

SECTION 8.4 ILLICIT DISCHARGE

8.4.1 Purpose.

The purpose of this ordinance is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of illicit discharges into municipal stormwater systems. It has been determined that proper management of stormwater runoff will minimize damage to public and private property and infrastructure; safeguard the public health, safety, and general welfare; and protect water and aquatic resources.

The ordinance seeks to meet the requirements for the town's National Pollutant Discharge Elimination System (NPDES) Permit.

8.4.2 Applicability and jurisdiction.

The following ordinance regarding illicit discharges and connections to public stormwater water system applies to all parcels in the incorporated area of the Town of Black Mountain.

8.4.3 Severability.

If the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this ordinance.

8.4.4 Effective date.

This ordinance shall take effect on December 1, 2019.

8.4.5 Illicit discharges and connections.

(A) *Illicit discharges.*

- (1) No person shall cause or allow the direct-piping of untreated waste water, 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, any liquid, solid, gas, or other substance, other than stormwater. Prohibited substances include but are not limited to oil, anti-freeze, chemicals, animal waste, paints, garbage, and litter.
- (2) Non-stormwater discharges associated with the following activities are allowed provided that they do not significantly impact water quality:
 - (a) Water line flushing;
 - (b) Landscape irrigation;
 - (c) Diverted stream flows;

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- (d) Rising ground waters;
 - (e) Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20));
 - (f) Uncontaminated pumped ground water;
 - (g) Discharges from potable water sources;
 - (h) Foundation drains;
 - (i) Air conditioning condensation;
 - (j) Irrigation water;
 - (k) Springs;
 - (l) Water from crawl space pumps;
 - (m) Footing drains;
 - (n) Lawn watering;
 - (o) Individual residential car washing;
 - (p) Flows from riparian habitats and wetlands;
 - (q) Dechlorinated swimming pool discharges;
 - (r) Street wash water; and
 - (s) Other non-stormwater discharges for which a valid NPDES discharge permit has been approved and issued by the State of North Carolina, and provided that any such discharges to the municipal separate storm sewer system shall be authorized by Town of Black Mountain.
- (B) *Illicit connections.* Connections to a stormwater conveyance or stormwater conveyance system that allow the discharge of non-stormwater, other than the exclusions described in subsection above, are unlawful.
- (1) Prohibited connections include, but are not limited to: floor drains, waste water from washing machines or sanitary sewers, wash water from commercial vehicle washing or steam cleaning, and waste water from septic systems.
 - (2) 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 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.
 - (3) 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 ordinance, other than this section; the stormwater administrator shall designate the time within which the connection shall be removed. In setting the time limit for compliance, the stormwater administrator shall take into consideration:
 - 1. The quantity and complexity of the work,

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2. The consequences of delay,
 3. The potential harm to the environment, to the public health, and to public and private property, and
 4. The cost of remedying the damage.
- (C) *Spills.* Spills or leaks of polluting substances released, discharged to, or having the potential to be released or discharged to the stormwater conveyance system, shall be contained, controlled, collected, and properly disposed. All affected areas shall be restored to their preexisting condition. Persons in control of the polluting substances immediately prior to their release or discharge, and persons owning the property on which the substances were released or discharged, shall immediately notify the fire chief of the release or discharge, as well as making any required notifications under state and federal law. 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.

8.4.6 Violations and enforcement.

- (A) *Violations continue.* Any violation of provisions existing on the effective date of this ordinance shall continue to be a violation under this ordinance and be subject to penalties and enforcement under this ordinance.
- (B) *Notice of violation and enforcement.* Illicit discharges and illicit connections which exist within the Town of Black Mountain are hereby found, deemed, and declared to be dangerous or prejudicial to the public health or public safety and are found, deemed, and declared to be public nuisances. Such public nuisances shall be abated in accordance with the procedures set forth in Chapter 20 of the Town of Black Mountain Code of Ordinances.

Part 2. Other Prohibited Waste

8.4.7 Domestic animal waste.

- A. *Findings.* Pet waste is a serious water quality and public health issue for the Black Mountain community. Stormwater runoff washes bacteria, parasites, viruses, and nutrients from pet waste directly into our waterways. Poor water quality caused by pet waste can cause recreational swimming advisories, algal blooms, low dissolved oxygen levels, and impaired aquatic habitat. Fecal coliform bacteria, found in the feces of warm-blooded animals, can indicate that water is unsafe for human contact like fishing, swimming, and drinking. Many diseases can be spread to humans from pet waste as well. A strong pet waste ordinance encourages citizens to be responsible for cleaning up their animal's waste in order to keep our waterways clean and safeguard public health.
- B. *Restrictions on domestic animal waste.*
- (1) No person in custody or control of any animal shall allow said animal to discharge any fecal matter on any public property unless the person in custody or control of said animal immediately and fully removes and disposes of the feces. Such public properties include, but are not limited to, streets, sidewalks, plazas, parks, rights-of-way, paths, public access areas, storm drains, ditches, streams, creeks, drainageways, other publicly owned property, and dedicated and officially accepted easements.
 - (2) It shall be unlawful for the owner or custodian of any animal to take it off its own property without the means to properly and immediately remove and dispose of the animal's feces from any public property. "Means to properly and immediately remove and dispose of the animal's feces" shall consist of having on one's person a device such as a plastic bag or other suitable "scooper," that can be used to fully clean up and contain the animal's waste until it can be deposited in a closed trash receptacle or

other appropriate refuse container. Such a device must be produced and shown upon request to anyone authorized to enforce this ordinance.

- (3) This provision shall not apply to a service animal accompanying a person with a disability or to an animal being used by law enforcement officers when doing so would prevent the officers from carrying out their official responsibilities.
- (4) "Public nuisance" is defined to include "any animal which deposits feces on public property when the person owning, possessing, harboring or having the care, charge, control, or custody of the animal fails to remove the feces so deposited.

(Ord. No. O-22-01 , 3-14-2022)

8.4.8 Debris in stormwater drainage system.

- A. *Findings.* Yard waste such as leaves, grass clippings, and soil/sediment can cause significant water quality problems when it is blown or directed into the stormwater system. Water quality problems include algal blooms and aquatic weed growth, oxygen depletion, fish kills, and impaired aquatic habitat. In addition, when the stormwater system is clogged with yard waste it can cause street and property flooding.
- B. *Restrictions on debris.*
 - (1) It shall be unlawful for any person to rake, sweep, blow, wash, direct or place any debris, including but not limited to yard waste, grass clippings, leaves, sediment, trash, or debris of any kind into the storm drainage system of the town, including any streets, storm drains, ditches, swales, streams, lakes, culverts, rights-of-way, dedicated easements, or in any other area where it might impede the flow of water through the storm drainage system of the town. A violation of section 8.4.8 shall constitute a civil penalty in the amount of \$50.00 a day, with each day being a separate and distinct violation.
 - (2) It shall be the duty of all property owners within the town to take adequate precautions on their property to ensure positive drainage on their property. Such drainage may be provided either through natural or artificial drains found to be adequate by the public works director or his/her designee. The owner shall keep all ditches, drains, swales, and drainage routes free from obstructions which would impede the flow of water.
 - (3) When it shall appear to the public works director or his/her designee that drainage facilities or drainageways on any private property are, for any reason, inadequate and prior notice has not resulted in correction of problem conditions, he shall notify the owner of the property by registered or certified mail what corrective measures are required to render the drainage adequate. The notice to the owner shall specify a reasonable time within which the corrective measures should be taken. Notice to the owner whose address is unknown shall be given to the person in whose name the property is listed for taxation at the address shown on the tax records or to the agent of the owner whose name appears upon the tax records.
 - (4) If such corrective measures are not taken as required in the notice to the owner, the public works director or his/her designee, upon approval by the town council, may enter upon such premises and take the corrective measures required and the town council may assess the cost thereof against the owner of the property and such assessment shall become a lien on the property which shall be collected as a money judgment.
 - (5) Any condition in violation of this section shall constitute a public nuisance, subject to abatement as set forth in section 1.10.8 of the land use code.
 - (6) The following are preferred best management practices (BMPs) for yard waste and debris:

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- a. Prevent yard waste and debris from entering the street, storm drain, ditch, or other parts of the drainage system.
 - b. Direct or blow yard waste back onto a lawn or landscape area.
 - c. Sweep, rake, and/or collect yard waste instead hosing/sweeping off of driveways, sidewalks or other impervious surfaces.
 - d. Leave grass clippings on the lawn to decompose quickly and act as a natural fertilizer and soil conditioner ("grass cycle").
 - e. Compost yard debris for use in the lawn, garden, or landscape.
 - f. Collect and contain yard waste for town collection service according to specific yard waste collection policies. Do not use the town trash cart for yard waste or debris.
 - g. Collect and dispose of waste at a legally authorized yard waste collection facility.

(Ord. No. O-22-01 , 3-14-2022)