

## CONSTRUCTION STORM WATER ENFORCEMENT STANDARD OPERATING PROCEDURE

### 1. PURPOSE

- a. Develop standard escalating enforcement procedures to minimize the occurrence of and obtain compliance from violators on Construction Sites.

### 2. ENFORCEMENT ACTION DEFINITIONS

- a. **SWPPP Corrective Action Notice** – A formal notice using the SWPPP Compliance Inspection Form that informs a contractor of the status of compliance with State permit regulation or City ordinance/code. It is used to inform the contractor of any violations and demands items be corrected according to a schedule defined by the inspector that is usually no longer than 7 calendar days. After all SWPPP Corrective Action Notices have been addressed a follow-up inspection and passing report is issued to the construction sites SWPPP contact.

- b. **Notice of Noncompliance/Notice to Correct (NTC)**– A formal notice that informs a person, business, or other entity that requirements of any of the following have been violated:

- Title 7—Health and Safety
- Title 9 – Land Use and Redevelopment Regulations
- Title 11 – Streets and Public Improvements
- Title 16-City Utilities
- Title 18-Land Disturbance Permit
- Jordan Valley Municipalities Permit (No. UTS000001)
- Utah General Construction Permit (No. UTRC00000)
- Salt Lake County Code of Ordinances

Per Draper City Code 18-6-030:

Whenever a violation is discovered that can be corrected and the responsible permit holder has not been issued a previous notice of noncompliance/notice to correct or notice of violation for the same violation within the past twelve (12) months, the enforcement authority shall issue a notice of noncompliance/notice to correct in order to notify the responsible person of the violation and to order that the violation be corrected within a reasonable time. The notice may include a stop work order that orders the responsible person to immediately cease all work.

Generally, a NTC is issued after educating and following up with the person, business, or other entity, or after a SWPPP Corrective Action Notice has been issued, and the violation is not adequately addressed. A NTC demands that activities causing the violations cease and be corrected according within 14 calendar days.

- c. **Notice of Violation (NOV)** – A formal non-criminal and non-monetary notice that informs a person, business, or other entity that requirements of the State permit or City ordinance/code has been violated.

Per Draper City Code 18-6-040:

A. A notice of violation may be issued under any of the following circumstances:

1. When the violation cannot be corrected;
2. A notice of noncompliance/notice to correct has been served, and the specified time has passed without adequate correction of the violation;
3. When a stop work order has been issued and has not been complied with by the responsible person; or
4. When the same violation has been committed by the same responsible permit holder within the past twelve (12) months for which a notice to correct or notice of violation has been served on the responsible person within that same twelve (12) month period.

B. The notice of violation shall be in writing and set forth the facts constituting the violation, the specific provisions of the law which have been violated, the proposed sanctions for the violation, and the rights that the responsible person has to appeal the notice of violation.

Generally a NOV is issued after a NTC is disregarded, as documented by the inspector. The NOV demands that activities causing the violations cease and be corrected within 7 calendar.

- d. **Suspension or Revocation of Land Disturbance Permit (SRLDP)** – An action that prohibits forward progression of a project by suspension or revocation of Land Disturbance Permit.

Per Draper city Code 18-6-050:

The city engineer may suspend or revoke a land disturbance permit and/or suspend any land disturbance activity if:

- A. Conditions at the site vary from those shown on the approved plans;
- B. Construction does not conform to the approved plans, time schedules, or conditions of the land disturbance permit;

C. The work does not comply with applicable ordinances, rules, regulations and standards;

D. The site is left in a condition hazardous to the public or to the adjacent properties, and the land disturbance permit holder does not comply with reasonable requirements to correct said conditions;

E. The land disturbance permit holder does not comply with reasonable requirements to safeguard the workers, the public, or other persons acting in a lawful manner;

F. The land disturbance permit holder, in connection with the operations for which the land disturbance permit was issued, fails to operate equipment properly on public roads; allows material to encroach into, obstruct, or be deposited within a public road right of way or within a drainage channel in a manner not authorized by said land disturbance permit; or causes unauthorized obstruction or diversion of drainage channels;

G. The land disturbance permit holder fails to have a qualified, city approved inspector working under the supervision of a civil engineer on the site during operations, when so required by the land disturbance permit, or fails to have the work under proper supervision; or

H. Emergency conditions exist on the site, which constitute a threat to health, safety or public welfare, whether or not caused by the actions of the land disturbance permit holder.

Generally, a SRLDP is ordered after an NOV has been disregarded, as documented by the inspector. A SRLDP is generally administered by the City Engineer.

- e. **Stop Work Order (SWO)** – A formal notice that informs a person, business, or other entity that requirement of the State permit or City ordinance/code has been violated and demands that the entire project cease. However, all unsafe conditions, pollution control Standard Operating Procedures BMPs, any disruption to the Right-of-Way or any affected private property shall be restored to acceptable use prior to leaving the project site.

Per Draper City Code 18-6-130:

Nothing herein is to be construed as indicating that the city cannot immediately stop the work being performed if, in the opinion of the city engineer, the damage being done is of such a nature that it requires immediate cessation of the work. This could result in the bypassing of the normal processes of notices and increasing levels of enforcement which will typically be followed.

Generally, a SWO is issued after an SRLDP continues to be disregarded. A SWO is generally administered by an inspector, engineer, City Engineer, or Public Works Director

- f. **Citation** – A formal notice that informs a person, business, or other entity that requirements of the State permit or City ordinance/code has been violated and serves notice of possible fines and criminal charges. Generally, a Citation is issued after NTCs, NOV, SRLDPs, or SWO have been issued. However, a Citation may be issued without prior warning for violations that have a significant impact on water quality, pose physical hazard or public nuisance. A Citation may be issued for each violation, each day the site is in violation. A citation may be issued by the Police Department and Code Enforcement.

### 3. CONSTRUCTION ENFORCEMENT

- a. The inspector is to communicate (verbal, email, letter, etc.) with the Contractor regularly through the permit term to achieve understanding of the State permit regulation and City ordinance/code requirements. Generally, all communication is to be recorded on the SWPPP Compliance Inspection Form for UPDES permitted and for non UPDES permit projects.
- b. SWPPP Corrective Action Notice is provided to the Contractor using the SWPPP Compliance Inspection Form for UPDES permitted and non permitted projects and via email. The notice should include correction deadlines. The notice can include language that informs and educates if it is effective at correcting the violations.
- c. The inspector is to follow up and communicate with the Contractor to confirm that Corrective Action Notice items have been addressed. The inspector should evaluate understanding or expected understanding and issue a Warning Notice (via letter or email) as necessary. The Warning Notice should include correction deadlines and a warning that if not addressed adequately, further enforcement may be required including but not limited to NTC, NOV, SRLDP, SWO, and Citation.
- d. Generally, ample warning and communication should occur prior to issuing further enforcement actions. If the Contractor continues to disregard warnings and communications, the inspector should generally exercise the use of non criminal enforcement actions, including but not limited to NOVs, NTCs, SRLDPs, and SWOs in this order, to obtain compliance and the restitution of damages. If non-compliance and damages continue, Citations that can result in a criminal record may be exercised. However, immediate enforcement may be applied for violations that are severe, including but not limited to intentional dumping of material that will do harm or allowing of this material to contaminate by neglect.
- e. Per the Memorandum of Understanding (MOU) between Salt Lake County Health Department (SLCoHD) and Sandy City, the Salt Lake County Health Department (SLCoHD) is to be contacted for any incidents involving spills, releases or the discharge of pollutants, contaminants, or wastes into the waterways or drainage system. SLCoHD will respond and the incident, work with the responsible party to ensure the spill and/or discharge are remediated, and initiate appropriate enforcement actions as needed.

### 4. DOCUMENTATION

- a. Documentation of all enforcement shall be completed as indicated above.

- b. Records of enforcement shall be kept for 5 years or until construction is completed, whichever is longer.