


AMENDMENT TO ORDINANCE  
PROVIDING FOR SEWAGE/WASTEWATER DISCHARGE ELIMINATION  
FROM HOUSEBOATS INTO THE WATERS OF FONTANA RESERVOIR  
IN THE COUNTY OF SWAIN, STATE OF NORTH CAROLINA

WHEREAS, the Board of Commissioners for the County of Swain duly passed a resolution instituting an ordinance providing for sewage/wastewater discharge elimination from houseboats into the waters of Fontana Lake in the County of Swain, said ordinance being adopted on the 4<sup>th</sup> day of February, 2002, and amended on the 11<sup>th</sup> day of February, 2004; and

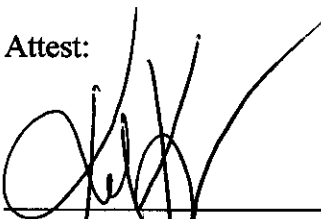
WHEREAS, the Board of Commissioners is now desirous of modifying the compliance date on said Ordinance by providing a waiver until December 31, 2005 for the owners of houseboats which were not placed upon dry land due to the establishment of a new wintertime lake level during the period September 2004 through March 5, 2005, inasmuch as they were not afforded a reasonable opportunity to retrofit the houseboats with a storage tank suitable for holding sewage and wastewater.

THEREFORE, BE IT ORDAINED by the Board of Commissioners of the County of Swain, State of North Carolina that the aforesaid Sewage/Wastewater Discharge Elimination from Houseboats into the Waters of Fontana Lake Ordinance is hereby re-ratified and approved subject to the aforesaid modification and waiver.

Read, approved by a majority vote, and adopted, at the 22<sup>nd</sup> day of February, 2005 Special Session of the Board.

  
\_\_\_\_\_  
Glenn Jones, Chairman

Attest:

  
\_\_\_\_\_  
Kevin King, Clerk to the Board

AMENDMENT TO ORDINANCE  
PROVIDING FOR SEWAGE/WASTEWATER DISCHARGE ELIMINATION  
FROM HOUSEBOATS INTO THE WATERS OF FONTANA RESERVOIR  
IN  
THE COUNTY OF SWAIN, STATE OF NORTH CAROLINA

WHEREAS, the Board of Commissioners for the County of Swain duly passed a resolution instituting an ordinance providing for Sewage/Wastewater Discharge Elimination from Houseboats into the Waters of Fontana in the County of Swain, said ordinance being adopted on the 4th day of February, 2002;

WHEREAS, the Board of Commissioners is now desirous of amending the compliance date for (18 months) or until November 4<sup>th</sup> 2004 to allow sufficient time for the permitting process through the State of North Carolina and construction of a holding tank for said sewage.

THEREFORE BE IT ORDAINED by the Board of Commissioners of the County of Swain, State of North Carolina, that the aforesaid Sewage/Wastewater Discharge Elimination from Houseboats into the Waters of Fontana Ordinance is hereby re-ratified and approved subject to the aforesaid amendment.

Read, approved by majority vote, and adopted, at the February 11, 2003 Regular Session of the Board

  
\_\_\_\_\_  
Glenn Jones, Chairman  
Swain County Board of Commissioners

ATTEST:  
  
\_\_\_\_\_  
Linda Cable, Clerk to the Board

110 Houseboats  
Swain Co.

Nov. 2007  
New date for  
implement - this

**Swain County Ordinance  
for Sewage/Wastewater Discharge Elimination  
from Houseboats Into the Waters of Fontana Reservoir**

**Article I. In General**

**A. Declaration of policy**

It is the policy of this County to promote health and safety for persons in and connected with the use, operation, and equipment of houseboats and for persons using the water of the Fontana Reservoir.

**B. Definitions**

As used in this Ordinance, unless the context clearly requires a different meaning:

- (1) "Boat Dock Operator" means the owner and/or operator of a commercial boat dock on or over real property of the State of North Carolina, United States in the custody and control of Tennessee Valley Authority (hereinafter "TVA"), or on or over real property subject to the provisions for the control of water pollution in a deed, grant of easement, lease, license, permit or other instrument from or to the State of North Carolina, United States or TVA.
- (2) "Contract Service Provider" shall be the individual(s) or other entity responsible, by contract, for the pump-out of each waste holding tank.
- (3) "County" shall be Swain County, a body politic.
- (4) "Houseboat" means any vessel which is equipped with permanently enclosed sleeping quarters.
- (5) "Local Health Director" means the Director of the Swain County Health Department.
- (6) "Mooring Contracts" for houseboat owners mean a contractual agreement between the boat dock operator and each houseboat owner
- (7) "Permanent Toilet" for a houseboat means a permanently installed, and non-portable, device used for the collection of urine and feces with a permanently installed outlet pipe ~~draining into the houseboat's waste holding tank.~~
- (8) "Person" includes an individual, corporation, company, association, partnership, unit of local, state, or federal government, or any other legal entity.
- (9) "Pump-Out Log" means a written record maintained by each contracted service provider to include a record of each houseboat number, and the frequency or date of pump-out.
- (10) "Sewage" for a houseboat means the liquid and solid human body waste, and liquid waste generated by all water using fixtures and appliances, including those associated with food handling.
- (11) "Waste Holding Tank" for a houseboat means a permanently installed, non-portable, tank of non-corrodible design and construction into which all wastewater drains.
- (12) "Wastewater" for a houseboat means any sewage or other liquid or solid materials produced, discharged, transmitted, or collected from a houseboat.

## **ARTICLE II. Requirements**

### **A. Required permanent equipment on houseboats; regulations regarding disposal of sewage and wastewater**

- (1) Every houseboat shall be equipped with at least one waste holding tank, which shall collect all sewage and wastewater produced by the houseboat and its occupants. All sewage and wastewater piping from each houseboat shall lead into the waste holding tank. No sewage and/or wastewater shall be piped, discharged, or otherwise disposed of into the lake waters of the Fontana Reservoir.
- (2) Every houseboat shall be required to have on board at least one permanent toilet.
- (3) All water using fixtures on the houseboat shall drain into the waste holding tank.
- (4) Each waste holding tank shall be equipped with a pump-out fitting that is compatible with the pump-out nozzle of the contract service provider.

### **B. Requirements of Boat Dock Operators and House Boat Owners**

- (1) No boat dock operator shall permit the mooring, within their harbor, of any houseboat without a waste holding tank.
- (2) Each Boat Dock Operator shall:
  - (a) establish and enter into written mooring contracts with each houseboat owner on an annual basis. Mooring contracts shall include a provision requiring the boat dock operator to contract or subcontract for the regular pump-out of sewage and wastewater from the houseboat wastewater storage tanks. This contract shall include at least the following: (i) the houseboat number, (ii) owner(s) name, (iii) address, (iv) contact phone number, and (v) include a provision for pump-out by a contract service of each waste holding tank during the operating season as needed and at the end of the season, with a minimum pump-out frequency of once per year.
  - (b) ensure all houseboats are in compliance with this Ordinance, and also in compliance with Title 18 Code of Federal Regulations 1304.4.
  - (c) maintain copies of all mooring contracts and pump-out logs for each houseboat within their harbor during the mooring contract periods and for 2 years thereafter.
- (3) Each Houseboat Owner shall:
  - (a) establish and enter into written mooring contracts with the boat dock operator who owns the harbor within where their houseboat is moored on an annual basis. Mooring contracts shall include a provision requiring the boat dock operator to contract or

subcontract for the regular pump-out of sewage and wastewater from the houseboat wastewater storage tanks. This contract shall include at least the following: (i) the houseboat number, (ii) owner(s) name, (iii) address, (iv) contact phone number, and (v) include a provision for pump-out by a contract service of each waste holding tank during the operating season as needed and at the end of the season, with a minimum pump-out frequency of once per year and be under mooring contract with the boat dock operator with fifteen (15) months following the effective date of this Ordinance and annually thereafter.

(b) come into and continue to be in compliance with all equipment regulations stated within this ordinance within fifteen (15) months from the effective date of this Ordinance.

### **Article III. Regulation and Enforcement**

#### **A. Non-Compliance, Penalties, and Enforcement**

- (1) Upon non-compliance by a houseboat owner, the boat dock operator shall provide written notification of non-compliance to the houseboat owner by certified mail return receipt requested to the address given on the Mooring Contract by the houseboat owner, which notice shall specifically state at least the following:
  - (a) the non-compliance; and
  - (b) that the houseboat owner must comply with the stated Ordinance within 60 days from the date of receipt of notification to comply with the stated Ordinance.
- (2) Should this initial 60-day period lapse and the houseboat owner fails to comply with this Ordinance, the boat dock operator shall provide written notification by first-class mail of the obligation to remove the houseboat from the boat dock owner=s harbor within 30 days from the date stated on said written notification.
- (3) Should the houseboat owner fail to remove the houseboat, the boat dock operator shall notify the Local Health Director within 10 days from the lapse of the 30 day period as referenced in the preceding paragraph and the County may institute any proceeding in equity allowed by law for violation of this Ordinance as set forth herein.
- (4) Criminal penalty. Any violation of this ordinance shall constitute a class three misdemeanor pursuant to North Carolina General Statute Section 14-4 and shall subject the violator to a fine not to exceed five hundred dollars (\$500.00). Enforcement shall be administered through the issuance of a citation on the North Carolina Uniform Citation Form.
- (5) Civil penalty.
  - (a) The violation of Article II hereof shall subject the owner of such houseboat to a civil

penalty as set forth herein.

(b) The houseboat owner shall be issued a written notice of violation and penalty which shall require payment to be made to the County within 72 hours of receipt of notice by the owner. Notice of the civil penalty and violation shall be delivered in person to the owner or mailed by certified mail, return receipt requested, to the owner's last known address.

(c) Upon the owner's failure to pay the required amount within the designated 72-hour period, the County may institute a civil action in the nature of debt to recover such amount.

(d) Issuance of a notice of assessment of civil penalty for the violation of this ordinance is directed toward and against the owner of the houseboat. The purpose of the assessment of a civil penalty is to affect the conduct of the owner of a houseboat by seeking to have an owner responsibly use the lake waters of the Fontana Reservoir. Therefore, an owner of a houseboat shall be subject to escalating penalties for each violation of this ordinance allowed by the owner. Violation of the ordinance shall subject the owner to a civil penalty not to exceed \$500.00.

- (6) Equitable Remedy. Any violation of this Ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction.
- (7) This Ordinance may be enforced by any one or more of the remedies authorized herein.
- (8) Boat Dock Operators in noncompliance shall be reported to any appropriate law enforcement officials and/or agencies for enforcement under applicable law, including but not limited to Title 18 Code of Federal Regulations.
- (9) The Swain County Health Department, and any and all federal, state and local law enforcement and administrative agencies with jurisdiction shall administer and enforce the provisions of this Ordinance. The Swain County Health Department may delegate to any person the administration and enforcement of any of its powers, duties or functions under this Ordinance.
- (10) The local health director shall have a right of entry upon the premises of any place where entry is necessary to enforce the provisions of this ordinance, and may delegate this right of entry to any person. If consent for entry is not obtained, an administrative search and inspection warrant shall be obtained pursuant to North Carolina General Statute '15-27.2. Pursuant to any such warrant, inspections for probable cause may be conducted, or periodic inspections may be conducted that naturally include the property inspected whether or not there is probable cause for inspection of any particular property that is inspected.

## **B. Severability of Ordinance.**

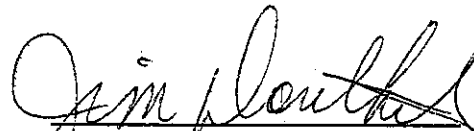
If, for any reason, one (1) or more parts of this Ordinance are held invalid by the courts, such judgment shall not affect the remaining provisions of this Ordinance. The county board of commissioners hereby declares that it would have passed this Ordinance and each section thereof, irrespective of the fact that anyone or more sections, subsections, sentences, clauses, or

thereof, irrespective of the fact that anyone or more sections, subsections, sentences, clauses, or phrases be declared invalid.


**C. State and Federal laws.**

This Ordinance will apply except where superseded by state or federal law.

Adopted this the 4<sup>th</sup> day of February, 2002.

  
Jim Douthett, Chairman  
Swain County Commissioners

Attest:

  
Linda Cable, Clerk to the Board  
Swain County Commissioners

**Swain County Ordinance  
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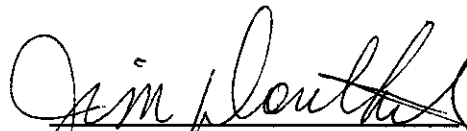
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thereof, irrespective of the fact that anyone or more sections, subsections, sentences, clauses, or phrases be declared invalid.


**C. State and Federal laws.**

This Ordinance will apply except where superseded by state or federal law.

Adopted this the 4<sup>th</sup> day of February, 2002.

  
Jim Douthett, Chairman  
Swain County Commissioners

Attest:

  
Linda Cable, Clerk to the Board  
Swain County Commissioners