

PART II - CODE OF ORDINANCES

Chapter 36 UTILITIES

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**ARTICLE I. IN GENERAL**

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**Sec. 36-1. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Administrative officer* means any officer referred to in this chapter, by title, or other official designated by the town manager, or his duly authorized deputy, agent or representative.

*Approval authority* means the official designated by the town manager, or his duly authorized deputy, agent or representative.

*BOD (denoting biochemical oxygen demand)* means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees Celsius, expressed in parts per million. The laboratory determination shall be made in accordance with the procedures set forth in standard methods.

*Collector sewer main* means a sewer main designed and constructed to receive sewage from the building connections or laterals and other collector sewers and carry it to an interceptor sewer or the point of disposal. A collector sewer normally serves only a portion of one drainage area or basin.

*Combined sewer* means a sewer receiving both surface runoff and sewage.

*Domestic sewage* means waterborne wastes normally discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories and institutions, free from stormwater, surface water and industrial wastes.

*Industrial wastes* means all waterborne solids, liquids or gaseous wastes resulting from any industrial, manufacturing, commercial or food processing operation or process, or from the development of any natural resource, or any mixture of these with water or domestic sewage as distinct from normal domestic sewage.

*Interceptor sewer main* means a sewer main designed and constructed to intercept or receive sewage from all collector sewers and laterals within one or more drainage areas and carry it to a larger interceptor sewer or the point of disposal.

*Normal domestic sewage* means normal sewage for the town, in which concentration of suspended materials and five-day 20 degrees Celsius BOD does not exceed 300 parts per million and 250 parts per million, respectively.

*Sanitary sewer* means a sewer which carries sewage and to which stormwaters, surface waters and groundwaters are not intentionally admitted.

*Sewage* means a combination of water-carried waste from residences, business buildings, institutions and industrial establishments, together with such groundwaters, surface waters and stormwaters as may be present.

*Sewage treatment plant* means any arrangement of devices and structures used for treating sewage.

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*Sewage works* means all facilities for collecting, pumping, treating and disposing of sewage.

*Sewer* means a pipe or connection for carrying sewage.

*Sewer lateral* means a pipe which receives sewage from a building and carries it to the collector or interceptor sewer.

*Suspended solids* means solids that either float on the surface of, or are in suspension in, water, sewage or other liquids and which are removable by laboratory filtering. Quantitative determination of suspended solids shall be made in accordance with procedures set forth in standard methods.

(Code 1972, § 29-1; Code 1992, § 29-1; Ord. No. 2009-6, 8-18-2009)

**Sec. 36-2. Water and sewer connections permit required.**

It shall be unlawful for any person to connect, or attempt to connect, any pipe to the town's water or sewer lines without a permit.

(Code 1972, § 29-2; Code 1992, § 29-2)

**Sec. 36-3. Permit application.**

Applications for a permit for water and sewer connections shall be made, in writing, on forms furnished by the town, signed by the property owner, or his agent, giving all information required.

(Code 1972, § 29-3; Code 1992, § 29-3)

**Sec. 36-4. Buildings to be separately connected to water and sewer system.**

Buildings shall be provided with separate sanitary sewer connections and water meter connections at the property line. The connection of more than one building to the same sewer lateral or water service line will not be allowed, except by written permission of the town council or its representative.

(Code 1972, § 29-4; Code 1992, § 29-4)

**Sec. 36-5. Town to tap water mains and run water service line from main to meter.**

The town shall make the tap to the water main in the street and shall run the water service line from the main to the water meter. The town shall determine the size of the water service line and meter needed for the service required.

(Code 1972, § 29-5; Code 1992, § 29-5)

**Sec. 36-6. Location of water meters.**

Water meters shall be located in the most practical and convenient place in the street right-of-way or public utility easement abutting the property to be served.

(Code 1972, § 29-6; Code 1992, § 29-6)

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**Sec. 36-7. Town to tap sewer main and run sewer service line.**

- (a) The town shall make the tap to the sewer main in the street and run the sewer service line from the sewer main in the street as near as practicable to the street right-of-way abutting the property to be served.
- (b) The town shall determine the size of the sewer lateral which is needed for the services required.

(Code 1972, § 29-7; Code 1992, § 29-7)

**Sec. 36-8. Inspection of connections and service lines.**

After a permit to make connection with the town's water or sewer pipes has been granted, each such connection and the pipes running therefrom to the house or building shall be inspected and approved by a designated official of the town before the pipes are covered and before the service can be used.

(Code 1972, § 29-8; Code 1992, § 29-8)

**Sec. 36-9. Covering uninspected connections or service pipes prohibited.**

Any person covering a water or sewer connection or water or sewer service line that has not been inspected and approved as provided in section 36-8 shall be guilty of a Class 4 misdemeanor. The guilty party shall be required to uncover such connection or pipes so proper inspection can be made.

(Code 1972, § 29-9; Code 1992, § 29-9)

**Sec. 36-10. Industrial pretreatment and equalization.**

If the town permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the town and subject to the requirements of all applicable codes, ordinances and laws.

(Code 1972, § 29-11; Code 1992, § 29-11)

**Sec. 36-11. Cutoff valve on supply line between water meter and building required.**

On each water service, there shall be required a water cutoff valve located on the supply line on the premises of the property owner between the town's water meter and the building to be served. This cutoff may be in the basement of a building or, if no basement, then in the yard with an extension rod or handle to the top of the ground or a valve box provided to make the cutoff valve accessible at all times, and all shall be kept in good repair.

(Code 1972, § 29-12; Code 1992, § 29-12)

**Sec. 36-12. Cutoff valve inside meter box for town use only.**

The water cutoff valve inside the town's meter box is not for the use of water customers, and is to be used only by the town.

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(Code 1972, § 29-13; Code 1992, § 29-13)

**Sec. 36-13. Tampering with or obstructing water and sewer system prohibited.**

- (a) It shall be unlawful for any person to open or tamper with, including the obstruction of, any water meter, meter box, lid, valve, valve box, manhole, fire hydrant, pipe, fence, building, reservoir or any property of the town used in connection with the town's water and sewer system. The town shall have the right to discontinue service to the property on which the tampering occurred and/or remove the obstruction, including, but not limited to, the towing of vehicles blocking access to the town's water meters or other facilities, without liability therefor, in order to protect the health and safety of its customers, prevent or stop the theft of service and to access, repair or maintain its infrastructure.
- (b) In addition, incidents of tampering with or obstruction of town utility facilities shall be reported to the town police department or other appropriate law enforcement agency for investigation and may be prosecuted civilly or criminally pursuant to Code of Virginia, §§ 8.01-44.7, 18.2-162.1 and 18.2-163.

(Code 1972, § 29-14; Code 1992, § 29-14; Ord. No. 2013-5, § 29-14, 4-16-2013)

**Sec. 36-14. Compliance with chapter.**

It shall be unlawful for any person to fail, neglect or refuse to comply with this article. Except as otherwise provided in this chapter, any violation of this chapter shall constitute a Class 1 misdemeanor.

(Code 1972, § 29-15; Code 1992, § 29-15)

**Secs. 36-15—36-31. Reserved.**

**ARTICLE II. EXTENSION OF WATER OR SEWER SYSTEMS**

[Sec. 36-32. Petition by property owners.](#)

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**Sec. 36-32. Petition by property owners.**

Property owners desiring water or sewer service in sections of the town where no water or sewer mains exist shall present a petition to the town council requesting such extension of water and sewer mains, signed by all of the property owners desiring such extension.

(Code 1972, § 29-16; Code 1992, § 29-36)

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**Sec. 36-33. Action by council; study of proposal.**

The town council shall make a study of each proposal, as set out in the petition, after first having made through its proper agencies a survey and estimated cost of such project to determine whether or not such proposal is practical and justifiable.

(Code 1972, § 29-17; Code 1992, § 29-37)

**Sec. 36-34. Report to petitioners.**

The town council shall make a report to the property owners filing a petition as to whether or not the project is practical and justifiable. Should this report be favorable the procedures outlined in sections 36-61 and 36-64 shall be followed.

(Code 1972, § 29-18; Code 1992, § 29-38)

**Sec. 36-35. Determination of size of mains, etc., materials, location and elevation.**

In all projects for the extension of water mains and sewer mains, the town manager or town engineer shall be the judge as to the size of such water and sewer mains, laterals, manholes, valves, etc., and as to the materials used in the construction of the same, and shall determine the location and elevation of all such mains and laterals.

(Code 1972, § 29-19; Code 1992, § 29-39)

**Sec. 36-36. Property of town.**

All extensions of water and sewer mains, pipes, valves, manholes, laterals, etc., and all appurtenances thereto, shall become and remain the property of the town and shall become a part of its general water system and sewer system and, as such, subject to all rules and regulations as may be, from time to time, adopted by the town council.

(Code 1972, § 29-20; Code 1992, § 29-40)

**Secs. 36-37—36-60. Reserved.**

**ARTICLE III. CHARGES AND RATES**

[Sec. 36-61. Water main extensions.](#)

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[Secs. 36-69—36-94. Reserved.](#)

**Sec. 36-61. Water main extensions.**

The cost of water main extensions within the corporate limits which are not included in the capital improvements program of the town may be shared by the property owners requesting the extension by their contributing to the cost of the extension at a per linear foot rate to be determined by the council in accordance with the width of frontage of each property owner's lot, or lots, which will be served by the extension. This per linear foot cost will be in addition to regular water connection fees and will be paid at the time of connection. The town council may require that one-third of the estimated cost be paid by the property owners prior to starting the extension.

(Code 1972, § 29-21; Code 1992, § 29-56)

**Sec. 36-62. Water connections.**

- (a) The costs for water connections shall be as set forth herein or as established in the latest edition of the town water and sewer utilities service fee schedule, which may be amended from time to time by the town council.
- (b) If a property owner desires more than one water connection to serve a particular property or structure, each water connection will be made at the regular established connections charge.
- (c) Where the service line already provided to serve a particular property or structure needs to be changed, thereby requiring the construction of additional service lines, the charges for any additional service lines will be made at actual cost to the property owner rather than the established charges for such connections.
- (d) All fees and charges for water connections shall be paid in full before any permit is granted and before any water connection is made to the town's water system.

(Ord. of 9-5-1989, § 29-22; Code 1992, § 29-57; Ord. No. 2002-6, 7-2-2002; Ord. No. 2009-6, 8-18-2009)

**State Law reference**—Mandatory water connections, Code of Virginia, § 15.2-2111.

**Sec. 36-63. Water rates.**

Water rates shall be as set forth herein or as established in the latest edition of the town water and sewer utilities service fee schedule, which may be amended from time to time by the town council.

(Code 1992, § 29-58; Ord. of 7-17-1990, § 29-23; Ord. of 6-15-1993; Ord. of 6-21-1994; Ord. of 3-18-1997; Ord. No. 2001-3, 8-7-2001; Ord. No. 2003-3, 6-17-2003; Ord. No. 2004-3, 6-15-2004; Ord. No. 2005-3, 6-7-2005; Ord. No. 2006-2, 6-6-2006; Ord. No. 2007-2, 5-15-2007; Ord. No. 2008-3, 6-3-2008; Ord. No. 2009-3, 5-19-2009; Ord. No. 2009-6, 8-18-2009)

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**Sec. 36-64. Sewer main extensions.**

The costs for sewer main extensions shall be as set forth herein or as established in the latest edition of the town water and sewer utilities service fee schedule, which may be amended from time to time by the town council.

(Code 1972, § 29-24; Code 1992, § 29-59; Ord. No. 2009-6, 8-18-2009)

**Sec. 36-65. Sewer connections.**

- (a) The costs for sewer connections shall be as set forth herein or as established in the latest edition of the town water and sewer utilities service fee schedule which may be amended from time to time by the town council.
- (b) If a property owner desires more than one sewer connection to serve a particular property or structure, each additional connection will be at the regular established connection charge, not to include a front footage charge.
- (c) Where laterals already provided to serve a particular property or structure need to be changed, thereby requiring the construction of additional laterals, the charges for any additional sewer lateral will be made at actual cost to the property owner rather than the established charges for such connection.
- (d) All fees and charges for sewer connections shall be paid in full before any permit is granted and before any sewer connection is made to the town's sewer system.

(Code 1992, § 29-60; Ord. of 9-5-1989, § 29-25; Ord. No. 2002-6, 7-2-2002; Ord. No. 2009-3, 5-19-2009; Ord. No. 2009-6, 8-18-2009)

**Sec. 36-66. Industries and high strength wastes.**

All industries, businesses and other sewer users discharging any wastes to the sewers other than normal domestic sewage shall apply for an industrial waste discharge permit, in writing, on forms furnished by the town.

(Code 1972, § 29-26; Code 1992, § 29-61)

**Sec. 36-67. Sewer service rates.**

- (a) *Sewer service rates.* Sewer service rates shall be as set forth herein or as established in the latest edition of the town water and sewer utilities service fee schedule, which may be amended from time to time by the town council.
- (b) *Base rates for all sewage works users.*
  - (1) *User charge system.* All users of the town's sewage works shall be required to pay a user charge to recover the operation and maintenance expenses for the sewage works. The user charge payment shall be based on flow meter readings with a minimum rate for the first 2,000 gallons monthly, and a flat rate for each additional 1,000 gallons.
  - (2) *Debt service and reserve fund.* Capital costs shall be recovered based on a minimum rate for the first 2,000 gallons monthly, and a flat rate for each additional 1,000 gallons.

The method of determining the quantity for monthly billing shall be through the use of the individual water meter or sewage flow meter. This rate structure shall be subject to review and

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revision on an annual basis using actual operating and maintenance and debt service cost figures to determine the base rate for the following year.

(c) *High strength surcharge.*

- (1) All users who discharge a waste which contains more than 250 milligrams per liter of BOD, or more than 300 milligrams per liter of suspended solids, shall pay a surcharge on the amount of BOD and suspended solids that exceed the above amounts.
- (2) Surcharges for high strength shall be based on samples collected and analyzed by the town or from results submitted to the town in accordance with the requirements of an industrial discharger permit. Samples shall be collected on a periodic basis, but not less than once a year.
- (3) High strength wastes will only be accepted when it can be demonstrated that they will not damage the collection or treatment facilities and will not impair the treatment process.
- (4) The monthly rate for high strength wastes shall be calculated on the basis of the number of pounds of BOD and suspended solids discharged to the sewer in excess of 250 milligrams per liter of BOD, and 300 milligrams per liter of suspended solids.

(Code 1972, § 29-27; Code 1992, § 29-62; Ord. of 6-2-1987, § 29-27; Ord. of 7-2-1996; Ord. of 3-18-1997; Ord. No. 2006-2, 6-6-2006; Ord. No. 2007-2, 5-15-2007; Ord. No. 2008-03, 6-3-2008; Ord. No. 2009-3, 5-19-2009; Ord. No. 2009-6, 8-18-2009; Ord. No. 2016-2, 2-23-2016)

#### **Sec. 36-68. Water and sewer main extensions to developments.**

- (a) When a proposed development within the corporate limits is located a distance greater than 250 feet from the water or sewer system and an extension to either system is required to serve the development, the town may participate in the cost of the extension.
- (b) The developer must install water and sewer mains within a development in accordance with the subdivision and zoning ordinances of the town.

(Code 1972, § 29-28; Code 1992, § 29-63)

#### **Secs. 36-69—36-94. Reserved.**

### **ARTICLE IV. DISPOSITION OF HUMAN EXCREMENT**

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**Sec. 36-95. Houses, etc., to be equipped with approved method of disposal as prerequisite to use.**

It shall be unlawful for the owner of any house or other building, trailer or any structure of any description used as human habitation or where human beings congregate, work or are employed in the town, or the representative or agent of such owner to use or occupy or to rent or lease the same for use or occupancy by any person any such house, building, trailer or structure unless, or until, such house, building or structure shall have been equipped with an approved method of disposal of human excrement of such construction as will comply with the requirements of this article.

(Code 1972, § 29-30; Code 1992, § 29-82)

**Sec. 36-96. Flush toilet required; when septic tanks allowed.**

A properly installed flush toilet connected to the town's sanitary sewer system shall always be required, except in extreme cases where it would be physically impossible to connect a sanitary flush toilet to the town's sanitary sewer system due to unusual elevation where a sewer service line from the premises could not reach the sanitary sewer system. In such event, an approved septic tank may be used with the approval of the town and the local health officer, or his representative.

(Code 1972, § 29-31; Code 1992, § 29-83)

**Sec. 36-97. Use of septic systems.**

- (a) It shall be unlawful for the owner of any house, building, trailer or structure of any description used as human habitation or where human beings congregate, work or are employed to continue the use of any existing septic tank for the disposal of human excrement in the town, unless such septic tank and field drainage conform to section 36-96. Any existing septic tanks that cannot meet the requirements set forth in such section shall be illegal, the use of the same shall be discontinued and the premises connected with the town's sanitary sewer system.
- (b) Where the town's sanitary sewer system is available, it shall be unlawful to pump out or repair any existing septic tank or to repair or extend the drainfield when it becomes inoperative from any cause or as a preventive measure. It shall be discarded and the premises connected as stated above.

(Code 1972, § 29-33; Code 1992, § 29-85)

**Sec. 36-98. Use of privies prohibited.**

It shall be unlawful for the owner of any house, building, trailer or structure of any description used as human habitation or where human beings congregate, work or are employed to continue the use of any privy for the disposal of human excrement in the town, and such privy shall be demolished, removed and the pit filled.

(Code 1972, § 29-34; Code 1992, § 29-86)

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**Sec. 36-99. Procedures upon discovery of violation of article.**

If upon inspection, the health officer, his agent or authorized subordinate, or an inspector appointed by the town council, shall find any violations of this article, he shall direct, by written notice, the person responsible, that the necessary corrections be made within such reasonable time as shall be specified in such notice.

(Code 1972, § 29-35; Code 1992, § 29-87)

**Sec. 36-100. Misuse or neglect of flush toilets prohibited.**

It shall be unlawful for any owner, tenant or lessee of any premises properly supplied with a sanitary flush toilet or other approved device for the disposal of human excrement to misuse or neglect the same so as to allow or cause it to cease to be sanitary.

(Code 1972, § 29-36; Code 1992, § 29-88)

**Sec. 36-101. Prohibited disposal.**

- (a) No owner of any premises in the town shall construct, maintain or permit any arrangement for the disposal of human excrement which allows flies or animals to have access thereto or which endangers any source of drinking water.
- (b) No person shall deposit in the town any human excrement upon the surface of the ground or in any place where it may endanger any source of drinking water or be accessible to flies or to animals.
- (c) It shall be unlawful for any person in the town to throw out, deposit or bury within the corporate limits of the town any solid or liquid excreta from human bodies or to dispose of such substance in any manner other than prescribed by this article.

(Code 1972, § 29-37; Code 1992, § 29-89)

**Sec. 36-102. Right of entry of health officers.**

The health officer, or his agent or authorized subordinate, or an inspector appointed by the town council, may enter all premises in the town in the discharge of his duties under this article.

(Code 1972, § 29-38; Code 1992, § 29-90)

**Sec. 36-103. Obstructing town officers, etc., in discharge of duties.**

Any person who, in any manner, obstructs town officers and employees or local health authorities in the proper discharge of their duties prescribed in this article shall be guilty of a Class 1 misdemeanor.

(Code 1972, § 29-39; Code 1992, § 29-91)

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**Secs. 36-104—36-121. Reserved.**

**ARTICLE V. CROSS CONNECTION CONTROL AND BACKFLOW PREVENTION**

[Sec. 36-122. Definitions.](#)

[Sec. 36-123. Adoption of state regulations and cross connection program.](#)

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[Secs. 36-129—36-154. Reserved.](#)

**Sec. 36-122. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Air gap separation* means the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying pure water to a tank, plumbing fixture or other device and the rim of the receptacle.

*Auxiliary water system* means any water system on, or available to, the premises other than the waterworks. These auxiliary waters may include water from a source such as wells, lakes or streams; or process fluids; or used water. These auxiliary waters may be polluted or contaminated or objectionable, or constitute an unapproved water source or system over which the water purveyor does not have control.

*Backflow* means the flow of water or other liquids, mixtures or substances into the distribution piping of a waterworks from any source, or sources, other than its intended source.

*Backflow prevention device* means any approved device, method or type of construction intended to prevent backflow into a waterworks.

*Consumer* means a person who drinks water from a waterworks.

*Consumer's water system* means any water system located on the consumer's premises, supplied by or, in any manner, connected to a waterworks.

*Containment* means preventing backflow into a waterworks from a consumer's water system by installing an appropriate backflow prevention device at the service connection.

*Contaminant* means any objectionable or hazardous physical, chemical, biological or radiological substance or matter in water.

*Cross connection* means any connection or structural arrangement, direct or indirect, to the waterworks whereby backflow can occur.

*Degree of hazard* means the level of health hazard, as derived from an evaluation of the potential risk to health and the adverse effect upon the waterworks.

*Distribution main* means a water main whose primary purpose is to provide treated water to service connections.

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*Domestic use or usage* means normal family or household use, including drinking, laundering, bathing, cooking, heating, cleaning and flushing toilets.

*Double gate-double checkvalve assembly* means an approved assembly composed of two single, independently acting checkvalves including tightly closing shutoff valves located at each end of the assembly and petcocks and test gauges for testing the watertightness of each checkvalve.

*Entry point* means the place where water from the source is delivered to the distribution system.

*Health hazard* means any condition, device or practice in a waterworks, or its operation, that creates, or may create, a danger to the health and well-being of the water consumer.

*Isolation* means installing an appropriate backflow preventive device on the plumbing fixture at the source of the potential contamination to isolate the fixture from the contamination. Isolation of an area or zone within a premises water supply system confines the potential source of contamination to a specific area or zone.

*Maximum contaminant level* means the maximum permissible level of a contaminant delivered to the free flowing outlet of the ultimate user of a waterworks, except in the cases of turbidity and Volatile Organic Compounds (VOCs), where the maximum permissible level is measured at each entry point to the distribution system. Contaminants added to the water under circumstances controlled by the user, except those resulting from corrosion of piping and plumbing caused by water quality, are excluded from this definition. The term "maximum contaminant levels" may be either:

- (1) Primary maximum containment level (PMCL), meaning based on health considerations; or
- (2) Secondary maximum containment level (SMCL), meaning based on aesthetic considerations.

*Plumbing fixture* means a receptacle or device which is either permanently or temporarily connected to the water distribution system of the premises, and demands a supply of water therefrom; or discharges used water, waste materials or sewage either directly or indirectly to the drainage system of the premises; or requires both a water supply connection and a discharge to the drainage system of the premises.

*Pollution* means the presence of any foreign substance, chemical, physical, radiological or biological, in water that tends to degrade its quality so as to constitute an unnecessary risk or impair the usefulness of the water.

*Pollution hazard* means a condition through which an aesthetically objectionable or degrading material may enter the waterworks or a consumer's water system.

*Premises* means a piece of real estate; house or building, and its land.

*Process fluid* means any fluid or solution which may be chemically, biologically, or otherwise contaminated or polluted, which would constitute a health, pollutional or system hazard if introduced into the waterworks. This includes, but is not limited to:

- (1) Polluted or contaminated waters.
- (2) Process waters.
- (3) Used waters originating from the waterworks which may have deteriorated in sanitary quality.
- (4) Cooling waters.
- (5) Contaminated natural waters taken from wells, lakes, streams or irrigation systems.
- (6) Chemicals in solution or suspension.
- (7) Oils, gases, acids, alkalis and other liquid and gaseous fluids used in industrial or other processes, or for firefighting purposes.

*Pure water or potable water* means water fit for human consumption and use which is sanitary and normally free of minerals, organic substances and toxic agents in excess of reasonable amounts for

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domestic usage in the area served and normally adequate in quantity and quality for the minimum health requirements of the persons served.

*Reduced pressure principle backflow prevention device (RPZ device)* means a device containing a minimum of two independently acting checkvalves together with an automatically operated pressure differential relief valve located between the two checkvalves. During normal flow, and at the cessation of normal flow, the pressure between these two checks shall be less than the supply pressure. In case of leakage of either checkvalve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the checkvalves at less than the supply pressure. The unit must include tightly closing shutoff valves located at each end of the device, and each device shall be fitted with properly located test cocks. These devices must be of the approved type.

*Service connection* means the point of delivery of water to a customer's building service line as follows:

- (1) If a meter is installed, the service connection is the downstream side of the meter;
- (2) If a meter is not installed, the service connection is the point of connection to the waterworks;
- (3) When the water purveyor is also the building owner, the service connection is the entry point to the building.

*System hazard* means a condition posing an actual, or threat of, damage [danger] to the physical properties of the waterworks or a consumer's water supply system.

*Used water* means any water supplied by a water purveyor from the waterworks to a consumer's water supply system after it has passed through the service connection.

*Water supply* means the water that shall have been taken into a waterworks from all wells, streams, springs, lakes and other bodies of surface water (natural or impounded), and the tributaries thereto, and all impounded groundwater; but the term "water supply" shall not include any waters above the point of intake of such waterworks.

*Water supply system* means the water service pipe, water distributing pipes and necessary connecting pipes, fittings, control valves and all appurtenances in, or adjacent to, the building or premises.

*Waterworks.*

- (1) The term "waterworks" means a system that serves piped water for drinking or domestic use to:
  - a. The public;
  - b. At least 15 connections; or
  - c. An average of 25 individuals for at least 60 days out of the year.
- (2) The term "waterworks" shall include all structures, equipment and appurtenances used in the storage, collection, purification, treatment and distribution of pure water, except the piping and fixtures inside the building where such water is delivered.

*Waterworks owner or water purveyor* means an individual, group of individuals, partnership, firm, association, institution, corporation, government entity or the federal government which supplies, or proposes to supply, water to any person within the state from, or by means of, any waterworks.

(Code 1972, § 29-42; Code 1992, § 29-111; Ord. of 1-5-1993)

#### **Sec. 36-123. Adoption of state regulations and cross connection program.**

The town hereby adopts, by reference, the following:

- (1) 12 VAC 5-590-580 et seq., "Cross Connection and Backflow Prevention in Waterworks," of the Commonwealth of Virginia Waterworks Regulations.

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(2) "The Town of Christiansburg Cross Connection and Backflow Prevention Program."

(Code 1972, § 29-41; Code 1992, § 29-112; Ord. of 1-5-1993)

**Sec. 36-124. Duty of building inspector.**

It shall be the duty of the town building inspector to make inspections of properties served by the town system where cross connection with the system is deemed possible. The frequency of inspections and reinspections, based on potential health hazards involved, shall be established by the town in the cross connection control and backflow prevention program and as approved by the Virginia Department of Health.

(Code 1972, § 29-43; Code 1992, § 29-113; Ord. of 1-5-1993; Ord. No. 2009-6, 8-18-2009)

**Sec. 36-125. Right of entry.**

The town building inspector shall have the right to enter, at any reasonable time, properties served by a connection to the town system for the purpose of inspecting the piping system, or systems, for cross connections. Upon request, the owner or occupant of property served shall furnish to the building inspector pertinent information regarding the piping system, or systems, on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connection.

(Code 1972, § 29-44; Code 1992, § 29-114; Ord. of 1-5-1993)

**Sec. 36-126. Compliance with article.**

The town may deny or discontinue the water service to a consumer if the required backflow prevention device is not installed. If it is found that the device has been removed or bypassed or if a cross connection exists on the premises, or if the pressure in the system is lowered below ten psi gauge, the town shall take positive action to ensure that the system is adequately protected at all times. Water service to such premises shall not be restored until the deficiencies have been corrected or eliminated in accordance with Commonwealth of Virginia Waterworks Regulations, 12 VAC 5-590-20 et seq., and to the satisfaction of the town.

(Code 1972, § 29-45; Code 1992, § 29-115; Ord. of 1-5-1993; Ord. No. 2009-6, 8-18-2009)

**Sec. 36-127. Enforcement.**

The potable water made available on the properties served by the town system shall be protected from possible contamination or pollution by the enforcement of this article and the town plumbing code. Any water outlet which could be used for potable or domestic purposes and is not supplied by the potable system must be labeled as "water unsafe for drinking" in a conspicuous manner.

(Code 1972, § 29-46; Code 1992, § 29-116; Ord. of 1-5-1993)

**Sec. 36-128. Article supplemental to building code.**

This article is a supplement to the Virginia Uniform Statewide Building Code.

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(Code 1972, § 29-47; Code 1992, § 29-117; Ord. of 1-5-1993)

**Secs. 36-129—36-154. Reserved.**

**ARTICLE VI. ADMINISTRATIVE PROCEDURES AND CHARGES**

[Sec. 36-155. Service deposits.](#)

[Sec. 36-156. Penalty for nonpayment.](#)

[Sec. 36-157. Testing.](#)

[Sec. 36-158. Penalties and liabilities.](#)

[Sec. 36-159. Appeals as to industrial cost recovery.](#)

[Secs. 36-160—36-186. Reserved.](#)

**Sec. 36-155. Service deposits.**

- (a) Service deposit rates shall be as set forth herein or as established in the latest edition of the town water and sewer utilities service fee schedule, which may be amended from time to time by the town council.
- (b) Before the town shall furnish service under this chapter to any person who has not established credit with it, the applicable service deposits shall be paid.
- (c) A service deposit may be transferred from one location to another for the customer who paid the deposit; provided, that all amounts owed in connection with service at the old location are paid in full.

(Code 1972, § 29-48; Code 1992, § 29-136; Ord. No. 2005-3, 6-7-2005; Ord. No. 2006-2, 6-6-2006; Ord. No. 2009-6, 8-18-2009)

**Sec. 36-156. Penalty for nonpayment.**

- (a) Penalties for nonpayment shall be as set forth herein or as established in the latest edition of the town water and sewer utilities service fee schedule, which may be amended from time to time by the town council.
- (b) All bills for service, including industrial surcharge and industrial cost recovery, shall be invoiced monthly and become due on the first day of the month following the date on the bill for service. A penalty of ten percent shall be added to any bill remaining unpaid after the due date. When any bill remains unpaid after the tenth day following the due date, service shall be discontinued unless such bill and penalty are paid prior to disconnection of service. Following disconnection for nonpayment, service shall not be restored until all outstanding charges, penalties, and interest have been paid.
- (c) When service at a location has been discontinued for nonpayment, service shall not be furnished to a new applicant at that location unless denial of service is prohibited by Code of Virginia § 15.2-2119.
- (d) If any person applies for service while owing a balance for service previously furnished, regardless of the length of time the same has been owing, service shall not be furnished until all outstanding charges and penalties have been paid in full, together with six percent interest compounded annually, which shall be charged on any bill which has been past due for one year or more. If a customer moves from

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one location to another and desires services at the new location, all amounts owed in connection with service at the old location must be paid in full before service shall be furnished at the new location.

- (e) Penalty fees for late utility payments for customers in good standing with the town who have gone 24 consecutive months with no delinquent payments shall be eligible for a one-time waiver provided the town is presented with a written request. Customers in good standing with the town shall be considered customers who do not have any past due accounts or bills with the town.

(Code 1972, § 29-49; Code 1992, § 29-137; Ord. of 11-17-1998; Ord. No. 2008-1, 3-4-2008; Ord. No. 2009-6, 8-18-2009; Ord. No. 2016-2, 2-23-2016)

**Sec. 36-157. Testing.**

All tests and determinations shall be made in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater.

(Code 1972, § 29-50; Code 1992, § 29-138)

**Sec. 36-158. Penalties and liabilities.**

- (a) Except as otherwise provided in this chapter, any person who violates this chapter shall be guilty of a Class 3 misdemeanor, and each day such violation continues shall constitute a separate offense.
- (b) In addition to any other penalties provided:
  - (1) Every user of the town's sewerage system shall be civilly liable in damages to the town for any injuries to the town's sewerage system, or any injuries to third persons for which the town is liable, caused by, or resulting from, a violation of any of the provisions of this chapter.
  - (2) Every user of the town's sewerage system shall be civilly liable in damages to the town for any injuries to the town's sewerage system, or any injuries to third persons for which the town is liable, caused by, or resulting from, such user discharging into the town's sewerage system sewage or waste of a nature or in quantities prohibited by the statutes of the state or prohibited by the Virginia Department of Health or any subdivision thereof, or prohibited by any other state agency.
  - (3) Every user of the town's sewerage system shall be liable as hereinabove provided in subsections (1) and (2) of this section if any such damage is caused by such user, any member or guest of his household, or by any of his agents, servants or employees.

(Code 1972, § 29-51; Code 1992, § 29-139)

**Sec. 36-159. Appeals as to industrial cost recovery.**

- (a) An industrial user or other aggrieved party may appeal to the water and sewer committee of the town on the issues of:
  - (1) Exclusion from the industrial cost recovery plan by reason of contract or the discharge of primarily segregated domestic wastes; and/or
  - (2) On the issue of the amount of the industrial cost recovery assessment with particular regard to flow, five-day biochemical oxygen demand and the concentration of suspended solids.
- (b) Any existing industrial user may apply within one year of the effective date of the plan for exclusion from participation in the plan on the basis provided above. New industrial users (those who connect to

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the town service system after the effective date of the plan) shall have one year from the date of their initial connection in which to apply for exclusion. An application for exclusion shall include a schematic diagram of the user's production process waste pretreatment and a conveyance system, and a series of waste strength tests in conformance with town-accepted procedures and guidelines, which shall be available on request; all such diagrams shall be certified as accurate by an engineer licensed in the state. All such test results shall be certified as having been performed in accordance with town-accepted procedures and their accuracy shall be certified by a qualified chemist or laboratory located within the state.

- (c) Within 30 days after the mailing date of each industrial cost recovery bill, an industrial user who is included within the plan may file an application for exclusion or an application for redetermination of assessment with the water and sewer committee of the town, but only in the event of a substantial change in quality or quantity of effluent discharge by such user arising subsequent to the last redetermination. Such changes shall be certified by a qualified chemist or laboratory as having occurred and such a chemist or laboratory shall also certify that tests indicating the substantial changes aforesaid were conducted in accordance with town-accepted procedures.
- (d) All applications shall set forth the industrial user's name, address and its town account number, along with a brief statement of the reasons it is petitioning and the factual basis for the application. Applications shall set forth the names of the officers, attorneys, employees and witnesses who will be appearing before the water and sewer committee of the town. Applications shall be filed with three copies and sent by registered mail to the water and sewer committee of the town at the place for which payment of charges is specified in the industrial cost recovery bill for which the appeal is taken.
- (e) The water and sewer committee of the town shall notify the applicant, by mail, of the time and place for hearing, such notice to be given within 30 days after receipt of any application. The hearing shall be conducted on the application not less than ten days after mailing of such notice. The hearing shall be held as an informal consultation and conference at which the applicant, in person or by counsel, shall present his argument, evidence, data and proof in connection with the issues submitted. A representative from the town may then present its factual basis for the exclusion or assessment under consideration. The water and sewer committee of the town shall not be bound by the usual rules of evidence, but may conduct the hearing in such a manner as in its judgment will expeditiously and accurately determine the substantial rights of the industrial user and the town. All hearings may be stenographically or electronically recorded. The water and sewer committee of the town shall make findings of fact and its decision shall be made known to the applicant.
- (f) Rehearings may be allowed by the water and sewer committee of the town for good cause shown and the procedure for rehearings shall be substantially the same as delineated in this section.

(Code 1972, § 29-52; Code 1992, § 29-140)

**Secs. 36-160—36-186. Reserved.**

#### **ARTICLE VII. SEWER USE**

[Sec. 36-187. Definitions.](#)

[Sec. 36-188. Notice of violations.](#)

[Sec. 36-189. Enforcement.](#)

[Sec. 36-190. Prohibited discharges.](#)

[Sec. 36-191. Powers of town relative to prohibited discharges.](#)

[Sec. 36-192. Accidental discharge of prohibited wastes.](#)

[Sec. 36-193. Approval, maintenance, etc., of pretreatment and flow control facilities.](#)

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[Sec. 36-194. Dilution prohibition.](#)

[Sec. 36-195. Observation, sampling and measuring facilities.](#)

[Sec. 36-196. Sampling, grab samples and analyses.](#)

[Sec. 36-197. Authority of town agents.](#)

[Sec. 36-198. Termination of service.](#)

[Sec. 36-199. Discharge permit—Required.](#)

[Sec. 36-200. Same—Application.](#)

[Sec. 36-201. Same—Evaluation of data; issuance.](#)

[Sec. 36-202. Same—Conditions.](#)

[Sec. 36-203. Same—Duration; extension; modification.](#)

[Sec. 36-204. Same—Transfer.](#)

[Sec. 36-205. Same—Revocation.](#)

[Sec. 36-206. Same—Appeals.](#)

[Sec. 36-207. Hauled waste.](#)

[Sec. 36-208. Bypass.](#)

[Sec. 36-209. Upset.](#)

[Sec. 36-210. Costs.](#)

[Sec. 36-211. Severability.](#)

[Secs. 36-212—36-228. Reserved.](#)

**Sec. 36-187. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Act* refers to the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 et seq.

*Approval authority* means the director of the water division of the Virginia Department of Environmental Quality.

*Authorized or duly authorized representative of the user* means:

(1) If the user is a corporation:

- a. The president, secretary, treasurer or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
- b. The manager of one or more manufacturing, production or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to

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ensure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit [or general permit (optional)] requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

- (2) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.
- (3) If the user is a federal, state or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
- (4) The individuals described in subsections (1) through (3) of this section, may designate a duly authorized representative, if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the town.

*Best management practices (BMPs)* means schedules of activities, prohibitions of practices, maintenance procedures and other management practices to implement the prohibitions listed in section 2.1 A and B (40 CFR 403.5(a)(1) and (b)). BMPs include treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

*BOD (biochemical oxygen demand)* means the quantity of oxygen by weight, expressed in mg/l, utilized in the biochemical oxidation of organic matter under standard laboratory conditions for five days at a temperature of 20 degrees centigrade.

*Building sewer* means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil waste and other drainage pipes inside the walls of the building and conveys it to the lateral sewer, which begins at the property line of the building in question. The building sewer extends from the property line to the building in question.

*Categorical pretreatment standard or categorical standard* refers to any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of users and that appear in 40 CFR chapter I, subchapter N, parts 405-471.

*CFR* means the Code of Federal Regulations.

*COD (chemical oxygen demand)* means the measure, expressed in mg/l, of the oxygen-consuming capacity of inorganic and organic matter present in water or wastewater, expressing the amount of oxygen consumed from a chemical oxidant in a specific approved test, but not differentiating between stable and unstable organic matter and thus not necessarily correlating with biochemical oxygen demand.

*COD-BOD ratio* means the ratio of the value of COD to BOD, as these values are defined above.

*Composite sample* means a combination or resultant sample compiled of individual samples of water or wastewater taken at selected intervals, generally hourly, for a specified period of time. The individual samples may be of equal volume or proportional to flow at the time of sampling prior to compositing.

*Control manhole* means a manhole giving access to a building sewer at some point before the building sewer discharge mixes with other discharges in the public sewer.

*Control point* means a point of access to a source of discharge before the discharge mixes with other discharges in the public sewer.

*EPA* means the U.S. Environmental Protection Agency.

*EPA methods* means methods for chemical analysis of water and wastes, published by the U.S. Environmental Protection Agency, most current edition.

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*Garbage* means animal and vegetable wastes and residue from the preparation, cooking and dispensing of food and from the handling, processing, storage and sale of food products and produce.

*Grab sample* means a single sample of wastewater taken at neither a set time or flow over a period of time not to exceed 15 minutes.

*Incompatible waste* means a waste which is not susceptible to adequate treatment by the wastewater treatment plant.

*Indirect discharge* or *discharge* refers to the introduction of pollutants into the POTW from any nondomestic source.

*Industrial user* or *significant industrial user* means any user that is a source of indirect discharge. Indirect discharge means the introduction of pollutants, regulated by section 307(b), (c) and (d) of the Clean Water Act, from a nondomestic source into the POTW.

*Industrial waste* means waste resulting from any process of industry, manufacturing, trade or business from the development of any natural resource, or any mixture of the waste with water or normal wastewater, or distinct from normal wastewater.

*Interference* means a discharge which, alone or in conjunction with a discharge, or discharges, from other sources, either inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; or therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with all applicable statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations), including, but not limited to, the following: section 405 of the Clean Water Act, the Solid Waste Disposal Act (including title II, more commonly referred to as the Resource Conservation and Recovery Act, and including state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the Solid Waste Disposal Act), the Clean Air Act, the Toxic Substances Control Act and the Marine Protection Research and Sanctuaries Act.

*Lateral sewer* means the extension from the building sewer to the public sewer or other place of disposal. This sewer extends from the property line to the public sewer line.

*Milligrams per liter (mg/l)* means the same as parts per million when the specific gravity of the liquid is 1.0, and is a weight-to-volume ratio; the milligram per liter value multiplied by the factor 8.34 shall be equivalent to pounds per million gallons of water.

#### *New source.*

- (1) The term "new source" means any building, structure, facility or installation from which there is, or may be, a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Clean Water Act, which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
  - a. The building, structure, facility or installation is constructed at a site at which no other source is located;
  - b. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
  - c. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.
- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation

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meeting the criteria of subsection (2) or (3) of this definition, but otherwise alters, replaces or adds to existing process or production equipment.

- (3) The term "construction of a new source," as defined under this definition, has commenced if the owner or operator has:
- a. Begun, or caused to begin, as part of a continuous on-site construction program:
    1. Any placement, assembly or installation of facilities or equipment; or
    2. Significant site preparation work, including clearing, excavation or removal of existing buildings, structures or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment; or
  - b. Entered into binding contractual obligations for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase, or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this subsection.

*Normal user* means any user discharging waste of a strength less than, or equal to, that of normal wastewater and at a flow rate of less than 25,000 gallons per day.

*Normal wastewater* means wastewater discharged into the public sewer in which all of the following average concentrations and flows are not exceeded:

- (1) BOD: Less than, or equal to, 250 mg/l.
- (2) Suspended solids: Less than, or equal to, 300 mg/l.
- (3) Flow: Less than 25,000 gallons per day.
- (4) No toxic or harmful substances are present.

*NPDES permit* means pollutant discharge elimination system permit.

*Overload* means the imposition of organic or hydraulic loading on the wastewater treatment plant in excess of its engineered design capacity.

*Pass through* means a discharge which exits the POTW into the waters of the United States in quantities or concentrations which, alone, or in conjunction with, a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

*pH* means the logarithm (base 10) of the reciprocal of the hydrogen ion concentration expressed in grams per liter.

*Plant* means the town's wastewater treatment facility.

*Pretreatment* means application of physical, chemical and biological processes to reduce the amount of pollutants in, or alter the nature of, the pollutant properties in a wastewater prior to discharging such wastewater into the wastewater collection system.

*Pretreatment requirement* means any substantive or procedural requirement related to pretreatment imposed on an industrial user, other than a pretreatment standard.

*Pretreatment standards* or *standards* means all applicable federal rules and regulations (including specifically those regulations found in 40 CFR, chapter I, subchapter N, parts 405-471) implementing section 307 of the Federal Water Pollution Control Act and the Clean Water Act of 1977, and including prohibited standards, as amended, as well as nonconflicting state and local standards. In case of conflict of regulations, the most stringent thereof shall be applied.

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*Public sewer* means pipe or conduit carrying wastewater, or unpolluted wastewater, in which owners or abutting properties shall have the use.

*Publicly owned treatment works (POTW)* means the town's public sanitary sewerage system. The term "publicly owned treatment works" includes any devices or systems used in the collection, storage, treatment, recycling or reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant.

*Sanitary sewer* means a public sewer that conveys domestic wastewater or industrial wastes, or a combination of both, and into which stormwater, surface water, groundwater and other unpolluted waters are not intentionally passed.

*Sewer* means a pipe or conduit for carrying normal sanitary or industrial wastewater.

*Significant industrial user.*

- (1) The term "significant industrial user" means all categorical industrial users.
- (2) The term "significant industrial user" also means noncategorical industrial users that:
  - a. Discharge 25,000 gallons, or more, of process wastewater per day (this excludes sanitary, non-contact cooling and boiler blowdown wastewater);
  - b. Discharge process wastewater which makes up five percent, or more, of the dry weather average hydraulic or organic capacity of the treatment works;
  - c. Is subject to categorical pretreatment standards; or
  - d. Has, in the town's opinion, a reasonable potential to adversely affect the treatment works (causing pass through, interference, sludge contamination or danger to the POTW).
- (3) The town may determine that an industrial user subject to categorical pretreatment standards is a non-significant categorical industrial user rather than a significant industrial user on a finding that the industrial user never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, noncontact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:
  - a. The industrial user, prior to the town's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;
  - b. The industrial user annually submits the certification statement required in section 29-160(l) (see 40 CFR 403.12(q)), together with any additional information necessary to support the certification statement; and
  - c. The industrial user never discharges any untreated concentrated wastewater.
- (4) Upon a finding that a user meeting the criteria in subsection (2) of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the town may at any time, on its own initiative or in response to a petition received from an industrial user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

*Significant noncompliance* means:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent, or more, of all the measurements taken for the same pollutant parameter during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement;
- (2) Technical review criteria (TRC) violations, defined here as those in which 33 percent, or more, of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the numeric pretreatment standard or requirement multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

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- (3) Any other violation of a pretreatment standard or requirement (daily maximum, long-term average, instantaneous limit or narrative standard) that the town determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;
- (4) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the town manager's or his designee's exercise of his emergency authority to halt or prevent such a discharge;
- (5) Failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction or attaining final compliance;
- (6) Failure to provide, within 45 days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports and reports on compliance with compliance schedules;
- (7) Failure to accurately report noncompliance; or
- (8) Any other violations, which may include a violation of best management practices, which the town determines will adversely affect the operation or implementation of the local pretreatment program.

*Slug load or slug discharge* means any discharge at a flow rate or concentration which could cause a violation of any prohibited discharge standard of this article or any discharge of a nonroutine, episodic nature, including, but not limited to, an incidental spill or a noncustomary batch discharge.

*Standard methods* means the examination and analytical procedures set forth in the latest edition, at the time of analysis, of standard methods for the examination of water and wastewater, as prepared, approved and published jointly by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation.

*Suspended solids* means solids measured in mg/l that either float on the surface of, or are in suspension in, water, wastewater or other liquids, and which are largely removable by a laboratory filtration device.

*To discharge* means and includes to deposit, conduct, train, emit, throw, run, allow to seep or otherwise release or dispose of, or to allow, permit or suffer any of these acts or omissions.

*Town* means the town which may act through its town manager, or his or her duly authorized agents.

*Unpolluted wastewater* means water containing:

- (1) No free or emulsified grease or oil.
- (2) No acids or alkalis.
- (3) No phenols, or other substances producing taste or odor in the receiving water.
- (4) No toxic or poisonous substances in suspension, colloidal state or solution.
- (5) No noxious or otherwise obnoxious or odorous gases.
- (6) Not more than ten mg/l each of suspended solids and BOD.
- (7) Color not exceeding 50 units, as measured by the platinum-cobalt method or determination, as specified in Standard Methods.

*User* means any person who discharges, causes or permits the discharge of wastewater into the public sewer.

*Waste* means rejected, unutilized or superfluous substances in liquid, gaseous or solid form resulting from domestic, agricultural or industrial activities.

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*Wastewater* means a combination of the liquid and water-carried waste from residences, business buildings, institutions and industrial establishments, together with any groundwater, surface water and stormwater that may be present to a small extent.

*Wastewater treatment system* means and includes all facilities for collection, pumping, treating and disposing of wastewater and industrial wastes.

(Code 1992, § 29-151; Ord. of 9-6-1994; Ord. No. 2009-6, 8-18-2009)

#### **Sec. 36-188. Notice of violations.**

The town shall serve persons discharging wastewater into the public sewer, in violation of this article, with written notice stating the nature of the violation and providing for penalties as necessary or appropriate. Within 30 days of the date of this notice, a plan for the satisfactory correction thereof shall be submitted to the town by the user.

(Code 1992, § 29-152; Ord. of 9-6-1994; Ord. No. 2009-6, 8-18-2009)

#### **Sec. 36-189. Enforcement.**

- (a) The town may enforce violations of, or deviations from, the standards of this article by suit for injunction or other appropriate legal action or suit.
- (b) The town may seek and recover, by legal action or suit, from any industrial user, monetary compensation for damages to its public sanitary sewage system, and the POTW's treatment system, caused by the industrial user's violation of, or deviation from, the standards of this article.
- (c) A person who violates the provisions of this article shall be guilty of a Class 1 misdemeanor and, upon conviction, is punishable by a maximum fine of up to \$2,500.00 per violation per day and confinement in jail for not more than 12 months, either or both. In the event of a violation, the town shall also have the right to terminate the sewer and water connections.
- (d) In addition to proceeding under authority of subsection (c) of this section, the town is entitled to pursue all other criminal and civil remedies to which it is entitled under authority of state statutes or other ordinances of the town against a person conducting a prohibited discharge or violating a pretreatment standard or requirement, including, without limitation, injunctive relief.
- (e) Any person who knowingly makes any false statements, representations or certifications in any application, record, report, plan or other document files required to be maintained pursuant to this article, or wastewater permit, or who falsifies, tampers with or knowingly renders inaccurate any monitoring devices or method required under this article shall, upon conviction, be punishable by a maximum fine of \$2,500.00 per violation, per day, or imprisonment for not more than one year, or both.
- (f) The town shall be authorized to implement such other program and enforcement mechanisms as are consistent with regulatory guidelines and are deemed appropriate.
- (g) The town shall publish annually, in the largest daily newspaper published in the municipality where the publicly owned treatment works (POTW) is located, a list of the users which, during the previous calendar year, were in significant noncompliance with applicable pretreatment standards and requirements. The term "significant noncompliance" shall mean:
  - (1) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of wastewater measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or average limit for the same pollutant parameter by any amount;

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- (2) Technical review criteria (TRC) violations, defined here as those in which 33 percent or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
  - (3) Any other discharge violation that the town believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;
  - (4) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the town's exercise of its emergency authority to halt or prevent such discharge;
  - (5) Failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction or attaining real compliance;
  - (6) Failure to provide, within 30 days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports and reports on compliance with the compliance schedules;
  - (7) Failure to accurately report noncompliance; or
  - (8) Any other violations which the town determines will adversely affect the operation or implementation of the local pretreatment program.
- (h) Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, individual wastewater discharge permits and monitoring programs, and from the town's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the town, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined at 40 CFR 2.302, shall not be recognized as confidential information and shall be available to the public without restriction.
- (i) The town may enter into consent orders, assurances of compliance or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents shall include specific action to be taken by the user to correct the noncompliance within a time period specified by the document.
- (j) When the town finds that a user has violated, or continues to violate, any provision of this article, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the town may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued, unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

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- (k) The town shall implement appropriate enforcement responses, as required. The town may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the town's enforcement response plan. However, the town may take other action against any user when the circumstances warrant. Further, the town is empowered to take more than one enforcement action against any noncompliant user.

(Code 1992, § 29-153; Ord. of 9-6-1994; Ord. No. 2002-7, 8-6-2002; Ord. No. 2009-6, 8-18-2009)

#### **Sec. 36-190. Prohibited discharges.**

It shall be unlawful for any person or user to discharge, cause to be discharged, or permit to be discharged into the wastewater treatment system any of the following waters, wastes or effluents:

- (1) Any waste which, by itself or by interaction with other waste, may:
  - a. Injure or interfere with wastewater treatment processes or facilities.
  - b. Constitute a hazard to humans or animals.
  - c. Create a hazard in receiving waters of the wastewater treatment plant effluent.
  - d. Violate any pretreatment standards promulgated by EPA and contained in 40 CFR chapter I, subchapter N, parts 404-471.
  - e. Cause interference, as defined in this article and in State Water Control Law 9 VAC 25-31-10 et seq., as amended; water control law, Code of Virginia, § 62.1-44.2 et seq.
  - f. Any pollutant which, by itself or by interaction with other wastes, creates a fire or explosion hazard in the POTW, including, but not limited to, any waste with a closed-cup flashpoint of less than 140 degrees Fahrenheit using the test methods specified in 40 CFR 261.21.
  - g. Any pollutant which, by itself or by interaction with other wastes, results in toxic gases, vapors or fumes in the POTW in a quantity that may cause acute worker health and safety problems.
  - h. Any waste which, by itself or by interaction with other wastes, possesses a pH less than 5.5.
  - i. Any trucked or hauled pollutants, except at discharge points designated by the town.
- (2) Any water or wastewater discharge which contains:
  - a. Any liquids, solids or gases which, by reason of their nature or quantity, are, or may be, sufficient, either alone or by interaction with other substances, to cause fire or explosion or be injurious in any other way to the wastewater treatment system or to the operation of the system. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides.
  - b. Fats, wax, grease or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32 and 150 degrees Fahrenheit. Fats, oils, and grease discharges in violation of section 10-26 of chapter 10 "Buildings and Building Regulations."
  - c. Heat in amounts which will inhibit biological activity in publicly owned treatment works resulting in interference, but in any case, heat in such quantities that wastewater temperatures at the entrance to the treatment plant exceed 40 degrees Celsius or 104 degrees Fahrenheit, unless the approval authority approves alternate temperature limits.
  - d. Ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tars, plastics, wood, whole blood, paunch manure, hair, hides or fleshings, entrails, paper products (other than

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those used for personal hygiene), slops, chemical residue, paint residue, bones, animal guts or tissue, spent lime, stone or marble dust, grass clippings, spent grain, spent hops, asphalt residues, residues from refining or processing of fuel or lubricating oils, bulk solids or any other solid or viscous substance present in sufficient quantities which will obstruct the flow in sewers, interfere with the wastewater treatment processes, or cause overloading of the wastewater treatment system.

- e. Any waters or wastes having a pH lower than 5.5 or higher than 9.0, at any time, or having any other corrosive property capable of causing damage or hazard to structures, equipment or personnel at the wastewater treatment plant.
  - f. Strong acid or concentrated plating solutions, whether neutralized or not.
  - g. Any pollutant which will cause interference or pass through, including any toxic substances in amounts exceeding standards promulgated by the United States Environmental Protection Agency pursuant to section 307(a) of public law 92-500, and chemical elements or compounds, phenols or other taste- or odor-producing substances or other substances which are not susceptible to treatment or which may interfere with the biological processes or efficiency of the wastewater treatment system, or that will pass through the system.
  - h. Antimony.
  - i. Beryllium.
  - j. Bismuth.
  - k. Cobalt.
  - l. Uranium ion.
  - m. Rhenium.
  - n. Strontium.
  - o. Tellurium.
  - p. Radium.
  - q. Herbicides.
  - r. Fungicides.
  - s. Pesticides.
- (3) Any water or wastewater which exceeds the following daily maximum limits in a single grab sample or a composite of multiple grab samples, as determined in accordance with 40 CFR Part 136:
- a. Total Arsenic: 0.05 mg/l.
  - b. Total Barium: 5.0 mg/l.
  - c. Total Cadmium: 0.02 mg/l.
  - d. Chlorides: 500 mg/l.
  - e. Chromium (hexavalent): 2.0 mg/l.
  - f. Total Chromium: 5.0 mg/l.
  - g. Total Copper: 1.0 mg/l.
  - h. Cyanide: 1.0 mg/l.
  - i. Total Iron: 100 mg/l.

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- j. Total Lead: 0.10 mg/l.
- k. Total Manganese: 1.0 mg/l.
- l. Total Mercury: 0.005 mg/l.
- m. Total Molybdenum: 1.0 mg/l.
- n. Total Nickel: 1.0 mg/l.
- o. Phenol: 1.0 mg/l.
- p. Total Selenium: 0.02 mg/l.
- q. Total Silver: 0.10 mg/l.
- r. Total Zinc: 0.5 mg/l.
- s. Total dissolved solids (including sodium chloride and sodium sulfate): 750 mg/l.
- t. Inert solids (Fuller's earth, lime slurries, lime residues, etc.): 250 mg/l.
- u. Excessive discoloration, as determined by spectrophotometric method 204B, standard methods, or the latest approved method for industrial wastewater determinations. This parameter relates to dye wastes and vegetable tanning solutions, but is in no way limited to these discharges.
- v. Substances causing a chemical oxygen demand (COD) greater than 1500 mg/l.
- w. Substances which cause a COD to BOD ratio of greater than 5 to 1, unless the COD value is equal to, or less than, 30 mg/l.

In addition, if it is determined that any one of these parameters exceeds the state effluent requirements for the wastewater treatment plant, an adjustment in the given parameter concentration limit will be required. No other heavy metals or toxic materials not previously detailed shall be discharged into the town's wastewater treatment system without a permit from the town specifying conditions of pretreatment, concentrations, volumes and other applicable provisions.

- (4) Any garbage, unless it is shredded to a degree that all particles can be carried freely under the flow conditions normally prevailing in the sewer system. Particles greater than one-half inch in any dimension are prohibited. The town reserves the right to review and approve the installation and operation of any garbage grinder equipped with a motor of three-quarter horsepower or greater.
- (5) Any radioactive wastes or isotopes without the permission of the town. The town reserves the right to establish, in compliance with applicable state and federal regulations, regulations for the discharge of radioactive waste into its wastewater treatment system.
- (6) Any stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water and unpolluted wastewater, unless specifically authorized by the town.
- (7) Any water or wastewater discharges which contain substances that may:
  - a. Deposit grease or oil in the sewer lines in such a manner as to clog the sewers.
  - b. Overload skimming and grease-handling equipment.
  - c. Pass to the receiving waters without being effectively treated by the normal wastewater treatment process due to the nonamenability of the substance to bacterial action.
  - d. Deleteriously affect the wastewater treatment process due to excessive quantities.
- (8) Any incompatible waste which:

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- a. Is not amenable to treatment or reduction by the wastewater treatment processes and facilities employed.
  - b. Is amenable to treatment only to such a degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharges to the receiving water.
  - c. Is the cause of or contributes to violations, including increasing the duration or magnitude of violations, of the publicly owned treatment work's national pollution discharge elimination system permit.
- (9) Any slug discharges of water or wastewater.
- (10) Any holding tank wastes, unless a permit is issued by the town.
- (11) Any other substance which the Environmental Protection Agency may, in the future, prohibit by law from being discharged into wastewater treatment systems.
- (12) The discharge of any pollutant (including oxygen-demanding pollutants BOD, COD, etc.) released at a flow rate or concentration which, either single or by interaction with other pollutants, will cause interference with the POTW.
- (13) The discharge of petroleum oil, nonbiodegradable cutting oil or products of mineral oil origin, in amounts that will cause interference or pass through.
- (14) Wastewaters containing substances subject to an applicable categorical pretreatment standard promulgated by EPA in excess of the quantity prescribed in such applicable pretreatment standards. Compliance with such applicable pretreatment standards shall be within the time frame established in the standard; provided, however, compliance with a categorical pretreatment standard for new sources shall be required upon commencement of discharge to the treatment works.
- (15) The town reserves the right, and power, to amend the above standards, at any time, to comply with federal or state law or to protect the public health, safety and welfare.

(Code 1992, § 29-154; Ord. of 9-6-1994; Ord. No. 2002-7, 8-6-2002; Ord. No. 2009-6, 8-18-2009; Ord. No. 2014-5, 8-26-2014)

#### **Sec. 36-191. Powers of town relative to prohibited discharges.**

- (a) If wastewater discharged, or proposed to be discharged, into the public sewer has a deleterious effect on the POTW, its treatment facilities, processes, equipment or receiving waters; creates a hazard to life or health; creates a public nuisance; or is in violation of this article, the town shall take the necessary action to:
- (1) Prohibit the discharge of such wastewater;
  - (2) Require the user to demonstrate that in-plant modifications will reduce or eliminate the discharge of such substances in conformity with this article. This may include, but is not limited to, the use of grease, oil and sand interceptors when, in the opinion of the town, they are necessary for the proper handling of wastewater containing excessive amount of grease, oil or sand. A separate fats, oils, and grease program permit may be required in accordance with the fats, oils, and grease program as specified in section 10-26 of chapter 10 "Buildings and Building Regulation." All interception units shall be of a type and capacity approved by the town and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned and repaired by the user at their expense;

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- (3) Require pretreatment, including, but not limited to, storage facilities and flow equalization necessary to reduce or eliminate the objectionable characteristics or substances so that the discharge will not violate this article;
  - (4) Require the user making, causing or allowing the discharge to pay any additional expenses incurred by the town for handling and treating overloads imposed on the wastewater treatment plant;
  - (5) Whenever deemed necessary, the town may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this article;
  - (6) The town may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. An individual wastewater discharge permit (or a general permit) may be issued solely for flow equalization; or
  - (7) Take such other remedial action as may be deemed to be desirable or necessary to achieve the purpose of this article.
- (b) The town shall have the right to determine when a discharge or a proposed discharge is covered by this section.
  - (c) The town shall reject wastewater or terminate wastewater treatment service when it determines that a discharge, or a proposed discharge, is included under this section and does not meet the requirements of this article.
  - (d) Upon notification by the town, the permittee shall halt immediately any actual or threatened discharge to the POTW that may present an imminent endangerment to public health or the environment or the POTW. Where the health or welfare of persons is threatened, notification will be immediate. Where the environment or the POTW's operations are threatened, the permittee will be notified and afforded the opportunity to terminate the discharge and mitigate any damage.

(Code 1992, § 29-155; Ord. of 9-6-1994; Ord. No. 2009-6, 8-18-2009; Ord. No. 2014-5, 8-26-2014)

#### **Sec. 36-192. Accidental discharge of prohibited wastes.**

- (a) Each industrial user shall provide protection from accidental discharge of prohibited materials or other wastes regulated by this article. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner's or operator's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the town for review, and shall be approved before construction of the facility. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify its facility, as necessary, to meet the requirements of this article.
- (b) If, for any reason, an industrial user does not comply with, or will be unable to comply with, any prohibition or limitation in this article, the industrial user responsible for such discharge, including slug loadings, shall immediately notify the town, so that corrective action may be taken to protect the wastewater treatment system. In addition, a written report addressed to the town detailing the date, time and cause of the accidental discharge, the quantity and characteristics of the discharge and corrective action taken to prevent future discharges shall be filed by the responsible industrial user within five days of the occurrence of the noncomplying discharge.

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(Code 1992, § 29-156; Ord. of 9-6-1994; Ord. No. 2009-6, 8-18-2009)

**Sec. 36-193. Approval, maintenance, etc., of pretreatment and flow control facilities.**

- (a) Where pretreatment or equalization of wastewater flow prior to discharge into any part of the wastewater treatment system is required, plans, specifications and other pertinent data or information relating to such pretreatment or flow-control facilities shall first be submitted to the town for review and approval. Such approval shall not exempt the discharge of such facilities from compliance with any applicable code, ordinance, rule, regulation or order of any governmental authority. Any subsequent alterations or additions to such pretreatment or flow-control facilities shall not be made without due notice to, and prior approval of, the town.
- (b) If pretreatment or flow-control is required, the town may, at its discretion, require, review and approve the design and installation of equipment and processes. The design and installation of equipment and processes shall conform to all applicable statutes, town codes, ordinances and other laws. Any person responsible for discharges requiring pretreatment, flow-equalizing or other facilities shall provide and maintain the facilities in effective operating condition, at his own expense. The town shall be allowed access to these facilities at all times. The industrial user shall have no more than 120 days to submit plans and specifications to the town after it receives notification from the town that pretreatment will be required. After approval of plans and specifications by the town, the industrial user shall have no more than 180 days to have the proposed pretreatment system in operation.
- (c) Any failure to comply with this section in its entirety will result in the town's rejection of the wastewater for treatment at the wastewater treatment plant by terminating service.

(Code 1992, § 29-157; Ord. of 9-6-1994)

**Sec. 36-194. Dilution prohibition.**

No industrial user shall ever increase the use of process water, or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a pretreatment standard or requirement. The town, as defined in 40 CFR section 403.12(a), may impose mass limitations on industrial users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations is appropriate.

(Code 1992, § 29-158; Ord. of 9-6-1994)

**Sec. 36-195. Observation, sampling and measuring facilities.**

When required by the town, a significant industrial user shall install a suitable control manhole, sampling chamber and flow measurement device to facilitate observation, sampling and measurement of wastes. Such facilities shall meet the requirements of applicable town ordinances and codes. Plans and specifications for such facilities shall be submitted to the town for approval 60 days after receiving notification from the town of the requirement. The facilities shall be constructed and in operation within 120 days after the approval of the plans and specifications. Failure to comply with the time schedules detailed in this section will result in the town's rejection of the wastewater for treatment at the wastewater treatment plant by terminating service.

(Code 1992, § 29-159; Ord. of 9-6-1994)

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#### **Sec. 36-196. Sampling, grab samples and analyses.**

- (a) The discharges of each significant user shall be sampled two times annually for purposes of determining user charge costs, industrial cost recovery charges and compliance with this article. In addition, analysis may be required by the town if any problem, or apparent problem, develops with an industrial user's discharge. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
- (b) Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfite, temperature, and volatile organics. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques, where feasible. The town, as deemed in 40 CFR section 404.12(a), may waive flow-proportional composite sampling for any industrial user that demonstrates that flow-proportional composite sampling techniques are infeasible. In such cases, samples may be obtained through time-proportional composite sampling techniques or through a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this subsection.
- (c) All sampling and analyses shall be performed as prescribed in 40 CFR part 136, or in accordance with procedures approved by the EPA if 40 CFR 136 does not contain sampling or analytical techniques for the pollutant in question. The cost of sample collection and analysis shall be borne by the user sampled.
- (d) Representatives of the POTW shall be authorized to enter the premises of any industrial user in which a discharge source or treatment system is located, or in which records are required to be kept under this article, to ensure compliance with pretreatment standards. Such authority shall be at least as extensive as the authority provided under the Clean Water Act, section 308 (33 U.S.C. section 1318).
- (e) Within 30 days of approval by the approval authority of the list of significant industrial users, under 40 CFR 403.8(f)(6), the town shall notify each significant industrial user of its status as such and of all the requirements applicable to it as a result of such status.
- (f) All industrial users shall promptly notify the town in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes for which the industrial user has submitted notification under 40 CFR 403.12(p).
- (g) All users (categorical and significant noncategorical) shall submit to the town, at least once every six months (on dates specified by the town), a description of the nature, concentration and flow of the pollutants required to be reported by the town. These reports shall be based on the sampling and analysis performed in the period covered by the report, and performed in accordance with the techniques described in 40 CFR part 136, and amendments thereto. Where 40 CFR part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the town determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and procedures, including procedures suggested by the town and approved by the EPA. This sampling and analysis may be performed by the town in lieu of the significant noncategorical industrial user. Where the POTW collects all the information required for the report, the noncategorical significant industrial user will not be required to submit the report.
- (h) The industrial user shall notify the town, the EPA Regional Waste Management Division director, and the Virginia Department of Environmental Quality, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261. Such notification must include the name of the hazardous waste set forth in 40 CFR part 261, the hazardous waste number and the type of discharge (continuous, batch or other). If the industrial user discharges

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more than 100 kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information, to the extent such information is known and readily available to the industrial user: an identification of the hazardous constituents contained in the waste, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following 12 months. All notifications must take place within 180 days after the discharge of the listed or characteristic hazardous wastes. Any notification under this subsection need be submitted only once for each hazardous waste discharged; however, notification of changed discharges must be submitted under 40 CFR 403.12(j). The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements of 40 CFR 403.12(b), (d) and (e).

- (i) If sampling performed by a user indicates a violation, the user must notify the town within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the town within 30 days after becoming aware of the violation. Resampling by the industrial user is not required if the town performs sampling at the user's facility at least once a month, or if the town performs sampling of the user between the time when the initial sampling was conducted and the time when the user or the town receives the results of this sampling.
- (j) For sampling required in support of baseline monitoring and 90-day compliance reports required in 40 CFR 403.12(b) and (d), a minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the town may authorize a lower minimum.
- (k) If a user subject to the reporting requirement in this article monitors any regulated pollutant at the appropriate sampling location more frequently than required by the town, using the procedures prescribed in 40 CFR part 136, the results of this monitoring shall be reported to the town.
- (l) The town may authorize an industrial user subject to a categorical pretreatment standard to forego sampling of a pollutant regulated by a categorical pretreatment standard if the industrial user has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the industrial user (see 40 CFR 403.12(e)(2)). This authorization is subject to the following conditions:
  - (1) The waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical standard and otherwise includes no process wastewater.
  - (2) The monitoring waiver is valid only for the duration of the effective period of the individual wastewater discharge permit, but in no case longer than five years. The user must submit a new request for the waiver before the waiver can be granted for each subsequent individual wastewater discharge permit.
  - (3) In making a demonstration that a pollutant is not present, the industrial user must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.
  - (4) The request for a monitoring waiver must be signed in accordance with section 36-187, and include the certification statement in section 36-202(4)d (40 CFR 403.6(a)(2)(ii)).
  - (5) Non-detectable sample results may be used only as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR part 136 with the lowest minimum detection level for that pollutant was used in the analysis.
  - (6) Any grant of the monitoring waiver by the town must be included as a condition in the user's permit. The reasons supporting the waiver and any information submitted by the user in its request for the waiver must be maintained by the town for three years after expiration of the waiver.

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- (7) Upon approval of the monitoring waiver and revision of the user's permit by the town, the industrial user must certify on each report with the statement in section 36-202(f), that there has been no increase in the pollutant in its wastestream due to activities of the industrial user.
- (8) In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the user's operations, the user must immediately: Comply with the monitoring requirements of subsection (a) of this section, or other more frequent monitoring requirements imposed by the town, and notify the town.
- (9) This provision does not supersede certification processes and requirements established in categorical pretreatment standards, except as otherwise specified in the categorical pretreatment standard.

(Code 1992, § 29-160; Ord. of 9-6-1994; Ord. No. 2009-6, 8-18-2009)

#### **Sec. 36-197. Authority of town agents.**

Duly authorized agents of the town, bearing credentials and identification, shall:

- (1) Be permitted to gain access to such properties in a timely manner as may be necessary for the purpose of inspection, observation, measurement, sampling and testing, in accordance with provisions of this article.
- (2) Observe all reasonable and generally accepted safety rules applicable to the premises established by the industrial user or other user.
- (3) Be permitted to enter all private properties through which the town holds a duly negotiated easement for the purpose of, but not limited to, inspection, observation, records examination and copying, measurement, sampling, repair and maintenance of any portion of the wastewater works lying within such easement. All entry and subsequent work, if any, on such easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

(Code 1992, § 29-161; Ord. of 9-6-1994; Ord. No. 2009-6, 8-18-2009)

#### **Sec. 36-198. Termination of service.**

- (a) The town reserves the right to immediately terminate water and wastewater disposal services and disconnect a customer from the system when any of the following conditions or circumstances exists:
  - (1) Acids or chemicals damaging to sewer lines or treatment processes are released into the sewer, causing rapid deterioration of these structures or interfering with proper conveyance and treatment of wastewater.
  - (2) A governmental agency informs the town that effluent from the wastewater treatment plant is no longer of a quality permitted for discharge into a watercourse, and it is found that the user is delivering wastewater to the POTW system that cannot be sufficiently treated, or requires treatment that is not provided by the POTW as normal domestic treatment.
  - (3) The user discharges industrial waste or wastewater that is in violation of the permit issued by the town and this article.
  - (4) The user discharges wastewater at an uncontrolled, variable rate in sufficient quantity to cause an imbalance in the wastewater treatment system.
  - (5) The user fails to pay his bill for water and sanitary sewer services when due.

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- (6) The user repeats a discharge of prohibited wastes into public sewers.
- (b) If the user's service is discontinued pursuant to subsection (a)(2) of this section, the town shall supply the user with the governmental agency's report and other pertinent information. Service to the user shall not thereafter be provided until pretreatment facilities approved by the town are in satisfactory operation and the objections specified have been eliminated.

(Code 1992, § 29-162; Ord. of 9-6-1994)

#### **Sec. 36-199. Discharge permit—Required.**

All significant industrial users proposing to connect to or discharge into any part of the wastewater treatment system must first obtain a discharge permit.

(Code 1992, § 29-163; Ord. of 9-6-1994)

#### **Sec. 36-200. Same—Application.**

Significant industrial users seeking a wastewater discharge permit shall complete and file with the town an application on the form prescribed by the town, and accompanied by the applicable fee. Proposed new significant industrial users and categorical industrial users shall apply for a permit and submit a baseline monitoring report at least 90 days prior to connecting to, or contributing to, the treatment works. In support of this application and baseline monitoring report, the user shall submit the following information:

- (1) Name, address and SIC number of applicant.
- (2) A list of other environmental permits held by the facility.
- (3) Volume of wastewater to be discharged.
- (4) Wastewater constituents and characteristics including, but not limited to, those set forth in section 36-190, as determined by a laboratory approved by the town.
- (5) Time and duration of discharge.
- (6) Average and peak wastewater flow rates, including daily, monthly and seasonal variations, if any.
- (7) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers and appurtenances by size, location and elevation.
- (8) Description of activities, facilities and plant processes on the premises, including all materials and types of materials which are, or could be, discharged.
- (9) Each product produced, by type, amount and rate of production.
- (10) Number and type of employees and hours of work.
- (11) The nature and concentration of any pollutants in the discharge. A statement identifying the applicable pretreatment standards and requirements, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional O&M and/or additional pretreatment is required for the user to meet the applicable pretreatment standards.
- (12) If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard.

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(13) Any other information deemed by the town to be necessary to evaluate the permit application.

(Code 1992, § 29-164; Ord. of 9-6-1994; Ord. No. 2002-7, 8-6-2002; Ord. No. 2009-6, 8-18-2009)

**Sec. 36-201. Same—Evaluation of data; issuance.**

The town will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the town may issue a wastewater discharge permit, subject to the terms and conditions provided in this article.

(Code 1992, § 29-165; Ord. of 9-6-1994)

**Sec. 36-202. Same—Conditions.**

Wastewater discharge permits shall be expressly subject to all provisions of this article and all other regulations, user charges, industrial cost recovery and fees established by the town. The conditions of wastewater discharge permits shall be uniformly enforced in accordance with this article and applicable state and federal regulations. Permit conditions will include the following:

- (1) The average and maximum wastewater constituents and characteristics.
- (2) Limits on rate and time of discharge or requirements for flow regulations and equalization.
- (3) Requirements for installation of inspection and sampling facilities and specifications for monitoring programs.
- (4) Requirements for maintaining and submitting technical reports and plant records relating to wastewater discharge. These reports and their submissions shall meet all of the requirements of 40 CFR 403.12 and section 7.9, VR 680-14-01, incorporated by reference. In particular, the following specific reporting requirements shall be met, as appropriate:
  - a. *Notice of potential problems.* All categorical and noncategorical industrial users shall notify the town immediately of all discharges that could cause problems to the POTW, including any slug loadings, as defined in 40 CFR 403.5(b), by the industrial user.
  - b. *Notice of change in discharge.* All industrial users shall promptly notify the town at least 60 days in advance of any substantial change in the volume or character of pollutants in their discharge or in the case of potential for a slug discharge. The town may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application. The town may issue a wastewater discharge permit or modify an existing wastewater discharge permit in response to changed conditions, or anticipated changed conditions.
  - c. *Report from noncategorical industrial users.* The town shall require appropriate reporting from those industrial users that are not subject to categorical pretreatment standards.
  - d. *Signatory and certification requirements.* The reports and permit applications required by section 36-200 and the reports required by this subsection shall include a certification statement as set forth in 40 CFR 403.6(a)(2) and shall be signed by an authorized representative of the industrial user. The authorization must be submitted to the town, in writing, and must name a responsible person or position. Whenever the authorization of this section is no longer accurate, a new authorization must be submitted to the town prior to, or together with, any reports to be signed by the authorized representative. Reports submitted to the approval authority by the town shall be signed by a principal executive officer, ranking

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elected official or other duly authorized employee if such employee is responsible for overall operation of the POTW and shall include the following certification statement:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

- e. *Annual certification for non-significant categorical industrial users.* A facility determined to be a non-significant categorical industrial user by the town pursuant to the definition in section 36-187, must annually submit the following certification statement signed in accordance with the signatory requirements in section 36-187 (Definition of the term "authorized or duly authorized representative of the user"). This certification must accompany an alternative report required by the town:

Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical pretreatment standards under 40 CFR 403, I certify that, to the best of my knowledge and belief that during the period from \_\_\_\_\_, \_\_\_\_\_ to \_\_\_\_\_, \_\_\_\_\_ [months, days, year]:

- 1. The facility described as \_\_\_\_\_ [facility name] met the definition of a non-significant categorical industrial user as described in section 36-187;
- 2. The facility complied with all applicable pretreatment standards and requirements during this reporting period; and
- 3. The facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.

This compliance certification is based on the following information:

(Facility to add supporting information)
_____
_____
_____

- f. *Certification of pollutants not present.* Users that have an approved monitoring waiver based on section 36-196(l) must certify on each report with the following statement that there has been no increase in the pollutant in its wastestream due to activities of the user.

Based on my inquiry of the person or persons directly responsible for managing compliance with the pretreatment standard for 40 CFR \_\_\_\_\_ [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my

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knowledge and belief, there has been no increase in the level of \_\_\_\_\_ [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under Section 36-196(g).

- g. *Record of retention.* Any industrial user or POTW subject to these reporting requirements established shall retain, for a minimum of three years, any records of monitoring activities and results, whether or not such monitoring activities are required by this section, and shall make such records available for inspection and copying by the department of environmental quality, and by the town, in the case of an industrial user. The records shall include the date, exact place, method and time of sampling, and the name of the persons taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user, or town, or when requested by the department of environmental quality.
- (5) The town must randomly sample and analyze the effluent from industrial users and conduct surveillance activities in order to identify, independent of information supplied by industrial users, occasional and continuing noncompliance with pretreatment standards. The town must sample the effluent from each significant industrial user at least twice a year and inspect each significant industrial user at least once per year. The results of such activity shall be available to the approval authority upon request. If required by the town, a slug control plan shall contain, at a minimum, the following elements:
- a. Description of discharge practices, including nonroutine batch discharges;
  - b. Description of stored chemicals;
  - c. Procedures for immediately notifying the town of slug discharges, including any discharge that would violate a prohibition under 40 CFR 403.5(b), with procedures for follow-up written notification within five days;
  - d. If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency responses.

For the purpose of this subsection, the term "slug discharge" means any discharge of a nonroutine, episodic nature, including, but not limited to, an accidental spill or a noncustomary batch discharge.

- (6) Daily average and daily maximum discharge rates, or other appropriate conditions, when pollutants subject to limitations and prohibitions are proposed or are present in the user's wastewater discharge.
- (7) Compliance schedules.
- (8) Other conditions to ensure compliance with this article.
- (9) Control by the town, through permit, order, or similar means, the contribution to the POTW by the industrial user to ensure compliance with the applicable pretreatment standard and requirements. In the case of industrial users identified as significant under 40 CFR 403.3(t), this control shall be achieved through permits issued to each such user. Such control mechanisms must be enforceable and contain, in minimum, the following conditions:
  - a. Statement of duration (in no case more than five years).
  - b. Statement of nontransferability without, at a minimum, prior notification to the town and provision of a copy of the existing control mechanism to the new owner or operator.

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- c. Effluent limits based on applicable general pretreatment standards in part 403 of 40 CFR, categorical pretreatment standards, local limits and state and local laws.
- d. Self-monitoring, sampling, reporting, notification and recordkeeping requirements, including an identification of the pollutants to be monitored, sampling location, sampling frequency and sample type, based on the applicable general pretreatment standards in part 403 of 40 CFR, categorical pretreatment standards, local limits and state and local law.
- e. Requirements to control slug discharge, if determined by the town to be necessary, and requirements for immediate notification of slug discharges.
- f. Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond the applicable federal guidelines.
- g. The process for seeking a waiver from monitoring for a pollutant neither present, nor expected to be present, in the discharge in accordance with section 36-196(l).
- h. Any grant of the monitoring waiver by the town (section 36-196(l)) must be included as a condition in the user's permit.

(10) New or increased contributions can be denied or conditioned by the town.

(Code 1992, § 29-166; Ord. of 9-6-1994; Ord. No. 2002-7, 8-6-2002; Ord. No. 2009-6, 8-18-2009)

#### **Sec. 36-203. Same—Duration; extension; modification.**

Wastewater discharge permits shall be issued for a specified time period, not to exceed five years. The town shall notify the user 180 days prior to permit expiration. Within 90 days of the notification, the user shall reapply for reissuance of the permit on a form provided by the town. The terms and conditions of the permit may be subject to modification and change by the town during the life of the permit as limitations or requirements, as identified in section 36-190, are modified and changed. The significant industrial user shall be informed of any proposed changes in its permit at least 30 days prior to the effective date of the change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance. The town may modify a permit for good cause, including, but not limited to, the following reasons:

- (1) To incorporate any new or revised federal, state or local pretreatment standards or requirements;
- (2) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge; or
- (3) To correct typographical or other errors in the individual wastewater discharge permit.

(Code 1992, § 29-167; Ord. of 9-6-1994; Ord. No. 2009-6, 8-18-2009)

#### **Sec. 36-204. Same—Transfer.**

Wastewater discharge permits are issued to a specific significant industrial user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises or a new or changed location.

(Code 1992, § 29-168; Ord. of 9-6-1994)

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**Sec. 36-205. Same—Revocation.**

Any significant industrial user who violates the conditions of his permit or of this article, or of applicable state and federal regulations, is subject to having his permit revoked. Violations subjecting a user to possible revocation of his permit include, but are not limited to, the following:

- (1) Failure of a user to accurately report the wastewater constituents and characteristics of his discharge.
- (2) Failure of the user to report significant changes in operations and wastewater constituents and characteristics.
- (3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring.
- (4) Violation of conditions of the permit.

(Code 1992, § 29-16; Ord. of 9-6-1994)

**Sec. 36-206. Same—Appeals.**

(a) *Permit appeals.*

- (1) The permittee may petition to appeal the terms of the permit within 30 days of the notice. This petition must be in writing; failure to submit a petition for review shall be deemed to be a waiver of the appeal. In its petition, the permittee must indicate the permit provisions objected to, the reasons for this objection and the alternative condition, if any, it seeks to be placed in the permit.
- (2) The effectiveness of this permit shall not be stayed pending a reconsideration by the town. If, after considering the petition and any arguments put forth by the permittee, the town determines that reconsideration is proper, it shall reissue the permit. Those permit provisions being reconsidered by the town shall be stayed pending reissuance.
- (3) A town decision not to reconsider a final permit shall be considered final administrative action for purposes of judicial review. The permittee seeking judicial review of the town's final action must do so by filing a complaint with the circuit court for the county within 30 days.

- (b) *Penalty or enforcement appeals.* Any user who feels aggrieved by an order issued under sections 36-188 or 36-189 of this article may, within ten days file, an appeal in writing with the town who shall review the matter at the earliest possible time and vote to affirm, reverse or modify the order in question.

(Code 1992, § 29-170; Ord. of 9-6-1994; Ord. No. 2009-6, 8-18-2009)

**Sec. 36-207. Hauled waste.**

- (a) Septic tank waste may be introduced into the POTW only at locations designated by the town, and at such times as are established by the town. Such waste shall not violate this article, or any other requirements established by the town. The town may require septic tank waste haulers to obtain individual wastewater discharge permits for general permits.
- (b) The town may require haulers of industrial waste to obtain individual wastewater discharge permits. The town may require generators of hauled industrial waste to obtain individual wastewater discharge permits. The town also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this article.

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- (c) Industrial waste haulers may discharge loads only at locations designated by the town. No load may be discharged without prior consent of the town. The town may collect samples of each hauled load to ensure compliance with applicable standards. The town may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.
- (d) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

(Code 1992, § 29-171; Ord. of 9-6-1994; Ord. No. 2009-6, 8-18-2009)

**Sec. 36-208. Bypass.**

- (a) *Definitions.* For the purpose of this section:

*Bypass* means the intentional diversion of wastestreams from any portion of a user's treatment facility.

*Severe property damage.*

- (1) The term "severe property damage" means substantial physical damage to property, damage to the treatment facilities which cause them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass.
  - (2) The term "severe property damage" does not mean economic loss caused by delays in production.
- (b) *Allowance.* A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to ensure efficient operation. These bypasses are not subject to the provision of subsections (c) and (d) of this section.
- (c) *Notice.*
    - (1) If a user knows in advance of the need for a bypass, they shall submit prior notice to the town at least ten days before the date of the bypass, if possible.
    - (2) A user shall submit oral notice to the town of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent reoccurrence of the bypass.

- (d) *Prohibited; exceptions.*

- (1) Bypass is prohibited, and the town may take an enforcement action against a user for a bypass, unless:
  - a. Bypass was unavoidable to prevent loss of life, personal injury or severe property damage;
  - b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
  - c. The user submitted notices, as required under subsection (c) of this section.

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- (2) The town may approve an anticipated bypass, after considering its adverse effects, if the town determines that it will meet the three conditions listed in subsection (d)(1) of this section.

(Code 1992, § 29-172; Ord. of 9-6-1994)

**Sec. 36-209. Upset.**

- (a) For the purposes of this section, the term "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- (b) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subsection (c) of this section are met.
- (c) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence, that:
- (1) An upset occurred and the user can identify the causes of the upset;
  - (2) The facility was, at the time, being operated in a prudent and workmanlike manner, and in compliance with applicable operation and maintenance procedures; and
  - (3) The user has submitted the following information to the town within 24 hours of becoming aware of the upset. If this information is provided orally, a written submission must be provided within five days.
    - a. A description of the indirect discharge and cause of noncompliance.
    - b. The period of noncompliance, including exact dates and time, or, if not corrected, the anticipated time the noncompliance is expected to continue.
    - c. Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.
- (d) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof, where allowed by law.
- (e) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
- (f) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is lost or fails.

(Code 1992, § 29-173; Ord. of 9-6-1994)

**Sec. 36-210. Costs.**

All costs associated with industrial pretreatment, sampling, monitoring, analyses, construction, enforcement, cleanups or other items directly related to the users of the POTW shall be paid for by the user. Costs that are directly incurred by the town will be billed to the responsible user. These may include:

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- (1) Fees for wastewater discharge permit applications, including the cost of processing such applications;
- (2) Fees for monitoring, inspection and surveillance procedures, including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports and certification statements submitted by users;
- (3) Fees for reviewing and responding to accidental discharge procedures and construction;
- (4) Fees for filing appeals;
- (5) Fees to recover administrative and legal costs (not included in subsection (3) of this section) associated with the enforcement activity taken by the town to address IU noncompliance; and
- (6) Other fees as the town may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this article and are separate from all other fees, fines and penalties chargeable by the town.

(Code 1992, § 29-174; Ord. of 9-6-1994; Ord. No. 2009-6, 8-18-2009)

#### **Sec. 36-211. Severability.**

If any provision of this article is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

(Code 1992, § 29-175; Ord. No. 2009-6, 8-18-2009)

#### **Secs. 36-212—36-228. Reserved.**

### **ARTICLE VIII. WATER CONSERVATION**

[Sec. 36-229. Authority.](#)

[Sec. 36-230. Water supply and drought stages.](#)

[Sec. 36-231. Additional measures.](#)

[Sec. 36-232. Violations and penalties.](#)

[Sec. 36-233. Appeals.](#)

[Sec. 36-234. Public notice and duration of restrictions.](#)

[Secs. 36-235—36-261. Reserved.](#)

#### **Sec. 36-229. Authority.**

The town manager, after notifying town council, has authority to declare drought or emergency water supply conditions and impose voluntary and mandatory water conservation measures, as set forth in this plan.

(Ord. No. 2011-5, § 29-176, 10-11-2011)

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**Sec. 36-230. Water supply and drought stages.**

The following section explains the indicators or triggers that the town manager may consider when implementing a specific stage and the actions that would be initiated for each stage.

(1) *Stage 1—Watch.*

- a. The drought and water supply watch stage is intended to increase public awareness of climatic conditions that are likely to precede the occurrence of a significant drought event.
- b. Indicators that may trigger a watch are as follows:
  1. Monitoring and comparing water intake and treatment with water usage.
  2. Precipitation deficits (percent of normal precipitation) < 75.0-85.0 percent, depending on time of year; determined using comparisons based on data compiled by the office of the state climatologist.
  3. Representative daily stream flows for source water fall between the 10th and 25th percentile for return flow frequencies. Stream flows are monitored by utilizing the USGS gauging station (03171000) located at Radford, Virginia.
  4. NOAA Drought Index D1, moderate drought.
  5. Utilize additional drought indicators such as Standardized Precipitation Index, Palmer Drought Index, and NOAA monthly and seasonal precipitation outlooks.
- c. When a drought watch declaration is warranted, the following actions may be initiated:
  1. Public outreach to inform customers of potential drought conditions and water conservation activities that may be utilized. (bill inserts, town Facebook and/or web pages, newspaper, etc.).
  2. Monitor USGS data for in-stream flows daily.
  3. Limit non-essential government use.
  4. Notify major water users of the drought condition.
  5. Increase resources to identify and correct water leaks.
  6. Encourage use of water recyclers (rain barrels, gray water, etc.) for non-potable uses.

(2) *Stage 2—Warning (voluntary).*

- a. The drought and water supply warning stage is declared when the onset of a significant drought event is imminent. The town will request voluntary water conservation activities with a goal of reducing water use five to ten percent.
- b. Indicators that may trigger a warning are as follows:
  1. Precipitation deficits (< 65.0-75.0 percent, depending on time of year); determined using comparisons based on data compiled by the office of the state climatologist.
  2. Representative daily stream flows fall between the fifth and tenth percentile for return flow frequencies. Stream flows are monitored by utilizing the USGS gauging station (03171000) located at Radford, Virginia.
  3. NOAA Drought Index D2, severe drought
  4. Continue to monitor drought indicators listed above.
  5. Continue to monitor and compare water intake and treatment with water usage.
- c. When a drought warning declaration is warranted, the following actions may be initiated:

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1. Continue measures from stage 1.
  2. Implement voluntary water use restrictions for all non-essential outdoor water use. (Examples: irrigation, washing car, washing sidewalks and driveways, etc.).
  3. Limit water use for recreational activities (examples: swimming pools, golf courses, etc.).
- (3) *Stage 3—Emergency (mandatory).*
- a. The drought and water supply emergency stage is declared during the height of a significant drought event or loss of water supply due to emergency situations. Mandatory water conservation activities will be identified with a goal of reducing water use ten to 15 percent.
  - b. Indicators that may trigger an emergency are as follows:
    1. Emergency situation that significantly affects, or may affect, the town's water supply (which includes the water treatment plant, source water or distribution system).
    2. Precipitation deficits (< 55.0-65.0 percent, depending on time of year); determined using comparisons based on data compiled by the office of the state climatologist.
    3. Representative daily stream flows below the fifth percentile for return flow frequencies. Stream flows are monitored by utilizing the USGS gauging station (03171000) located at Radford, Virginia.
    4. NOAA Drought Index D3, extreme drought, or greater.
    5. Continue to monitor drought indicators listed above.
    6. Water authority notifies the town that source water level is near or below water intake.
    7. Water intake and treatment is less than historical water demand
  - c. When a drought or water supply emergency declaration is warranted, the following actions may be initiated:
    1. Continue measures from stages 1 and 2.
    2. Prohibit all non-essential outdoor water use including:
      - (i) Washing vehicles.
      - (ii) Irrigation for lawns, gardens and plantings.
      - (iii) Recreational uses, including refilling swimming pools.
      - (iv) Washing decks, sidewalks and driveways.
    3. Require mandatory water use restrictions on major water users for non-essential functions.

(Ord. No. 2011-5, § 29-177, 10-11-2011)

#### **Sec. 36-231. Additional measures.**

If measures outlined in this article are insufficient to reduce demand and preserve sufficient supplies of water for citizens, this section outlines additional measures that may be implemented during critical periods:

- (1) Limit new water mains and water taps.
- (2) Implement conservation water rate.

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- (3) Implement a water restrictions hotline.
- (4) Encourage use of non-potable water sources for construction activities and bulk water uses.

(Ord. No. 2011-5, § 29-178, 10-11-2011)

**Sec. 36-232. Violations and penalties.**

The following summarizes those actions and penalties that will be imposed upon violators of the declared emergency stage of the drought and water supply management ordinance:

- (1) For the first offense, a violator shall receive a written warning delivered in person or posted by a town employee.
- (2) For the second offense, a violator shall be assessed a civil penalty of \$100.00, to be imposed on the violator's next water bill, or, in the case of violators not on the public water system, to be assessed by a written notice.
- (3) For the third offense, a violator shall be assessed a civil penalty of \$250.00 for each offense, to be imposed on the violator's next water bill, or, in the case of violators not on the public water system, to be assessed by a written notice.
- (4) Each violation by a person shall be counted as a separate violation by that person, regardless of the location at which the violation occurs.

(Ord. No. 2011-5, § 29-179, 10-11-2011)

**Sec. 36-233. Appeals.**

Upon declaration of a drought emergency or water supply emergency, the town council shall establish an appeals review board to review applications for exemptions from required conservation measures and appeals of fines and to consider appeals of penalties assessed.

(Ord. No. 2011-5, § 29-180, 10-11-2011)

**Sec. 36-234. Public notice and duration of restrictions.**

Declaration of drought stages, a water supply emergency or conservation measures by the town manager, or his designee, shall become effective upon notification being printed in newspaper of general circulation within locality, town social media and/or web page, and/or broadcast upon radio or television station serving the locality. Any prohibitions or restrictions shall remain in effect until the town manager determines that a water emergency in the locality no longer exists.

(Ord. No. 2011-5, § 29-181, 10-11-2011)

**Secs. 36-235—36-261. Reserved.**

**ARTICLE IX. FRANCHISES [\[2\]](#)**

[Sec. 36-262. "Company" defined.](#)

[Sec. 36-263. Compliance with chapter, etc.](#)

[Sec. 36-264. Incorporation of certain codes and ordinances by reference; conflicts between codes.](#)

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[Sec. 36-265. Interrupting service for the purpose of making repairs or installations.](#)

[Sec. 36-266. Laying of pipes, conduits, etc.; permits.](#)

[Sec. 36-267. Quality of gas furnished; odorizing of gas.](#)

[Sec. 36-268. Relocation of lines, etc., upon altering of street by town.](#)

[Sec. 36-269. Maps of underground mains, conduits, etc.](#)

[Sec. 36-270. Transfers of plants, franchises, etc.](#)

[Sec. 36-271. Revocation of franchise rights for violation of chapter, etc.](#)

**Sec. 36-262. "Company" defined.**

As used in this article, the term "company" means the grantee of rights under any franchise granted by the town.

(Code 1972, § 24-1; Code 1992, § 21-1)

**Sec. 36-263. Compliance with chapter, etc.**

Every company furnishing heat, gas, a television system, telephonic and telegraphic communications for domestic, commercial and industrial consumption and use in the town shall comply with all of the provisions of this chapter and with all regulations, conditions, standards, qualifications and measures provided in this chapter or incorporated in this chapter by reference.

(Code 1972, § 24-2; Code 1992, § 21-2)

**Sec. 36-264. Incorporation of certain codes and ordinances by reference; conflicts between codes.**

- (a) The building code, the subdivision ordinance, the zoning ordinance and any and all standards, specifications and qualifications therein referred to are hereby incorporated by reference and made a part to this chapter, and all companies and utilities shall be regulated by all the provisions applicable thereto, as if such regulations, etc., were fully set out in this chapter.
- (b) Every company shall maintain and operate its plant and system and shall render efficient service in accordance with the provisions of this chapter, and with such provisions and regulations as may be set forth by the town, and with the regulations and provisions which are deemed to establish the generally accepted good practices of the industry as promulgated and set out by the National Fire Protection Association and the Virginia Uniform Statewide Building Code or as they shall be amended. If there is a conflict between such codes, the most restrictive provision thereof which is applicable shall apply.

(Code 1972, § 24-3; Code 1992, § 21-3)

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**Sec. 36-265. Interrupting service for the purpose of making repairs or installations.**

Whenever it is necessary to shut off or interrupt service for the purpose of making repairs or installations, the company shall do so at such time as will cause the least amount of inconvenience to its consumer, and unless such repairs are unforeseen and immediately necessary, it shall give reasonable notice of the interruption to the consumer.

(Code 1972, § 24-4; Code 1992, § 21-4)

**Sec. 36-266. Laying of pipes, conduits, etc.; permits.**

All pipes, lines, conduits and equipment of any company, including all necessary parts of any gas system, natural or artificial, or mixed gas equipment, laid or placed in the town shall be located in the streets, alleys and other places in the town so as not to obstruct or interfere with any water pipes, sewer lines, installations or other structures already installed or hereafter to be installed. The company shall, when practicable, avoid the use of any alley, street, highway or public way where the paving or surface of the street would be disturbed, and all installations, repairs and relocation shall be done in accordance with the ordinances of the town pertaining to the opening of streets, alleys or public ways or with the approval of the town manager. The company and any subcontractors shall obtain a permit from the town for any underground utilities within any public street right-of-way or easement.

(Code 1972, § 24-5; Code 1992, § 21-5)

**Sec. 36-267. Quality of gas furnished; odorizing of gas.**

Gas furnished to consumers shall be of marketable quality and free from impurities; except, that it shall contain some element or compound with an easily detectable odor in an amount sufficient to be noticeable when the gas is released, but not sufficient to be harmful to human and animal life or to interfere with combustion.

(Code 1972, § 24-6; Code 1992, § 21-6)

**Sec. 36-268. Relocation of lines, etc., upon altering of street by town.**

If, at any time during the period of any franchise of any company, the town shall lawfully elect to construct, alter, widen or change the grade of any street, alley or other public way, the utility, upon reasonable notice by the town, shall remove, relay and relocate its mains, services, pipes, poles, manholes, apparatus and any fixtures at its own expense.

(Code 1972, § 24-7; Code 1992, § 21-7)

**Sec. 36-269. Maps of underground mains, conduits, etc.**

Any company with mains, conduits, wires or any other apparatus or equipment located underground shall make, or cause to be made, a map or plat of the location of all such mains, conduits, etc., or any other apparatus or equipment, and shall keep on file in the office of the company or such other place as the town manager may designate, a copy of all such maps or plats. Such company shall periodically revise such map or plat so the corrected location of all its lines, mains, conduits, wires or any other apparatus or equipment within the town may be determined.

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(Code 1972, § 24-8; Code 1992, § 21-8)

**Sec. 36-270. Transfers of plants, franchises, etc.**

No company shall sell, transfer its plant or system to another, nor transfer any rights under its franchise without the council's approval. No such sale or transfer shall be finalized until the vendee, assignee or lessee has filed with the clerk of council an instrument duly executed reciting the fact of such sale, assignment or lease and acceptance of all the terms of the franchise in force and agreeing to perform all the conditions thereof.

(Code 1972, § 24-9; Code 1992, § 21-9)

**Sec. 36-271. Revocation of franchise rights for violation of chapter, etc.**

Any company, its vendee, lessee, assigns or successors, violating any of the provisions of this chapter or any other ordinance pertaining to its operation, or any rules or regulations incorporated herein or of other ordinances of the town or any material parts thereof, or who shall fail or refuse to promptly perform any of the provisions hereof, such failure shall be sufficient cause for the town to revoke all the rights granted under their franchise after written notice to the company of its failure to comply and subsequent continuation of the violation, failure or default.

(Code 1972, § 24-10; Code 1992, § 21-10)

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FOOTNOTE(S):

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**Charter reference**— Franchises, § 3.13; regulation of public utilities, § 4.06. [\(Back\)](#)

**State Law reference**— Use of public property, Code of Virginia, § 15.2-2018; restrictions on granting franchises, Code of Virginia, § 15.2-2100 et seq. [\(Back\)](#)