STORMWATER SERVICES POLICY

The Town of Matthews, in partnership with Mecklenburg County, administers a stormwater maintenance and repair program for its public drainage infrastructure. This program is funded by the stormwater fee collected from property owners. This policy defines which types of issues may qualify for service from the Town, how the work is prioritized, and other guidance necessary for an efficient and equitable program.

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MATTHEWS STORMWATER PROGRAM

The Town of Matthews manages its stormwater program in partnership with Mecklenburg County. Established in the early 1990’s, Charlotte-Mecklenburg Storm Water Services (CMSWS) is a joint municipal/county stormwater utility that includes Charlotte; the surrounding towns of Davidson, Cornelius, Huntersville, Matthews, Mint Hill and Pineville; and unincorporated Mecklenburg County. CMSWS is part of the Storm Water Services Division of the Mecklenburg County Land Use & Environmental Services Agency (LUESA). The County is responsible for named streams draining more than one square mile and the regulated floodplains in Matthews. The Town is responsible for smaller streams and engineered drainage systems draining less than one square mile within its jurisdiction that are contained in a dedicated and accepted Public Drainage Easement (PDE).

The Stormwater Program is a multi-faceted endeavor to manage the runoff from rainfall, reduce flooding, restore floodplains and protect the water quality of surface waters. The program includes:

● Repairing and replacing aging storm drainage infrastructure
● Responding to drainage complaints from residents
● Monitoring surface waters for evidence of pollutants
● Enforcing ordinances to protect surface waters, including erosion control
● Educating residents about flood safety, pollution prevention and volunteer opportunities
● Managing a stormwater permit for Town-maintained buildings under the National Pollutant Discharge Elimination System (NPDES) permit
● Review of stormwater quality and quantity control devices, commonly referred to as Best Management Practices (BMPs)
● Routine inspections of stormwater systems on Town-maintained rights-of-way
DEFINITIONS

The following definitions are essential to the understanding and implementation of this stormwater policy.

- **CMSWS**: Charlotte-Mecklenburg Storm Water Services; specifically, the Mecklenburg County side of the entity. The City of Charlotte and Mecklenburg County have some joint resources/entities, stormwater being one of them. However, CMSWS staff are separated into two distinct groups: work within the City of Charlotte limits and work outside of Charlotte, but inside of Mecklenburg County (including in the six surrounding towns).

- **County**: refers to Mecklenburg County, North Carolina

- **Developed properties**: Properties that have habitable structure or occupied place of business

- **Drainage Easement**: legally established and defined area(s) on public or private property, reserved for the conveyance, passage, and/or containment of stormwater runoff via open channel, pipe, or culvert. Easements do not transfer ownership or responsibility to other parties. Easements are recorded on the official plat that is maintained by Mecklenburg County Register of Deeds. Plats can be found by searching for an address on the County’s parcel website, Polaris 3G: https://polaris3g.mecklenburgcountync.gov/. The three common stormwater easements in the municipal limits are SDE, PDE and PCO.
  - **SDE**: A Storm Drainage Easement typically benefits one or a limited number of properties and does not carry stormwater directly from a public right-of-way. An SDE is considered private and must be maintained by the property owner(s).
  - **PDE**: A Public Drainage Easement or Permanent Drainage Easement, also noted as Public Storm Drainage Easement or PSDE, typically carries water from multiple properties and the public right-of-way. A PDE may be private, unless the easement is dedicated to and accepted by the Town. If the PDE is private, the property owner(s) are responsible for maintenance. If the PDE was formally accepted by the Town, the Town assumes limited liability for its maintenance. Property owners are responsible for landscaping and general maintenance within the easement. See section on Qualifying for Service for more information on maintenance responsibilities.
  - **PCO**: The Post Construction Ordinance easement is an access easement to a structural management facility or set of physical structures that are designed and constructed singularly or in combination to remove pollutants from stormwater runoff, manage stormwater flow, and promote groundwater recharge. A PCO may include BMPs, buffers, and maintenance easements, as well as other designed and engineered features that are reviewed and approved as part of land development to treat runoff and achieve water quality protection goals.

- **Erosion**: as it relates to stormwater runoff, is the naturally-occurring removal of soil as a result of flowing water.

- **Flood or Flooding**: a general and temporary condition of a creek or stream that has overflowed its banks and water has spilled onto normally dry land areas next to the creek or stream; stormwater ponding in a low point of a yard is not considered flooding. https://www.fema.gov/glossary/flood

- **Floodway/Floodplain**: a specifically designated area along streams receiving greater than one square mile of drainage area (typically larger streams), identified by the Federal Emergency
Management Administration (FEMA) as a flood hazard zone. Floodways and floodplains have special regulations that restrict development within them to prevent flooding, property damage, and loss of life.

- The lack of a FEMA flood zone does not mean a property cannot or will not flood. The FEMA flood zone is first and foremost an insurance tool; a property owner pays a higher insurance for structures located within a flood zone.

- **Groundwater:** water occurring from a source below the ground elevation rather than from rainwater.

- **LUESA:** refers to the Mecklenburg County Land Use and Environmental Services Agency. In addition to a variety of other services provided to the Town through partnership, the CMSWS division of LUESA manages the implementation and management of the Town's NPDES permit.

- **Maintenance:** routine work done to stormwater infrastructure to keep it in efficient working order. Typically, this work is minor in terms of cost, time, and level of complexity.

- **NCDOT:** North Carolina Department of Transportation

- **NPDES:** National Pollutant Discharge Elimination System; the program established in 1972 by the Federal Clean Water Act and enforced by the Environmental Protection Agency. Typically refers to the NPDES permit, which all entities (namely municipalities and counties) who own and maintain stormwater infrastructure must adhere to and renew on a regular basis.

- **Repair:** advanced work required to fix, replace, or otherwise change a segment of stormwater infrastructure to keep it in efficient working order. Work is more involved than routine maintenance in terms of cost, time, and level of complexity.

- **Right-of-Entry agreement:** similar to an easement, but temporary. A right-of-entry agreement may be obtained for temporary access by a Town construction crew to make a repair or perform maintenance in an area not requiring a permanent easement.

- **Right-of-Way:** the publicly-dedicated and accepted strip of land, either undeveloped or containing a developed public roadway (paved or gravel), typically fronting most parcels.

- **Stormwater:** the naturally-occurring water runoff resulting from rainfall events. Does NOT include drinking (potable) water, sanitary sewage, or groundwater.

- **Stormwater Administrator:** Mecklenburg County LUESA officially serves as the Town’s stormwater administrator for purposes of implementing and managing the Town’s NPDES permit.

- **Stormwater Fund:** monies collected from the stormwater fee billed to each property with an impervious (i.e., built-upon) surface.

- **Stormwater System:** any naturally-occurring and/or man-made device, mechanism, or feature that is intended to purposely carry the flow of stormwater runoff. Examples include, but are not limited to: underground drainage pipes, curb and gutter, inlet structures, earthen ditches, and natural streams.

- **Stream Buffer:** vegetated lands adjacent to the stream channel in the drainage basin serving to protect the stream system’s ability to fulfill its natural functions.

- **Wetlands:** naturally-occurring area that holds water creating a specific type of wildlife habitat and water quality filtration.
QUALIFYING FOR SERVICE

The Matthews Stormwater Program is available to developed properties in the Town. To qualify for service, the site must receive significant stormwater from Town streets or Town-owned land contributing to the flow of water in the pipe or channel. Significant stormwater would be considered if at least 25% of the area contributing to the flow is town-owned or maintained land. This is commonly called “public water” or “public runoff.” Water that flows onto a property from an adjacent privately-owned property, or water that runs off the Town right-of-way and then traverses overland (not in pipes or engineered conveyance channels or in PDE) on private properties, is called “private” water or runoff; issues arising from private water are a civil matter and should be resolved between the property owners.

The purpose of Town maintenance of the stormwater system is to protect the integrity and functional operation of the system. Property owners with a Public Drainage Easement (PDE) or Stormwater Drainage Easement (SDE) on their property have an obligation to allow water to cross their property and not impede the flow of water or cause loss of system integrity. The existence of a PDE or SDE on a property does not automatically qualify the issue for service.

NON-QUALIFYING ISSUES

Work previously performed by the Town does not automatically qualify the area for future work nor does it exempt the property owner from performing maintenance of the swale, ditch or channel, including mowing and debris removal.

Examples of Non-qualifying Issues:
- Yard flooding or ponding typically does not qualify
- Drainage problems caused by landscaping or other property-owner action
- Wet or flooded/ponded areas due to underground springs, wetlands or ground water seepage
- Yard and ditch maintenance including mowing grass and removing debris, grass or litter
- Channel erosion within stream buffers that do not severely impact water quality
- Water standing in drainage channels less than 72 hours
- Overland flow diversion
- Aesthetic improvements
- Any property without a habitable structure

Water that flows onto a property from an adjacent privately-owned property, or water that runs off the public right-of-way and then traverses overland (not in pipes or engineered conveyance channels or in PDE) on private properties, is considered “private” water or runoff; issues arising from private water are a civil matter and should be resolved between the property owners.

When public water flows into a pond on private property, the property owner(s) is (are) responsible for the maintenance and discharge of the pond. The Town is not responsible for pond maintenance on private property nor for the discharge of the pond. Issues with the pond maintenance or downstream impacts should be directed to the private property owner(s) of the pond. This section does not apply to neighborhood stormwater BMPs that have been taken over by the Town for maintenance.
REQUESTING STORMWATER SERVICE

Because of the Town’s partnership with Mecklenburg County, the County handles initial requests for stormwater service. Residents and property owners in the Town with a stormwater issue should call 3-1-1 to request an inspection of the location. When calling 311, the requestor should specifically state there is a stormwater concern, cite the address and the nature of the concern. A County stormwater inspector will contact the requestor to schedule an inspection. Requests can also be filed using the online 311 reporting system (https://servicerequest.charlottenc.gov/service).

The County inspector will make an initial determination if the stormwater issue qualifies for service as described in the section above. This information is supplied to the Town for consideration. Based on the information from the inspection, the Town will determine what further steps need to be taken. Sometimes an additional inspection is needed by Town staff to collect more information before a determination is made.

If work is to be performed, the requestor will be contacted by Town staff with additional details on the anticipated repair method, where this work ranks among the other projects, and preliminary estimate of timeframe.

PRIORITIZATION

The Town partners with Mecklenburg County Land Use & Environmental Services Agency (LUESA) for stormwater requests within the Town. Residents and property owners call 311 and request a stormwater inspection for the area they have a concern about. A LUESA staff member follows up with the caller and performs an inspection. The issue is documented and deemed whether or not it qualifies for service (see sections on Qualifying for Service and Non-Qualifying Issues). If it qualifies, the issue is then classified for priority.

Classifications range from “A” to “C.” Priority A classification is reserved for flooding within the habitable areas of a home or for public safety issues within a right-of-way, such as a sinkhole in a roadway. Priority B issues pose a minor safety concern, such as a yard sinkhole over the Town’s stormwater system that can be barricaded. Priority C is reserved for maintenance items inside or outside of the right-of-way that do not pose a concern to safety, such as pipe cleanout.

It should be noted that the prioritization of scheduled projects is constantly changing as new issues with the stormwater system arise. For example, a project ranked C that is the 20th project could fall to 30th on the list if ten A or B priority projects come in before the crew can get to that project. Additionally, other factors such as funding, supply availability and equipment factor into when the crews can complete a project. For example, while the crew is waiting on supplies to be delivered for a B project, they might tackle a short-duration C project.

Qualifying for Repairs

When you request service through the Mecklenburg County hotline 311, an inspector will visit the site to determine if the problem qualifies for the storm water program. To be eligible, a repair must serve some public good, not simply enhance the property. If the
problem qualifies for repair, the inspector will analyze the severity of the situation to prioritize and rank the problem. First priority is always given to protecting lives and property.

Who’s Next?
Qualifying problems are categorized as follows:

**Category A=First Priority**
- Flooding of living space
- Damage or the imminent possibility of damage to a habitable structure
- Flooding or standing water that threatens the safety of the traveling public

**Category B=Second Priority**
- Flooding of crawl space of habitable structures
- Flooding of mechanical equipment
- Severe erosion posing a threat to secondary structures
- Severe to moderate erosion with water quality implications
- Pipe or drainage structure failure

**Category C=Third Priority**
- Blocked pipes or ditches that have not or will not cause A or B priority problems
- Moderate erosion

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**ACCESS TO INFRASTRUCTURE**

In the case of stormwater system maintenance and repair, areas designated as Public Drainage Easement (PDE) or other similar designation on plats and surveys which guarantee the flow of stormwater runoff and its associated infrastructure, allow for access by Town crews and/or contractors for the purpose of maintaining the stormwater infrastructure at the Town’s discretion. Such easements have restrictions for the property owner such as:

- Prohibiting permanent structures within the easement, such as walls and buildings
- Prohibiting trees, fences, playsets and other elements that would impede the ability to perform maintenance on the infrastructure in the easement
- Allowing for stormwater professionals and Town employees to walk along the easement and access infrastructure in the easement without written consent of the property owner (notification by the employee such as knocking on the door or sending a letter prior to accessing the easement is expected)

Any element, including but not limited to the description above, that impedes the ability to perform maintenance in the easement shall be removed at the owner’s expense. The Town shall not be responsible for re-installing elements, devices, structures, etc. in easements.
A PDE and/or SDE does not imply nor require the Town to perform typical landscaping maintenance such as weed trimming, tree removal, or other routine yard/property maintenance. Any work performed by the Town in an SDE is for temporary assistance and does not qualify the area for future work nor conversion of the SDE into a PDE; the property owner is responsible for the maintenance of the SDE.

**WORK BY PROPERTY OWNERS**

Drainage improvements by property owners are required to take into account impacts to the downstream properties and the drainage system as a whole. While each property owner has the right to regrade their property to drain, care should be taken to not cause undue burden to downstream properties. It is recommended that the property owner undertaking improvements notify adjacent property owners of the intended work and seek to combine solutions wherever possible. Drainage improvements shall not cause a safety issue to the traveling public.

Enclosing open drainage systems (ditches, swales, creeks, etc.) is strongly discouraged. Open systems are beneficial to the environment for containment and filtration. Should a property owner desire to enclose an open system on their property, an engineering study is required to be submitted to the Public Works Department. This study shall include the necessary hydraulic calculations for pipe sizing, flood studies where needed and a description of why the pipe system is needed, all sealed by an NC Professional Engineer (PE). The Town Engineer and/or Mecklenburg County LUESA will review the study and make a determination. Should there be errors or omissions in the study, the Town or LUESA will require revisions to the study. The cost for the study shall be borne by the property owner. Review fees may apply.

**Cost Share Projects**
The Town may consider partnering in cost-share projects with private single-family residential property owners for improvements to the Town’s stormwater drainage system that are a significant benefit to the public system, if adequate resources and funding are available. These projects could include major overhaul of channels; restoring concrete-lined channels to natural lining; opening up piped sections of the stormwater system; ditch lining; installation of biofilters, rain gardens or other stormwater system elements. The proposed work shall be approved by the Town Engineer.

A common type of work by property owners is redirecting downspouts and installing “pop-up” drains for the purpose of accommodating landscaping, remedies for erosion issues, or directing water away from foundations. Guidance on devices such as downspout extenders, drain tiles, perforated or slotted pipes, French drain pipes, corrugated plastic pipe, pop-up drains, and the like are as follows:

- Devices are encouraged to outlet into landscaped areas which will benefit from the additional water.
- Outlets should terminate at least 20 feet from the property line or right-of-way.
- Pop-up drains could be allowed in the planting strip (area between the curb and sidewalk) with an Encroachment Agreement from the Public Works Department. Fees may apply.
- Connecting into a storm pipe system may be allowed with approval from the owner of the system, whether the Town or a private owner. These connections shall be water tight, constructed by a licensed contractor, and shall not damage the existing system.
- Approval for work that connects to the Town right-of-way is required through a recorded Encroachment Agreement from the Public Works Department. A sample Encroachment
Agreement is available on the Public Works web page of the Town website (www.matthewsnc.gov). Fees may apply.

- Connections into the storm pipe system are to remain the responsibility of the property owner, as defined in the Encroachment Agreement. Connections that are found without an Encroachment Agreement will need to have one recorded or removed at the Town’s discretion. Devices that outlet or direct water onto the public sidewalk are prohibited and need to be immediately removed.

Private property owner work inside the public storm drainage easement (PDE or SDE) is discouraged, other than yard maintenance. Private pipe outlets into the PDE shall be submitted to the Town Public Works Department for review and decision for approval. Should the Town need to conduct repairs on the Town’s storm sewer system, any privately-installed devices (e.g., drains or connections directly into pipes) within that easement may be removed and not replaced; the property owner may be financially responsible for the removal of the devices.

For more information on stormwater, contact the Public Works Department at 704-708-1240.