

Town of Davidson Surface Water Pollution Control Ordinance

Section 1. Title.

This Ordinance shall be cited as the “Town of Davidson Surface Water Pollution Control Ordinance.”

Section 2. Purpose.

The purpose of this Ordinance is to prevent pollutants from entering the storm drain system; to maintain and enhance surface water quality; and to meet the requirements associated with the NPDES storm water permit.

Section 3. Definitions.

Mecklenburg County Land Use & Environmental Services Agency - The department or division of Mecklenburg County government (regardless of the title given to it by Mecklenburg County) that is responsible for storm water and water quality matters.

NPDES (National Pollutant Discharge Elimination System) - Permit issued pursuant to Section 402 of the Clean Water Act.

Non-Storm Water - Any flow that is not composed entirely of natural precipitation.

Person - Any individual, partnership, co-partnership, firm, company, corporation, association, commission, institution, utility, joint stock company, trust, estate, governmental entity or other legal entity, or their legal representative, agents or assigns.

Pollutant - A man-induced substance that alters the chemical, physical, biological, thermal, and/or radiological integrity of water.

Storm Water - Any flow occurring during or following any form of natural precipitation and resulting there from.

Storm Drain System – The network of inlets, pipes, ditches, swales, ponds, streams and/or other natural or manmade facilities and appurtenances that serve to collect and convey storm water through and from a given drainage area.

Storm Water Advisory Committee – The Charlotte-Mecklenburg Storm Water Advisory Committee as established by joint resolutions of the Charlotte City Council, Mecklenburg County Board of Commissioners and the Towns of Cornelius, Davidson, Huntersville, Matthews, Mint Hill and Pineville, together with any amendments thereto.

Section 4. Prohibited Discharges to the Storm Drain System.

- (a) **Illicit discharges prohibited.** No person shall cause any discharge to enter the storm drain system unless such discharge consists entirely of storm water or is an allowable discharge listed in Section 4(d).
- (b) **Installation or use of illicit connections prohibited.** No person shall install, maintain or use any connection to the storm drain system or shall cause non-storm water to be discharged or conveyed through a connection to the storm drain system unless the discharge consists entirely of storm water or is an allowable discharge listed in Section 4(d).
- (c) **Improper disposal prohibited.** No person shall cause any refuse, rubbish, food waste, garbage, litter, paint, paint wash water, chlorinated swimming pool water, oil, grease, household, industrial and chemical wastes, leaves, grass clippings, dead plants, animal matter, animal waste or any other discarded or abandoned substance or waste material to be disposed of in a storm drain system or at a location from which the substances could be transported to the storm drain system.
- (d) **Allowable storm water discharges.**
 - (1) NPDES permitted discharges authorized by the U.S. Environmental Protection Agency or N.C. Department of Environment and Natural Resources
 - (2) Discharges from emergency fire fighting activities
 - (3) Uncontaminated groundwater
 - (4) Drinking water line flushing
 - (5) Air conditioning condensate
 - (6) Irrigation water
 - (7) Uncontaminated springs
 - (8) Dechlorinated swimming pool discharges
 - (9) Landscape irrigation
 - (10) Street wash water
 - (11) Discharge from potable water sources
 - (12) Lawn watering
 - (13) Foundation drains
 - (14) Individual non-commercial vehicle washing operations

Section 5. Powers and Authority for Inspection.

Town of Davidson personnel or other duly authorized representative(s), bearing proper identification, shall be permitted to enter upon all properties for the purpose of inspection, observation, measurement, sampling and testing in accordance with the provisions of this Ordinance.

Section 6. Authority of Mecklenburg County.

The Mecklenburg County Land Use and Environmental Services Agency is a duly authorized

representative of the Town of Davidson in the prevention and enforcement of this ordinance and is entitled to all the rights granted to the Town.

Section 7. Enforcement and Penalties.

- (a) Any Person who violates any of the provisions of this Ordinance is subject to a civil penalty. A civil penalty may be assessed from the date the violation first occurs. No penalty shall be assessed until the Person alleged to be in violation has been notified of the violation. The notice of violation shall identify the nature of the violation, set forth the measures necessary to comply with the Ordinance and provide a specific time period for compliance. The notice may be served by mail, hand delivery or any other means determined to give actual notice. Refusal to accept the notice shall not relieve the violator's obligation to comply with this Ordinance or to pay such penalty.
- (b) The maximum civil penalty for each violation of this Ordinance is \$5,000.00. Each day of violation shall constitute a separate violation.
- (c) In determining the amount of a civil penalty, all relevant mitigating and aggravating factors shall be considered including, but not limited to the following: the degree and extent of harm caused by the violation; the cost of rectifying the damage; whether the violator saved money through noncompliance; whether the violator took reasonable measures to comply with this Ordinance; whether the violator voluntarily took reasonable measures to restore any areas damages by the violation; whether the violation was committed willfully; whether the violator reported the violation to the Mecklenburg County Land Use & Environmental Services Agency; and the prior record of the violator in complying or failing to comply with this Ordinance or any other local or State water pollution control ordinance or regulation.
- (d) In addition to the per diem civil penalty, penalties for costs to restore damaged property may be assessed based on restoration costs, which include but are not limited to, clean up costs, devaluation of the property, value of animal and plant life damaged and Mecklenburg County administrative costs.
- (e) The Director of the Mecklenburg County Land Use & Environmental Services Agency, or his designee, shall determine the amount of the civil penalty assessment and shall notify the Person responsible for the violation of the amount of the penalty and the reason for assessing the penalty. The notice of assessment shall be issued in writing and sent via registered or certified mail or other means reasonably calculated to give adequate notice to the Person responsible for the violation and shall direct the violator to either pay the assessment or appeal the assessment as described in Section 9 within thirty (30) days of receipt of notice. If an alleged violator does not pay a civil penalty assessed by the Director within 30 days after it is due, or does not appeal a civil penalty assessment as provided in Section 9, the Director shall request the County Attorney to institute a civil action to recover the amount of the assessment. The civil action shall be brought in Mecklenburg County General Court of Justice or in any other court of competent

jurisdiction. A civil action must be filed within three (3) years of the date the assessment was due.

- (f) Civil penalties collected pursuant to this Ordinance shall be credited to the Town of Davidson general fund as non-tax revenue, or to such other fund as determined by the Town Board.
- (g) Violation of this Ordinance shall not constitute a misdemeanor or infraction punishable under North Carolina General Statute 14-4.
- (h) In addition to the imposition of a civil penalty, this Ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction as authorized by North Carolina General Statute 153A-123(d) or by injunction issued pursuant to authorization contained in North Carolina General Statute 153A-123(e).

Section 8. Restoration of Areas Affected by Failure to Comply.

The Director of the Mecklenburg County Land Use & Environmental Services Agency may require a Person responsible for a violation to restore all areas affected by the violation to the conditions existing prior to the violation. This authority is in addition to any other civil penalty or injunctive relief authorized under this Ordinance.

Section 9. Appeals.

- (a) Any person who desires to appeal a civil penalty assessment shall have thirty (30) days from the date of issuance of a notice of assessment to appeal in writing to the Storm Water Advisory Committee. The Storm Water Advisory Committee has ninety (90) days to hear the appeal and an additional sixty (60) days to respond in writing to the appellant with their findings via registered or certified mail.
- (b) The Storm Water Advisory Committee shall provide the appellant a minimum of ten (10) days notice of the time and place of the hearing.
- (c) If the Storm Water Advisory Committee determines that a penalty was properly charged, the appellant must provide payment within thirty (30) days of receiving the Committee's findings in writing.

Section 10. Territorial Jurisdiction.

This Ordinance is applicable within the corporate limits of the Town of Davidson.

Section 11. Severability.

If any section or sections of this Ordinance is/are held to be invalid or unenforceable, all other sections shall nevertheless continue in full force and effect.

Section 12. Effective Date.

This Ordinance shall be effective upon its adoption.

Adopted the _____ day of _____, 2004.

Approved as to Form

Town Attorney

Clerk to the Town Board