

***ENFORCEMENT RESPONSE PLAN***

***(ERP)***

***Spartanburg County***

***South Carolina***

***October 2014***



**ENFORCEMENT RESPONSE PLAN**  
**Spartanburg County**  
**South Carolina**

**Table of Contents**

<b>I. Introduction.....</b>	<b>3</b>
<b>II. Enforcement Action Definitions .....</b>	<b>4</b>
<b>III. Violation Category .....</b>	<b>5</b>
<b>A. Construction/Permitting Violations.....</b>	<b>5</b>
<b>B. Illicit Discharge/ Illicit Connection/ Improper Disposal .....</b>	<b>7</b>
<b>C. Failure to Comply with Permanent Stormwater Management Requirements.....</b>	<b>8</b>
<b>D. Failure to Comply with a Permit .....</b>	<b>9</b>
<b>E. Failure to Comply with a County Request.....</b>	<b>9</b>
<b>IV. Penalty Calculation Rationale .....</b>	<b>10</b>

## **I. INTRODUCTION**

This Enforcement Response Plan (ERP) document was developed as a guidance manual for identifying specific violation types and defining Spartanburg County's response to violations of the Stormwater Management Ordinance of Spartanburg County, SC (O-09-02) or Spartanburg County Stormwater Management Design Manual. The goals of the Enforcement Response Plan are to:

- 1) Deter future noncompliance by the violator and other members of the regulated community,
- 2) Ensure that violators do not obtain economic benefit or advantage over competitors through noncompliance, and
- 3) Apply fair and consistent enforcement actions to the regulated community throughout the County.

Upon determination that a violation of any provisions of the County Ordinance, the approved Land Disturbance Permit or the approved Stormwater Pollution Prevention Plan has occurred, the County may choose to assess and make a written demand for payment of a civil penalty. In addition to any applicable civil penalties:

- Any entity that negligently or intentionally violates any provision of the above shall be guilty of a misdemeanor and punished within the jurisdictional limits of the magistrate's court.
- If Spartanburg County has to perform corrective action due to continued non-compliance, then the costs incurred as a result of such action shall be reimbursed to Spartanburg County by the owner or operator.
- If Spartanburg County is fined and/or placed under a compliance schedule by the state or federal government for a violation(s) of its NPDES permit, and can identify the person(s) who caused such violation(s) to occur, then Spartanburg County may pass through the penalty and cost of compliance to that person(s).

This Enforcement Response Plan (ERP) document is for the use of Spartanburg County personnel. Spartanburg County reserves the right to change this document at any time, without prior notice, or to act at variance to this document. This document does not create any rights, implied or otherwise, to any third parties.

## **II. ENFORCEMENT ACTION DEFINITIONS**

### **Notice of Violation (NOV):**

A written notice which serves as a legal requirement to remove the violation(s) to the County Ordinance, the approved Land Disturbance Permit or the approved stormwater management plan. It should include the nature of the violation, proposed penalty, required corrective actions, time period for correcting the violation(s), and notification that a Stop Work Order may be issued or other permits may be suspended or revoked if there is continued non-compliance.

### **Stop Work Order:**

A Stop Work Order may allow or require correction of violations, but no other construction activities may occur. The Stop Work Order shall state that failure to comply may result in the suspension or revocation of any remaining permits issued for the site and/or civil penalties being issued.

### **Civil Penalty:**

In the case of failure to comply with the above orders, a Civil Penalty may be assessed up to \$1000 per violation. Each separate day of a violation constitutes a new and separate violation. In addition, a Civil Penalty may be issued when there are repeated, recurring violations at the same site or by the same party.

### **Criminal Penalty:**

In addition to any applicable civil penalties, any person who negligently, willfully, or intentionally violates any provision of the Stormwater Management Ordinance shall be guilty of a misdemeanor and punished within the jurisdictional limits of the magistrate's court. Each separate day of a violation constitutes a new and separate violation.

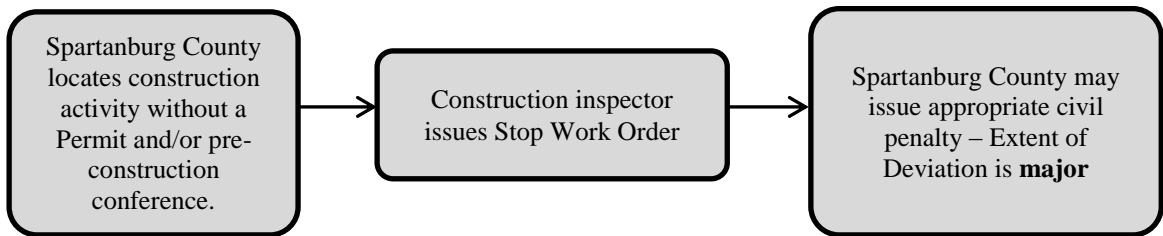
### III. VIOLATION CATEGORIES

#### A. Construction/Permitting Violations

1. **Initiation of construction activity without a Land Disturbance Permit and/or pre-construction conference.**

**Spartanburg County response:**

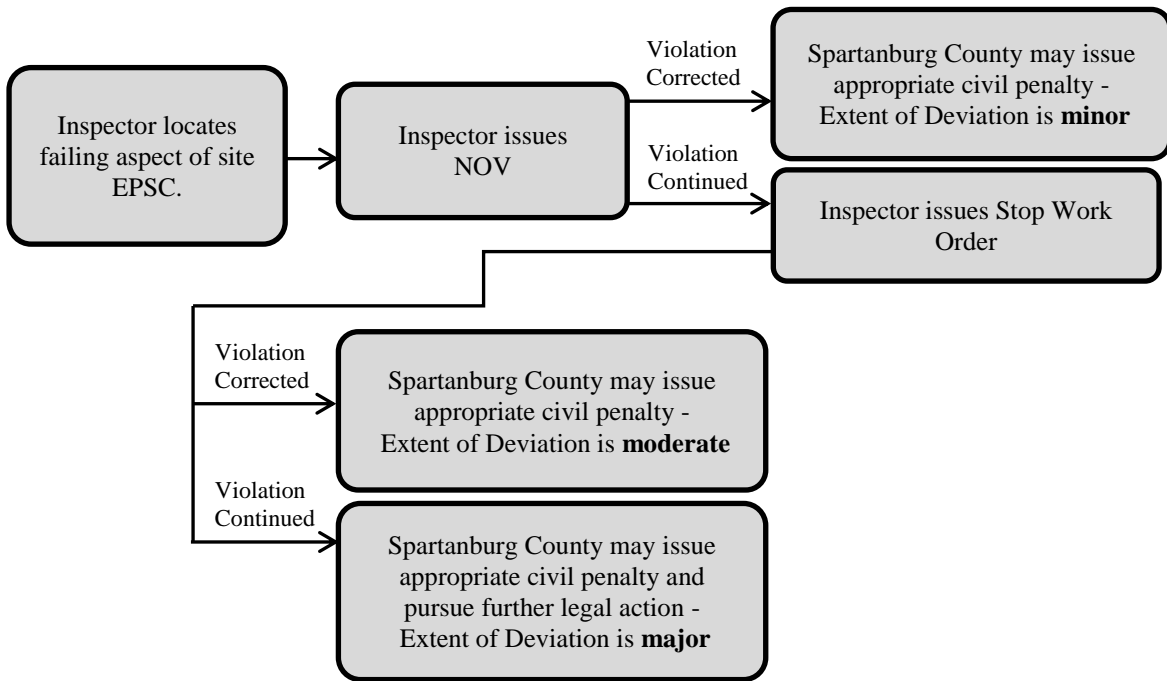
Spartanburg County may issue a Stop Work Order for all violations involving initiation of construction activity without a Land Disturbance Permit and pre-construction conference.



**2. Failure to properly operate and/or maintain all BMPs, components, facilities, and equipment associated with site Erosion Prevention and Sediment Control (EPSC).**

**Spartanburg County response:**

Spartanburg County may issue a Notice of Violation (NOV) if the construction operator fails to operate and maintain all aspects of site Erosion Prevention and Sediment Control. Spartanburg County will conduct follow-up inspections to ensure corrective action is provided. A Stop Work Order may be issued if corrective action is not provided.

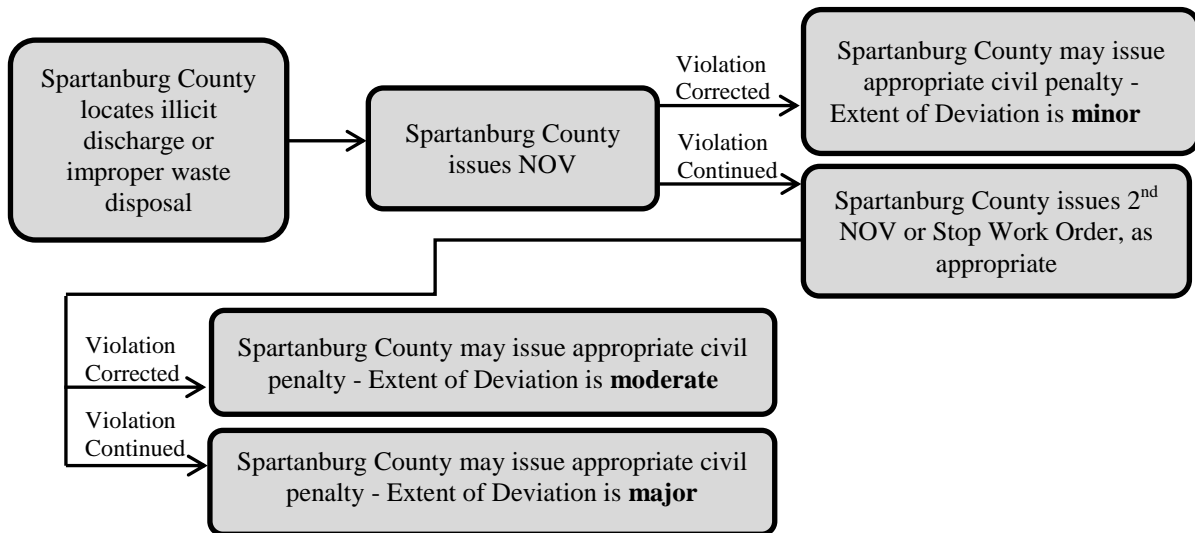


## **B. Illicit Discharge/ Illicit Connection/ Improper Waste Disposal**

### **Spartanburg County response:**

Spartanburg County must report immediately the occurrence of any dry weather flows believed to be an immediate threat to human health or the environment to SC DHEC Emergency Response, 1-888-481-0125. If the source of the suspected illicit discharge is found to be a suspected non-compliance with an NPDES permit, the appropriate SC DHEC Regional Office must be notified.

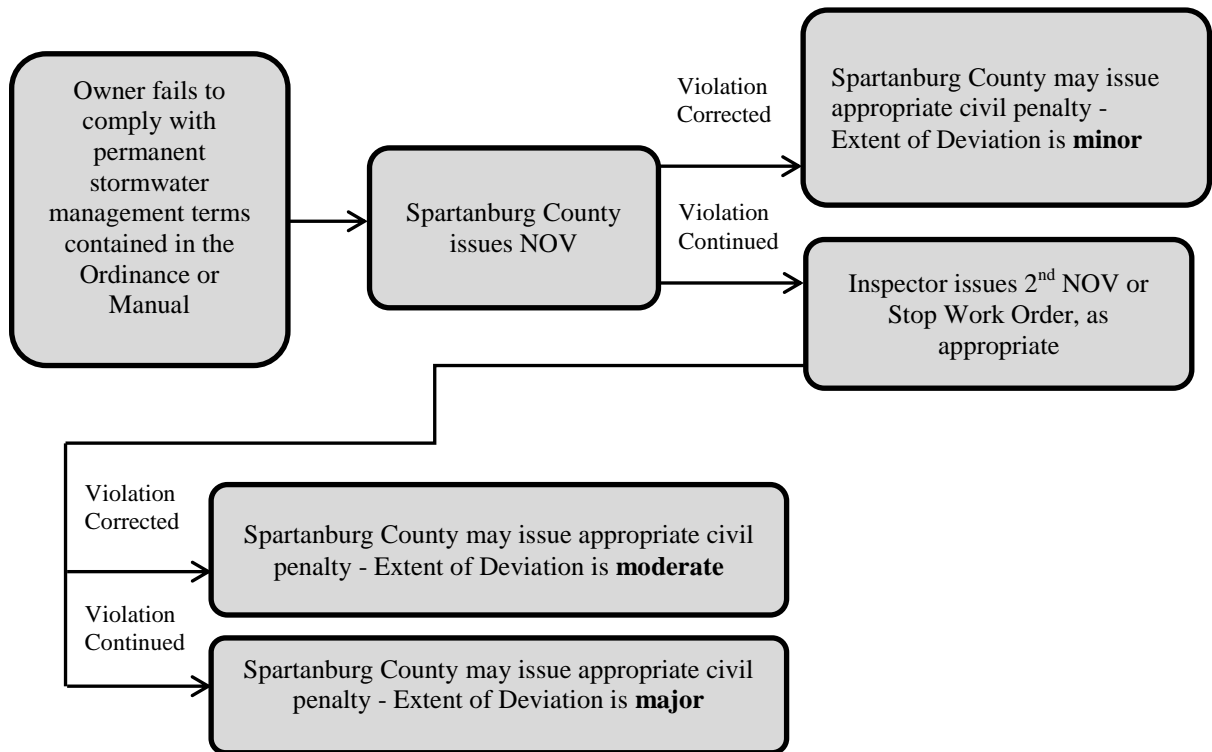
Once the source of the illicit discharge has been determined, Spartanburg County will notify the responsible party of the discharge as soon as practicable but not later than one (1) business day after that determination. This notification will be in the form of a written Notice of Violation (NOV). The County will require the responsible party to conduct all necessary corrective actions to eliminate the non-stormwater discharge within a maximum of 30 days. If elimination takes longer than 30 days, Spartanburg County will require responsible parties to submit a plan with a schedule for elimination. If appropriate action has not been taken within 30 days, Spartanburg County will issue a second NOV or Stop Work Order, as appropriate. Spartanburg County will conduct a follow-up investigation to verify that the discharge has been eliminated upon being notified by responsible parties that the discharge has been eliminated.



### C. Failure to Comply with Permanent Stormwater Management Requirements

#### **Spartanburg County response:**

Spartanburg County may issue a Notice of Violation (NOV) if there is a violation of permanent stormwater management terms contained in the Stormwater Management Ordinance or Design Manual. For example, failure to perform required maintenance on a post-construction BMP. Spartanburg County will conduct follow-up inspections to ensure corrective action is provided.



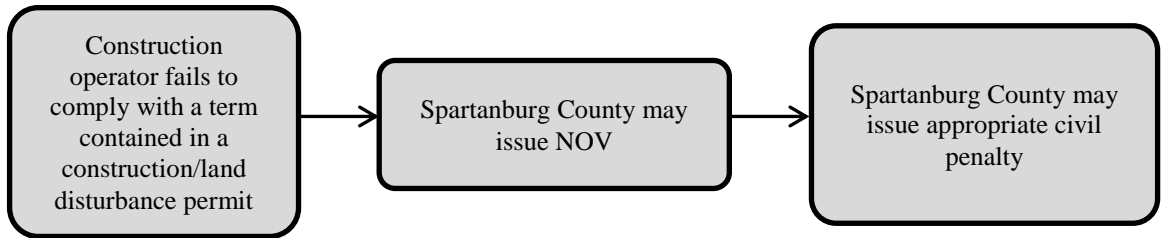


**D. Failure to Comply with Permit**

Failure to comply with a requirement, condition, or term contained in a construction permit, site development, land disturbance, or grading permit.

**Spartanburg County response:**

Spartanburg County may issue Notice of Violation (NOV) upon initial discovery of violation. Spartanburg County will conduct follow-up inspections to ensure corrective action is provided.

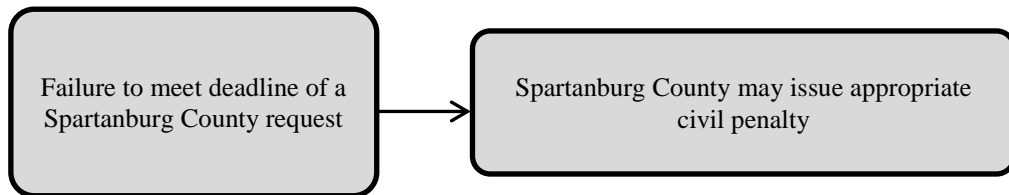


**E. Failure to Comply with a County Request**

Failure to comply with each requirement, term, or condition of a request made by Spartanburg County.

**Spartanburg County response:**

Spartanburg County may issue civil penalties in instances involving failure to comply with a County request within the allotted amount of time.



## IV. PENALTY CALCULATION RATIONALE

The civil penalty calculation will include consideration of the following factors at the discretion of Spartanburg County:

- 1) Degree of harm or potential for harm to the public health, safety, private property, or the environment.
- 2) Extent of Deviation\* from the requirements of the regulation, standard, or permit.
- 3) Frequency or duration of the violation.
- 4) Economic benefit as a result of noncompliance.
- 5) Cost of restoration of the environment or abatement of the environmental harm.
- 6) Past performance record or past history of noncompliance.
- 7) Degree of willfulness or negligence.

\*Extent of Deviation comes from flow charts for each violation category. When not specified, maximum penalty is to be determined by Spartanburg County. Suggested civil penalties are as follow:

Extent of Deviation	Suggested Maximum Civil Penalty (per day)
Minor	\$500
Moderate	\$750
Major	\$1000

A civil penalty assessment rationale will be developed and outlined in writing for each enforcement action for which a civil penalty is assessed.

Penalties for long-lasting and/or continuing violations (such as, but not limited to, unauthorized discharges or poor operation and maintenance) and recovery of economic benefit may be assessed per occurrence, per month, or per week.