

6.6 Illicit Discharges

A. Prohibited Discharges

No person shall cause or allow the discharge, emission, disposal, pouring, or pumping directly or indirectly to any stormwater conveyance, the waters of the State, or upon the land in manner and amount that the substance is likely to reach a stormwater conveyance or the waters of the State unless permitted by an NPDES Permit. Prohibited substances and discharges include but are not limited to:

1. Wastewater lines (such as from washing machines)
2. Sanitary sewer lines
3. Food waste
4. Oil
5. Grease
6. Household, industrial and chemical waste
7. Anti-freeze
8. Animal waste
9. Paints
10. Paint wash water
11. Garbage
12. Litter
13. Swimming pool discharges
14. Leaves
15. Grass clippings
16. Dead plants.

B. Allowable Discharges

Non-stormwater discharges associated with the following activities are allowed provided that they do not significantly impact water quality:

1. Drinking water line flushing
2. Discharge from emergency fire fighting activities
3. Irrigation water
4. Diverted stream flows
5. Uncontaminated ground water
6. Uncontaminated pumped ground water
7. Discharges from potable water sources
8. Residential foundation/footing drains
9. Air conditioning condensation
10. Uncontaminated Springs
11. Water from crawl space pumps
12. Individual non-commercial car washing operations
13. Flows from riparian habitats and wetlands
14. Street wash water
15. Other non-stormwater discharges for which a valid NPDES discharge permit has been authorized and issued by the U.S. Environmental Protection Agency or by the State of North Carolina, and provided that any such discharges to the municipal separate storm sewer system shall be authorized by the Town of Fletcher.

C. Illicit Connections

Connections to a stormwater conveyance or stormwater conveyance system that allow the discharge of non-stormwater, other than the exclusions described in Section 6.7.B, are unlawful.

Prohibited connections include, but are not limited to: Industrial/commercial floor drains, waste water or sanitary sewers, wash water from commercial vehicle washing or steam cleaning, and waste water from septic systems.

1. Grace Period

Where such connections exist in violation of this section and said connections were made prior to the adoption of this provision or any other ordinance prohibiting such connections, the property owner or the person using said connection shall remove the connection within (1) one-year following the effective date of this ordinance.

However, the one-year grace period shall not apply to connections which may result in the discharge of hazardous materials or other discharges which pose an immediate threat to health and safety, or are likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat. Where it is determined that said connection:

- a. May result in the discharge of hazardous materials or may pose an immediate threat to health and safety, or is likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat, or
- b. Was made in violation of any applicable regulation or code, other than this Section.

2. Time Period of Removal

The Stormwater Administrator shall designate the time period within which the connection shall be removed. In setting the time limit for compliance, the Stormwater Administrator shall take into consideration:

- a. The quantity and complexity of the work,
- b. The consequences of delay,
- c. The potential harm to the environment, to the public health, and to public and private property, and
- d. The cost of remedying the damage.

D. Spills/ Accidental Discharges

In the case of accidental discharges, the responsible party shall immediately begin to collect and remove the discharge and restore all affected areas to their original condition. The responsible party shall immediately notify the Town of Fletcher of the accidental discharge including the location of the discharge, type of pollutant, volume or quantity discharges, time of discharge and the corrective actions taken.

Notification shall not relieve any person of any expenses related to the restoration, loss, damage, or any other liability which may be incurred as a result of said spill or leak, nor shall such notification relieve any person from other liability which may be imposed by State or other law.

E. Notice of Violation

When the Town Manager, Stormwater Administrator or authorized representative finds that a discharge or disposal violates any provisions of this Section, the Town Manager, Stormwater Administrator or authorized representative may issue a Notice of Violation. The Notice of Violation shall identify the nature of the violation, amount of penalty (if applicable), set forth the measures necessary to comply with this Section and provide a specific time period for compliance.

The Notice may be served by registered or certified 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 Section or to pay such penalty.

F. Enforcement and Penalties

Any person that violates the provisions of this Section is subject to a civil penalty. A civil penalty may be assessed from the date the violation first occurs.

1. No penalty shall be assessed until the person alleged to be in violation has been notified of the violation.
2. The maximum civil penalty for each violation of this Section is \$5,000. Each day of violation shall constitute a separate violation.
3. The Town Manager, Stormwater Administrator or authorized representative shall determine the amount of the civil penalty assessment. In determining the amount of a civil penalty, all relevant mitigating and aggravating factors shall be considered including, but not limited to the following:
 - a. Degree and extent of harm caused by the violation
 - b. Cost of rectifying the damage
 - c. Whether the violator saved money through noncompliance
 - d. Whether the violator took reasonable measures to comply with this Ordinance
 - e. Whether the violator voluntarily took reasonable measures to restore any areas damaged by the violation
 - f. Whether the violation was committed willfully
 - g. Whether the violator reported the violation
 - h. Prior record of the violator in complying or failing to comply with this Code or any other local or State water pollution control rule or regulation.
4. In addition to the 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, and value of animal and plant life damaged.
5. If an alleged violator does not pay a civil penalty assessed within 30 days after it is due, or does not appeal a civil penalty assessment as provided in 6.7.G, Appeals Process, the Director shall request the Division of Water Quality to administer the penalty.

6. Violation of this ordinance shall not constitute a misdemeanor or infraction punishable under the criminal laws of North Carolina.

G. Appeals Process

Any person who desires to appeal a demand for payment of the civil penalty shall have thirty (30) days from said demand of payment to appeal in writing to the Town Manager, Stormwater Administrator or authorized representative.

1. The Town of Fletcher shall then grant an appeal hearing before the Town Council within thirty (30) days after receipt of the appeal.
2. The Town of Fletcher shall provide the appellant a minimum of ten (10) days notice of the time and place of the hearing.
3. Thereafter, the appellant shall have thirty (30) days to comply with the final decision of the appeal hearing.