

City of Solvang
Storm Water Management Program
Enforcement Response Plan



May 21, 2024

TABLE OF CONTENTS

ACRONYMS AND ABBREVIATIONS 3

DEFINITIONS 4

SECTION 1.0 INTRODUCTION 6

SECTION 1.1 MUNICIPAL CODE 6

SECTION 1.2 COMPLIANCE WITH BEST MANAGEMENT PRACTICES 7

SECTION 1.3 AUTHORITY TO INSPECT/ACCESS FACILITIES..... 7

SECTION 2.0 TYPES OF ENFORCEMENT ACTIONS 7

SECTION 2.1 LEVELS OF ENFORCEMENT 8

LEVEL 1: VERBAL WARNINGS/WRITTEN NOTICES WITH EDUCATION 8

LEVEL 2: CEASE AND DESIST ORDER/NOTICE OF VIOLATION/NOTICE TO
CORRECT 10

LEVEL 3: ESCALATED ENFORCEMENT MEASURES 11

LEVEL 4: AGENCY REFERRALS – NPDES PERMIT NON-FILERS OR ONGOING
CONTINUED VIOLATIONS 14

SECTION 2.2 ABATEMENT/REMEDIATION/RESTORATION..... 15

SECTION 2.3 PENALTIES/FINES..... 16

SECTION 2.4 RECORDKEEPING AND ENFORCEMENT MEASURES TRACKING ... 16

SECTION 2.5 RECIDIVISM REDUCTION (CHRONIC VIOLATORS) 16

SECTION 2.6 CIVIL/CRIMINAL ACTION 17

APPENDICES 17

APPENDIX A – ENFORCEMENT RESPONSE PLAN FLOWCHART 18

APPENDIX B – ENFORCEMENT MEASURES TRACKING LOG 19

ACRONYMS AND ABBREVIATIONS

BMP	Best Management Practices
CASQA	California Storm Water Quality Association
CCRWQCB	Central Coast Regional Water Quality Control Board
CGP	Construction General Permit
CWA	Clean Water Act
ERP	Enforcement Response Plan
IGP	Industrial General Permit
NOV	Notice of Violation
NPDES	National Pollutant Discharge Elimination System
SMC	Solvang Municipal Code
SWO	Stop Work Order
SWRCB	State Water Resource Control Board
VW	Verbal Warning
WN	Written Notice

DEFINITIONS

<p>Best Management Practice</p>	<p>Activities, practices, and procedures to prevent or reduce the discharge of pollutants directly or indirectly into the municipal storm drain system and waters of the state. Best management practices include, but are not limited to: treatment facilities to remove pollutants from stormwater; operating and maintenance procedures; facility management practices to control runoff, spillage or leaks of non-stormwater, waste disposal, and drainage from materials storage; erosion and sediment control practices; soil stabilization, dewatering, source controls, pollution prevention measures and the prohibition of specific activities, practices, and procedures and such other provisions as the city determines appropriate for the control of pollutants.</p>
<p>Cease and Desist Order</p>	<p>A cease and desist order is issued to halt an activity by a person or business that is causing an illicit discharge to take place or threatening to take place in violation of the SMC, except those activities directed at cleaning up, abating discharge and installing appropriate BMPs.</p>
<p>Commercial Activity</p>	<p>Any public or private enterprise involved in the storage, transportation, distribution, exchange or sale of goods and/or commodities or providing professional and/or nonprofessional services.</p>
<p>Construction Activity</p>	<p>Sites where activities are occurring including, but not limited to, clearing and grubbing, grading, excavating, and demolition.</p>
<p>Grading</p>	<p>Any excavation or filling of earth or combination thereof.</p>
<p>Illegal Connection</p>	<p>A. Any pipe, drain, open channel or other conveyance, whether on the surface or subsurface, which has the potential to allow an illicit discharge to enter the storm drain system including, but not limited to, any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system, and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by a government agency; or B. Any pipe, drain, open channel or other conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by the city.</p>
<p>Illicit Discharge</p>	<p>Any direct or indirect non-stormwater discharge to the storm drain system including discharges from organized car washes, mobile cleaning and pressure wash operations, except as exempted in section 14-2-1 of this title.</p>
<p>Industrial Activity</p>	<p>Activities subject to NPDES industrial permits as defined in 40 CFR, section 122.26 (b)(14)</p>

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permits	General, group, and individual stormwater discharge permits which regulate facilities defined in federal NPDES regulations pursuant to the clean water act. The California regional water quality control board, central coast region (hereinafter, regional board) and the state water resources control board have adopted general stormwater discharge permits, including, but not limited to, the general construction activity and general industrial activity permits.
Non-Stormwater Discharge	Any discharge to the storm drain system that is not composed entirely of stormwater.
Remediation	The abatement or removal of pollution or contaminants from land or water (including sediments in waterways) for the general protection of human health and the environment.
Stop Work Order	A specific order issued to a construction site to immediately halt or discontinue some or all work on a construction site due to a violation of a SMC, except those activities directed at cleaning up, abating discharge and installing appropriate BMPs.
Storm Drain System	Publicly owned facilities operated by the city by which stormwater is collected and/or conveyed, including, but not limited to, any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and humanmade or altered drainage channels, reservoirs, and other drainage structures which are within the city.
Stormwater ("Storm Water")	Any surface flow or storm drainpipe flow, runoff, and drainage consisting entirely of water from precipitation.

SECTION 1.0 INTRODUCTION

The purpose of the Enforcement Response Plan (ERP) is to provide guidance to City of Solvang (City) Staff when enforcing Solvang Municipal Code (SMC), Title 14. Stormwater Management also known as the Stormwater Management Ordinance (Ordinance). This document should be used only as a guide while recognizing that each violation is unique. The provisions of this ERP are not mandatory. Actual enforcement procedures should consider any unusual aspects of a violation or condition, as well as special characteristics of an enforcement action, in determining the proper response.

While the purpose is to provide guidance for administration of the Ordinance, it is not intended to limit the judgment and flexibility of the Public Works Director/City Engineer (or his/her Designee) (Director) in determining an appropriate response. This ERP contains the type of enforcement actions, and the City's responses to violations and a description of how the City will address continuing violations and the escalated enforcement action process to achieve compliance.

This ERP was established in part to satisfy the requirements of the State Water Resources Control Board's (SWRCB) Water Quality Order No. 2013-0001-DWQ National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000004 (Phase II Municipal General Permit). The ERP was developed to comply with the following sections of the Phase II Municipal General Permit:

E.6.c Enforcement Measures and Tracking

E.9.d.ii.e Illicit Discharge Detection and Elimination Source Investigations and Corrective Actions

E.10.c Construction Site Inspection and Enforcement

SECTION 1.1 MUNICIPAL CODE

The City has legal authority under SMC, Title 14. Stormwater Management to implement and enforce stormwater management requirements, and carry out all inspection, surveillance, and monitoring procedures necessary to ensure compliance with the Ordinance and to prohibit and/or control pollutant discharges into the City's storm water system. In addition to those remedies set forth in SMC, Title 14., violations of this Ordinance may also be remedied using the procedures set forth in Title 1. Administration, Chapter 3. General Penalty of the SMC.

This prohibition shall not apply to any non-stormwater discharge permitted under a NPDES permit, waiver, or waste discharge order issued to the discharger and administered by the state of California under the authority of the Federal Environmental Protection Agency; provided, that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations; and provided, that written approval has been granted by the City for any discharge to the storm drain system.

SECTION 1.2 COMPLIANCE WITH BEST MANAGEMENT PRACTICES

The City requires Best Management Practices (BMPs) to be installed, implemented, and maintained through the duration of a project (construction, new or redevelopment) or at a facility (industrial or commercial) to minimize the discharge of pollutants to the storm drain system. These requirements may include a combination of structural and non-structural BMPs that are consistent with the California Storm Water Quality Association (CASQA) BMP Handbooks or equivalent and shall include requirements to ensure the proper long-term operation and maintenance of these BMPs. Any contractor performing work in the City shall implement appropriate BMPs that are consistent with the CASQA BMP Handbooks or equivalent to prevent the discharge of pollutants from entering the storm drain system.

The City has developed and adopted BMP guides for homeowners, businesses (automotive, landscapers, mobile cleaners and restaurants, mobile pet groomer & stylist), construction industry, multi-residential dwelling owners, animal care and handling facilities, pet owners and a guide for special events to help eliminate illicit discharges. The City will continue to promote and provide stormwater pollution prevention educational materials to the public and during interactions associated with minor violations or offenses of the Ordinance and when appropriate as it relates to issuance of other enforcement measures.

SECTION 1.3 AUTHORITY TO INSPECT/ACCESS FACILITIES

The City has legal authority under SMC, Title 14. Stormwater Management to inspect and access a facility whenever the Director has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of the Ordinance such as a spill, illicit discharge or illegal connection.

The City will conduct inspections of permitted or unpermitted sites or facilities subject to regulation under the Ordinance as often as necessary to determine compliance using the procedures set forth in SMC, Title 14. Stormwater Management, Chapter 4. Inspection and Monitoring, Section 14-4-4 Access to facilities. In the event the property owner or occupant refuses entry after a request to enter and inspect has been made, the City is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

SECTION 2.0 TYPES OF ENFORCEMENT ACTIONS

If the City is able to locate and identify a source of a non-stormwater discharge during an inspection and/or investigation of complaint or notice of a spill, illicit discharge or illegal connection, the Public Works Director (or his/her Designee) shall utilize the Enforcement Response Plan Flowchart (Appendix A) to determine the appropriate response and enforcement action for each violation of the Ordinance.

Enforcement actions may include but are not limited to, verbal warnings, written notices, cease and desist orders, notice of violations, letters to correct and other escalated enforcement measures such as administrative citations (fines), administration (compliance) order, stop work orders, withholding plan approvals or other authorizations, public nuisance, property lien, criminal infraction or misdemeanor charges, withholding construction (performance) or maintenance bond, agency referrals, recidivism reduction (incentives, disincentives, increased inspection frequency) for chronic violators and/or civil/criminal actions as outlined within Section 2.1 of this plan.

If the City finds that a person is in violation of the City's Stormwater Management Ordinance or has violated a prohibition or failed to meet a requirement of the Ordinance, the Director may order compliance by written notice of violation to the responsible person. Violations of this Ordinance may be remedied using the procedures set forth in SMC, Title 6. Police Regulations, Chapter 5. Administrative Remedies Process, Article A. Administrative Citations, Section 6-5A-3 Issuance of administrative citation. These remedies include the issuance of administrative citations. These remedies shall be in addition to all other legal remedies, criminal or civil, which may be pursued by the City to address any violations of this title. In addition, the Director may require, without limitation as to other remedies, the following actions:

- A. The performance of monitoring, analyses, and reporting;
- B. The elimination of illicit discharges or illegal connections;
- C. That violating discharges, practices, or operations shall cease and desist;
- D. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property must be completed within 72 hours of notification and/or no later than the agreed-upon compliance date; and no later than 30 days of notification for uncontrolled sources of pollutants that could pose an environmental threat;
- E. The implementation of source control or treatment BMPs;
- F. Payment of a fine to cover administrative and remediation costs;
- G. Cease and desist of operations and shutoff of water meter.

SECTION 2.1 LEVELS OF ENFORCEMENT

LEVEL 1: VERBAL WARNINGS/WRITTEN NOTICES WITH EDUCATION

❖ VERBAL WARNINGS

Note: *Verbal warnings (telephone call, informal "in-person" meeting or during an inspection) must be documented within inspection reports/field notes.*

Verbal warnings are most effective for first time, minor offenses with threatened discharge but no immediate harm to life, property and/or the environment, and they

are issued typically in conjunction with technical assistance/education that will remedy the offense.

A minor violation of the Ordinance may be resolved through a verbal warning to advise the property owner of record, operator and/or responsible party of the nature of the violation to the Ordinance and the required corrective action to obtain the desired compliance to be completed within 72 hours of notification and/or no later than the agreed-upon schedule compliance date.

In lieu of the City's follow-up inspection, the property owner of record, operator and/or responsible party can submit electronically written and photographic evidence demonstrating actions to the City inspectors within 72 hours of the date of the notice and/or no later than the agreed-upon scheduled compliance date either determined at the time of inspection or through an approved written request of extension submitted by the owner of record, operator and/or responsible party.

If corrective action was not achieved within 72 hours of the verbal warning notification and/or by agreed upon compliance date, then the city may proceed with issuance of a written notice.

❖ WRITTEN NOTICES

Note: *The written notices must be sent via electronic transmission, US Mail or hand deliver the written notice in-person to the property owner of record, operator and/or responsible party during or after the inspection.*

Written notices are the lowest level of formal response to a violation. It is intended for minor violations and typically in conjunction with technical assistance/education that will remedy the offense.

A minor violation of the Ordinance may be resolved through a written notice to advise the property owner of record, operator and/or responsible party of the nature of the violation to the Ordinance and the required corrective/abatement actions within 72 hours to obtain desired compliance and/or no later than the agreed-upon scheduled compliance date as well as the date of the City's follow-up inspection to verify if compliance has been achieved.

In lieu of the City's follow-up inspection, the property owner of record, operator and/or responsible party can submit electronically written and photographic evidence demonstrating corrective actions to the City inspectors within 72 hours of the date of the notice and/or no later than the agreed-upon scheduled compliance date either determined at the time of inspection or through an approved written request of extension submitted by the owner of record, operator and/or responsible party.

If corrective action was not achieved within 72 hours of the receipt of written notice and/or no later than agreed upon compliance date, then the city may proceed with a Level 2 enforcement action and issue a cease and desist order and/or notice of violation/notice to correct.

LEVEL 2: CEASE AND DESIST ORDER/NOTICE OF VIOLATION/NOTICE TO CORRECT

❖ CEASE AND DESIST ORDER

Note: *A cease and desist order can be verbal but must be followed up with a hand delivered letter, citation or ticket requiring the person or business to halt any activity, operation or practice causing or threatened to cause a violation.*

If the City finds that a person or business is causing an illicit discharge to take place or threatening to take place in violation of the SMC, then the City can issue a cease and desist order verbally to halt an activity, operation or practice causing the violation or threatening to cause violation with the exception of activities directed at cleaning up, abating discharge or installing appropriate BMPs.

If the property owner of record, operator or responsible party does not halt the activity, operation or practice causing the illicit discharge or threatened violation continue, then City may shut of the water to the facility and proceed with issuance of a notice of violation.

❖ NOTICE OF VIOLATION/NOTICE TO CORRECT

Note: *The notice of violation (NOV) or notice to correct (NOC) must be sent via electronic transmission, US mail, or hand deliver the written notice in-person to the property owner of record, operator and/or responsible party during or after the inspection.*

A NOV/NOC is an official notification to advise the property owner of record, operator, or responsible party of the nature of the violation to the Ordinance and the required corrective/abatement actions within 72 hours to obtain desired compliance including the date of the City's follow-up inspection and/or no later than the agreed-upon schedule compliance date as well as notice of potential escalated enforcement measures for non-compliance.

In lieu of the City's follow-up inspection, the property owner of record, operator and/or responsible party can submit electronically written and photographic evidence demonstrating corrective actions to the City inspectors within 72 hours of the date of the notice and/or no later than the agreed-upon scheduled compliance date either determined at the time of inspection or through an approved written request of extension submitted by the owner of record, operator and/or responsible party.

If corrective action was not achieved within 72 hours of the receipt of notice of violation and/or by the agreed upon compliance date, then the City may proceed with issuance of a Level 3 enforcement action.

LEVEL 3: ESCALATED ENFORCEMENT MEASURES

It is the discretion of the Director to determine which level of escalated enforcement is most appropriate for the situation based on the severity of the issue, urgency of abatement, any prior enforcement history, and other factors.

❖ ADMINISTRATION CITATIONS (FINES)

Note: *The amounts of the fines for code violations imposed pursuant to Article A. Administrative Citations of Chapter 6 Administrative Remedies Process shall be set forth in the schedule of fines established by resolution of the City Council. (Refer to City of Solvang Fees, Charges and Fines Schedule). The fines set forth below are subject to change but are listed here for ease of reference.*

Prior to issuing an administrative citation the Director shall give notice of the violation, and if the violation may be cured, shall grant a reasonable time, at the discretion of the Public Works Director/City Engineer (or his/her Designee), within which to cure the violation. No more than one notice and opportunity to cure need be given to a responsible party for a reoccurring violation.

If an administrative citation is issued in accordance with SMC, Title 6. Police Regulations, Chapter 5. Administrative Remedies Process, Article A. Administrative Citations, Section 6-5A-3 Issuance of administrative citation the fines will be assessed per violation as follows:

1. First Time Offender - \$100.00
2. Second Offense within 36 month period – 150% of fine for first time offense
3. Third Offense and any subsequent within 36 month – 200% of fine for first time offense
4. Fines not paid within 30 days will accrue penalties – 10% of amount Owed + interest at 0.5% per month until paid

Payment of a fine shall not excuse or discharge any continuation or repeated occurrence of the violation that is the subject of the administration citation. Fines may be assessed per violation, with each day constituting a separate violation.

❖ ADMINISTRATION (COMPLIANCE) ORDER

Note: *The amounts of the penalties for SMC violations imposed pursuant to Article B. Administrative Orders of Chapter 5 Administrative Remedies Process shall be set forth by the Appeals Hearing Board (AHB). The AHB can also assess abatement costs and interest on the amount of administrative penalties, abatement costs and administrative costs imposed at the legal rate from the date of the Compliance Order.*

The City can issue a Compliance Order (CO) when the Director determines a violation of any provision of the SMC is occurring or exists; a written compliance order may be issued in accordance with SMC, Title 6. Police Regulations, Chapter 5. Administrative Remedies Process, Article B. Administrative Orders, Section 6-5B-2 Compliance Order to any property owner or operator and/or responsible party for the violation. Following the issuance of the CO, if the Director determines:

1. All violations have been corrected within the specified time in the CO, no further action shall be taken; or
2. Full compliance is not achieved within the specified time in the CO, the Director shall advise the Secretary to the AHB to set a hearing before the AHB.
 - A. As specified within SMC, Title 6. Police Regulations, Chapter 5. Administrative Remedies Process, Article B. Administrative Orders, Section 6-5B-10 Administrative penalties, the AHB may impose the following: Administrative penalties for the violation of any provision of the SMC in an amount not to exceed two thousand five hundred dollars (\$2,500.00) per day for each ongoing violation, except that the total administrative penalty shall not exceed one hundred thousand dollars (\$100,000.00) exclusive of interest, administrative costs, and restitution for compliance re-inspections, for any related series of violations.
 - B. Administrative penalties accrue from the date specified in the CO and shall cease to accrue on the date the violation is corrected as determined by the Director or the AHB. Administrative penalties may be suspended for any period of time during which the violator has filed for necessary permits and such permit applications are actively pending before the City, state, or other appropriate agency.
 - C. If the violation is not corrected as specified in the AHB's order to correct, administrative penalties shall continue to accrue on a daily basis until the violation is corrected, subject to the maximum amount set forth in subsection A of this section.
 - D. If the violator gives written notice to the Director that the violation has been corrected and if the Director finds that compliance has been achieved, the Director shall deem the date the written notice was postmarked or personally delivered to the Director, or the date of the final inspection, whichever first occurred, to be the date the violation was corrected. If no written notice is provided to the Director, the violation will be deemed corrected on the date of the final inspection.

❖ STOP WORK ORDERS

The Stop Work Order (SWO) is a notice posted by the City on a construction site which informs the property owner or operator and/or responsible party that a work performance violation has been issued in accordance with SMC, Title 8. Public Ways and Property, Chapter 2. Street Construction and Excavations, Section 8-2-

6 Permit refusal or revocation and/or revocation or suspension of any permit granted under Title 8 of the SMC. Such SWO shall be in writing and shall be effective immediately upon personal delivery to the person in charge of the work at the construction site. Upon such delivery of such SWO, all further work shall be immediately stopped, other than such work as is immediately necessary for the preservation of life, property, or the environment, and shall not be recommenced until written permission therefor is granted by the City Engineer.

In accordance with SMC, Title 10. Building Regulations, Chapter 1. Building Codes, any person who shall continue any work after having been served with a SWO, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to the penalties and code enforcement procedures set forth in SMC, Title 1. Administration, Chapter 3. General Penalty.

❖ **WITHHOLDING OF PLAN APPROVALS OR OTHER AUTHORIZATIONS**

If the City finds a facility in non-compliance with any enforcement action or the Ordinance, the City may withhold any current or future development plan approvals permits should the violator not complete corrective efforts to the satisfaction of the City, which may include but are not limited to, cleanup, abatement of discharge and installation/maintenance of appropriate BMPs.

❖ **ADDITIONAL MEASURES**

The City has legal authority under the SMC to proceed with the following additional measures as deemed necessary:

Public Nuisance

If the City determines that any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, the condition may be summarily abated or restored by the City at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken by the City.

The Director may require the permittee to take reasonable measures to abate such nuisance and may revoke or suspend any applicable permits until such measures are taken.

Property Lien

If a violation has occurred, a lien or special assessment may be imposed by the AHB upon the real property. The lien or special assessment shall remain in effect until all of the administrative penalties, interest and administrative costs are paid in full. In addition, the total cost for abating a nuisance shall constitute a special assessment against the premises to which it relates, and upon recordation in the office of the county recorder of a notice of lien, shall constitute a lien on the property for the amount of such assessment.

Infraction and Misdemeanors

It is unlawful for any person to violate any provision of, or to fail to comply with, any requirements of the SMC. Any person violating the provisions or failing to comply with any of the mandatory requirements of the SMC shall be guilty of an infraction or misdemeanor, as set forth in the specific section or chapter establishing the violation.

All violations may be prosecuted by City authorities in the name of the people of the state or redressed by civil action. Except where a violation is specifically designated as a misdemeanor, the violation shall be an infraction.

Infractions

Any infraction may be prosecuted by the City authorities in the name of the people of the state or redressed by civil action. SMC, Title 1. Administration, Chapter 3. General Penalty, Section 1-3-2 Infractions specifies that every violation determined to be an infraction is punishable by:

1. A fine not exceeding one hundred dollars (\$100.00) for a first violation;
2. A fine not exceeding two hundred dollars (\$200.00) for a second violation of the same section within one year; and,
3. A fine not exceeding five hundred dollars (\$500.00) for each additional violation of the same section within one year.

Misdemeanors

Any person convicted of a misdemeanor under SMC, Title 1. Administration, Chapter 3. General Penalty, Section 1-3-3 Misdemeanors shall be punished by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment in the county jail for a period not exceeding six (6) months, or by both such fine and imprisonment.

Withholding Construction (Performance) or Maintenance Bond

If the City finds a facility in non-compliance with any enforcement action or the Ordinance, the City may hold and not release a construction (performance) or maintenance bond should the violator not complete corrective efforts to the satisfaction of the Director, which may include but not limited to, cleanup, abatement of discharge and installation/maintenance of appropriate BMPs.

LEVEL 4: AGENCY REFERRALS – NPDES PERMIT NON-FILERS OR ONGOING CONTINUED VIOLATIONS

❖ NPDES PERMIT NON-FILERS

If the City determines that a construction project or an industrial facility is subject to the Construction General Permit (CGP) or Industrial General Permit (IGP), and the property owner of record or operator and/or responsible party cannot demonstrate permit coverage, then the City shall refer the non-filer to the Central Coast Regional Water

Quality Control Board (CCRWQCB) within 30 days of making the determination, or file a complaint on the State Water Resource Control Board's website http://www.dtsc.ca.gov/database/CalEPA_Complaint/index.cfm.

When referring a construction project or an industrial facility non-filer to the CCRWQCB, the City must include at a minimum the following documentation:

1. Construction project or industrial facility location;
2. Name of owner or operator;
3. Estimated construction project size or type of industrial activity (including the Standard Industrial of the North American Industry Classification, if known)
4. Records of communication with the owner or operator regarding filing requirements.

❖ **ONGOING/CONTINUED VIOLATIONS**

The City shall refer a construction project or industrial facility to the CCRWQCB for ongoing/continued violations provided that the City has made a good faith effort of progressive enforcement to achieve compliance with the City's Ordinance. At minimum, the City's good faith efforts shall include the documentation of two follow-up inspections and two warning letters or notices of violations.

When referring a construction project or an industrial facility to the CCRWQCB, the City shall provide the following information:

Construction project and industrial facility location; Name of owner or operator; Estimated construction project size or type of industrial activity (including the Standard Industrial of the North American Industry Classification, if known); Records of communication with the owner or operator regarding the violation including the last two follow-up inspections, two warning letters or notices of violation, and any response from the owner or operator.

SECTION 2.2 ABATEMENT/REMEDIATION/RESTORATION

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency, or a contractor and the expense thereof shall be charged to the violator.

Should the violator require a new timeframe to complete abatement or remediation activities, the Director will notify the Regional Board when all parties agree that clean-up activities cannot be completed within the original timeframe and notify the Regional Board in writing five business days of the determination that the timeframe requires revision.

The abatement or remediation of storm water pollution or contamination hazards and the

restoration of any affected property must be completed within 72 hours of notification and/or no later than the agreed-upon compliance date; and no later than 30 days of notification for uncontrolled sources of pollutants that could pose an environmental threat.

SECTION 2.3 PENALTIES/FINES

The violation of the Ordinance or failure to comply with any of its mandatory requirements of the SMC may constitute a misdemeanor or infraction. The property owner of record, operator and/or responsible party of the nature of the stormwater violation may be charged and prosecuted for a misdemeanor or an infraction and/or may be issued an administrative citation (fine) in accordance with SMC, Title 1. Administration, Chapter 3. General Penalty and as outlined within Escalated Enforcement Measure of Section 2.1 of this plan.

If the City finds that a violation of this Ordinance is also a violation of the federal clean water act and/or the Porter-Cologne act and may be subject to the sanctions of those acts including civil and criminal penalties, then the City may issue a written notice to the violator of such potential liability.

SECTION 2.4 RECORDKEEPING AND ENFORCEMENT MEASURES TRACKING

The City will maintain a record and database to track all incidents of non-compliance, enforcement actions and any inspection and follow-up inspection records that document efforts to achieve compliance via hard-copy files and/or electronically.

The Enforcement Measures Tracking Log (Appendix B) will be used as a database to document at a minimum the following information:

1. Name of owner/operator;
2. Location of incident;
3. Description of violation;
4. Required schedule for returning to compliance;
5. Description of enforcement response use, including escalated response if repeat violations occur or violations are not resolved within the time specified in the enforcement action;
6. Accompanying documentation of enforcement response (e.g., notices of non-compliance, notices of violations, etc.); and
7. Any referrals to different departments or agencies.

SECTION 2.5 RECIDIVISM REDUCTION (CHRONIC VIOLATORS)

Based on enforcement measures tracking of non-compliance incidents, if the City identifies a property owner or operator and/or responsible party as a chronic violator of the Ordinance or related provisions of the SMC or regulation and reduce the rate of non-compliance recidivism, the City may invoke incentives, disincentives, or increase inspection frequency at the construction property or industrial facility to prevent chronic

violations.

SECTION 2.6 CIVIL/CRIMINAL ACTION

In cases where criminal acts are suspected by the Director, after consultation with the City Attorney, information shall be gathered and forwarded to the City Attorney for action. Criminal prosecution, if pursued, shall be in addition to other actions authorized by the Ordinance and the SMC.

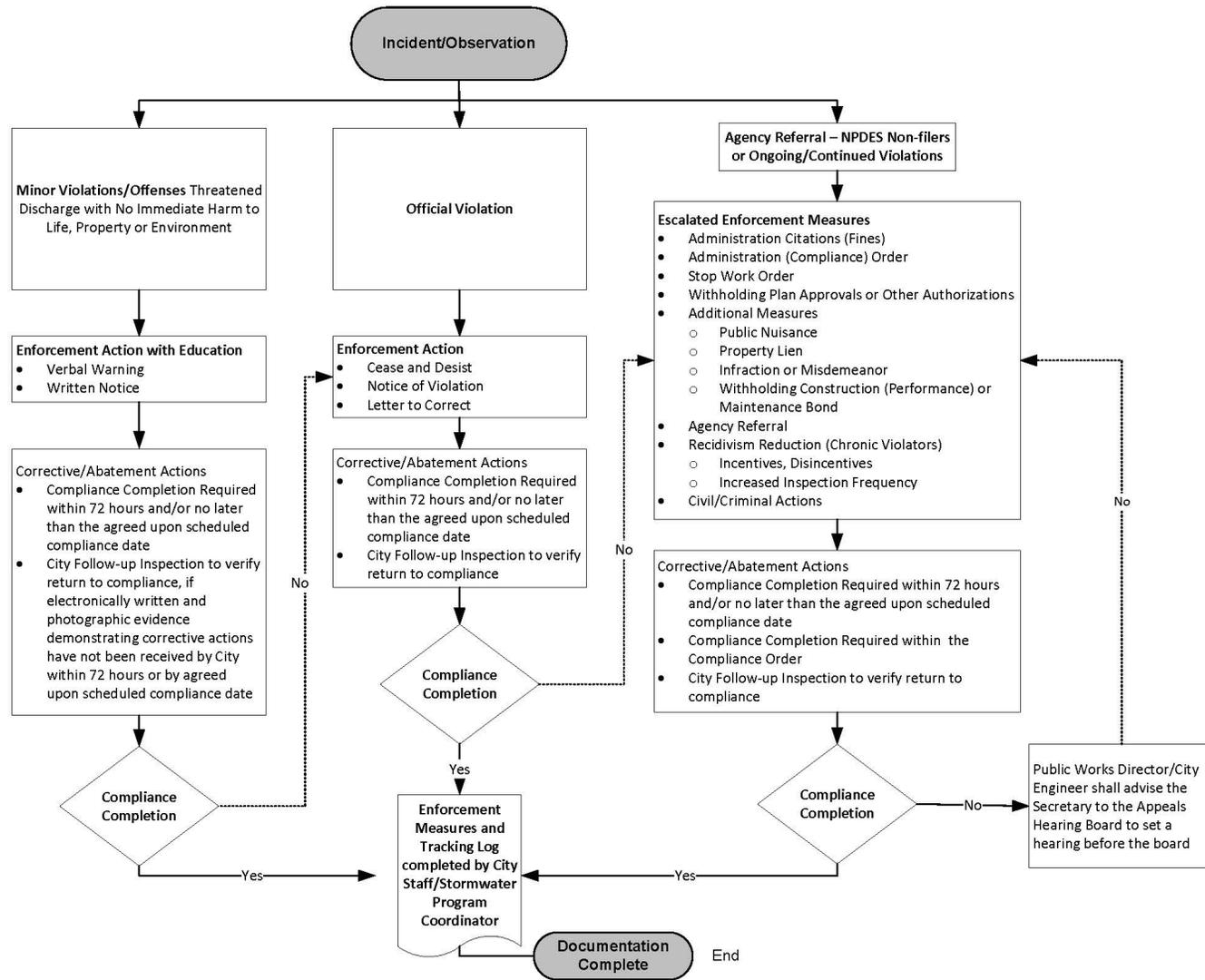
Any property owner or operator and/or responsible party who violates the Ordinance may also be in violation of the Clean Water Act and/or the Porter-Cologne Act and may be subject to the sanctions under those acts, including civil and criminal penalties. Any enforcement action authorized under the Ordinance shall also include written notice to the violator of such potential liability.

APPENDICES

Appendix A – Enforcement Response Plan Flowchart

Appendix B - Enforcement Measures Tracking Log

APPENDIX A – ENFORCEMENT RESPONSE PLAN FLOWCHART



APPENDIX B – ENFORCEMENT MEASURES TRACKING LOG

CITY OF SOLVANG
 STORMWATER MANAGEMENT PLAN
 E.6 PROGRAM MANAGEMENT ELEMENT
 E.6.c Enforcement Measures and Tracking

Entry No.	Incident Date (MM/DD/YY)	Name of Owner/Operator	Facility Type (Commercial, Construction, Industrial, Residential)	Facility Address	Description of Violation	Scheduled Compliance Completion Date (MM/DD/YY)	Enforcement Response (ER)					Agency Referrals		
							ER TYPE (List Applicable Codes*)	Repeat Violation	Resolved Violation	Compliance Completion Date (MM/DD/YY)	ER Documentation (Hard Copy Location or Electronic File Name)	Type (Non-Filter, Ongoing / Continued Violations)	Agency	Referral Date (MM/DD/YY)
*ER Type Code		VW: Verbal Warning WN: Written Notice CDO: Cease and Desist Order NOV: Notice of Violation NTC: Notice to Correct EEM-AC: Escalated Enforcement Measure-Administrative Citations (Fines) EEM-AO: Escalated Enforcement Measure-Administrative (Compliance) Order EEM-SWO: Escalated Enforcement Measure-Stop Work Orders EEM-WPA/A: Escalated Enforcement Measure-Withholding Plan Approvals or Other Authorizations EEM-AM-PN: Escalated Enforcement Measure-Additional Measure-Public Nuisance EEM-AM-PL: Escalated Enforcement Measure-Additional Measure-Property Lien EEM-AM-I: Escalated Enforcement Measure-Additional Measure-Infraction EEM-AM-M: Escalated Enforcement Measure-Additional Measure-Misdemeanor EEM-AM-C/MB: Escalated Enforcement Measure-Additional Measure-Withholding Construction or Maintenance Bond AR-NF: Agency Referral-NPDES Non-filers AR-O/CV: Agency Referral - Ongoing / Continued Violation RR-I: Recidivism Reduction-Incentives RR-D: Recidivism Reduction-Disincentives RR-II: Recidivism Reduction-Increased Inspections C/CA: Civil/Criminal Action												