

**Escalation Process for Drainage Ordinance Violations during the Construction Phase**

Mayor Tim Keller

**The City Ordinance includes several specific means of enforcing the City’s regulations including but not limited to § 14-5-2-11(C)(3).**

*The city will utilize sanctions and penalties to enforce upon violations of permit requirements. Progressive enforcement escalation procedures will be used and strictly enforced for recalcitrant or repeat offenders.*

**The four levels of escalation apply to each specific violation type (e.g. sediment in the street, BMP maintenance, waste, washout, self-inspection reports, posting, expired permit, stabilization, etc…). Each recalcitrant or repeat offence for a particular violation type results in escalation to the next level.**

**1st Level - Optional Informal Warning w/o Fine (not required by Ordinance) w**

* E-mail with explanation of violation(s) with a corrective action date. Standard mitigation time is seven days. Additional time may be given at the City’s discretion.
* This step is skipped if land disturbance began without City approval and/or without BMPs, the

**2nd Level - Formal Warning w/o Fine – (1st) Notice of Violation (NOV) Letter**

* A NOV letter will be sent to the property owner with an explanation of violation(s), the required mitigation, and an allowance of 7 days (min.) to mitigate. The NOV letter will state that the property owner is subject to a $500 fine/day if the violations are not mitigated within the specified time frame (escalation to 3rd Level). Additional time to mitigate may be given at the discretion of the City.
* Level 2 applies to the second time a particular violation type is noted during a City inspection (first repeat violation).
* Level 2 also applies to the first time for either of the following two egregious violation types: either starting land disturbance without approval from the City or starting land disturbance without BMPs.

**3rd Level – Formal Notice of Violation w/ Fine for 1 day - (2nd & up) NOV Letter**

* A NOV letter will be sent to the property owner with an explanation of violation(s), the required mitigation, and an allowance of 7 days (min.) to mitigate. A fine will be issued to the property owner(s) per the Penalty provisions of §§ 14-5-2-1 et seq. typically $500 for the first day of violation. Failure to pay the fine may result in additional sanctions. The NOV letter will state that the property owner is subject to a $500 fine/day if the violations are not mitigated within the specified time frame (escalation to 4th Level). Additional time may be given at the discretion of the City.

**4th Level – Formal Notice of Violation w/ Fine for each new day of violation since the last day of fine.**

* A NOV letter will be sent to the property owner with an explanation of violation(s), the required mitigation, and an allowance of 7 days (min.) to mitigate. A fine will be issued to the property owner(s) per the Penalty provisions of §§ 14-5-2-1 et seq. typically $500/day of violation since the last day of fine. The NOV letter will state that the property owner is subject to a $500 fine/day and additional sanctions if the violations are not mitigated and the fine paid within the specified time frame.
* The EPA is typically notified when NOVs with fines are sent.
* Additional time is typically not granted unless the owner is cooperative and makes significant progress mitigating the violations within the specified time frame (3 out of 4 violations mitigated). Revised December 18, 2020