	\$468.75	\$625.00	\$781.25	\$937.50	\$1,093.75	\$1,250.00
2.25	2.50	2.75	3.0	3.25	3.50	3.75	4.0
\$1,406.25	\$1,562.50	\$1,718.75	\$1,875.00	\$2,031.25	\$2,187.50	\$2,343.75	\$2,500.00

Table B – Commercial Warning Letter



Table B – Commercial NOV/AO

City of Tempe
P.O. Box 6902
6000 S. Price Rd.
Tempe, AZ 85288
480 956 2676



Public Works Department
Environmental Services

September 10, 2012

Mr. Stephen J Cordeiro, Member
Corderson Janitorial LLC
2239 West Clearview Trail
Arthem, Arizona 85086

MAILED CERTIFIED
RECEIPT NO. 7010 2780 0002 0290 4715

NOTICE OF VIOLATION
CITY OF TEMPE
ENVIRONMENTAL SERVICES SECTION

IN THE MATTER OF

Corderson Janitorial LLC
2239 West Clearview Trail
Arthem, Arizona 85086

NOTICE OF VIOLATION

- 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

- Corderson Janitorial is a business contracted by 3-Doop Bar Concepts LLC (Zuma Grill), a business operating within the boundaries of the City of Tempe ("City") at 605 South Mill Avenue, Tempe, Arizona 85281.
- The City has been authorized under the Arizona Pollutant Discharge Elimination System ("AZPDES") Stormwater Permit Program, pursuant to the Clean Water Act and State law, to administer, regulate, and enforce the provisions of the storm water ordinance in Tempe.
- The City's Storm Water Pollution Control Ordinance, Tempe City Code, Sections 12-115 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;"
- ❑ "Document carefully. Document thoroughly;"
- ❑ "Be careful what you write;"
- ❑ "Leave personal issues out of it."