

City of Franklin
Stormwater Inspection Manual
Standard Operating Procedure and
Enforcement Response Plan



HISTORIC
FRANKLIN
TENNESSEE

Authorized By: _____ **Revision** _____ **Date** _____

Paul Holzen, P.E.
City Engineer
Director of Engineering
City of Franklin

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109 3rd Ave South Suite 103
Franklin, TN 37064

Phone (615) 791-3218
Paul.Holzen@FranklinTN.gov

APPROVALS AND CONCURRENCES

This is to certify that we have reviewed this document and approve of its contents.

Signature
Jeff Willoughby
Stormwater Management Coordinator

Date
9/1/2021

Signature
Paul Holzen, P.E.
City Engineer

Date
8/31/21

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CHAPTER 1: GENERAL PROVISIONS

1.1 DEFINITIONS

- (1) “Active Construction Sites” Any Site that has a permit for Grading or other activities (even if actual construction is not proceeding) and any Site where construction is occurring regardless of permits required.
- (2) “Anti-Seep Collars” An impermeable diaphragm usually of sheet metal or concrete constructed at intervals within the zone of saturation along the conduit of a principal spillway to increase the seepage length along the conduit and thereby prevent scouring or seepage along the conduit.
- (3) “Apron” An area constructed of stone or concrete below or above stormwater inlets/outlets for the purpose of preventing scouring by increasing the channel roughness thus slowing stormwater velocities.
- (4) “Bench” A flat area above the permanent pool and surrounding a stormwater pond designed to provide a separation from the pond pool and adjacent slopes.
- (5) “Best Management Practices (BMP)” Practices or a combination of practices that are the most effective and practicable (including technological, economic, and institutional considerations) means of controlling pollutants at levels compatible with environmental quality goals. This includes schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce pollution of water resources. BMPs also include treatment requirements, operating procedures, and practices to control runoff, spillage, leaks, sludge or waste disposal, or drainage from raw material storage.
- (6) “BMP Treatment Train” A technique for progressively selecting various Stormwater management practices to address water quality, by which groups of practices (BMPs) may be used to achieve a treatment goal while optimizing effectiveness, maintenance needs and space.
- (7) “City” The City of Franklin, Tennessee.
- (8) “City Engineer” Refers to the City of Franklin City Engineer who has the authority to delegate to designated staff, which includes, but is not limited to, the Director of Engineering, Staff Engineers, the Stormwater Management Coordinator, Water Quality Specialists and the Stormwater Inspectors.

- (9) "Channel" A natural or artificial watercourse of perceptible extent, with definite bed and banks to confine and conduct continuously or periodically flowing water. Channel flow is that water which is flowing within the limits of the defined Channel.
- (10) "Chute" A high velocity, open channel for conveying water to a lower level without erosion.
- (11) "Conduit" Any channel intended for the conveyance of water, whether open or closed.
- (12) "Cut" Portion of land surface or area from which earth has been removed or will be removed by Excavation; the depth below original ground surface to the excavated surface.
- (13) "Detention Pond" A pond that is constructed and designed to temporarily delay stormwater runoff and promote sediment deposition prior to discharge into receiving water. Also see Dry Pond and Stormwater Wet Pond in the City of Franklin BMP Manual.
- (14) "Developer" Any individual, firm, corporation, association, partnership, trust, or authorized agents involved in commencing proceedings to effect Development of land for him/her or others.
- (15) "Development" Any man-made change to improved or unimproved real estate, including but not limited to, Buildings or other Structures, mining, dredging, Filling, Grading, paving, excavating, drilling operations, or permanent storage of materials (as defined as materials of like nature stored in whole or in part for more than six months).
- (16) "Dewatering" Practice by which stormwater is removed from a sediment pond and discharged to receiving waterbodies in compliance with water quality standards.
- (17) "Dikes" An embankment to confine or control water, for example, one built along the banks of a river to prevent overflow or lowlands; a levee.
- (18) "Drop-inlet" An inlet to a sub-surface drainage system where the water drops vertically into the connecting chamber.
- (19) "Energy Dissipater" A designed device such as an apron of rip-rap or a concrete structure placed at the end of a water transmitting apparatus such as pipe, paved ditch or paved chute for the purpose of reducing the velocity, energy and turbulence of the discharged water.

- (20) “EP&SC or EPSC” Erosion Prevention and Sediment Control; see “Erosion Prevention” and “Sediment Control.”
- (21) “Erosion” The removal of soil particles by the action of water, wind, ice, or other geological agents, whether naturally occurring or acting in conjunction with or promoted by human activities or effects.
- (22) “Erosion Prevention (EP)” Practices implemented to prevent, through shielding, binding or other mechanism(s), the suspension of Soil particles, often associated with Erosion Prevention and Sedimentation Control.
- (23) “Exfiltration” The downward movement of water through the soil; the downward flow of runoff from the bottom of an infiltration BMP into the soil.
- (24) “Flume” A hydraulic structure incorporating an inlet, chute and outlet, to convey concentrated water to a lower level without causing erosion.
- (25) “Grading” Any operation or occurrence by which the existing Site elevations are changed; or where any ground cover, natural, or man-made, is removed; or any watercourse or body of water, either natural or man-made, is relocated on any Site, thereby creating an unprotected area. This includes Stripping, cutting, Filling, stockpiling, or any combination thereof, and shall apply to the land in its Cut or Filled condition. Grading activities on a single development site, which exceeds 5,000 square feet of disturbed area, may only be performed with a Stormwater Management Permit and Grading permit.
- (26) “Green Infrastructure” The interconnected network of natural areas and other open spaces that conserves natural ecosystem values and functions, sustains clean air and water, and provides environmental and community benefits.
- (27) “Green Infrastructure Practices” Management measures that are designed, built, and maintained to infiltrate, evapotranspire, harvest and/or use rainwater through the use of natural hydrologic features.
- (28) “Gully” A deeply eroded channel created by concentrated stormwater runoff, typically on long or steep slopes.
- (29) “Illicit Discharge” Any discharge to a Municipal Separate Storm Sewer System (MS4) that is not entirely composed of Stormwater, except discharges authorized under an NPDES permit (other than the NPDES permit for discharges from the MS4) and discharges resulting from firefighting activities.
- (30) “Impaired Waters” Any segment of surface waters that has been identified by the Tennessee Department of Environment and Conservation (TDEC) as failing to

support classified uses. The TDEC periodically compiles a list of such waters known as the “303(d) List”.

- (31) “Impervious Surface” A term applied to any ground or structural surface that water cannot penetrate or through which water penetrates with great difficulty.
- (32) “Infiltration”- The process by which water penetrates into soil from the ground surface.
- (33) “Invasive Exotic Plants” Plants that have been introduced from other regions and compete so successfully against natives plants that they can crowd out their competitors, thus providing a monoculture that discourages the growth of native plant species.
- (34) “Level Spreaders” A device for distributing stormwater uniformly over the ground surface as sheet flow to prevent concentrated, erosive flows and promote infiltration.
- (35) “Long Term Maintenance Agreement” or “Maintenance Agreement” A document recorded in the land records title that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.
- (36) “Maintenance” Any activity that is necessary to keep a stormwater facility in good working order to function as designed. Maintenance shall include complete reconstruction of a stormwater facility if reconstruction is needed to restore the facility to its original operational design parameters. Maintenance shall also include the correction of any problem on the site property that may directly impair the functions of the stormwater facility.
- (37) “Municipal Separate Storm Sewer System (MS4)” A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that are:
 - a. Owned or operated by a state, city, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or a designated and approved management agency under section 208 of the Clean Water Act (CWA) that discharges to waters of the state;
 - b. Designed or used for collecting or conveying stormwater;
 - c. Which is not a combined sewer;
 - d. Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2.

- (38) “Native Vegetation” The normal vegetation that grows or would reestablish normally after a disturbance. This does not include Invasive Exotic Plants.
- (39) “Permittee” Any person, firm, or any other legal entity to which a Stormwater and Grading, Building or other related permit is issued in accordance with City of Franklin regulations.
- (40) “Pervious Surface” A term applied to any ground or structural surface that water can penetrate easily.
- (41) “Pollutant” Anything which causes or contributes to pollution. Pollutants may include, but are not limited to, paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded and abandoned objects, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes, wastes and residues that result from constructing a Building or structure; sediment; and noxious or offensive matter of any kind.
- (42) “Priority Construction Activity” Any site that triggers the requirements of the Stormwater Management Ordinance and requires a Stormwater/Grading permit shall be treated as a priority construction activity. These sites require pre-construction meetings, inspections at least once a month, and documentation of meetings and inspections.
- (43) “Retention Pond” A pond that is constructed and designed to promote sediment deposition and prevent stormwater runoff from direct discharge into receiving waters and is discharged by percolation, exfiltration, filtered bleed-down or evaporation processes. See Stormwater Wet Pond in the City of Franklin BMP Manual.
- (44) “Revetment” A facing of stone, riprap or other erosion-resistant material placed on a sloping face of earth such as the edge of stream channel or shoreline, to stabilize the bank and protect it from the erosive action of water.
- (45) “Rill” A small channel formed by erosion usually only a few inches deep; a small gully.
- (46) “Riparian Buffer” An undisturbed area, measured from Top of Bank of the Water Resource, which consists of a Riparian Zone comprised of Native Vegetation, original or re-established, bordering Streams, seeps, springs, Wetlands, sinkholes, lakes, and other Water Resources.

- (47) "Scouring" Eroding of soil that creates rills and gullies.
- (48) "Sediment" Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its Site of origin by air, water, or gravity as a product of Erosion
- (49) "Sediment Basin" A temporary pond built to capture eroded or disturbed soil that is washed off during rain storms, and protect water quality of nearby Water Resources. Sediment Basins are required on construction sites of 5 acres or greater.
- (50) "Sediment Control (SC)" Practices implemented to manage through filtering, settling or other mechanism(s) to remove suspended particles (Soil, organic or mineral) from water, often associated with Erosion Prevention and Sedimentation Control.
- (51) "Sedimentation" The process by which soil, rock and other particles are removed and deposited from their original location to a new location by water as a product of erosion.
- (52) "Slope" Degree of deviation of a surface from the horizontal, usually expressed in percent or ratio.
- (53) "Site" All contiguous land and bodies of water in one ownership, graded, proposed for Grading or Development as a unit, although not necessarily at one time.
- (54) "Soil" All unconsolidated mineral and organic material of any origin that overlies bedrock and that can be readily excavated.
- (55) "Stabilization" The measures, vegetative and/or structural, taken that will prevent Erosion from occurring.
- (56) "Stilling Basin" An open structure or excavation at the foot of an outfall, conduit, chute, drop, or spillway to reduce the energy of the descending stream of water.
- (57) "Stripping" Any activity that removes or significantly disturbs the vegetative surface cover, including clearing and grubbing operations.
- (58) "Stop Work Order" An order directing the Developer and/or Permittee responsible for the Development and associated construction activity to cease and desist all or any portion of the work which violates the provisions of this Title.
- (59) "Stormwater" Storm event runoff, snowmelt runoff, and surface runoff and drainage.
- (60) "Stormwater Control Measure"

- (61) “Stormwater Management Plan” A document that is submitted to the City Engineer, in accordance with concept plans, regulating plans, and/or Site plans which shows, in detail, that a Site meets the standards set forth in this ordinance and allows the city to evaluate the environmental characteristics of the Site, the potential impacts of all proposed Development of the Site, both present and future, on the Water Resources and the effectiveness and acceptability of the measures proposed for managing Stormwater generated at the Site.
- (62) “Stormwater Management Permit” A permit issued by the City Engineer that allows Stormwater discharge into the City of Franklin’s MS4 in accordance with this Title.
- (63) “Stormwater Pollution Prevention Plan (SWPPP)” A written plan that includes site map(s), an identification of construction/contractor activities that could cause pollutants in the stormwater, and a description of measures or practices to control these pollutants. This plan shall be prepared and approved before construction begins. In order to effectively reduce erosion and sedimentation impacts, Best Management Practices (BMPs) shall be designed, installed, and maintained during land disturbing activities. The SWPPP shall be prepared in accordance with the Tennessee Erosion and Sediment Control Handbook or local BMP Manual, whichever is more stringent and protective of waters of the state. The handbook is designed to provide information to planners, developers, engineers, and contractors on the proper selection, installation, and maintenance of BMPs. The handbook is intended for use during the design and construction of projects that require erosion and sediment controls to protect waters of the state. It also aids in the development of SWPPPs and other reports, plans, or specifications required when participating in the State of Tennessee’s water quality regulations.
- (64) “Stream” Surface water that is not a Wet-Weather Conveyance as determined by a Qualified Hydrological Professional and approved by the City Engineer.
- (65) “Sub Grade” The soil prepared and compacted to support a structure or a pavement system.
- (66) “Top of Bank” The ordinary high water level and break in Slope for a Water Resource.
- (67) “Turbidity” A measure of the opaqueness, clarity or clearness of water.
- (68) “Wash Rack” An area used to properly wash off mud, rock and other particles from construction equipment and vehicles that collects and stores the sediment and prevents it from entering receiving water bodies or stormwater infrastructure.

- (69) "Water Resources" Streams, seeps, springs, Wetlands, sinkholes, lakes or Channels serving more than twenty five (25) acres of Tributary Area, as determined by the City Engineer.
- (70) "Waters of the state" Any and all water, public or private, on or beneath the surface of the ground, which are contained within, flow through or border upon Tennessee or any portion thereof except those bodies of water confined to and retained within the limits of private property in single ownership which do not combine or affect a junction with natural surface or underground waters.
- (71) "Weir" A structure or wall built across a channel, drain or watercourse to raise the water level to allow diversion or measurement of discharge rate.
- (72) "Wetland" Those areas that are inundated or saturated by surface or ground water at a frequency or duration sufficient to support, and under normal circumstances do support a prevalence of vegetation typical to life in saturated Soil conditions. Wetlands generally include, but are not limited to, swamps, marshes, bogs and similar areas. Wetlands are designated by federal or state organizations with this responsibility.

NOTE: Additional definitions relative to this document may be found in the City of Franklin *Stormwater Management Ordinance* (Title 23 of the Franklin Municipal Code) or the City of Franklin Stormwater Best Management Practices (BMP) Manual.

1.2 COMMON ABBREVIATIONS

ARAP – Aquatic Resources Alteration Permit
BMP – Best Management Practices
cm – Centimeters
CAP – Corrective Action Plan
EPSC – Erosion Prevention and Sediment Control
ERP – Enforcement Response Plan
GIP – Green Infrastructure Practices
H:V – Height:Vertical
Ha: Hectares
HDPE: High-Density Polyethylene
MEP – Maximum Extent Practical
mm - Millimeters
MS4 – Municipal Separate Storm Sewer System
NON-Notice of Noncompliance
NOV – Notice of Violation
NRCS – Natural Resources Conservation Service
PESC – Permanent Erosion Prevention and Sediment Control
PICP – Permeable Interlocking Concrete Pavers
PTP – Permanent Treatment Practices
PVC – Polyvinyl Chloride
SAB – Stormwater Appeal Board
SCM-Stormwater Control Measure
SOP – Standard Operating Procedure
SWIM – Stormwater Inspection Manual
SWO – Stop Work Order
SWPPP – Stormwater Pollution Prevention Plan
TCP – Temporary Construction Control
TDEC – Tennessee Department of Environment and Conservation
TSSs – Total Suspended Solids treatment practices

1.3 INTRODUCTION

1.3.1 APPLICABILITY

This *Stormwater Management Inspection Manual (SWIM)* applies to the City Engineer and his designees as defined under the City of Franklin *Stormwater Management Ordinance*. It applies to the processing of applications filed and permits issued with the Stormwater Management Division of the Engineering and Streets Departments.

1.3.2 PURPOSE

This SWIM is intended to establish consistent procedures of the processing and inspection of Stormwater Management applications and grading permits by the City of Franklin Stormwater Management Divisions of the Engineering and Streets Department.

1.3.3 RESPONSIBILITIES

1.3.3a COMPLIANCE

The City Engineer and all designated staff in the Stormwater Management Divisions are responsible for becoming familiar and complying with the contents of SWIM. The attached appendices are to serve as reference materials. Supervisors are responsible for ensuring designated staff is familiar with and adhere to procedures outlined in this SWIM.

1.3.3b OTHER.

The Stormwater Management Coordinator is responsible for initial development, approval, distribution, and maintenance of the proposed SWIM.

1.3.4 GUIDELINES AND PROCEDURES

1.3.4a ORIGINATION AND CONTENTS

Designated Stormwater Management Staff (including but not limited to the Stormwater Management Coordinator, Water Quality Specialists, and Stormwater Inspectors) will use the inspection procedure associated with this SWIM when inspecting Stormwater Management Best Management Practices (BMPs) to ensure that all steps have been followed. Designated Stormwater Management Staff will use the Enforcement Response Plan (ERP) associated with this SWIM to ensure all processing steps have been followed. Associated appendices will be used as guidance.

1.3.4b SOP DEVELOPMENT AND APPROVAL PROCESS

Approval of this SWIM follows a preliminary draft cycle. The City Engineer will approve the Final SWIM.

1.4 EXPECTATIONS

The Erosion Prevention and Sediment Control Inspector (from this point forward called the Inspector) shall have technical expertise in Erosion Prevention and Sediment Control (EPSC), and knowledge of other programs, such as the State of Tennessee's ARAP and wetlands permitting programs. Effective communication and people skills also are an asset to an Inspector. The Inspector shall remember that the goal of an EPSC compliance inspection is to evaluate the performance of a site's EPSC measures in an unbiased manner.

Waters of the state and the City's Municipal Separate Storm Sewer System (MS4), including the City's water resources, shall be protected to the Maximum Extent Practicable (MEP) during construction activities. If the site is not achieving compliance, then the Inspector may offer potential solutions and recommendations to achieve compliance. Inspectors shall carry out their responsibilities in a professional manner and in accordance with the rules and regulations of the City's Stormwater Management Ordinance and the City's Best Management Practices (BMP) Manual. Inspectors shall be consistent in their inspections, handling all sites, individuals, problems, and violations equally.

Inspectors shall follow proper legal procedures, Standard Operating Procedures (SOPs), and remain professional, courteous, and fair, when dealing with the public, to encourage mutual respect at job sites.

The inspector's job is as follows:

- a) Working with City of Franklin engineers, conduct plan review of proposed sites to determine that an EPSC plan for the site has been developed and approved, where applicable.
- b) Conduct an on-site preconstruction meeting with stakeholders to ensure that the site has obtained the appropriate permits, and all initial EPSC measures are in place.
- c) Conduct monthly inspections to determine that all specified measures have been installed and are being fully and properly maintained
- d) Determine if the site is following the City of Franklin Stormwater Ordinance and State of Tennessee General Construction Permit to the MEP; and

- e) Determine if offsite sedimentation and turbidity in receiving waters are being prevented to the MEP.

If the Inspector finds deficiencies, then the Inspector shall refer to the (ERP) to ensure that the appropriate action will be taken to attain compliance expeditiously.

All sites within the City, that require a Stormwater/Grading permit, shall be considered priority construction activity. Priority construction activity requires pre-construction meetings, inspections of the site at least once per month, and documentation of related meetings and inspections.

1.5 GOALS

The goal of this manual is to provide the Inspectors, as well as others conducting EPSC inspections within the City, with the necessary knowledge and skills to prevent accelerated erosion and offsite sedimentation, as well as associated pollution that may be mobilized by the processes of erosion and sedimentation at inspection sites. Inspectors should determine if the performance standards and intent of the erosion and sediment control regulations and BMPs are being met and maintained. It is key to ensure that construction sites are evaluated according to the permit conditions and that the responsible party is notified regarding site compliance.

The EPSC regulations are performance oriented: that is, the measures used at a construction site shall be effective in controlling erosion and preventing sedimentation from reaching the MS4 and waters of the state for the site to be in compliance. Following an approved plan and installing the control measures may not be enough for a site to be in compliance. The responsible authority shall ensure that additional measures are installed to correct problems and may have to correct/mitigate any adverse environmental impacts that occur. The EPSC plan may also need to be updated to reflect changes in site conditions and BMPs.

The selection of BMPs is flexible, allowing the responsible parties to decide the most economical and effective means for erosion control. This encourages the use of innovative techniques and specifically designed erosion control systems. Inspectors should recognize performance failures and report problems, the Inspector is a key individual in making these kinds of performance-based rules work.

CHAPTER 2 – INSPECTIONS AND INVESTIGATIONS

2.1 EROSION PREVENTION AND SEDIMENT CONTROL INSPECTIONS

2.1.1 Record Keeping

Inspection reports are the basis for enforcement and administrative/civil penalties and could be used for potential criminal actions. Inspectors are often called on to appear at Stormwater Appeals Board (SAB) meetings or court hearings as witnesses to a violation. Meticulous record keeping is necessary for any enforcement and should be done keeping in mind that the information contained within is public domain.

A report should be generated for every site inspection, including follow up inspections for NOV's, civil penalties, and SWO's. When writing the inspection report, remember that it is a legal document and public record. The inspection report shall be written legibly, accurately, consistently, and in clear and concise language. Most important, it should only contain defensible facts and not hearsay or opinion. While it is recommended and expected that sites are visited frequently, at a minimum sites shall be inspected initially to activate the grading permit, at least once monthly while the permit is active, and to confirm noted violations have been corrected in accordance with previously issued Notices of Violations (NOVs). All violations observed shall be reported each time a site is visited, even if similar violations have been reported on previous visits. Inspection reports should be completed onsite, while doing the inspection, so that any issues that arise won't be forgotten and conditions can be rechecked if needed. Field notes also can be effective in meetings, and should be organized, thorough, concise, and legible.

Make a habit of taking organized, well-written notes. It will pay off if you are involved in an enforcement case or need to offer solutions to a particular problem. The third party inspector (hired by the permit holder) shall also document activities thoroughly and accurately. This is the permit holder's best defense in the event of a violation. Good documentation shows whether the permit holder is a "habitual offender" or a conscientious professional who has been overwhelmed by unusual events, often an important factor in determining a resolution.

Always take pictures to develop an enforcement case. Digital images should accompany all issues noted in the inspection report and can be quickly incorporated into a Notice of Violation (NOV) letter. Images should be date and time stamped if using a digital camera.

2.1.2 Plan Review

The first step in inspecting a project is to review the approved site plans. This will illuminate potential problems at the site and weaknesses in the design of the EPSC system. While at the office, note the following items in the plan:

- a) Check contour maps and available aerial photos to see how the water flows through the site. Note where water enters and leaves the site. Determine the direction of flow, the watershed where the project is located, and the receiving water(s).
- b) Note critical or sensitive areas, such as a wetlands, streams, conservation easements, pipe outlets, etc., that may border the site. These areas shall be well-protected from sedimentation.
- c) Pay particular attention to critical area such as step cut-and-fill slopes, stream crossings, channels, outlets of pipes and diversions, construction access routes and highly erodible soils.
- d) Look for adequate access and space to maintain erosion and sediment control measures during and after construction.
- e) Make sure that the plan provides an installation sequence or phasing plan for the construction of BMPs, with measures for one phase being installed before the grading of the next phase begins.
- f) Study the construction schedule to determine if there are long periods between phases of construction. If so, temporary seeding or other temporary soil stabilization may be required.
- g) Check to make sure that the plan requires all surfaces to be stabilized as soon as possible and within fourteen days. The plan should state the preferred stabilization method.
- h) Remember that when the contractor is finished, the entire site should be completely stabilized-no accelerated erosion and no off-site sedimentation should occur.
- i) Be sure that the perimeter of the site is protected to prevent off-site sedimentation and diversions are used to keep off-site runoff from flowing across highly erodible areas during construction.
- j) Make sure that maintenance plans are adequate and that the contractor's performance-monitoring procedures are specified. For example, it should be specified clearly whether the general contractor, subcontractor, or construction manager is to do the inspection and maintenance.
- k) Note any proposed borrow, stockpile, and waste storage areas on the plans and indicate which BMP will be used. Make sure the permit holder correctly identifies these areas on SWPPPs.

- l) Watch for existing areas that may not be in compliance, such as old highways and abandoned railroad rights-of-way. Those parties responsible for the land disturbance are responsible for erosion control even if ownership of the property has changed.
- m) Make a list of specific items of the plan that you want to inspect closely when you get to the site. This list can speed your inspection and remind you to check certain important points.

Inspectors shall be familiar with the construction plans. Study these plans; identify and highlight sensitive areas, BMP placement and details of other items of concern. Reviewing the construction plan provides information needed for the next step of the inspection process, the preconstruction conference.

2.1.3 Preconstruction Conference

A preconstruction conference (pre-con) is one of the most valuable tools through which to address and avoid potential erosion and sedimentation problems, as well as environmental impacts. It provides an opportunity for meeting with the responsible authority and the contractors. This is the venue to establish the expectations for the project and start a good working relationship with the involved parties. While holding the conference, keep the following suggestions in mind:

- a) The pre-con is to be held onsite so the group can walk the site, and see what measures are in place, and what measures, if any, still need to be installed.
- b) Evaluate the plans to determine whether the measures are appropriate, are located properly, and can be maintained once installed.
- c) Clarify the objectives of the EPSC and inform all parties of the specific requirements for compliance in this project, and any site specific concerns. Also, discuss the inspection procedures and schedule for major earth-moving activities.
- d) The site representative shall furnish the following: two copies of signed grading permit, two copies of the signed and stamped plans, one copy of the Stormwater Pollution Prevention Plan (SWPPP), one copy of the Notice of Coverage (NOC), and two copies of the Long Term Maintenance Plan (Notarized by the City of Franklin and Williamson County). One copy for the inspector and the other to be placed in the site's SWPPP box, which should be easily accessible on the site. **Under no circumstance shall the grading permit be signed by the inspector if all the above items are not present during the pre-con.**
- e) The Grading Permit shall designate the Owner/Primary Permittee, the site Contractor, and the EPSC inspector for the site. If these individuals are not listed on the Grading Permit, ask for their information (email and phone number) for correspondence.

- f) Inform the responsible parties that the SWPPP is a “living document” and may need to be updated during construction. Inform all parties about procedures for changing the plans.
- g) Discuss the schedule for clearing and grading. Emphasize that EPSC measures should be installed before the actual grading begins, to capture sediment as it is generated. For example, temporary sediment basins shall be installed before grading occurs within the drainage area. Be sure that the schedule allows for stabilizing surfaces with temporary and permanent measures between phases of grading and construction.
- h) Discuss the maintenance requirements so that the responsible authority and contractors know who is responsible for inspecting, cleaning, and repairing the erosion and sediment control measures. Regular inspection and maintenance may need to be supplemented with extra work if a large storm is forecasted, if there are cleanup activities after a large storm, or if there is a higher-than-normal amount of site activity.
- i) Establish open communications at the pre-con; this provides a good foundation for the duration of the project.
- j) Ensure that the initial EPSC measures are installed per the approved plans. **The grading permit shall not be signed by the inspector until the initial EPSC measures are installed per the approved plans.**

2.1.4 Inspection Basics

Review the stamped and approved plans prior to visiting the site. It is necessary to know in detail the EPSC specified. Bring:

- a) A copy of the approved EPSC plan sheets for quick referral, ¼ to ½ size should be supplied on site.
- b) Charged tablet with the Canvas Water Quality Construction Inspection App loaded and logged in.
- c) Personal Protective Equipment including steel-toed boots, hard hat, safety vest, sun and insect protection, rain gear, water, first aid kit, cellular phone, etc.

Upon arrival the following are suggestions for the inspection process.

- a) Locate the site SWPPP box, the location of which should have been discussed during the pre-con.
- b) Go through inspection checklist (ensure approved plans are on site, inspection logs are filled out and available, etc.).

- c) (Optional) Check in with the job superintendent upon arrival, to establish point of contact should any pressing issues arise.
- d) Take detailed, orderly field notes as you do the inspection. Be sure that inspection notes are neat, concise, and complete, and correlate pictures to go along with any potential concerns or violations.
- e) Walk the perimeter of the site, to get a good idea of the terrain and alerts you to any problems with offsite water and sedimentation.
- f) Start your inspection from the lowest point and work upstream through the stormwater management system/site.
- g) If sediment is flowing offsite, go far enough downstream to see the extent of the damage. In these situations, document the damage and flow pattern meticulously. Estimate the sediment volume. Photos and videotapes make good evidence. Note the time, date, and other relevant details on the inspection report. If there are other sites contributing to downstream impacts, make sure to document these as well. Also, be sure to document upstream of the discharge point. This will help to rule out the possibility of sediment migrating downstream from other sources.
- h) Inspect nearby waters for any objectionable color contrast, which could be an indicator of site sediment runoff.
- i) Determine if sediment basins and traps are constructed according to the plans, that channels and diversions have the proper grade, and that contributing areas for the control devices are no larger than those used in the design.
- j) Note the maintenance of the EPSC measures. All measures require regular maintenance and may require special attention after severe storms.
- k) Keep in mind that when certain structural measures fail from improper installation or maintenance, more offsite sediment damage may occur than if the measure had not been installed.
- l) Compile the inspection report/write the follow up site assessment while you are at the site, to ensure that pertinent inspection points are fresh and any items that may be in question can be reevaluated.

2.1.5 Inspection of Temporary Construction Site Runoff Management

Remember that the regulations are performance-oriented. Even if measures are installed on a site according to the approved plan, the site is only in compliance where erosion is prevented and sediment is effectively controlled.

The effectiveness of an EPSC plan depends on the design, installation, and maintenance of the individual measures. It is only when all three efforts have been done properly that the plan will function to prevent accelerated erosion and off-site sedimentation. Each measure has specific requirements to function properly. Inspectors shall be familiar with these requirements to ensure that each measure has been designed, installed, and maintained properly. When inspecting a BMP in the field, make sure that the measures has been installed according to the design specification on the approved plan and per the City of Franklin BMP manual and/or the Tennessee Erosion & Sediment Control Handbook (EPSC Handbook).

Maintenance of EPSC measures is frequently overlooked on construction sites. It is one of the more critical points in preventing accelerated erosion and off-site sedimentation. The responsible party, as defined per the Stormwater Management Ordinance, should provide for continued inspection and maintenance of erosion control measures. Maintenance for a disturbed site should be planned to continue through the life of the project. All measures on the erosion and sediment control plan should be inspected twice weekly, 72 hours apart (especially after storms). The EPSC plan should specify routine inspections and proper maintenance, such as cleaning and repairs, for each measure.

2.1.6 Inspection of Buffer Zones

The use of buffer zones to protect streams, lakes, and other bodies of water is always required. This activity may be performed for temporary benefits, planned for permanent placement, or may be the required buffer of no construction activity. Check for the following points when buffer zones are required on a site.

- a) Buffer zones shall be identified by signage spaced a maximum of 150 feet apart and should be provided by the Inspector at the pre-con. The signage shall be installed by the first monthly inspection
- b) Buffer zones shall be delineated by silt fence or tree protection fence. If neither is required, the buffer shall then be delineated by some type of buffer fencing.
- c) Buffer zones are no touch no disturb areas, and no work nor vehicle transport shall be conducted within (This includes protecting the buffer zones to not prevent any sedimentation within the buffer zones).

- d) No in-stream controls, such as check dams or weirs, shall be installed without the proper Aquatic Resources Alteration Permit (ARAP).
- e) Check the site plans to determine the buffer width that was approved and ensure the approved buffer has been provided onsite.
- f) Check with the City of Franklin Stormwater Management Ordinance to determine if the contractor is in compliance with Stream Buffer widths and allowable uses. Report any noncompliance to the Stormwater Management Coordinator or City Engineer.
- g) Buffer widths should be checked randomly for proper delineation from the top of bank. This should be done at the pre-con when multiple people are present to help.

2.2 INSPECTION OF PERMANENT STORMWATER CONTROL PRACTICES (PESCs, PTPs, TSSs, and GIPs)

No stormwater management system can function properly unless it has been properly designed, constructed, and maintained. A review of the design should be conducted under the supervision of a Tennessee registered professional engineer. The responsibility of insuring proper construction falls upon the owner/developer and/or the contractor. The Inspector operates from a regulatory perspective, while private EPSC inspectors function as “the owner’s representative”. Their job is to make sure that the owners, public or private, get the quality facilities that they pay for. Improper construction of a single element of the system will cause premature failure and/or increased maintenance. This expense will initially, and often finally, be borne by the owner.

Each measure has specific requirements to function properly. Inspectors shall be familiar with these requirements to ensure that each measure has been designed, installed, and maintained properly. When inspecting a BMP in the field, make sure that the measure has been installed according to the design specification on the approved plan and per the City of Franklin BMP manual and/or the Tennessee Permanent Stormwater Management and Design Guidance Manual.

The practices should be noted on the monthly EPSC inspection reports. The Inspector should note any changes at the location of the practices (i.e. sedimentation, compaction, or disturbance).

During the pre-con meeting the Inspector shall inform the parties onsite to contact the Engineering Department for an inspection when the under drain has been installed and prior to the addition of any amended soils.

Green Infrastructure practices shall receive a final inspection when the bonds are to be released. The inspector shall utilize the Canvas Green Infrastructure Inspection application and

ensure that all pertinent information is recorded in the database. The purpose of this inspection is to ensure the practice has been installed per the approved plan.

2.3 COMPLAINT INVESTIGATIONS

Typically, the Engineering Department (Stormwater Management Coordinator/Water Quality Specialists) or City Engineer (or designee) will respond to complaints regarding **Water Quality** violations of the Franklin Stormwater Management Ordinance, such as Stream Buffer issues, Illicit Discharge Investigations, Construction Site Runoff, and Permanent Stormwater Management Controls. The Street Department (Stormwater Inspectors and Stormwater Maintenance Crew) will respond to complaints regarding **Water Quantity and Drainage** issues, as well as other issues directed by the City Engineer or Stormwater Management Coordinator.

- a) Complaints are reported to Engineering or Streets via the city's website, email, regular mail, telephone, or walk-in.
- b) An on-site inspection of the property/site is scheduled. Onsite inspections are typically conducted within seventy two (72) hours within receipt of the complaint, but in no case later than 7 days from receipt. Consideration is given to the seriousness of the possible violation from a public health, safety, and welfare standpoint.
- c) The on-site inspection shall follow the SOP pertaining to each type of complaint. Construction site and EPSC complaints shall follow the EPSC Inspection section of this manual. See SOPs for Illicit Discharge Investigation for further guidance.
- d) The complainant shall be contacted following the investigation if so requested.

2.4 PERMANENT STORMWATER CONTROL MEASURE LONG TERM MAINTENANCE INSPECTION

2.4.1 Entry of Points

A point within the Stormwater Control Measures (SCM) layer is added once the SCM is installed onsite. Each SCM point is logged and the following attributes filled out by the inspector: the date of completion, the SCM type, and the site name. Long Term Maintenance Plan, or LTMP, points are placed on every parcel that has a LTMP recorded. LTMP points have the following attributes: the COF number assigned, the signatory company, the link to the recorded LTMP, the maintenance contact, if known, and whether the SCMs associated with the LTMP are completed. LTMP points are added at the first of every month.

2.4.2 Inspections

Before the inspection of a long-term maintenance compliance, both the LTMP and the associated site plan should be printed and on hand during the inspection.

2.4.2.1 Use of the Infor Field Inspector App

The inspector will use the Infor field inspector App to perform the inspection of each SCM onsite.

1. Open the Infor field inspector app . Sign into Infor.
2. Use GPS features in App to locate and observe Stormwater SCMs in the field.
3. Once the SCM is located in the field and on the app, click the point to see the details of that SCM.
4. Click the tile that is highlighted based on the SCM selected by location. The inspection form will pop up. Input the completed by and completed date information.
5. The inspection form follows the City of Franklin inspection forms within the LTMP. The inspection form is located under the details tab.
6. Once the inspection form is filled, any photos can be added in the attachments tab.
7. Any required maintenance that is needed based on the field conditions shall be noted in the comments section of the inspection report.

2.4.2.2 Inspection

Inspection of SCMs for LTMP compliance is only to ensure regular maintenance is being performed. Regular maintenance is outlined in each LTMP and the BMP manual. If the SCM is found to not be functioning or any maintenance is required, a corrective action plan may be required. All approved site plans associated with the LTMP shall be printed and used during the inspection process.

2.4.3 Notification of Inspection

Property owners shall be notified of an inspection. Inspection results from the report filed onsite are compiled and sent to property owners and any associated addresses. The notice of inspection report will contain an outline of any maintenance required onsite, the associated LTMP, and any additional documents needed to ensure owners are able to locate all SCMs onsite.

2.4.4 Notification of Result

The inspector bases all enforcement proceedings on the field conditions of SCM structures (conditions observed and documented by the inspectors). A copy of the notice of inspection form is provided when a representative is available at the property to receive it. In

many cases, there are no representatives at the property with the SCM. In such cases, the notice of inspection will be sent to the property owner and any associated addresses. When non-compliance issues that need follow-up actions are observed, locate either an email, phone number, and/or address for the responsible party and send a letter or email summarizing the inspection findings and required compliance actions. The inspector shall provide a reasonable time frame to complete any compliance actions, typically 90 days.

If the above described coordination efforts result in no compliance actions being taken, the inspector will initiate the SCM Enforcement Process. A standard Notice of Noncompliance (NON) form should be issued as a first enforcement step. The standard NON template should be utilized as the first step of enforcement and should be sent via certified mail. The NON will list the deficiency and give a timeline for compliance and will include a copy of the plans, photos of the structure and the maintenance document. If a site cannot meet their compliance deadline for a legitimate reason (e.g. weather, hardship), they may request an extension.

At any time during after the initial notice of inspection is sent and received, the property owners may submit a corrective action plan (CAP). The corrective action plan shall outline the maintenance activities that will be performed and the time frames for each maintenance activity. Once the CAP is agreed to by all parties, a re-inspection of the property will take place on the date agreed upon with the CAP. If the CAP is not followed, enforcement beyond the NON shall be issued.

If the site no longer protects, maintains, and enhances the environment of the City of Franklin, Tennessee, and the public health, safety and the general welfare of the citizens, by controlling discharges of Pollutants to the City's stormwater system and to maintain and improve the quality of the receiving water resources into which the stormwater outfalls flow, an NOV shall be issued instead of a Notice of Inspection.

CHAPTER 3 – ENFORCEMENT RESPONSE PLAN (ERP) and STANDARD OPERATING PROCEDURE (SOP) FOR STORMWATER VIOLATIONS

National Pollutant Discharge Elimination System Permit Number TNS075311 authorizes the City of Franklin to discharge stormwater runoff into waters of the State of Tennessee in accordance with certain water quality management programs and provisions as set forth in the permit.

Section 4.5 titled “Enforcement Response Plan” provides that the City of Franklin shall develop and implement an enforcement response plan (ERP). The plan shall set out the MS4’s potential responses to violations and address repeat violations through progressive enforcement as needed to achieve compliance and to reduce pollutants in any stormwater runoff to Franklin’s MS4.

The City of Franklin passed Ordinance Number 2017-41 establishing City regulation and enforcement oversight regarding stormwater management. This Ordinance is codified in the Franklin Municipal Code in Title 23.

Section 23-111 of the Franklin Municipal Code outlines the administrative enforcement remedies available to the City Engineer and other City staff to assure compliance with the City’s Stormwater Ordinance.

Under 23-111 of the Franklin Municipal Code, enforcement mechanisms include: Stop Work Orders, Notice of Violations, Revocation of Permit, Compliance Orders, Civil Penalties, Order to Clean and Abate/Restore, Cost Recovery, Injunctions and or Proceedings at Law or in Equity, Fee or Utility Credit Revocation, Civil Actions, and Emergency Orders and Abatements

In order to assure fair and just enforcement to all parties involved and to provide adequate guidance to City stormwater field personnel, the following protocol shall be employed in enforcement of the City’s Stormwater Management Ordinance. Protocol is subject to change based on individual action(s) and severity of violation(s).

3.1 Enforcement Mechanisms

Inspectors have multiple pathways with which to either notify individuals of violations and to issue enforcement. The following remedies and penalties are available to Inspectors to enforce violations of the Stormwater Management Ordinance, FMC Title 23:

- a) Verbal Warning: To be issued in passing, via on site conversation or phone call, with the responsible party or active contractor regarding a minor issue, which has yet to cause a violation, but could result in further enforcement. The Inspector would follow up on a verbal warning with written correspondence (inspection report, email, or warning letter) and if the minor issue has not been corrected within the finite timeframe communicated

to the responsible party, a NOV shall then be issued. Caution should be used when deciding on this method of enforcement as there might not be any recorded evidence of what the issue was, timeline to correct, and how to correct; making future enforcement troublesome.

- b) **Warning:** A written warning may be issued in the form of a formal warning letter or an email. Warnings are commonly issued for first time buffer violations or first time minor residential illicit. Warnings for active construction site shall be communicated via inspection reports or email to site contacts. Inspector shall ensure a timeframe is specified compliance to be achieved and a deadline if applicable. Ensure the repercussions are noted if the issues are not corrected by the deadline.
- c) **Monthly Site Inspection Report:** Sent monthly to all responsible parties for active construction sites, site inspection reports list any concerns, potential violations, and current violations. Responsible parties have 7 days to address issues put forth in the site inspection reports, with the exception of site stabilization being addressed within 14 days. If the issues are not addressed within the specified timeframe a Notice of Violation (NOV) will be issued.
- d) **Notice of Violation (NOV):** A NOV may be issued for any violation of the Stormwater Management Ordinance. Commonly NOV's are issued in response to a complaint investigation where a violation is observed, when issues brought forth in inspection reports are not addressed, illicit discharges, or when immediate attention is required to avoid pollution to the city's MS4 or waters of the state. The Inspector will set a reasonable timeline in the NOV for compliance to be reached based on the threat to water quality, past history of non-compliance, or forecasted rain events. If compliance is not achieved the responsible party may receive a civil penalty, Stop Work Order (SWO), or both.
- e) **Civil Penalty:** A civil penalty may accompany a NOV either as a precursor to a SWO, accompaniment with a SWO, or in lieu of a SWO. The civil penalty is calculated based on the type of violation(s), results of the violation(s), and hazard occurred. This is done using the Enforcement Response Penalty Calculator Tool. The responsible party is given 30 days to remit payment, prior to having the Civil Penalty be sent to collections.
- f) **Stop Work Order (SWO):** Stop Work Orders should be issued when all other modes of enforcement have failed to bring a site into compliance, or when there an imminent threat or existing impact to water quality. It may also be used if a site has a history of non-compliance. Inspectors will issue a notice to the responsible party, alert building and codes inspectors, and physically place Stop Work Order Notices at all entrances to the site. Under a Stop Work Order, no city inspections are to occur and no work is to be done, other than correcting the site's violations. At which time that the violations are corrected, the responsible party is to contact the city inspector for re-inspection. When the site is

deemed to be in compliance, the inspector will lift the Stop Work Order, physically remove any signs, and notify Building and Neighborhood Services Department inspectors.

Enforcement Points of Emphasis

- a) The responsible party and violator shall be contacted via telephone before serving enforcement remedies and penalties. The phone call should describe the violations, the enforcement action being issued, the timeline, and the corrective action to bring the site into compliance. The Inspector shall make note of when the phone call occurred or was made.
- b) Timeframes for compliance whether communicated verbally or in writing shall be date specific, leaving no room for interpretation. For example, "Monday, June 12, 2014".
- c) Timely follow-up or re-inspection of issued verbal and/or written Notices of Violation is essential to establishing and maintaining credible stormwater management program. Re-inspections shall be completed within 24 hours of the communicated timeframe for compliance or in the case when the compliance timeframe involves a weekend, the re-inspection shall occur the next workday.

3.2. Notice of Violation (NOV) Requirements

The City Engineer or his designee shall issue all necessary notices or penalties to ensure compliance with the Stormwater Management Ordinance. NOV's shall be in accordance with the following:

- a) Be in writing. A written NOV shall be given to the Permit Applicant or if there is no permit, the person responsible for the property (i.e., occupant) or the violator when the City Engineer or his designee observes a violation of the code. Copy the property owner and/or other responsible parties on the NOV if they are not listed as the Permit Applicant.
- b) Include a description of the property sufficient for identification.
- c) Include a statement identifying the violation(s) and why the NOV is being issued. Identify what part of the Stormwater Management Ordinance is being violated. If possible, provide a copy of the section being violated.
- d) Include a correction instruction allowing a reasonable time to make repairs and improvements required to bring the site or property into compliance with the Stormwater Management Ordinance.

- (i) Outline the site improvements needed to correct the violation(s) and bring the site into compliance. Note when the site will be re-inspected.
 - (ii) Explain the enforcement procedure if the site is not brought into compliance.
- e) Inform the property owner and/or permit applicant of the right to appeal. They can seek modification or withdrawal of the notice and order by appealing to the City Engineer first and if he denies the appeal then to the Stormwater Appeals Board (SAB).
- f) Include a statement that authorizes the City of Franklin the right to file a lien upon such property if costs are incurred as stated in the Stormwater Management Ordinance.
- g) Photographs shall be included in the NOV and shall be captioned to describe the image captured.
- h) NOV's and civil penalty letters shall be peer reviewed before sending.

3.3. Properly Served Notice of Violation (NOV)

There shall be record of issuing the NOV to the primary permittee/responsible party. **A phone call to the recipient of the NOV shall coincide with the method chosen.** NOVs may be served as follows:

- a) **Delivered Personally:** The inspector shall take two copies to the job site, if the permittee/responsible party is present, and the inspector and permittee/responsible party shall sign both copies. The inspector will return one to the office and leave the other with the permittee/responsible party.
- b) **Certified Mail:** The inspector shall sign and mail a copy of the NOV via certified mail, with return receipt, to the address provided by the permittee on the grading permit or the address of the responsible party.
- c) **Email:** The inspector shall email a copy of the NOV to the email address provided by the primary permittee on the grading permit, responsible party, and/or other involved parties.

3.4. Notice of Violation (NOV) Follow-up

- a) Extension of time limits shall be granted on a case by case basis. Common reasons an extension may be granted are weather events, unavailable supplies, emergency personal circumstances, etc. It shall be the violators responsibility to contact the inspector and ask for this extension **BEFORE the NOV due date.** Waiting till the last minute to fix issues and not meeting a deadline is not an excuse for an extension.

- b) A compliance re-inspection shall be performed within 7 days of issuing the NOV. However, the specific time period for re-inspection may be lesser or greater than 7 days depending on the severity of each violation and the cost and time reasonably necessary to correct said violation, as determined by the City Engineer or his designee. Be sure to document the re-inspection. **The site operator/owner shall contact the Inspector to request a re-inspection for compliance. Only one re-inspection request shall be granted per working day.**
- c) If compliance has not been achieved, then proceed with further enforcement (see below).

3.5. ERP for Common Types of Violations

3.5.1 Land Disturbing Activities without Obtaining Necessary Grading Permit

- a) First Offense (property owner and/or contractor): SWO; NOV, requiring violator to obtain permit coverage; Issuance of Civil Penalty of \$500.00 plus damages consisting of cost of permit and salary costs of enforcement of article. The violator will be required to pay the permit fee and the civil penalty.
- b) Subsequent Offense: The penalty may increase by twenty-five percent (25%) of the previous penalty amount for every subsequent but separate offense made by the same person, company, or facility. The penalty shall be additional to other enforcement actions.
- c) Failure to Properly Transfer Grading Permit: NOV; Issuance of Civil penalty equal to the cost of a new grading permit fee.
- d) Failure to Request Extension of Permit: NOV; Issuance of Civil Penalty equal to the cost of a new Grading Permit fee.

3.5.2 Grading Permit Violations*:

- **Approved permits not displayed in a conspicuous location**
- **Site inspection not properly conducted**
- **Site inspection not onsite**
- **Unwarranted acceleration of erosion and sediment**
- **Riparian buffer not protected**
- **Riparian buffer disturbed/encroached**
- **Discharge of sediment to riparian buffer**
- **EPSC measures not installed per the approved plans**
- **EPSC measures not installed and functioning properly**

- EPSC measures not properly maintained
- Inactive, unstable areas not stabilized
- Failure to Comply with Approved Design Plans/ Development Inconsistent with Permit

***The above mentioned violations are common violations observed on sites and are not all inclusive of what may be enforced by *FMC Title 23*.**

- a) First Offense: Copies of the inspection report noting deficiencies sent to permittee and contractor. Depending on severity mentioned above, a first offense can go straight to a NOV, civil penalty, or SWO phase. This is a typical first offense response to minor site issue with no imminent threat to water quality.
- b) Second Offense: NOV issued to permittee detailing a specified timeframe to correct the violations. If the violations are not corrected in their entirety, a civil penalty will be issued and calculated utilizing the ERP Penalty Calculator and will be no less than \$250.00. If the violations are not corrected after the civil penalty period, a SWO will be issued enforcement of article.
- c) Subsequent Offense: The enforcement action will follow section b above, however, the penalty may increase by twenty-five percent (25%) of the previous penalty amount for every subsequent but separate offense made by the same person, company, or facility. The penalty shall be additional to other enforcement actions.

Note: If, by not complying with approved plans, the violator also creates another violation, then the ERP for those violations should also be followed.

3.5.3 Illicit Discharges (Commercial/Industrial)

- a) First Offense: NOV issued to the violator, or permittee if applicable. A civil penalty will be issued and calculated utilizing the ERP Penalty Calculator and will be no less than \$250.00. The civil penalty may include damages consisting of salaries and the cost of all city crew or contracted services to clean up the release. If warranted a SWO may be issued to cease the illicit discharge.
- b) Subsequent Offense: The penalty may increase by twenty-five percent (25%) of the previous penalty amount for every subsequent but separate offense made by the same person, company, or facility. The penalty shall be additional to other enforcement actions.

Note: Additional civil penalties may incur if clean-up is prolonged and/or material is lost to the MS4 or waters of the state. Damages consisting of salaries and the cost of all city crew or

contracted services to clean up accidental release may be assessed to the property owner and/or witnessed responsible party.

3.5.4 Illicit Discharges (Residential)

- a) First Offense: Enforcement action based on individual action. More serious violations, such as deliberate dumping of pesticide, used motor oil or other hazardous or dangerous chemical into the MS4 or waters of the state, will result in issuance of a NOV and civil penalty. The civil penalty will be calculated utilizing the ERP Penalty Calculator and will be no less than \$50.00. The civil penalty may include damages consisting of salaries and the cost of all city crew or contracted services to clean up the release. A less serious violation, such as raking leaves into drainage system, may result in written or verbal warning.
- b) Subsequent Offense: The penalty may increase by twenty-five percent (25%) of the previous penalty amount for every subsequent but separate offense made by the same person, company, or facility. The penalty shall be additional to other enforcement actions. A subsequent offense of a less serious violation will result in a civil penalty, calculated utilizing the ERP Penalty Calculator

Note: Additional civil penalties may incur if clean-up is prolonged and/or material is lost to the MS4 or waters of the state. Damages consisting of salaries and the cost of all city crew or contracted services to clean up the release may be assessed to the property owner and/or witnessed responsible party.

3.5.5 Post Construction Riparian Buffer Disturbance Violations*:

- **Mowing within the Riparian Buffer**
- **Clearing within the Riparian Buffer**
- **Grading within the Riparian Buffer**
- **Removal of trees and/or other vegetation within the Riparian Buffer**
- **Building of structure within the Riparian Buffer**
- **General encroachment of the Riparian Buffer**
- **Storage of Materials in the Riparian Buffer**
- **Installation of Landscape beds within the Riparian Buffer**

***The above mentioned violations are common violations observed on sites and are not all inclusive of what may be enforced by *FMC Title 23*.**

- a) First Offense: NOV issued to violator requiring purchase (at cost) and installation of riparian buffer signage from the City of Franklin Engineering Department. NOV shall require buffer to be left to naturally reestablish. Depending on severity of the violation, a first offense can go straight to a restoration plan requirement or civil penalty. This is a typical first offense response to minor buffer disturbance issue. If buffer signage was required

by a development site plan or previous enforcement, enforcement actions outlined in section b will be pursued.

- b) Second Offense: NOV issued to violator requiring submittal of a riparian buffer restoration plan to the City of Franklin Stormwater Coordinator. The plan shall detail the plantings, location of the plantings, and a specified timeframe to complete the restoration. If the restoration plan is not followed an additional NOV will be served requiring the restoration plan and a civil penalty as outlined in section c below. If buffer enhancement was required by a development site or previous enforcement, enforcement actions outlined in section c will be pursued.
- c) Subsequent Offense: NOV and civil penalty issued to the violator. Additional actions may be requested such as installation of signage, plantings/restoration, and exotic/invasive removal. The civil the penalty may increase by twenty-five percent (25%) of the previous penalty amount for every subsequent but separate offense made by the same person, company, or facility. The penalty shall be additional to other enforcement actions.

Note: If, by not disturbing the riparian buffer, the violator also creates another violation, then the ERP for those violations should also be followed.

3.5.6 Post Construction Stormwater Control Measure Maintenance Violation

- a) First Offense: If compliance is not achieved by issuance of the NON, enforcement may then be elevated to an official NOV with associated administrative penalties.
 - a. If the site fails to comply with the initial NOV, a second and third NOV may be issued with an administrative penalty (Not to exceed \$10,000 per day) assessed with a civil penalty letter. If the site fails to comply after issuance of up to 3 NOVs, then the inspector must choose the best course of action from the following enforcement options:
 - i. *Cost recovery.* If corrective action, including maintenance delinquency, is not taken in the time specified or within a reasonable time if no time is specified, the city may take the corrective action, and the cost of the corrective action shall be the responsibility of the owner and the developer. The cost of the abatement and restoration shall be borne by the owner of the property and the cost therefore shall be invoiced to the owner of the property. If the invoice is not paid within 90 days, the city shall have the authority to place a lien upon and against the property. If the lien is not satisfied within 90 days, the city is authorized to take all legal measures as are available to enforce the lien as a judgment, including, without limitation, enforcing the lien in an action brought for a monetary judgment, by delivery to the assessor or a special assessment against the property

- ii. *Civil actions.* In addition to any other remedies provided in this title, any violation of this title may be enforced by civil action brought by the city attorney. Monies recovered under this subsection shall be paid to the city to be used exclusively for costs associated with implementing or enforcing the provisions of this title.
- b) If the site no longer protects, maintains, and enhances the environment of the City of Franklin, Tennessee, and the public health, safety and the general welfare of the citizens, by controlling discharges of Pollutants to the City's stormwater system and to maintain and improve the quality of the receiving water resources into which the stormwater outfalls flow, the NOV can carry up to a \$10,000 civil penalty for the first offence.
- c) Subsequent Offense: The penalty may increase by twenty-five percent (25%) of the previous penalty amount for every subsequent but separate offense made by the same person, company, or facility. The penalty shall be additional to other enforcement actions.
 - i.

3.6 Reporting Violations and Civil Penalties to TDEC

The TDEC Nashville Field Office shall be copied on all NOVs in which waters of the state have been discharged to or negatively impacted as per the MS4 NPDES permit and shall be immediately notified of noncompliance and violations in which pollution (chemical, biological, or physical) has discharged into waters of the state.

APPENDICIES

Appendix 1: Sample Inspection Report



City of Franklin
Engineering Dept.
109 3rd Ave. S.
Franklin, Tn 37064
615-791-3218

City of Franklin Stormwater Inspection Report

Date: 11/07/2014

BASIC INFORMATION

Site or Project Name	Muddy Brook Manor, Section 1
COF Project Number	#1234
Date of Inspection	11/07/2014
Primary Permittee Name	John Doe Developments LLC, John Doe
Has rainfall been checked/documented daily?	Yes
City Inspectors Name	Doug Noonan
Current weather conditions	Sunny
Please check the box if the following items are on-site	
Notice of Coverage (NOC)	<input type="checkbox"/>
Site contact information	<input type="checkbox"/>
Stormwater Pollution Prevention Plan (SWPPP)	<input checked="" type="checkbox"/>
Rain Gage	<input checked="" type="checkbox"/>
Twice-weekly inspection documentation	<input checked="" type="checkbox"/>
Grading Permit	<input checked="" type="checkbox"/>

BMPS

Are the Erosion Prevention and Sediment Controls (EPSCs) functioning correctly: If "No", describe below in Comment Section

1. Are EPSC's in accordance with the SWPPP? No

Comments

-Inlet protection not installed per the plans.

Photo



2. Are EPSCs installed properly and functional? No

Appendix 1: Sample Inspection Report continued



City of Franklin
Engineering Dept.
109 3rd Ave. S.
Franklin, Tn 37064
615-791-3218

City of Franklin Stormwater Inspection Report

Date: 11/07/2014

Comments

- Silt fence along the northwest boundary in need of maintenance.
- Check dams in need of maintenance.
- Inlet protection in need of maintenance on Maple Street and Hewitt Circle.

Photo



3. Is the proper stream buffer zone maintained?

Yes

Comments

Photo

4. Were there unstable, inactive areas on the site? If so does the inspector know the length of time has been more than 14 days (or 7 days for steep slopes)?

Yes

Comments

- Several areas in need of stabilization.

Photo



5. Are more than 50 acres disturbed at one time?

No

Comments

Appendix 1: Sample Inspection Report continued



City of Franklin
Engineering Dept.
109 3rd Ave. S.
Franklin, Tn 37064
615-791-3218

City of Franklin Stormwater Inspection Report

Date: 11/07/2014

Photo

6. Has sediment discharged offsite? Yes

Comments

- Sediment has discharged offsite and into Main Street. Sediment laden water was observed flowing into several catch basins.
- Sediment has discharged offsite and into the public right of way along Maple Street, severe deposition around fire hydrant.

Photo



7. Has sediment discharged into waters of the State? Yes

Comments

- Sediment laden water was observed discharging to West Franklin Branch

Photo



8. Are there any ARAP violations onsite? No

Comments

Photo

9. Is a concrete washout area located onsite? Yes

Comments

- The concrete washout is in need of maintenance.

Appendix 1: Sample Inspection Report continued



City of Franklin
 Engineering Dept.
 109 3rd Ave. S.
 Franklin, Tn 37064
 615-791-3218

City of Franklin Stormwater Inspection Report

Date: 11/07/2014

Photo



10. If applicable, have discharges from dewatering activities been managed by appropriate controls?

Comments

Photo

11. Is there evidence of sediment track out on streets?

Yes

Comments

-Track out present on Hewitt Circle.

Photo



12. Have all previous EPSC deficiencies from prior site visits or inspections been addressed? If not explain remaining deficiencies below.

Yes

Comments

Photo

13. Are there any other EPSC or environmental issues not covered above that should be noted onsite?

Yes

Appendix 1: Sample Inspection Report continued



City of Franklin
Engineering Dept.
109 3rd Ave. S.
Franklin, Tn 37064
615-791-3218

City of Franklin Stormwater Inspection Report

Date: 11/07/2014

Comments

-Lot 22 irrigation system was flowing across bare soil, into Sycamore Lane, and into a catch basin.

Photo



PICTURES

Additional Pictures Taken at Site

Photo 1

PHOTO

Photo1



Appendix 1: Sample Inspection Report continued



City of Franklin
Engineering Dept.
109 3rd Ave. S.
Franklin, Tn 37064
615-791-3218

City of Franklin Stormwater Inspection Report

Date: 11/07/2014

Photo2



Photo3



Photo4



Appendix 1: Sample Inspection Report continued



City of Franklin
 Engineering Dept.
 109 3rd Ave. S.
 Franklin, Tn 37064
 615-791-3218

City of Franklin Stormwater Inspection Report

Date: 11/07/2014

Photo5



Photo 6



Photo 7

Photo 8

GREEN INFRASTRUCTURE

Green infrastructure onsite:

Comments:

- Area adjacent to water quality swale #1 eroding, sediment deposition present in swale.
- Unstable area adjacent to rain garden.



City of Franklin
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109 3rd Ave. S.
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City of Franklin Stormwater Inspection Report

Date: 11/07/2014

Photo 1:



Photo 2:





City of Franklin
Engineering Dept.
109 3rd Ave. S.
Franklin, Tn 37064
615-791-3218

City of Franklin Stormwater Inspection Report

Date: 11/07/2014

Photo 3:



Photo 4:

Photo 5:

CERTIFICATION

I certify under penalty of law that this report and all attachments are, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Inspector Name

Doug.Noonan@franklinton.gov

Appendix 2: Sample NOV



NOTICE of VIOLATION

Stormwater Management Ordinance City of Franklin Municipal Code Title 23 Violation(s)

Permit #

1. **Property Owner/Permit Holder:** Click here to enter text.
2. **Address:** Click here to enter text.
3. **Location of the violation(s):** Click here to enter text.
4. **Date & Time violation observed:** xx:xx am/pm xx/xx/xxxx

The following is a list of violations that have been observed on this site.

- FMC§ 23-106(2)(b)(iv) Approved permits not displayed in a conspicuous location on all Active Construction Sites.**
- FMC§ 23-112(4)(d)(i) Development without permit.**
- FMC§ 23-112(4)(d)(ii) Development inconsistent with permit.**
- FMC§ 23-106(2)(u) Site inspections not properly conducted:** Erosion Prevention and Sediment Control (EP&SC) measures shall be inspected **twice weekly, 72 hours apart**, recorded on approved inspection forms, and copies placed in the SWPPP box.
- FMC§ 23-106(2)(u) Site inspections not onsite.**
- FMC§ 23-106(2)(p):** Unwarranted acceleration of Erosion or sedimentation, or transport of other Pollutants or forms of Pollution, due to various Land Development Activities shall be controlled.
- FMC§ 23-107(5)(c) Riparian Buffer not protected:** Riparian Buffer areas shall be protected during all Development activities. Construction layout survey shall include fencing and labeling of the Riparian Buffer areas. Use of a combination of fencing and flagging to ensure adequate visibility shall be required. Buffer boundaries shall be marked with signs that persist before, during, and after construction to prevent entry of construction equipment, storage, and stockpiling.
 - Riparian Buffer encroached**
 - Discharge of Sediment to Riparian Buffer**
- FMC§ 23-110(1) Illicit Discharge into the Municipal Separate Stormwater Sewer System (MS4) and/or into Water Resources:** No person shall discharge or cause to be discharged into the MS4 or Water Resources any materials, including but not limited to Pollutants or waters containing any Pollutants that cause or contribute to violations of water quality standards other than Stormwater and except as permitted by subsection 23-110(4).
 - Discharge into waters of the State**
- FMC§23-106(2)(a) & FMC§23-111:**The City may require maintenance or modification of Stormwater Management practices that are not operating within the guidelines established by *FMC Title 23*, as determined by the City Engineer. **The following deficiencies violate said guidelines:**
 - EP&SC measures not installed per the approved plans:**
 - EP&SC measures not installed properly and functioning:** See the BMP Manual for specific details.
 - EP&SC measures not properly maintained:** See the BMP Manual for specific details.
 - Inactive, unstable areas not stabilized:** Temporary or permanent soil stabilization at the site must be completed no later than **fourteen (14) days** after construction activity has temporarily or permanently ceased. Steep slopes shall be temporarily stabilized no later than **seven (7) days** after construction activity on the slope has temporarily or permanently ceased.
 - Other:**
- Violation(s) of the Tennessee Construction General Permit:**
- Other violation(s):**

Erosion Prevention & Sediment Control (EP&SC) and stormwater controls shall be installed and maintained according to the City of Franklin Best Management Practice (BMP) Manual. A copy is available at:
<http://www.franklintn.gov/index.aspx?page=772>

Appendix 2: Sample NOV continued



Comments; How to correct the violation(s):

5. **The stated violation(s) shall be corrected in their entirety on xx/xx/xxxx. If these violations are not corrected by xx:xx am/pm on xx/xx/xxxx, a civil penalty in the amount of \$000 per violation shall be assessed. This civil penalty shall be assessed on a day to day basis for a maximum of xxxx(X) days at which a stop work order shall be issued at xx:xx am/pm on xx/xx/xxxx if compliance is still not achieved in entirety.**
6. Violations of the Stormwater Management Ordinance are subject to civil penalties and/or other enforcement actions pursuant to FMC§ 23-112 et seq. Any civil penalties and/or other enforcement actions will be addressed in a separate letter. In the event there are penalties assessed by the Tennessee Department of Environment and Conservation (TDEC) against the City caused by any person, company, or facility, said person, company or facility shall be assessed the equivalent amount of civil penalty.
7. **Appeal:** Pursuant to FMC§23-301 et seq., upon issuance of a citation or notice of violation, it shall be conclusive and final unless a written notice of Appeal is submitted to the City Engineer within ten (10) days of the violation notice being served. If the City Engineer does not reverse the decision or if the violation is considered upheld, the aggrieved party may Appeal to the Stormwater Appeals Board, by filing a written request for hearing within thirty (30) days of the City Engineer's decision on the Appeal. The request for hearing shall state the specific reasons why the decision of the City Engineer is alleged to be in error, and shall be accompanied by a payment for seven hundred fifty dollars (\$750.00) to cover the cost of court reporters, transcripts, plan reviews and other administrative costs associated with the Appeal. In the event the Stormwater Appeals Board overturns the decision of the City Engineer, this payment may be refunded to the appellant.
8. **Cost Recovery:** If corrective action, including maintenance delinquency, is not taken in the time specified or within a reasonable time if no time is specified, the City may take the corrective action, and the cost of the corrective action shall be the responsibility of the owner and the developer. The cost of the abatement and restoration shall be borne by the owner of the property and the cost therefore shall be invoiced to the owner of the property. If the invoice is not paid within ninety (90) days, the enforcement official is authorized to take all legal measures as are available to enforce the lien as a judgment, including, without limitation, enforcing the lien in an action brought for a money judgment, by delivery to the assessor or a special assessment against the property [FMC§23-112(6)].

Method of Service:

MAIL CERTIFIED MAIL REGULAR PERSONAL POSTING ON PROPERTY EMAIL

CMRR # _____

Email: _____

Signature of City of Franklin Stormwater Inspector

Date

Signature of Responsible Party (if hand delivered)

Date

FOR REINSPECTION AND QUESTIONS PLEASE CALL 615-791-3218

Appendix 3: Contact Numbers

Tennessee Department of Environment and Conservation (TDEC)

Division of Water Resources Central Office 615-532-0625
Nashville Field Office 615-687-7000

City of Franklin

City Engineer 615-550-6660
Stormwater Management Coordinator 615-791-3218
Engineering Department 615-791-3218
Streets Department 615-791-3254
Building and Neighborhood Services 615-794-7012
Water Management Department 615-794-4554
Solid Waste Department 615-794-1516
Parks Department 615-794-2103

Williamson County

Stormwater Coordinator 615-790-5413

City of Brentwood

City Engineer 615-371-0080

United States Environmental Protection Agency (EPA) Region 4

Water Protection Division 404-562-9345
Regional 24 Hour Spill Reporting Number 404-562-8700
National Response Center Spill Hotline 800-424-8802