

City of Charlotte
Storm Water Pollution Control Ordinance
Penalty/Enforcement Guidance

Violation Class	Maximum Per Day Base Penalty
<u>Class I Violation</u> Overall scope and severity of the violation is negligible	\$100, unless it's the 1 st offense, in which case there shall be no monetary penalty
<u>Class II Violation</u> Overall scope and severity of the violation is minor	\$250, unless it's the 1 st offense, in which case there shall be no monetary penalty
<u>Class III Violation</u> Overall scope and severity of the violation is moderate	\$1000, unless it's the 1 st offense, in which case there shall be no monetary penalty
<u>Class IV Violation</u> Overall scope and severity of the violation is significant	\$2500
<u>Class V Violation</u> Overall scope and severity of the violation is severe	\$5000

The purpose of this guidance document is to help Charlotte-Mecklenburg Storm Water Services (CMSWS) determine appropriate penalty amounts for violations of the Charlotte Storm Water Pollution Control Ordinance. The information is provided as guidance rather than as a rigid policy or set of rules. CMSWS shall use best professional judgment in determining penalty amounts, and this document is written with some flexibility in order to allow for that judgment to be applied. Flexibility is also necessary due to the wide variety of enforcement cases that occur.

The overall scope and severity of the violation shall be used to determine the violation class as described in the table above. Scope and severity are affected by three factors, which shall be considered: the **(1) type of substance discharged, (2) amount/volume discharged, and (3) impact that the discharge had on the overall environment, water quality, habitat, wildlife, public health and/or property.** Other factors affect the final penalty amount, and the base per day penalty amount will be adjusted based on those factors in the Civil Penalty Assessment Worksheet.

Once the violation class is determined, the base per day penalty amount shall be determined. The three factors mentioned in the 2nd paragraph shall also be used to determine the base penalty. Maximum per day amounts for each violation class are shown in the table above. The purpose of setting maximum penalties is to help ensure some reasonableness and consistency in determining penalty amounts. For a first offense that is a Class I, II or III violation, no monetary penalty will be issued. For a first-time violator who commits a smaller violation, it is appropriate and customary to issue a notice of violation as a warning and means of education.

To help narrow down the actual base per day penalty amount, in addition to the three factors, CMSWS should consider penalty amounts from the database of past cases. For example, if one past case that was a less severe violation had a per day penalty amount of \$300 and another past case that was a more severe violation had a per day penalty amount of \$750, then the per day penalty amount for the current case being considered should likely fall between \$300 and \$750. Also important to note is that the per day penalty amount may be set below the maximum penalty amount for lower violation classes, if determined by CMSWS to be appropriate. For example, if a case is determined to be a Class IV violation, the per day penalty amount may be below \$1000, which is the maximum for a Class III violation. Again, this policy is intended to guide CMSWS in making determinations, but best professional judgment must also be applied. One more important issue to note is that prior violation history, willfulness in committing the violation, and whether the violation was business-related should not be considered when determining the base per day penalty amount. Those are aggravating and mitigating factors that will be considered later in the Civil Penalty Assessment Worksheet to adjust the base per day penalty amount.