

**AN ORDINANCE CREATING CHAPTER 60:
STORMWATER CONTROL AND MANAGEMENT
OF THE TOWN CODE FOR INDIAN TRAIL, NORTH CAROLINA**

WHEREAS, The Town Council of the Town of Indian Trail, North Carolina has adopted a Code of Ordinances; and

WHEREAS, The Town is subject to a federal mandate to create and implement a stormwater control and management plan;

WHEREAS, The Town believes that said mandate may be most effectively met by enactment of an ordinance governing the provision for stormwater control and management in order to create a stormwater public enterprise utility and to incorporate stormwater control and management requirements promulgated by the state and federal governments;

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Indian Trail, North Carolina, after due consideration, and in the best interest of the citizens and property of Indian Trail, that:

Section 1. Chapter 60, Stormwater Utility, Control and Management to the Code of Ordinances is hereby created to read as follows:

CHAPTER 60: Stormwater Utility, Control and Management

ARTICLE I. IN GENERAL

Sec. 60-1 Title

This chapter shall be and is collectively referred to and cited as "The Stormwater Utility, Control and Management Ordinance of Indian Trail, North Carolina."

Sec. 60-2 Purposes and Findings

The purpose of this chapter is to protect and promote the public health, safety, and welfare by preventing the introduction of potentially harmful materials into the storm sewer system within the Town; to protect property from potential stormwater damage; to maintain and enhance water quality; and to meet the requirements of the National Pollutant Discharge Elimination System for Stormwater Discharges.

Sec. 60-3 Jurisdiction

The provisions of this chapter shall apply to all the territory encompassed in the Town of Indian Trail, North Carolina, and to any portion of the stormwater public enterprise system located outside of the corporate limits of Indian Trail.

Sec. 60-4 Authority

This chapter is adopted pursuant to the authority granted to Indian Trail by North Carolina General Statutes Chapter 160A (Cities and Towns).

Sec. 60-5 Definitions

As used in this article, unless the context clearly indicates otherwise, the following definitions apply:

- a) **Customer** or **consumer** means the person or entity to which a bill for stormwater service charges is sent.
- b) **Developed land** means real property that contains impervious surfaces, and includes improved land without structures and land on which improvements are under construction.
- c) **Dwelling unit** means one (1) or more rooms physically arranged to create a housekeeping establishment with separate facilities for cooking, sleeping and toilet for occupancy by one (1) or more persons.
- d) **Equivalent Runoff Unit (ERU)** is the median of impervious surface area on a single-family developed land in the Town.
- e) **Illicit Connections.** An *illicit connection* is defined as either of the following:
 - 1. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the *storm drain system* including but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the *storm drain system* and any connections to the *storm drain system* from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by a government agency; or
 - 2. Any drain or conveyance connected from a commercial or industrial land use to the *storm drain system* which has not been documented in plans, maps, or equivalent records and approved by the Town .
- f) **Illicit Discharge.** Any unlawful disposal, placement, emptying, dumping, spillage, leakage, pumping, pouring, or other discharge of any substance other than stormwater into the *storm drain system* , the *waters of the U.S.*, or upon the land such that the substance is likely to reach the *storm drain system* or the *waters of the U.S.* constitutes an illegal discharge, except as exempted in Section 60-9 below.
- g) **Impervious surface** means any surface that because of its material composition or compacted nature impedes or prevents natural infiltration of stormwater into the soil. Impervious surfaces include, but are not limited to, roofs; roof extensions; patios; balconies; decks; athletic courts; swimming pools (excluding the water area of swimming pools); privately-owned streets, parking areas, driveways, and sidewalks; and any concrete, stone, brick, asphalt, or compacted and/or sealed gravel surfaces. Porous pavers, ungraveled natural footpaths;

compacted dirt surfaces, non-compacted gravel surfaces, wooden slatted decks over pervious surfaces, water surfaces of lakes and streams,; and septic system drain fields are not impervious surfaces.

- h) **Manager** shall mean the Town manager or his designee.
- i) **Non-residential developed land** means all non-residential land uses including, but not limited to, churches; institutional buildings, whether public or private; hospitals, rest homes, public and private schools, colleges and universities, institutionally-owned fraternity and sorority houses, dormitories, commercial, office, hotels and motels, industrial buildings, bona fide farms , storage areas, parking lots, and land containing non-residential improvements under construction or other impervious surfaces.
- j) **Other residential developed land** means any individual lot or parcel of residential developed land that is not single-family developed land. It includes, but is not limited to, land upon which there are residential structures that contain more than one (1) dwelling unit, such as multi-family dwellings (duplexes and greater), manufactured home parks as defined in the ordinances regulating development, condominiums, apartments, boarding houses, rooming houses, and privately-owned fraternity and sorority houses. Other residential developed land is sometimes called “multi-family” land.
- k) **Proper Operations and Maintenance** means any action necessary to keep stormwater control measures and devices in proper working condition, so that such facilities will continue to comply with applicable Town of Indian Trail Code of Ordinances to prevent safety hazards, public nuisances, and the failure of stormwater control measures and devices to function as intended. Maintenance includes activities identified on approved stormwater control plans, any applicable stormwater operations and maintenance manual, any applicable agreements or certifications to the Town, and those activities outlined in the Town’s Technical Standards Manual and this chapter of the Town of Indian Trail Code of Ordinances.
- l) **Property owner** or **owner** means the owner of a real property as shown on the Cabarrus County tax records.
- m) **Single-family developed land** means an individual lot or parcel of land developed with only one (1) single-family or detached dwelling unit (which may include an accessory apartment), one (1) manufactured home, or one (1) mobile home, and the ownership interest of the land and of the dwelling unit are united and identical. Single-family developed land shall not include structures used primarily for nonresidential purposes or other residential and nonresidential developed property.

- n) **Stormwater Control Measure** means any device constructed to manage stormwater quantity and/or quality.
- o) **Stormwater management system or system** means the network of natural and constructed devices owned or controlled by the Town for collecting, storing, treating, and transporting stormwater. It includes, but is not limited to, structural drainage systems such as open swales and ditches, catch basins, pipes, inlets, storm sewers, drains, culverts, junction boxes, and other stormwater management facilities that affect the quality and quantity of stormwater located within dedicated public street rights-of-way and Town of Indian Trail permanent drainage easements accepted by the Town and any natural stormwater drainage systems owned or controlled by the Town.
- p) **Stormwater service charge** is the charge to provide stormwater services to developed property. The charge is based upon the single-family Equivalent Runoff Unit (ERU) as calculated for that property.
- q) **Stormwater utility funds** mean the stormwater service charges and the interest generated by those charges.
- r) **Stormwater services** means Town stormwater management programs designed to protect water quality by controlling the level of pollutants in, and the quantity and flow of, stormwater, and Town service of structural and natural stormwater and drainage systems of all types. Stormwater services include any cost necessary to ensure that all aspects of stormwater quality and quantity are managed in accordance with federal and State laws, regulations and rules, and costs related to the mapping, planning, construction, operation, maintenance, inspection, management and regulation of the stormwater management system and the regulation of impervious surface and stormwater.

Sec. 60-6 Severability

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

ARTICLE II: THE STORMWATER UTILITY

Sec. 60-7 Establishment of a Stormwater Utility

By the adoption of this ordinance the Town Council hereby establishes a stormwater utility to support stormwater management programs to protect water quality by controlling the level of pollutants in and the quantity and flow of stormwater as well as stormwater structures and natural stormwater and drainage systems of all types. The stormwater utility is a public enterprise furnishing services to the Town and its citizens.

Sec. 60-8 Creation of Stormwater Management Accounting

All stormwater service charges and interest generated by such charges, also referred to as the stormwater utility funds, shall be accounted for separately from all other revenues

and funds and shall be used by the Town of Indian Trail solely for the operational costs, maintenance costs, management costs, indirect costs, capital improvements, debt principal and debt service, and establishment of a reserve fund for stormwater services. The Town may use funds that are not stormwater utility funds to provide stormwater services.

Sec. 60-9 Stormwater Management Service Charges

- a) All developed land in the Town, whether public or private, shall be subject to a stormwater service charge. Exemptions shall not be allowed based on age, tax exemption, or other status of an individual or organization. Stormwater service charges may be subject to a credit system as further provided herein.
- b) Stormwater service charges on developed land shall be based on a schedule of rates, charges, tiers, and late fees fixed and established from time to time by the Town Council, adopted in the annual budget ordinance and maintained on file in the offices of the Town Clerk. Stormwater service charges will be determined and modified from time to time by the Town Council, so that the total revenues generated by said charges will be used to pay the principal and the interest on the debt incurred for stormwater purposes, and such expenses as are reasonably necessary for providing stormwater services within the Town of Indian Trail.
- c) Computation of stormwater service charges:
 - 1. For single-family developed residential land, the monthly stormwater service charges shall be based on the median amount of impervious surface on a single-family residential lot in the Town, which is known as an “Equivalent Runoff Unit” or ERU. (The median amount of impervious surfaces on a single-family residential lot is defined by resolution.). There shall be three tiers for single-family developed properties, based on the amounts of impervious surfaces of single-family properties, as shown in the following table. The magnitude of each tier for single family developed residential land shall be defined by resolution.

Single-Family Unit Size	Percentage of ERU
Small	0.6 [60%]
Medium	1.0 [100%]
Large	1.8 [180%]

- 2. For Other developed residential land, the monthly stormwater service charges shall be one ERU per each dwelling unit. This category includes townhouses, apartments, condominiums, and other multi-unit residential developments.
- 3. For all other developed properties, the monthly stormwater service charge on developed land is calculated by dividing the total impervious surface area of

the property by one (1) ERU , rounded to the nearest tenth, multiplied by the established monthly ERU rate.

- d) The following exemptions from stormwater management service charges are allowed provided that requests for exemptions authorized under subsections (4) and (5) are made in writing to the Town Manager or his designee and document the application of the exemption. The Town Manager may approve or reject the request in whole or in part:
1. Undeveloped land.
 2. Improved public transportation ways, including public streets, roads, greenways and trails, airport taxiways and runways, and internal roads within public facilities which have been conveyed to the North Carolina Department of Transportation or Town of Indian Trail and which are used by the general public for motor vehicle transportation.
 3. Railroad tracks. However, railroad stations, maintenance buildings or other developed land shall not be exempted from stormwater management service charges.
 4. Developed land with less than four hundred (400) square feet of impervious surface area.

Sec. 60-10 Billing Method, Responsible Parties

- a) Bills for stormwater service shall be sent at regular periodic intervals beginning in January 2006. Stormwater service charges may be billed on a combined utility bill that also contains charges for electric and/or water and/or sanitary sewer and/or solid waste management service or any combination of Town -provided utility services, including only stormwater. Stormwater service charges that are shown on a combined utility bill may be for a different service period than that used for the other Town utility services.
- b) Stormwater service charges for a property that receives water service or combined sanitary sewer and water service will be sent to the customer receiving such service. However, where multiple water and sewer accounts exist for a single parcel, the bill for stormwater service charges may for good cause shown at the discretion of the Town be sent to the property owner. The Town will develop additional policies concerning billing.
- c) The property owner is ultimately responsible for payment of the stormwater service charge for property for which the party billed has not paid the stormwater management service charge.

- d) Owners of property may, with the consent of the Town , designate each occupant of the property as the party to receive the bill for stormwater service charge by completing and properly executing a form provided by the Town . Such designation shall fairly allocate the impervious surfaces actually used by the billed party, and it shall be binding for the period of time specified by the Town . No occupant may be designated as the party to receive the bill for stormwater service charge unless the occupant is also receiving another Town utility bill. Such transfer does not relieve either the owner and/or occupant from liability for stormwater service charges if the party billed does not pay them.
- e) All other aspects of billing shall be handled as set forth in the section immediately following.

Sec. 60-11 Payment Provisions; Utility Termination

- a) Where stormwater service charges appear on a combined utility bill or a master summary bill, and a customer does not pay the service charges for all the utilities on the bill, the partial payment will be applied to the respective service charges in the order shown in the annual adopted budget ordinance.
- b) Stormwater service charges are due to the Town within the time period stated on the bill. Bills not paid within this time shall be charged a late fee as set forth in the Town Council adopted Utility Policies and Procedures (Ordinance 97-15, amended and as a Town Council policy on June 9, 2005).
- c) Where a property receives other Town utility services, if stormwater service charges for that property are not paid, other utility services to that property may be terminated, whether or not the stormwater service charges were included on a combined utility bill. Termination will be handled in accordance with standard operation provisions of the Town as set forth in the Town Council adopted Utility Policies and Procedures (Ordinance 97-15, amended and as a Town Council policy on June 9, 2005).
- d) No property owner with outstanding stormwater service charges is entitled to receive other Town utility services until the outstanding stormwater service charge on that property is paid. No customer with a delinquent stormwater service account is entitled to open another Town utility account at the same or different location until the delinquency has been satisfied.
- e) If property is under billed, or not billed, or a bill is sent to the wrong party, the Town may back bill up to a three-year period. Payment arrangements are specified in the Utility Policies and Procedures.
- f) Customers with complaints about the accuracy of stormwater service charges are entitled to a review as set forth in the Town Council adopted Utility Policies and Procedures.

Sec. 60-12 Adjustments and Credits Applicable to Stormwater Management Service Charges

a) Adjustments due to error or oversight.

1. Request for adjustment of the stormwater service charge shall be submitted to the Town in accordance with the adopted Utility Policy and Procedures (Ordinance 97-15, amended and as a Town Council policy on June 9, 2005). Adjustments may be requested for errors or omissions on the customers' stormwater service charge. All requests shall be judged on the basis of the number of dwelling units or amount of impervious area on the property.

b) Credits.

1. The Town may provide a system of credits to reduce stormwater service charges for properties on which stormwater control measures substantially mitigate the peak discharge or runoff pollution flowing from such properties or substantially decrease the Town's cost of maintaining the stormwater management system. The Town Manager or his designee will develop written policies to implement the credit system and codify said policies. No credit will be authorized until the Town Council approves written policies to implement the system of credits; a copy of the approved policies shall be on file with the Town Clerk. The Town's policies may make credits retroactive to the date stormwater management service charges were initiated but not to exceed one (1) year. Any bill charges requiring adjustments must be applied through the utility billing system. But no credit will be granted for more than one (1) past year. Nothing shall prevent the Town Council from modifying the adopted system of credits, and such modifications may apply to holders of existing credits.
2. Each credit allowed against the stormwater management service charge is conditioned on the continuing proper operation, maintenance, and functioning of the stormwater control measure as designed; credited stormwater control measures must comply with all applicable laws, ordinances and regulations, and credits may be rescinded for noncompliance with these standards.
3. Each credit for which a customer applies shall be subject to review and approval by the Town Manager or his designee. The Town Manager may approve or reject any application for a credit in whole or in part.
4. Credits shall only be applied to developed lands containing the credited stormwater control measure. For developments with common property containing credited stormwater control measures such as townhouse developments, cluster unit developments, or condominiums, each dwelling

unit shall be eligible for its equal pro rata share of the credit unless other arrangements for billing the stormwater service charge are made.

Sec. 60-13. Limitations of responsibility

- a) The Town shall be responsible only for the portions of the drainage system that are in Town -maintained street rights-of-way and permanent storm drainage easements conveyed to and accepted by the Town . Repairs and improvements to the drainage system shall be in accordance with established standards, policies, and schedules.
- b) The Town 's acquisition of storm drainage easements and/or the construction or repair by the Town of drainage facilities does not constitute a warranty against stormwater hazards, including, but not limited to, flooding, erosion, or standing water.

Sec. 60-14 through 60-29. Reserved

ARTICLE III: STORMWATER MANAGEMENT ADVISORY COMMISSION

Sec. 60-30 Establishment, Composition, Duties and Procedures

- a) Establishment and Composition:
The Indian Trail Stormwater Management Advisory Commission shall be composed of seven (7) members who shall reside or own property within the Town limits. The Council shall appoint the membership of the Commission. Each member shall be appointed for a period of three (3) years except that the Council in appointing the original membership of the Commission may prescribe terms of fewer years to the end that the terms of the various members of Stormwater Management Advisory Commission shall be staggered. Commission members may be re-appointed at the discretion of the Council.
- b) Duties:
The Stormwater Management Advisory Commission shall have the following charge and duties:
 - 1. The Commission shall review and/or recommend to the Council stormwater management policies, policy changes, and long range plans and estimate their budgetary and rate impacts.
 - 2. The Commission shall review and comment to the Council on the annual stormwater management capital improvements program.

3. The Commission shall respond to the Town Council and Town staff requests for advice on matters related to stormwater services and the stormwater management utility.
4. The Commission shall present the Council with an annual report of key actions and issues and its annual work program.

c) Procedure:

The Stormwater Management Advisory Commission is directed to adopt rules of procedure necessary to the conduct of its affairs and in keeping with the provision of this Code, all policies of the Town Council, and applicable State laws. Such rules of procedure, and any modifications to same, shall be submitted to the Town Council for review and approval. Except as provided in this Code, the rules of procedure adopted by the Commission shall at least provide for: selection of the officers of the Commission; the time and place of its regular meetings, which shall at least be held bi-annually, and the calling of special meetings; the procedures of the conduct of public hearings and voting. The Commission shall elect from its membership at least a chairperson and vice chairperson, who shall serve for terms of one (1) year, who shall be eligible for reelection, and who shall have the right to vote. The chairperson shall preside over the Stormwater Management Advisory Commission. In the absence or disability of the chairperson, the vice-chairperson shall perform the duties of the chairperson. All meetings of the Stormwater Management Advisory Commission shall be open to the public, in accordance with the North Carolina Open Meetings Law, G.S. 143-318.10 et seq., and a public record shall be kept of the Commission's resolutions, proceedings, and actions. The rules of procedure and minutes of the Commission are maintained as separate documents in the nature of a public record at the Town Clerk's Office. The Town Manager or his designee shall provide such technical, administrative, and clerical assistance as required by the Commission.

Sec. 60-31 through 60-34. Reserved

ARTICLE IV: STORMWATER CONTROL and MANAGEMENT

Sec. 60-35 Unauthorized installations causing runoff

It shall be illegal for any person to install any pipe, culvert, or casing on any property in such a manner as to cause runoff water to flow into any storm sewer pipe, ditch, or other means of facilitating the flow of water that is maintained by the Town without first obtaining approval from the Town Engineer.

Sec. 60-36 Connection approval criteria; duty of owner; compliance by utilities

- a) The Town Manager or his designee shall not be authorized to approve any connection to Town drainage facilities unless he is of the opinion that the size, shape, and location of the newly installed drainage facilities are adequate for handling the anticipated amount of water.
- b) It shall be the responsibility of the property owner of any parcel of land when making any improvements or changes affecting the land, which alter the existing flow pattern of runoff water, to install appropriate facilities for carrying the runoff water into a properly approved storm sewer, ditch, or stream. No zoning compliance permit shall be issued for any property within the jurisdiction of the Town until the conditions of this section are met.
- c) It shall be illegal for any utility company to allow or public water to be connected to any facility on any land that has not complied with the provisions of this section.

Sec. 60-37 Prohibited Discharges

- a) ***Illegal Discharges*** - No person shall discharge or cause to be discharged into the Town storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater. The commencement, conduct, or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:
 - 1. Discharges from the following activities will not be considered a source of pollutants to the storm drain system and to waters of the U.S. when properly managed to ensure that no potential pollutants are present, and therefore they shall not be considered illegal discharges unless determined to cause a violation of the provisions of this Ordinance: potable water line flushing; uncontaminated pumped groundwater and other discharges from potable water sources; landscape irrigation and lawn watering; diverted stream flows; rising groundwater; groundwater infiltration to the storm drain system; uncontaminated foundation and footing drains; uncontaminated water from crawl space pumps; air conditioning condensation; uncontaminated roof drains; springs; individual residential and occasional non-commercial car washing; flows from riparian habitats and wetlands; dechlorinated swimming pool discharges; street wash waters; and flows from fire fighting.
 - 2. The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered by the State of North Carolina under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written notification of such permitted discharge has been filed with the Stormwater

Administrator, in a form acceptable to the Stormwater Administrator, for any discharge to the storm drain system.

3. With written concurrence of the North Carolina Department of Environment and Natural Resources, the Town may exempt in writing other non-stormwater discharges, which are not a source of pollutants to the storm drain system or waters of the U.S.

b) ***Illicit Connections***

1. The construction, use, maintenance, or continued existence of illicit connections to the storm drain system is prohibited.
2. This prohibition expressly includes, without limitation; illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

- c) ***Waste Disposal*** - No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon any public or private property, driveway, parking area, street, alley, sidewalk, component of the storm drain system, or water of the U.S., any refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that the same may cause or contribute to pollution. Wastes deposited in streets in proper waste receptacles for the purposes of collection are exempted from this prohibition.

- d) ***Discharges in Violation of Industrial or Construction Activity NPDES Stormwater Discharge Permit*** - Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Town prior to or as a condition of a subdivision map, site plan, building permit, or development or improvement plan; upon inspection of the facility; during any enforcement proceeding or action; or for any other reasonable cause.

Section 2. This Ordinance shall be effective upon adoption

Adopted this _____ day of _____ 2006.

ATTEST:

Town Clerk

APPROVED AS TO FORM

Town Attorney

TOWN COUNCIL
TOWN OF INDIAN TRAIL, NORTH
CAROLINA

Mayor