

Proposed Changes to the Mecklenburg County Surface Water Pollution Control Ordinance (Ordinance Adopted in May 2004)

Provided below is a summary of the major proposed changes to the Mecklenburg County Surface Water Pollution Control Ordinance.

1. All Sections: Various wording changes were made throughout the document without changing the regulatory requirements or overall intent of the ordinance.
2. Section 2. General Authorization and Ordinance Purpose: The authorization for the ordinance was added and the purpose of the ordinance was expanded to include specific objectives.
3. Section 4 Definitions: Definitions were added and changed as necessary in Section 4 to support ordinance revisions.
4. Section 5. Prohibitions, Accidental Discharge(s)(c): Accidental discharges were added as a violation of the ordinance.
5. Section 5. Prohibitions, Improper Storage, Handling, or Processing of Materials(d): Improper storage, handling, or processing of materials was added as a violation of the ordinance if it resulted in the deposition of pollutants on the land that may become mixed with stormwater and enter the stormwater system or surface waters.
6. Section 5. Prohibitions, Failure to Comply(e): Failure to comply with any requirements or corrective actions set forth in any notice made pursuant to the ordinance was added as a discrete violation of the ordinance.
7. Section 5. Prohibitions, Use of High PAH Pavement Products Prohibited(f): The use of pavement products with greater than 0.1% polycyclic aromatic hydrocarbons (PAH) by weight on an asphalt or concrete surface was added as a violation of the ordinance.
8. Section 5. Prohibitions, Obstruction(g): Obstructing, hampering, or interfering with county personnel carrying out official duties authorized by this ordinance was added as a violation.
9. Section 5. Prohibitions, Allowable Incidental Discharges of Non-Storm Water(h): The following allowable discharges were added: diverted stream flows; and flows from riparian habitats and wetlands. Swimming pool and hot tub discharges continue to be allowed provided they do not contain chlorine, bromine, salt, or any other treatment chemicals. Backwash discharges from swimming pools and hot tubs and saltwater pool discharges are identified as prohibited in the revisions. Single-family and charity vehicle washing continues to be allowed; however, designated vehicle wash areas at multi-family residential complexes are identified as prohibited in the revisions if they connect, directly or indirectly, to the stormwater system or the waters of the state. In addition, the revisions specify that charity vehicle washing performed by the same organization or at the same location on a routine basis (more than one time in a thirty-day period) is not allowed.
10. Section 6. Powers and Authority for Inspection, Authority to Inspect and Monitor(a): The revisions add a stipulation that when security measures are in force that would require identification and clearance before entry into the premises, arrangements with security personnel must be made so that, upon presentation of identification, personnel will be permitted to enter and perform their specific duties and responsibilities without delay.
11. Section 6. Powers and Authority for Inspection, Search Warrants(b): The revisions added a provision for obtaining a search warrant to conduct inspections to the extent permitted by law.

12. Section 7. Enforcement Remedies and Penalties, Remedies Not Limited(a): The revisions add a provision that the remedies provided in the ordinance are not exclusive and may be combined with any other remedies authorized by law.
13. Section 7. Enforcement Remedies and Penalties, Notice of Violation(b): The revisions add a provision that any person who violates the ordinance, or allows a direct or indirect, act or acts which causes a violation of the ordinance will be issued a written notice of violation. The specific content of the notice is also described as well as how it will be served.
14. Section 7. Enforcement Remedies and Penalties, Civil Penalties(c): The revisions clarify that a civil penalty may be assessed for the time period from the date the violation first occurs until the date that the violation ceases as verified by staff. The revisions also indicate that penalties may be assessed concurrent with a notice of violation when staff are hampered or obstructed from carrying out official duties; a repeat or continuing violation has occurred; and/or there is a willful or intentional violation of the ordinance. In addition, the revisions add the following factors for inclusion in determining the amount of a civil penalty: knowledge of the requirements by the violator and/or reasonable opportunity or obligation to obtain such knowledge; and technical and economic reasonableness of reducing or eliminating the violation. Another change is that the previous version of the ordinance required that civil penalties collected would be credited to the Mecklenburg County general fund as non-tax revenue, whereas the revised version stipulates that all penalties shall be remitted to the Charlotte-Mecklenburg School System as required by State law.
15. Section 7. Enforcement Remedies and Penalties, Compliance Agreement(e): The revisions add a provision for the use of a Compliance Agreement as a remedy to obtain compliance.
16. Section 7. Enforcement Remedies and Penalties, Compliance Order(f): The revisions add a provision for the use of a Compliance Order to obtain compliance.
17. Section 7. Enforcement Remedies and Penalties, Cease and Desist Order(g): The revisions add a provision for the use of a Cease and Desist Order to obtain compliance.
18. Section 7. Enforcement Remedies and Penalties, Withholding of Inspections, Permits, or Other Approvals(h): The revisions add a provision for withholding inspections, permits, and other approvals as a means for obtaining compliance.
19. Section 7. Enforcement Remedies and Penalties, Abatement by the County(j): The revisions include specific information regarding the process for abatement of violations by the County when the violator fails to comply.
20. Section 7. Enforcement Remedies and Penalties, Emergencies(k): The revisions include provisions for abatement of violations when there is an immediate threat to public health, safety or the environment.
21. Section 7. Enforcement Remedies and Penalties, Injunctive Relief(l): The revisions include a provision for obtaining injunctive relief through the courts as an added compliance measure.
22. Section 8. Appeal Process: The revisions include significantly more detail regarding the appeal process for violations of the ordinance, including public hearing procedures.