

MINUTES
BERRYVILLE TOWN COUNCIL
Berryville-Clarke County Government Center
Work Session
June 30, 2025
3:30 p.m.

Town Council

Present: Harry Lee Arnold, Jr., Mayor; Erecka L. Gibson, Vice Mayor; Diane Harrison; Grant Mazzarino; Ryan Tibbens; William Steinmetz by remote participation.

Remote

Participation: William Steinmetz

Absent: None

Staff

Present: Keith Dalton, Town Manager; Jean Petti, Deputy Town Manager; Brandel Kelsey, Town Clerk

Press Mickey Powell, *The Winchester Star*

1. Call to Order

Mayor Arnold called the meeting to order at 3:32 p.m.

2. Approval of Agenda

Mayor Arnold invited a motion to approve the agenda.

Mrs. Harrison moved to approve the agenda. The motion passed by voice vote.

3. Approval for Remote Participation

Ms. Gibson moved that the Council of the Town of Berryville, with a quorum present in the Main Meeting Room of the Berryville-Clarke County Government Center, approve remote participation via telephone by Council member William Steinmetz because the need to attend family business. The motion passed by voice vote of those physically present.

4. Unfinished Business

Berryville Code Chapter 17- Water, Sewers, and Sewage Disposal

Mr. Dalton reviewed the changes to the Chapter 17 Water, Sewer, and Sewage Disposal. The changes to the **attachment** are highlighted in red, the parts highlighted in green have not been reviewed in

depth as of yet by Mr. Dalton, and the focused discussion for this meeting are highlighted in yellow (17-36. D and 17-43. A, B, C). Mr. Dalton was asked by Council to put together framework which is also **attached**. Mrs. Harrison provided information for the Council members as well.

Mr. Dalton explained the framework and the possible policy that will need to be written by legal counsel. Mrs. Harrison questioned when the code for 17-36 was added and Mr. Dalton answered that he did not know, but he understands that it was on the books before 1989 annexation of area A. Mrs. Harrison voiced her opinion that the price should be the same as it was in 1989. Ms. Gibson asked how many home owners were the same from 1989 because if it is someone who has lived in the home since 1989, they have had ample time to switch over to sewer. She inquired about the longevity of the septic systems and if the septic tanks were close to failing on the 22 homes. Mr. Dalton spoke about how the Virginia Health Department is the agency that would check the viability and they have permitted minor repairs over the years. Mr. Steinmetz informed the Council know that minor repairs were permitted before but now a permit is required. Mr. Dalton stated staff would look into if there are any cesspools or waivers from the Virginia Health Department for more than minor repairs on any of the properties in question. Mayor Arnold asked if there were requirements on having a septic system pumped. Mr. Steinmetz stated that there are no such requirements and the inspections are not recorded.

Mr. Tibbens spoke to placing the information on the plat or the deed for future purchasers of each home, and Mr. Steinmetz explained banks may not give homeowners loans for properties with these types of notes. Mrs. Harrison expressed her impression that the purpose of 17-36 is receiving monthly revenue from citizens and thinks it would be better if the Council lowered the availability fees so more citizens would hook onto sewer and bring monthly revenue in quicker. Mayor Arnold answered that the monthly fee would take years to come close to the revenue the upfront availability fee would bring in.

It was the consensus of the Council that the amended code should contain the following elements:

Connection to the collection system required after a reasonable period of time

and

Connection to collection system required:

- if the existing septic system fails
- prior to permitting additions to dwellings that are served by a septic system, if it is determined that the planned addition will increase flow to the septic system or that the planned addition would reduce the setback from the septic system

It was the consensus of the Council that a policy should be established that will provide a financial incentive to property owners to connect to the collection system prior to the connection period established in code.

It was the consensus of the Council that steps be taken to provide for durable notice of the collection system connection requirements.

The Council discussed the timeframe that would be established for connection. Mr. Steinmetz and Mr. Tibbens thought a 10-year timeline is reasonable, Mrs. Harrison did not. Mr. Tibbens suggested if the Council does not stipulate a timeline, then there should not be any monetary assistance from the Town. Mr. Mazzarino thinks the Town should give them both options, Mr. Tibbens stated that it is not a great idea to give citizens so many options because they will just not choose. Mr. Arnold opined regarding a discount on the availability fees, saying a discount of \$10,000.00 could be applied in the first 5 years of the sunset period and a \$5,000.00 discount applied in the remainder of the sunset period sounded reasonable. Mrs. Harrison stated that the sewer availability fee in effect in 1989 should be adjusted for inflation and then applied to these connections. Ms. Gibson concurred and stated that it will be important to see the adjusted fee before any decision is made in this regard.

Mr. Dalton discussed his opinion that the funds for any grants should come from the general fund. Mr. Tibbens said the Council has more control over the general fund than the sewer fund. He also asked if there are any new loans that are expected to be pursued that have to do with sewer that the Town could add the grant money to and Mr. Dalton said no.

Mr. Dalton said that he will get the Council a revised framework and then with the Council's agreement he will get the information to an attorney to get their opinion. He stated that he will have the new framework available at the November 11th Council meeting if that is acceptable. There were no objections to that approach.

5. New Business

None.

6. Other

None.

7. Closed Session

None.

8. Adjourn

The Council adjourned at 4:58 p.m. on a motion by Ms. Gibson.

Erecka L. Gibson, Vice Mayor

Brandel Kelsey, Town Clerk

Chapter 17 WATER, SEWERS AND SEWAGE DISPOSAL¹

ARTICLE I. IN GENERAL

Sec. 17-1. Violation of chapter.

Unless otherwise specifically provided, a violation of any provision of this chapter shall constitute a Class 2 misdemeanor.

(Ord. of 4-10-12)

Cross reference(s)—Penalty for Class 2 misdemeanor, § 1-11.

Sec. 17-1.1. Charges, rates and fees referred to in chapter not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall affect any ordinance prescribing any charge, rate or fee referred to in this chapter and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

(Ord. of 4-10-12)

Sec. 17-2. Responsibility of superintendent of public works as to water and sewer connections.

- (a) The superintendent of public works **or designee** shall be responsible for the inspection and proper installation of all connections to the town's water and sewer systems.
- (b) No water supplied by the town shall be introduced into any premises, except under the supervision of the superintendent of public works **or designee**.

¹Editor's note(s)—An ordinance adopted April 10, 2012, repealed the former Ch. 17, §§ 17-1—17-4, 17-14—17-23, 17-25, 17-34—17-44, 17-49—17-58, and enacted a new Ch. 17 as set out herein. The former Ch. 17 pertained to similar subject matter and derived from the 1971 Code; ordinances adopted June 12, 1979; Sept. 11, 1979; Aug. 25, 1981; Nov. 10, 1981; July 13, 1982; Sept. 11, 1984; May 10, 1988; Aug. 15, 1989; Dec. 12, 1989; Jan. 9, 2001; and Sept. 13, 2011(1) and (3).

Cross reference(s)—Department of public works **utilities** responsible for water filtration and wastewater treatment, § 2-~~53~~ **63**; building regulations, Ch. 5; zoning ordinance, App. A; subdivision ordinance, App. B.

State law reference(s)—Authority of town to acquire, establish, maintain and operate waterworks, Code of Virginia, §§ 15.1-292, 15.1-875; public water supply, § 32.1-167 et seq.; authority of town to establish, maintain and operate sewage disposal system, §§ 15.1-320, 15.1-876; authority to regulate sewage disposal, §§ 15.1-855, 15.1-856.

(Ord. of 4-10-12)

Cross reference(s)—Department of public works, § 2-52 et seq. and department of public utilities, § 2-62 et seq.

Sec. 17-3. Damaging, defacing, etc., water or sewer system property.

- (a) No unauthorized person shall break, injure, damage, deface, destroy, uncover, move, ~~or~~ tamper, or interfere with any water main or service pipe, water meter, public sewer, manhole, fireplug or any other appurtenance, fixture, equipment or structure which is a part of, or is connected to, the town's water system or sewer system.
- (b) A violation of this section shall constitute a Class 1 misdemeanor. No penalty imposed for such violation shall prevent the town or any property owner or other person from recovering any damages sustained by reason of such violation, by appropriate civil action or otherwise.

(Ord. of 4-10-12)

Cross reference(s)—Penalty for Class 1 misdemeanor, § 1-11; damaging property generally, § 13-22.

Sec. 17-4. Construction specifications and standard details.

All water and sewer mains, lines, valves, hydrants, manholes, appurtenances and other improvements required for connection to the Town of Berryville's water and sewer systems shall be constructed, installed and/or extended in full compliance with the provisions and requirements of the document entitled "Town of Berryville Construction Standards and Specifications," as such document may be amended from time to time by the council of the Town of Berryville, and which document is set forth separately and apart from the Code of The Town of Berryville, but shall be incorporated by reference herein as a duly adopted section of the town council.

(Ord. of 4-10-12)

Secs. 17-5—17-13. Reserved.

ARTICLE II. WATER GENERALLY

Sec. 17-14. General powers and duties of superintendent of public works as to water system.

The superintendent of public works shall have supervision over the water system and all pipes, plugs and other properties in any way connected therewith. ~~He~~ The superintendent or designee shall keep all parts of the machinery and equipment in connection with the water system in good order and repair. ~~He~~ The superintendent or designee shall keep a map showing the location of the main pipes and length and size of each of them. When there is an extension of any main pipe, ~~he~~ the superintendent or designee shall mark on the map the place of the extension, size of pipe used and other related information and shall keep an account of the cost of material and labor used in making such extension. ~~He~~ The superintendent or designee shall keep a record of all branch pipes, hydrants and other connections with the water system.

(Ord. of 4-10-12)

Cross reference(s)—Department of public works, § 2-52 et seq.

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Sec. 17-15. Mandatory water connections; private wells prohibited.

- (a) Every building intended for human habitation or occupancy on premises abutting on a street in which there is a public water line shall have a connection with such water line. ~~If possible, such connection shall be separate for each building.~~ The town manager may waive this requirement for parcels of ten (10) acres or larger in size where such connection is deemed to be a hardship. Any waiver granted under this section may be revoked in writing by the town manager if public water service is extended in a manner that alleviates the hardship of connection to the public system.
- (b) ~~If possible, such e~~Connections to the public water service shall be separate for each building. The town manager may waive this requirement where such separate connection is deemed to be a hardship.
- (c) The water supply, as provided by the town, shall be neither connected with unsafe water supplies nor cross-connected, through plumbing fixtures, to the drainage system.
- (d) Unless otherwise permitted by this section, it shall be unlawful for the owner of any house or other building intended for human habitation or occupancy to occupy or to rent or lease the same for occupancy by any person, or for any person to occupy the same, unless such house or other building is provided with a supply of water meeting the requirements of this section. If any landlord shall fail to supply any such house or other building with such a supply of water, ~~his~~ the tenant shall supply the same in conformity with the orders of the health officer and may deduct the cost thereof from any sum due the landlord for rent.
- (e) It shall be unlawful for any person to drill, own, keep, use or maintain a private well within the town with the intent to circumvent the requirements of this section. In no instance may a well be drilled on any residentially zoned parcel that is less than ten (10) acres in size.

(Ord. of 4-10-12)

Sec. 17-16. Application for service.

Whenever any person owning property in the town along the line of any water main shall desire the introduction of water into such premises, ~~he~~ property owner shall make written application therefor to the town manager. Such application shall set forth the name of the applicant, the location of the property into which the water is to be introduced, the purposes for which the water is to be used and the name of the plumber who is to do the work incident to the introduction of water into the premises. Such application shall also contain a provision which, upon acceptance of the application by the town manager and subsequent connection of the service pipe with the main, will obligate the owner of the premises to pay for all water furnished pursuant to such application. The town manager shall not cause water to be furnished at any water connection until the owner of the premises has agreed to pay for all water furnished and owner has paid connection and availability fees.

(Ord. of 4-10-12)

Sec. 17-17. Permission of council required for service outside town.

No water shall be supplied by the town to any person outside the corporate limits of the town, except upon express permission granted by the council.

(Ord. of 4-10-12)

Sec. 17-18. Connection charges and availability fees.

For each water connection made to the public water system, there shall be a charge as set by the council for any and all residential, commercial, institutional and industrial connections. The council shall set these charges and fees only after a duly adopted resolution specifying charges for residential connections, involving single-family and multifamily dwellings, commercial, institutional and industrial establishments.

(Ord. of 4-10-12)

Sec. 17-19. Installation, inspection, etc., of meters.

- (a) Each meter installed for the measurement of water supplied by the town shall be installed by the town, or its appointed agent, at a location approved by the town or its agent. All meters so installed shall be the property of the town. For each such meter installed there shall be paid to the town, as a meter installation charge fee, such sum as is prescribed from time to time, by the council, to be collected when prior to the meter is being placed in into use.
- (b) Each meter installed for the measurement of water supplied by the town shall at all times be subject to control and inspection by the town or its agent, and where any meter is located on private property, the town shall have the right to enter upon or on the same at all reasonable hours for the purpose of inspecting, repairing, replacing or removing such meter or to take meter readings.

(Ord. of 4-10-12)

Sec. 17-20. Property owner or occupant responsible for expense of renewing replacing or repairing meter negligently damaged.

Any water meter damaged for any cause, directly or indirectly attributable to the negligence of the owner or occupant of the property served by such meter, shall be renewed replaced or repaired at the expense of such owner or occupant.

(Ord. of 4-10-12)

Sec. 17-21. By whom cutoffs made.

Water cutoffs shall be made by the superintendent of public works or designee.

(Ord. of 4-10-12)

Sec. 17-22. Charge for cutoff at request of customer.

A charge, in such amount as is, from time to time, prescribed by the council, shall be made for having water service to a particular premises turned off at the request of the customer.

(Ord. of 4-10-12)

Sec. 17-23. Unauthorized use of water.

No person shall use water from the town's water system without having obtained the right to do so.

(Ord. of 4-10-12)

Sec. 17-24. Reserved.

Sec. 17-25. Drought response ordinance.

- (a) *Drought supply situations.* The Town of Berryville acknowledges that there may be situations where the water supply to the town's water system is reduced by a variety of factors. In recognition of this, the town intends to apply educational, and ultimately enforcement actions, to achieve water conservation measures of varying degrees. This plan should enable appropriate water usage by appropriate water users at reduced consumption levels during these periods as declared by the town council.
- (b) *Drought water supply response plan.* The town council adopts by reference the current version of the Northern Shenandoah Valley Regional Commission (NSVRC) Drought Response Plan. The adoption of this plan, or a substitution plan authorized by the town council, is pursuant to, and authorized by, applicable sections of the Virginia Code (as required by 9VAC 25-780-120; and as authorized by § 15.2-923(ii) of the Code of Virginia - Local Water-Saving Ordinances, and § 15.2-924 - Water Supply Emergency Ordinances).
- (c) *Construction site stabilization during drought conditions.* To stabilize construction sites during drought conditions, strict adherence to the Erosion and Sediment Control (ESC) Minimum Standards and the Virginia ESC Handbook, along with frequent site inspection, must be applied. The current version of the Virginia Department of Conservation and Recreation Erosion & Sediment Control Technical Bulletin No. 3 Runoff Reduction Method manual will apply, recommends the following Examples of construction site stabilization methods during drought conditions include:
- (1) Preserve Preservation of established vegetation on construction sites.
 - (2) Establish Establishment of new vegetation to stabilize construction sites while conserving water.
 - (3) Stabilize Stabilization of construction sites using nonvegetative methods.
 - (4) Research oOther water conservation resources as identified on the bulletin-Runoff Reduction Method manual.
- (d) *Decisions/declarations and data sources.*
- (1) The town council reserves the right to interpret local water system data, and have sole control over the declaration of a drought/low water supply watch, warning, or emergency. Likewise, the town council reserves the right to reduce, rescind, or eliminate any such declaration. The mayor and town manager may make the following declarations in accordance with provisions of this section.

WATCH— When a ten-percent reduction or more in available water supply is observed. Under a watch declaration, the following voluntary measures are sought:
 - a. Voluntary water conservation.
 - i. Residents/businesses are asked to review their water usage and be aware of and limit high water use including but not limited to overwatering lawns, washing sidewalks and driveways.
 - ii. Residents/businesses are asked to only water lawns and landscaping on even or odd days based on their address. If their address is an even number, water on even numbered days, if their address is an odd number, water on odd numbered days.
WARNING— When a fifteen-percent reduction or more in available water supply is observed. Under a warning declaration, the following voluntary measures are sought:

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- a. Voluntary water conservation.
 - i. Residents/businesses are asked to review their water usage ~~and be aware of~~ and limit high water use.
 - b. Mandatory water restrictions.
 - i. Residents shall only water lawns and landscaping on even or odd days based on their address as specified above.
 - ii. Where possible, non-vegetative erosion and sediment control methods shall be employed as identified in the current version of the Virginia Department of Conservation and Recreation Erosion & Sediment Control Technical Bulletin No. 3 Runoff Reduction Method manual. Required ~~D~~drought bond ~~is~~ in an amount designated by the community development director shall be submitted.
 - iii. ~~No~~Car washing or outdoor washing is prohibited. Commercial carwashes utilizing public water will be permitted to operate if they can demonstrate that at least fifty (50) percent of the water used is recycled during the car washing process. Commercial carwashes where well water is used may operate as usual but shall post signs at the business indicating such water source.
 - iv. ~~No~~Washing of streets, driveways, parking lots, service station aprons, office buildings, exteriors of homes or apartments or other outdoor surfaces is prohibited.
 - v. ~~No~~Operation of any outdoor fountain or other structure making a similar use of water is prohibited.
 - vi. ~~No~~Filling of swimming and/or wading pools is prohibited. Topping off of pools is permitted.
 - vii. ~~No~~Use of water from fire hydrants for any purpose other than fire suppression, water distribution flushing, or other public emergency is prohibited.

EMERGENCY— When a twenty-percent reduction or more in available water supply is observed. Under an emergency declaration the following are mandatory restrictions

- a. Mandatory water restrictions.
 - i. Public/businesses are required to conserve. Penalties/sanctions are enforceable pursuant to town ordinance for failure to comply with restrictions as listed.
 - ii. Public notification will be posted of "Mandatory water restrictions in effect."
 - iii. All mandatory restrictions listed under the warning level, unless modified in this section, shall be enforced.
 - iv. High water users (those consistently using more than one thousand (1,000) gal/day) shall have prepared curtailment plans demonstrating how they shall respond to emergency situations and shall implement such.
 - v. ~~No car washing or outdoor washing. Commercial carwashes will be permitted to operate if they can demonstrate that at least fifty (50) percent of the water used is recycled during the car washing process. Commercial carwashes where well water is used may operate as usual but shall post signs at the business indicating such water source.~~
 - vi. ~~No~~Lawn and landscaping watering is prohibited, except the ~~U~~use of gray water is permitted for plants, shrubs and gardens in accordance with Virginia Department of Health and Virginia Department of Environmental Quality standards. Definitions of gray water:

- Relatively clean waste water, such as from kitchen, bathroom (including water from bathtubs, showers and sinks, but not the from toilets), and laundry cycles clothes washers. This water can be reused or recycled with little or no treatment for landscape irrigation and other nonpotable uses.

~~• Waste water discharged from residential lavatories, bathtubs, showers, clothes washers, and laundry trays.~~

vii. ~~No "topping-off" of~~ Filling or topping off of swimming and/or wading pools is prohibited.

- (2) The town council shall choose their local data sources, establish their local trigger points for the varying declarations, and evaluate various information sources prior to enabling or rescinding any noted declaration.
- (3) Should the NSVRC drought response plan become unsuitable to the Town of Berryville, the council reserves the right to substitute its own drought/low water supply response plan (as approved by the commonwealth) in lieu of subsection (b).
- (4) Should the water usage reduction measures implemented by the town, either voluntary or mandatory, prove inadequate, the town council shall have the authority to impose additional measures to achieve the water usage reduction goals.

(e) *Enforcement.*

- (1) Violations of this section shall constitute an offense as outlined herein. The Berryville Police Department shall be charged with enforcing this section.
- (2) During a watch declaration:
 - a. Verbal reminder for any noted issues.
- (3) During a warning declaration enforcement for mandatory restrictions:

a.	First offense	Verbal warning
b.	Second offense	Written warning notice
c.	Third offense	Disconnection of service and initiation of legal action

(4) During an emergency declaration enforcement for mandatory restrictions:

a.	First offense	Written warning notice
b.	Second offense	Disconnection of service and initiation of legal action
c.	Third offense	Disconnection of service and initiation of legal action

- (5) Reconnection fees shall apply to any customer whose service was disconnected ~~under in for~~ violation of the emergency declaration.
- (6) Town manager may, in accordance with this chapter, initiate legal action against ~~fl~~agrant and/or repeat offenders of any declaration ~~may, by decision of the town manager, initiate legal action of this provision.~~

(f) *Enforcement actions.* Any person who shall violate any of the provisions of this section, or of any of the conservation regulations promulgated by the mayor and town manager pursuant thereto, shall upon conviction thereof, be fined not less than one hundred dollars (\$100.00), nor more than five hundred dollars (\$500.00). Each act or each day's continuation of the violation shall be considered a separate offense. In addition to the foregoing, the town manager may suspend water service to any person continuing to violate

the provisions of this section or the regulations promulgated hereunder. If such water service is terminated, the person shall pay a reconnection fee as established by town council before service will be restored.

(g) *Appeal process.*

(1) If a customer wishes to appeal any decision by the town manager, they may present their case before the town council.

(2) If a customer wishes to appeal any decision by the town council, they may present their case before the circuit court.

(h) *Notification.*

(1) The mayor and town manager, upon rendering a decision pursuant to this chapter, may make such decision known to the public by a variety of media sources such as newspaper, local television access channel, written notices, ~~and/or~~ telephone contacts, and/or town website.

(Ord. of 4-10-12)

Secs. 17-26—17-33. Reserved.

ARTICLE III. SEWERS AND SEWAGE DISPOSAL

Sec. 17-34. General provisions.

(a) *Purpose.* The purpose of this chapter is to provide for the maximum possible beneficial public use of the Town of Berryville treatment works through regulation of sewer construction, sewer use, and wastewater discharges; to provide for equitable fair and reasonable distribution of the costs of the treatment works; and to provide procedures for complying with the requirements contained herein.

(b) *Scope.*

(1) The definitions of terms used in this chapter are found in ~~aArticle II~~Section 17-35. The provisions of this chapter shall apply to the discharge of all wastewater to treatment works of the Town of Berryville. This chapter provides for use of the Town of Berryville treatment works, regulation of sewer construction, control of the quantity and quality of wastewater discharged, wastewater pretreatment, equitable fair and reasonable distribution of costs, assurance that existing customers' capacity will not be preempted, approval of sewer construction plans, issuance of user permits, minimum sewer connection standards and conditions, and penalties and other procedures in cases of violation of this chapter.

(2) This chapter shall apply to the Town of Berryville and to persons outside the town who are, by contract, permit or agreement with the town, users of the town's treatment works.

(c) *Administration.* Except as otherwise provided herein, the director of public utilities shall administer, implement, and enforce the provisions of this chapter.

(d) *Fees and charges.*

(1) All fees and charges payable under the provisions of this chapter shall be paid to the town. Such fees and charges shall be as set forth herein or as established in the latest edition of the Town of Berryville Schedule of Water and Sewer Fees and Charges.

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- (2) All user fees, penalties and charges collected under this chapter (and the treatment works user charge ordinance) shall be used for the sole purpose of constructing, operating or maintaining the treatment works of the town, or the retirement of debt incurred for same.
 - (3) All fees and charges payable under the provisions of this chapter are due and payable upon the receipt of notice of charges. Unpaid charges shall become delinquent and shall be subject to penalty and interest charges as provided for in the latest edition of the Town of Berryville Schedule of Water and Sewer Fees and Charges.
- (e) *Inspections.*
- (1) The director of public utilities or authorized state or federal officials, bearing the proper credentials and identification, shall be permitted to enter all premises where an effluent source or treatment system is located at any reasonable time for the purposes of inspection, observation, measurement, sampling and/or copying records of the wastewater discharge to ensure that discharge to the treatment works is in accordance with the provisions of this chapter.
 - (2) The director **of public utilities** authorized representative, bearing proper credentials and identification, shall be permitted to enter all private property through which the town holds an easement for the purposes of inspection, observation, measurement, sampling, repair, and maintenance of any of the town's treatment works lying within the easement. All entry, and any subsequent work on the easement, shall be done in final accordance with the terms of the easement pertaining to the private property involved.
 - (3) While performing any necessary work on private properties referred to in subsections (e)(1) and (2) above, the director shall observe all safety and occupational rules established by the owner or occupant of the property and applicable to the premises.
- (f) *Separability.* If any provision of these regulations, or the application of any provision of these regulations to any person or circumstances, is held invalid, the application of such provision to other persons or circumstances, and the remainder of the regulations, shall not be affected thereby.
- (g) *Amendments of the chapter.* Public notice shall be given in accordance with applicable provisions of the Town Charter, other town ordinances, state and federal law, prior to adoption of any amendments of this chapter.

(Ord. of 4-10-12)

Sec. 17-35. Definitions.

- (a) *Specific definitions.* Unless the context of usage indicates otherwise, the meaning of specific terms in this chapter shall be as follows:

Act shall mean the Federal Clean Water Act, 33. U.S.C. 1251 et seq.

Approval authority means the executive director or director of the department of environmental quality.

ASTM shall mean the American Society for Testing and Materials.

Authorized representative of industrial user shall mean:

- (1) A principal executive officer of at least the level of vice president, if the industrial user is a corporation;
or
- (2) A general partner or proprietor if the industrial user is a partnership or sole proprietorship respectively;
or

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- (3) A duly authorized representative of the individual designated in subsections (1) or (2), above, if such representative is responsible for the overall operation of the facility from which the discharge to the POTW originates. The authorization must be submitted to the ~~(manager)~~ **director** prior to or together with any reports to be signed by the authorized representative.

BOD (denoting biochemical oxygen demand) shall mean the quantity of oxygen used in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees Celsius, expressed in milligrams per liter.

Building sewer shall mean the extension of the lateral (service) line from a building wastewater plumbing facility to the sewer main or manhole of the treatment works.

Categorical pretreatment standard or categorical standard shall mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Sections 307(a) and 307(c) of the Act, which apply to specific categories of industrial users which appear in 40 CFR Chapter I, Subchapter N, Parts 405—471.

Combined sewer shall mean a sewer intended to receive both wastewater and storm or surface water.

Day shall mean the 24-hour period beginning at 12:01 a.m.

Director shall mean the town director of public utilities or an authorized designee.

Discharger shall mean person or persons, firm, company, industry or other similar sources of wastewater who introduce such into the POTW.

Easement shall mean an acquired legal right for the specific use of land owned by others.

EPA shall mean the United States Environmental Protection Agency.

Establishment shall mean any industrial establishment, mill, factory, tannery, paper or pulp mill, mine, coal mine, colliery, breaker or coal processing operations, quarry, oil refinery, boat, vessel, and each and every other industry or plant or works the operation of which produces industrial wastes or other wastes or which may otherwise alter the physical, chemical or biological properties of any state waters.

Existing source shall mean any source of discharge, the construction or operation of which commenced prior to the publication of proposed categorical pretreatment standards which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

Garbage shall mean the solid animal and vegetable wastes resulting from the domestic or commercial handling, storage, dispensing, preparation, cooking, and serving of foods.

Ground water shall mean any water beneath the land surface in the zone of saturation.

Indirect discharge shall mean the introduction of (nondomestic) pollutants into the POTW from any nondomestic source regulated under Section 307(b), (c) or (d) of the Act.

Industrial user or significant discharger means a source of indirect discharge, or a nondomestic discharge to a treatment works.

Industrial wastes shall mean liquid or other wastes resulting from any process of industry, manufacture, trade or business, or from the development of any natural resources.

Interference shall mean an inhibition or disruption of the POTW, its treatment processes or operations, or its sludge processes, which clearly causes, in whole or in part, a violation of any requirement of the POTW's VPDES permit, including those discharges that prevent the use or disposal of sludge by the POTW in accordance with any federal or state laws, regulations, permits or sludge management plans.

May is permissible; *Shall* is mandatory.

Municipality shall mean a town, district association, authority or other public body created under the law and having jurisdiction over disposal of sewage, industrial, or other wastes.

Natural outlet shall mean any outlet into a watercourse, pond, ditch, lake, or any other body of surface or groundwater.

New source shall have the same meaning as provided in 40 CFR Part 403.3(k) (1990).

VPDES shall mean Virginia Pollutant Discharge Elimination System permit program, as administered by the Commonwealth of Virginia.

Owner shall mean the commonwealth or any of its political subdivisions, including, but not limited to, sanitation district commissions and authorities, and public or private institutions, corporations, associations, firms or companies organized or existing under the laws of this or any other state or country, or any person or group of persons acting individually or as a group.

Pass-through shall mean the discharge of pollutants through a POTW into state waters in quantities or concentrations which are a cause in whole or in part of a violation of any requirement of the POTW's VPDES permit, including an increase in the magnitude or duration of a violation.

Person shall mean any individual, firm, company, association, society, partnership, corporation, municipality, or other similar organization, agency or group.

pH shall mean the logarithm of the reciprocal of the hydrogen ion concentration expressed in grams per liter of solution as determined by standard methods.

Pollutant shall mean any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical waste, chemical waste, industrial waste, biological materials, radio active material, heat wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial waste, and certain characteristics of the wastewater (i.e., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, odor).

POTW, publicly owned treatment works shall mean any sewage treatment works that is owned by a state or municipality. Sewers, pipes, or other conveyances are included in this definition only if they convey wastewater to a POTW providing treatment.

Pretreatment shall mean the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to discharge to the Town of Berryville treatment works.

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

Pretreatment standard shall mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act, which applies to industrial users.

Properly shredded garbage shall mean garbage that has been shredded to such a degree that all particles will be carried freely under flow conditions normally prevailing in the treatment works, with no particle greater than one-half-inch in any dimension.

Residential user (Class 1) shall mean all premises used only for human residency and which ~~is~~ are connected to the treatment works.

Sanitary wastewater shall mean wastewater discharged from the sanitary conveniences of dwellings, office buildings, industrial plants, or institutions.

Significant industrial user shall be defined as follows:

- (1) Has a process wastewater* flow of twenty-five thousand (25,000) gallons or more per average work day;

(*Excludes sanitary, noncontact cooling and boiler blowdown wastewater)

- (2) Contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW;
- (3) Is subject to categorical pretreatment standards; or
- (4) Has significant impact, either singularly or in combination with other significant dischargers, on the treatment works or the quality of its effluent.

Slug load shall mean any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standard in ~~a~~Article III, ~~s~~Section 17-38 of this chapter or any discharge of a nonroutine, episodic nature, including but not limited to, an accidental spill or a noncustomary batch discharge.

Standard methods shall mean the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, Water Pollution Control Federation and American Water Works Association.

State shall mean the Commonwealth of Virginia.

Storm sewer shall mean a sewer for conveying storm, surface, and other waters, which is not intended to be transported to a treatment works.

Surface water shall mean:

- (1) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
- (2) All interstate waters, including interstate "wetlands";
- (3) All other waters, such as inter/intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, "wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
 - i. Which are or could be used by interstate or foreign travelers for recreational or other purposes;
 - ii. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
 - iii. Which are used or could be used for industrial purposes by industries in interstate commerce.
- (4) All impoundments of waters otherwise defined as surface waters under this definition;
- (5) Tributaries of waters identified in paragraphs (1) through (7) of this definition;
- (6) The territorial sea; and
- (7) "Wetlands" adjacent to waters other than waters that are themselves wetlands, identified in paragraphs (1) through (6) of this definition.

Suspended solids shall mean the total suspended matter that either floats on the surface of, or is in suspension in, water or wastewater as determined by standard methods.

Treatment facility shall mean only those mechanical power-driven devices necessary for the transmission and treatment of pollutants (e.g., pump stations, unit treatment processes).

Treatment works shall mean any devices and systems used for the storage, treatment, recycling and/or reclamation of sewage or liquid industrial waste, or other waste necessary to recycle or reuse water, including intercepting sewers, outfall sewers, sewage collection systems, individual systems, pumping, power and other equipment and their appurtenances, extensions, improvements, remodeling, additions, or alterations, and any works, including land that will be an integral part of the treatment process or is used for ultimate disposal of

residues resulting from such treatment, or any other method or system used for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste or industrial waste, including waste in combined sewer water and sanitary sewer systems.

Toxics shall mean any of the pollutants designated by federal regulations pursuant to Section 307(a)(1) of the Act.

User shall mean a source of wastewater discharge into a POTW.

User permit shall mean a document issued by the POTW to the user that permits the connection and/or introduction of wastes into the treatment works under the provisions of this chapter.

Wastewater shall mean a combination of liquid and water-carried wastes from residences, commercial buildings, industries, and institutions, together with any groundwater, surface water, or stormwater that may be present.

WPCF shall mean the Water Pollution Control Federation.

- (b) *General definitions.* Unless the context of usage indicates otherwise, the meaning of terms in this chapter and not defined in subsection (a) above, shall be as defined in the Glossary: Water and Wastewater Control Engineering prepared by Joint Editorial Board of the American Public Health Association, American Society of Civil Engineers, American Water Works Association, and Water Pollution Control Federation, ~~Copyright 1969~~ current edition.

(Ord. of 4-10-12)

Sec. 17-36. Use of town's treatment works and treatment facility.

- (a) *Waste disposal.* It shall be unlawful for any person to place, deposit, or permit to be deposited in any condition that may be considered as an unsanitary or unhygienic manner on public or private property within the Town of Berryville, or in any area under the jurisdiction of said town, any human or animal excrement, garbage, or other objectionable waste.
- (b) *Wastewater discharges.* It shall be unlawful under state and federal law to discharge without a VPDES permit to any natural outlet within the Town of Berryville or in any area under its jurisdiction. Wastewater discharges to the town's treatment works are not authorized unless permitted by director in accordance with provisions of this chapter.
- (c) *Wastewater disposal.* Except as provided in this chapter, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.
- (d) *Connection to treatment works required.* The owner of any house, building, or property which is used for commercial, industrial and/or residential purposes, abutting on any street, alley, or rights-of-way in which there is or may be located a sewer connected to the treatment works of the town, is required at the owner's expense to install suitable toilet facilities therein, and to connect such facilities directly to the proper sewer in accordance with the provisions of this chapter, within one hundred eighty (180) days after notice that sewer is available within two hundred fifty (250) feet of the property line. This section shall not apply to any person served by a privately constructed, owned, operated, and maintained sewer and treatment facility which discharges directly to a natural outlet in accordance with the provisions of this chapter and applicable state and federal laws.

(Ord. of 4-10-12)

Sec. 17-37. Building sewers and connections.

- (a) *Cost for building sewer installation, connection, maintenance, and repair.* All costs and expenses incident to the installation, connection, maintenance and repair of the building sewer shall be borne by the owner or occupant. The owner/occupant shall indemnify the town from any loss or damage that may directly or indirectly be occasioned by the installation, maintenance and /or repair of the building sewer.
- (b) *Connection permit.*
- (1) No person shall uncover, make any connections with, use, alter, or disturb any wastewater sewer or storm sewer without first obtaining a written permit from the director of public works.
 - (2) There shall be two (2) classes of permits for connections to the town's treatment works and treatment facilities.
CLASS I—Residential
CLASS II—Industrial
In all cases, the owner shall make application for a permit to connect to the town's treatment works on a form furnished by the town. The permit application shall be supplemented by wastewater information required to administer this chapter. Connection **application and availability** fees, as identified in the latest edition of the Town of Berryville Schedule of Water and Sewer Fees and Charges, shall be paid at time of application.
 - (3) Connections to a **storm** sewer shall be subject to a connection permit and inspection fee. Connection permit and inspection fees, as identified in the latest edition of the Town of Berryville Schedule of Water and Sewer Fees and Charges, shall be paid at time of application. Such connections shall be subject to the provisions of this chapter and the approval of the director **and director of public works**.
- (c) *Separate connections required.* A separate and independent building sewer shall be provided for every building except where one (1) building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard, ~~or~~ driveway, **or when the town manager determines that it is in the best interest of the town to permit a shared building sewer**. When this occurs, the building sewer serving the front building may be extended to the rear building and the whole considered as one (1) building sewer. The town assumes no obligation or responsibility for damage caused by or resulting from any single building sewer which serves two (2) buildings **and may require the property owners utilizing the shared building sewer to enter into a shared maintenance agreement for the building sewer and that such agreement be recorded in the land records of the clerk of the Circuit Court of Clarke County, Virginia**.
- (d) *Existing building sewers.* Existing building sewers may be used for connection of new buildings only when they are found, on examination and testing by the director of public works, to meet the requirements of this chapter.
- (e) *Building sewer design.* The size, slope, alignment, construction materials, trench excavation and backfill methods, pipe placement, jointing and testing methods used in the construction and installation of a building sewer shall conform to the building and plumbing code or other applicable requirements of the town. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF shall apply.
- (f) *Building sewer elevation.* Whenever practicable, the building sewer shall be brought to a building at an elevation below the basement floor. In buildings in which any building drain is too low to permit gravity flow to the town's treatment works, wastewater carried by such building drain shall be lifted by an approved means and discharged to a building sewer draining to the town sewer. The cost of said lifting shall be borne

by the property owner. The property owner shall be responsible for maintaining all equipment and improvements required to lift the discharge.

- (g) *Surface runoff and groundwater drains.*
- (1) No person shall connect roof, foundation, areaway, parking lot, roadway, or other surface runoff or groundwater drains to any sewer which is connected to a treatment works.
 - (2) Roof, foundation, areaway, parking lot, roadway, or other surface runoff or groundwater drains shall discharge to natural outlets or storm sewers.
- (h) *Conformance to applicable codes.* The connection of a building sewer into a treatment works shall conform to the requirements of the building and plumbing code or other applicable requirements of the town, or the procedures set forth in appropriate specifications of the Commonwealth of Virginia Sewerage Regulations, Uniform Building Code of Virginia, and American Society of Testing Materials. The connections shall be made gas-tight and water-tight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved in writing by the director **of public works** before installation.
- (i) *Connection inspection.* The applicant for a building sewer or other drainage connection permit shall notify the director when such sewer or drainage connection is ready for inspection prior to its connection to the town's treatment works. Such connection inspections and testing as deemed necessary by the director shall be made by the director of public works or authorized designee.
- (j) *Excavation guards and property restoration.* Excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property **may not be** disturbed in the course of the work **prior to issuance of a land use permit by the town** and shall be restored in a manner satisfactory to the Town of Berryville.
- (k) *Protection of capacity for existing users.* The director shall not issue a permit for any class of connection to the town's treatment works or treatment facilities unless there is sufficient capacity, not legally committed to other users, in the treatment works and treatment facilities to convey and adequately treat the quantity of wastewater which the requested connection will add to the treatment works or treatment facility. The director may permit such a connection if there are legally binding commitments to provide the needed capacity.

(Ord. of 4-10-12)

Sec. 17-38. Conditions to use the town's treatment works.

- (a) *Special uses of treatment works.* All discharges of stormwater, surface water, groundwater, roof runoff, subsurface drainage, or other waters not intended to be treated in the treatment facility shall be made to storm sewers or natural outlets designed for such discharges. Any connection, drain, or arrangement which will permit any such waters to enter any other sewer shall be deemed to be a violation of this section and this chapter.
- (b) *Industrial user, general prohibition upon.* An industrial user shall not introduce any pollutants into the town's treatment works which will pass through or interfere with the operation or performance of the treatment facilities.
- (c) *Restricted discharges.*
- (1) No person shall discharge or cause to be discharged to any of the town's treatment works any substances, materials, waters, or wastes in such quantities or concentrations which do or are likely to
Create a fire or explosion hazard including, but not limited to, gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas; waste stream with a closed cup

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flashpoint of less than one hundred forty (140) degrees Fahrenheit or sixty (60) degrees Centigrade using test methods specified in 40 CFR 261.21;

- ii. Cause corrosive damage or hazard to structures, equipment, or personnel of the wastewater facilities, but in no case discharges with the following properties:
 - Having a pH lower than 6.0 or greater than 10.0;
- iii. Cause obstruction to the flow in sewers, or other interference with the operation of treatment facilities due to accumulation of solid or viscous materials;
- iv. Constitute a rate of discharge or substantial deviation from normal rates of discharge, ("slug discharge"), sufficient to cause interference in the operation and performance of the treatment facilities;
- v. Contain heat in amounts which are likely to accelerate the biodegradation of wastes, causing the formation of excessive amounts of hydrogen sulfide in the treatment works or inhibit biological activity in the treatment facilities, but in no case shall the discharge of heat cause the temperature in the town wastewater sewer to exceed sixty-five (65) degrees Celsius (one hundred fifty (150) degrees Fahrenheit) or the temperature of the influent to the treatment facilities to exceed forty (40) degrees Celsius (one hundred four (104) degrees Fahrenheit);
- vi. Contain more than one hundred (100) milligrams per liter of nonbiodegradable oils of mineral or petroleum origin;
- vii. Contain floatable oils, fat, or grease;
- viii. Contain noxious gases, vapors or fumes, malodorous gas or substance in quantities that may cause a public nuisance or cause acute human or safety problems;
- ix. Contain radioactive wastes in harmful quantities as defined by applicable state and federal regulations;
- x. Contain any garbage that has not been properly shredded;
- xi. Contain any odor or color producing substances exceeding concentration limits which may be established by the director for purposes of meeting the town's VPDES permit;
- xii. Petroleum oil, nonbiodegradable cutting oil or products of mineral oil origin in amounts that will cause interference or pass through;
- xiii. Any trucked or hauled pollutants except at designated discharge points.

- (2) If, in establishing discharge restrictions, discharge limits, or pretreatment standards pursuant to the article, the director establishes concentration limits to be met by a user, the director in lieu of concentration limits, may establish mass limits of comparable stringency for an individual user at the request of such user. Upon approval by the state, such limits should become pretreatment standards.

(d) *Categorical pretreatment standards.*

- (1) No person shall discharge or cause to be discharged to any treatment works wastewaters containing substances subject to an applicable categorical pretreatment standard promulgated by EPA in excess of the quantity prescribed in such applicable pretreatment standards except as otherwise provided in this section. Compliance with such applicable pretreatment standards shall be within three (3) years of the date the standard is promulgated, provided, however, compliance with a categorical pretreatment standard for new sources shall be required upon commencement of discharge to the treatment works.
- (2) The director shall notify any industrial user affected by the provisions of this section and establish an enforceable compliance schedule for each.

(3) No person shall discharge trucked hazardous wastes to the town's treatment works.

(e) *Special agreements.* Nothing in this article shall be construed as preventing any agreement or arrangement between the town and any user of the treatment works and treatment facility whereby wastewater of unusual strength or character (only in terms of BOD and/or suspended solids) is accepted into the system and specially treated subject to additional payments or user charges as may be applicable.

(f) *Water and energy conservation.* The conservation of water and energy shall be encouraged by the director. In establishing discharge restrictions upon users, the director shall take into account already implemented or planned conservation steps revealed by the user. Upon request of the director, each user will provide the director with pertinent information showing that the quantities of substances or pollutants have not been and will not be increased as a result of the conservation steps. Upon such a showing to the satisfaction of the director, he shall make adjustments to discharge restrictions, which have been based on concentrations to reflect the conservation steps.

(g) *Excessive discharge.* No 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 the limitations contained in the Federal Categorical Pretreatment Standards, or in any other pollutant-specific limitation developed by the town or state.

(h) *Accidental discharges.*

(1) Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this chapter. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or user'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 by the town before construction of the facility. No user who commences contribution to the POTW after the effective date of this chapter shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the town. Review and approval of such plans and operating procedures shall not relieve the user from the responsibility to modify the user's facility as necessary to meet the requirements of this chapter. In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.

(2) Within five (5) days following an accidental discharge, the user shall submit to the director a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the treatment works and treatment facility, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law.

(3) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall insure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

(Ord. of 4-10-12)

Sec. 17-39. Industrial dischargers.

(a) *Information requirements.*

(1) All industrial dischargers shall file with the town wastewater information deemed necessary by the director for determination of compliance with this chapter, the town's VPDES permit conditions, and state and federal law. Such information shall be provided by completion of a questionnaire designed and supplied by the director and by supplements thereto as may be necessary. Information requested in the questionnaire and designated by the discharger as confidential is subject to the conditions of confidentiality as set out in subsection (a)(3).

(2) Where a person owns, operates or occupies properties designated as an industrial discharger at more than one (1) location, separate information submittals shall be made for each location as may be required by the director.

(3) Information and data on an industrial user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency 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 of the user.

When requested by the person furnishing a report, 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 upon written request to governmental agencies for uses related to this chapter, The Virginia Pollutant Discharge Elimination System (VPDES) Permit, state disposal system permit and/or the pretreatment programs, provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by the town as confidential, shall not be transmitted to any governmental agency or to the general public by the town until and unless a ten-day notification is given to the user.

(b) User permits.

(1) All significant industrial users proposing to connect to or to contribute to the treatment works shall obtain a user permit before connecting to or contributing to the treatment works. All existing significant industrial users connected to or contributing to the treatment works shall obtain a user permit within one hundred eighty (180) days after the effective date of this chapter.

(2) Significant industrial users required to obtain a permit shall complete, and file with the town, an application in the form prescribed by the town. Applicants for significant industrial user permits shall pay a fee, as identified in the latest edition of the Town of Berryville Schedule of Water and Sewer Fees and Charges, at time of application. Existing significant industrial users shall apply for a permit within thirty (30) days after the effective date of this chapter, and proposed new significant industrial users shall apply at least ninety (90) days prior to connecting to or contributing to the treatment works. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

i. Name, address, and location, (if different from address);

ii. SIC number according to the Standards Industrial Classification Manual, Bureau of the Budget, 1987, as amended;

iii. Wastewater constituents and characteristics including, but not limited to, those mentioned in section 17-38 of this chapter as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136, as amended;

iv. Time and duration of contribution;

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- v. Average daily and peak wastewater flow rates, including daily, monthly and seasonal variations, if any;
 - vi. Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by their size, location and elevation;
 - vii. Description of activities, facilities and plant processes on the premises including all materials which are or could be discharged;
 - viii. 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 applicable pretreatment standards;
 - ix. 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.

The following conditions shall apply to this schedule:

- a. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.);
- b. No increment referred to in paragraph a. above shall exceed one (1) year;
- c. Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the director including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress; the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than one (1) year elapse between such progress reports to the director.
- x. Each product produced by type, amount, process or processes and rate of production;
- xi. Type and amount of raw materials processed (average and maximum per day);
- xii. Number of type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;
- xiii. Any other information as may be deemed by the town to be necessary to evaluate the user permit application.

The Town of Berryville 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 user permit subject to terms and conditions provided herein

- (3) Within nine (9) months of the promulgation of a National Categorical Pretreatment Standard, the user permit of users subject to such standards shall be revised to require compliance with such standard if they are more restrictive than the local limits developed by the POTW within the timeframe prescribed by such standard. Where a user, subject to a National Categorical Pretreatment Standard, has not previously submitted an application for a user permit as required by subsection (b)(2), the user shall

apply for a user permit within one hundred eighty (180) days after the promulgation of the applicable National Categorical Pretreatment Standard. In addition, the user with an existing user permit shall submit to the (manager), within one hundred eighty (180) days after the promulgation of an applicable federal categorical pretreatment standard, the information required by subsection (b)(2)viii. and ix.

(4) Permit conditions. User permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by the town. Permits shall contain the following:

- i. The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;
- ii. Limits on the average and maximum wastewater constituents and characteristics;
- iii. Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;
- iv. Requirements for installation and maintenance of inspection and sampling facilities;
- v. Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;
- vi. Compliance schedules;
- vii. Requirements for submission of technical reports or discharge reports (See subsection (c));
- viii. Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the town, and affording the town access thereto;
- ix. Requirements for notification of the town for any new introduction of wastewater constituents or any substantial change in volume or character of the wastewater constituents being introduced into the treatment works;
- x. Requirements for immediate notification of slug discharges;
- xi. Other conditions as deemed appropriate by the town to ensure compliance with this chapter; and
- xii. Statement of applicable remedies.

(5) User permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of one hundred eighty (180) days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the town during the term of the permit as limitations or requirements as identified in subsection (b) are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(6) User permits are issued to a specific user for a specific operation. A user permit shall not be reassigned or transferred or sold by the user to a new owner, new user, different premises, or a new or changed operation without the approval of the town. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit in the interim prior to the issuance of the respective new permit.

(c) *Reporting requirements for permittee.*

(1) Within ninety (90) days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the

wastewater treatment facilities, any user subject to pretreatment standards and requirements shall submit to the director a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. In addition, the report shall contain the results of any sampling and analysis of the discharge as specified in paragraph (c)(2) below. This statement shall be signed by an authorized representative of the user, and certified to by a qualified professional.

(2) Any user subject to a pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of such pretreatment standard or in the case of a new source, after commencement of the discharge into the treatment works, shall submit to the director during the months of June and December, unless required more frequently in the pretreatment standard or by the director, a report indicating the nature and concentration, of pollutants in the effluent which are limited by such pretreatment standards. In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow reported. At the discretion of the director and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the director may agree to alter the months during which the above reports are to be submitted.

i. The director may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by subparagraph (c)(1) of this section shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the director, of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the permit. All analysis shall be performed in accordance with procedures established by EPA pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136 and amendments thereto or with any other test procedures approved by EPA. Sampling shall be performed in accordance with the techniques approved by EPA. All samples analyzed by this method should be reported.

(d) *Provision for monitoring.*

(1) When required by the director, the owner of any property serviced by a building sewer carrying Class II wastewater discharges shall provide suitable access and such necessary meters and other devices in the building sewer to facilitate observation, sampling, and measurement of the wastewater. Such access shall be in a readily and safely accessible location and shall be provided in accordance with plans approved by the director. The access shall be provided and maintained at the owner's expense so as to be safe and accessible at reasonable times.

(2) The director shall consider such factors as the volume and strength of discharge, rate of discharge, quantities of toxic materials in the discharge, treatment facility removal capabilities, and cost effectiveness in determining whether or not access and equipment for monitoring Class II wastewater discharges shall be required.

(3) Where the director determines access and equipment for monitoring or measuring Class II wastewater discharges is not practicable, reliable, or cost effective, the (manager) may specify alternative methods of determining the characteristics of the wastewaters discharge which will, in the director's judgment, provide a reasonably reliable measurement of such characteristics.

(4) Measurements, tests, and analyses of the characteristics of wastewater required by this chapter shall conform to 40 CFR, Part 136 and be performed by a qualified laboratory. When such analyses are required of a discharger, the discharger shall make arrangement with any qualified laboratory to perform such analyses.

(5) Fees for any given measurement, test, or analysis of wastewater required by this chapter and performed by the town shall be the same for all classes of dischargers, regardless of the quantity or quality of the discharge and shall reflect only direct cost. Costs of analyses performed by an independent laboratory at the option of discharger shall be borne directly by the discharger.

(e) *Costs of damage.* If the drainage or discharge from any establishment causes a deposit, obstruction, or damage to any of the town's treatment works or treatment facility, the director shall cause the deposit or obstruction to be promptly removed or cause the damage to be promptly repaired. The cost for such work, including materials, labor, and supervision shall be borne by the person causing such deposit, obstruction, or damage.

(Ord. of 4-10-12)

Sec. 17-40. Pretreatment.

(a) *Wastewaters with special characteristics.*

(1) While the director should initially rely upon the Federal Categorical Pretreatment Standards to protect wastewater facilities or receiving waters, if any wastewater which contains substances or possesses characteristics shown to have deleterious effect upon the treatment works or treatment facilities, processes, equipment, or receiving waters, or constitutes a public nuisance or hazard, is discharged or is proposed for discharge to the wastewater sewers, the director may require any or all of the following:

i. Pretreatment by the user or discharger to a condition acceptable for discharge to the treatment works;

ii. Control over the quantities and rates of discharge;

iii. The development of compliance schedules to meet any applicable pretreatment requirements;

iv. The submission of reports necessary to assure compliance with applicable pretreatment requirements;

v. Carry out all inspection, surveillance, and monitoring necessary to determine compliance with applicable pretreatment requirements;

vi. Obtain remedies for noncompliance by any user. Such remedies may include injunctive relief, the civil penalties specified in subsection 17-42(f) of this chapter, or appropriate criminal penalties; or

vii. Reject the wastewater if evidence discloses that discharge will create unreasonable hazards or have unreasonable deleterious effects on the treatment works or treatment facilities.

(2) When considering the above alternatives, the director shall assure that conditions of the town's permit are met. The director shall also take into consideration cost effectiveness, the economic impact of the alternatives, and the willful noncompliance of the discharger. If the director allows the pretreatment or equalization of wastewater flows, the installation of the necessary facilities shall be subject to review. The director shall review and recommend any appropriate changes to the program, within thirty (30) days of submittal.

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- (3) Where pretreatment or flow-equalizing facilities are provided or required for any wastewater, they shall be maintained continuously in satisfactory and effective operation at the expense of the owner.
 - (b) *Compliance with pretreatment requirements.* Persons required to pretreat wastewater in accordance with subsection (a) above shall provide a statement, reviewed by an authorized representative of the user and certified by such representative indicating whether applicable pretreatment requirements are being met on a consistent basis and, if not, describe the additional operation and maintenance or additional pretreatment required for the user to meet the pretreatment requirements. If additional pretreatment or operation and maintenance will be required to meet the pretreatment requirements, the user shall submit a plan (including schedules) to the director as described in subsection 17-39(b)(2)ix. The plan (including schedules) shall be consistent with applicable conditions of the town's permit or other local, state or federal laws.
 - (c) *Monitoring requirements.* Discharges of wastewater to the town's treatment works from the facilities of any user shall be monitored in accordance with the provisions of the user's permit.
 - (d) *Effect of federal law.* In the event that the federal government promulgates a regulation for a given new or existing user in a specific industrial subcategory that establishes pretreatment standards or establishes that such user is exempt from pretreatment standards, such federal regulations shall immediately supersede subsection (a) if they are more stringent.
 - (e) *Certification.* All reports and permit applications must be signed by the industrial user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis and if not, whether additional O&M and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(Ord. of 4-10-12)

Sec. 17-41. Wastewater service, charges and industrial cost recovery.

- (a) *Wastewater service charges.* Charges and fees for the use of the public treatment works and treatment facility shall be based upon the actual use of such system, or contractual obligations for a level of use in excess of current actual use. Property value may be used to collect the amount due as permitted by law.
- (b) *Industrial cost recovery.* Users of the town's treatment works and treatment facilities will also be assessed industrial cost recovery charges as required by law.
- (c) *Determination of system use.*
 - (1) The use of the town's treatment works and treatment facilities shall be based upon actual measurement and analysis of each user's wastewater discharge, in accordance with provisions of subsection 17-39(d) to the extent such measurement and analysis is considered by the director to be feasible and cost-effective.
 - (2) Where measurement and analysis is considered not feasible, determination of each user's use of the treatment works and treatment facilities shall be based upon the quantity of water used whether purchased from a public water utility or obtained from a private source, or an alternative means as provided by subsection (c)(3) below.
 - (3) The director, when determining actual use of the town's treatment works and treatment facilities based on water use, shall consider consumptive, evaporative, or other use of water which results in a significant difference between a discharger's water use and wastewater discharge. Where appropriate, such consumptive water use may be metered to aid in determining actual use of the treatment works and treatment facilities. The meters used to measure such water uses shall be of a type and installed in a manner approved by the director. (The actual average water use by each residential user (Class I

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during the three (3) months of (January, February, and March) shall be used as the measure of each respective residential user's actual use of the sewer system throughout the year.)

(Ord. of 4-10-12)

Sec. 17-42. Enforcement.

(a) *Harmful contributions.* The town may suspend the wastewater treatment service and/or a user permit when such suspension is necessary, in the opinion of the town, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of humans, to the environment, causes interference to the treatment facilities or causes the town to violate any condition of its VPDES permit.

Any person notified of a suspension of the wastewater treatment service and/or the user permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the town shall take such steps as deemed necessary, including immediate severance of the sewer connection and/or the seeking of legal and equitable relief in the circuit court, to prevent or minimize damage to the wastewater treatment facilities or endangerment to any individuals. The town shall reinstate the user permit and/or the wastewater treatment service upon proof of the elimination of the noncomplying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the town within fifteen (15) days of the date of occurrence.

(b) *Revocation of permit.* Any user who violates the following conditions of this ordinance, or applicable state and federal regulations, is subject to having his permit revoked in accordance with the procedures of article IX[sic] of this chapter for:

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

(c) *Notification of violation.* Whenever the town finds that any user has violated or is violating this chapter, user permit, or any prohibition or limitation of requirements contained herein, the town may serve upon such person a written notice stating the nature of the violation. Within thirty (30) days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the town by the user.

(d) *Show cause hearing.*

- (1) The town may order any user who causes or allows an unauthorized discharge to show cause why the proposed enforcement action should not be taken. Such hearings shall be preceded by a notice being served on the user specifying the time and place of the hearing, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation.
- (2) The director may conduct the hearing and take the evidence, or may designate any of its members or any officer or employee of the public utilities department to

Issue in the name of the director notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;

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- ii. Take the evidence;
 - iii. Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the director for action thereon.
- (3) At any hearing held pursuant to this chapter, testimony taken must be under oath and recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the transcript costs.
- (4) After the director has reviewed the evidence, he may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances have been installed and existing treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.
- (e) *Legal action.* If any person discharges sewage, industrial wastes or other wastes into the city's treatment works contrary to the provisions of this chapter, applicable federal or state pretreatment requirements, or any order of the town or if any industrial user refuses access to the director or his designee for purposes of inspection, the town attorney may commence an action for appropriate legal and/or equitable relief in the circuit court.
- (f) *Penalties.*
- (1) Any person or user that violates the provisions of this chapter or a user/discharge permit hereunder shall be subject to a penalty of one thousand dollars (\$1,000.00) per day and/or shall, upon conviction, be guilty of a Class II misdemeanor for each day the violation continues.
 - (2) Each day, or portion thereof, a violation continues shall constitute a separate violation.
- (g) *Falsifying information.* Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this chapter, or user permit, or who falsifies any monitoring device or method required under this ordinance, shall upon conviction, be guilty of a Class I misdemeanor.
- (Ord. of 4-10-12)

Sec. 17-43. Private sewage disposal.

- (a) Where a public sanitary sewer is not available under the provisions of subsection 17-35(d), the building sewer shall be connected to a private sewage disposal system complying with the provisions of this article.
- (b) The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the state and local departments of health. No septic tank or cesspool shall be permitted to discharge to any public sewer, or natural inlet, or abutting public or private property.
- (c) The owner shall operate and maintain his private sewage disposal facilities in a safe, sanitary manner, at no expense to the town, and with no nuisance whatsoever to others.

(Ord. of 4-10-12)

Sec. 17-44. Special provisions.

Where water from the town water system is used for **cooling**, manufacturing, farming, horticultural, or poultry operations and such water is not being returned to the public sewer system, the user may install a

separate water meter to avoid payment of a sewer usage fee for such operations. Such meters shall be subject to a separate minimum water fee. Costs for installing the meters shall be borne by the user.

(Ord. of 4-10-12)

Sec. 17-45. Extension of sanitary sewer lines within the town limits.

- (a) Sewer main extensions from existing sewer mains within the town limits shall be made in accordance with the Subdivision Ordinance of the Town of Berryville, or if not covered by such ordinance, may be made by the town subject to the availability of funds and the concurrence of the town council. All such construction shall conform to all applicable ordinances and standards, and upon final inspection by the superintendent and acceptance in writing by the town shall immediately become the property of the Town of Berryville.
- (b) When any sewer in any street or other right of way is completed and ready for use, the owner of every abutting lot containing an active building whereon sewer is supplied for any human use shall cause such building to be connected with such sewer main.
- (c) No connection shall be made to any sewer lateral except after the written application therefor has been approved by the town manager or designee and the superintendent director of public works or designee and the required permit has been obtained.

(Ord. of 4-10-12)

Sec. 17-46. Extension of sanitary sewer lines outside the town limits.

- (a) Extension of existing public sewer lines to areas outside the town limits may be made only after special written application by the developers or users and approval by the town council.
- (b) The total cost of such extensions shall be paid by the developers and user(s) in addition to the appropriate connection fees. The town shall not be made a party to any such agreements for reimbursement or sharing of costs for the extension. Such agreements shall be solely between the requesting person and any future or present landowners.
- (c) Any easements required for extensions under this article shall be obtained, and paid for by the person(s) desiring the extension. Such easements shall be recorded in the name of the Town of Berryville.
- (d) Construction of all such extensions shall conform to all applicable ordinances and standards, and upon final inspection by the director of public works or designee and acceptance in writing by the town. ~~All extensions shall immediately become the property of the Town of Berryville. upon final inspection by the superintendent and acceptance by the town.~~
- (e) Whenever extension approval is granted, and before a permit is issued, the town shall require the applicant(s) to enter into an agreement thereby agreeing to be governed by the ordinances and laws of the town concerning the sewage works and any special regulations that the town council may, from time to time, adopt and direct.

(Ord. of 4-10-12)

Secs. 17-47, 17-48. Reserved.

ARTICLE IV. WATER AND SEWER SERVICE CHARGES²

Sec. 17-49. Rates—For water.

The charges for water furnished by the town shall be based on ~~the amount~~ **one hundred (100) percent** of ~~the~~ water passing through the meter, whether such water is used or wasted, and shall be at such rates as are prescribed, from time to time, by the council.

(Ord. of 4-10-12)

Sec. 17-50. Same—For sewer service.

Charges for sewer services rendered by the town shall be based upon one hundred (100) percent of the amount of water passing through the water meter to the premises in question, and shall be at such rates as are prescribed, from time to time, by the council.

(Ord. of 4-10-12)

Sec. 17-51. Deposit to assure payment.

To assure payment of charges provided for in this article, any customer who receives water for residential property which he does not own shall be required to make a cash deposit with the town, in such amount as is prescribed, from time to time, by the council. Such deposit may be required of other customers, if deemed necessary by the town manager.

(Ord. of 4-10-12)

Sec. 17-52. Estimated charges in case of defective meter.

If at any time it is found that a meter installed for the measurement of water supplied by the town has been tampered with or for any reason fails to register or shall be found defective in registering since the previous reading, the water consumption for such period shall be estimated from other similar readings and the average taken of such readings for the same period, or from past readings or from a like installation, and the charges provided for in this article shall be based on such estimate.

(Ord. of 4-10-12)

Sec. 17-53. Responsibility for payment in case of multiple occupants served by same service line and meter.

When water is supplied by the town through a single service line on which there is only one (1) meter and such water is used by more than one (1) segregated unit in the building, the owner of the building shall be responsible for the payment of the charges provided for in this article.

(Ord. of 4-10-12)

²State law reference(s)—Authority of town to charge and collect compensation for water and sewer service, Code of Virginia, §§ 15.1-321, 15.1-875. See also, §§ 15.1-175, 15.1-876.

Sec. 17-54. Statements generally.

All statements for town water and sewer service shall be computed by the treasurer on the basis of the rates prescribed by the council and shall be on a monthly basis. Such statements shall be rendered to the property owner, occupant or user as soon as practicable after monthly meter readings. Such statements shall be considered the correct assessment, unless a correction is requested of the town manager within ~~ten~~ **fifteen (15)** days after the date of the statement.

(Ord. of 4-10-12)

Sec. 17-55. Billing when tenants change between periods.

Water and sewer charges for any billing period in which there has been a change in tenants between the time meters are read for one (1) period and read for the following period shall be billed to the owner of the property.

(Ord. of 4-10-12)

Sec. 17-56. Complaints as to charges; overassessments.

Any user of water or of sewer service having a complaint in connection with the assessment of charges under this article shall report the same to the town manager, within ~~ten~~ **fifteen (15)** days after the date of the statement rendered for such charges. The town manager shall investigate such complaint and, if warranted by the facts, shall adjust the assessment. Any user who feels that he is overassessed may have his meter tested by the town, by payment of such fee as is prescribed, from time to time, by the council. If the meter is found to overregister, the fee shall be returned, but if the meter is correct or under registering, the fee shall be retained by the town to cover the cost of the test.

(Ord. of 4-10-12)

Sec. 17-57. When due and payable.

Statements for charges due under this article shall be due and payable upon presentation and will be considered delinquent, if not paid ~~within fifteen (15) days from the billing date~~ **on or before the due date represented on the statement.**

(Ord. of 4-10-12)

Sec. 17-58. Service charge and discontinuing service for delinquencies.

If the statement for water and sewer service is not paid within ~~fifteen (15)~~ **sixty (60)** days of its **due** date, a service charge, in such amount as is prescribed, from time to time, by the council, will be added and service will be discontinued **in accordance with Virginia Code §15.2-2121.2**, until such statement and service charge shall have been paid in full. Service shall be restored when all statements and service charges have been brought to date and a reconnection fee, in such amount as is prescribed, from time to time, by the council, is paid to the town.

(Ord. of 4-10-12)

**Framework to consider while deliberating taking legislative action
to end the use of on-site sewage treatment systems in the Town.
June 27, 2025**

Process

- 1) Identify all such systems in Town.
- 2) Determine which of those properties should be compelled to connect (staff used the 250' standard from the Berryville Code for its preliminary determination) given the current configuration of the collection system.
- 3) Develop a draft ordinance and approach that will set requirements for properties in Town to connect to the Town's sewer collection system.
- 4) Hold a hearing on the draft ordinance. Notice would be provided to all owners of properties on which on-site sewage treatment systems are in use. The Council may want to consider providing notice to the owners of properties that border properties on which such systems are active.
- 5) Amend the Code and develop a policy to address this matter.
- 6) Inform the owners of the properties in question of the change in law and the means by which it will be enforced.

Amend the Code (will have to be written by legal counsel) that:

- 1) Establishes enforceable standards that would be used to determine which properties have access to the collection system.
- 2) Establishes requirement for properties which have access to the collection system to connect to said system. Those requirements could look something like:
 - a. If it is determined by the Virginia Department of Health that the on-site sewage treatment system is no longer functioning properly or in any way constitutes a danger to public health, then the property in question must be connected to the Town's sewage collection system within ? days. The on-site sewage treatment system shall be abandoned in accordance with requirements of the Virginia Department of Health.
 - b. All such properties must be connected to the Town's sewage collection system no later than December 31, 2037.
 - c. Will have to examine what level of misdemeanor this would be and establish per day fines, if possible.
- 3) If not implicit in the previous sections, establishes requirements and standards for required connection of properties to the Town's collection system when the reach of the system is extended. In other words, there may be properties within the Town that do not have access to the collection at present, but may be provided access in the future.
- 4) Examine with attorney whether the Town may impose a requirement for property owners to (or permit the Town to) record a document in the land records of the Clerk of the Circuit Court of Clarke County that would memorialize that the properties in question utilize an on-site sewage treatment system as of the date of recordation and that such system must be abandoned and the property

connect to the Town's sewage collection system in accordance with the requirements of the Berryville Code.

Establish a policy (will have to be written by legal counsel) that provides the following incentives for the properties in question (presumably listed) to connect to the Town's sewage collection system:

- 1) Sewer Availability Fee: The sewer availability fee will be frozen at \$18,468 from time of passage to December 31, 2035. After that time, the availability fee in effect at that time will be applicable to the properties in question.
- 2) Grants (from the General Fund and subject to budget approval and appropriation each year and available on a first come, first served basis until budgeted funds are exhausted):
 - a. From time of passage until December 31, 2029, subject properties connecting to the system may also qualify for grant of up to \$?,000 grant from the Town.
 - b. From January 1, 2030 to December 31, 2033, subject properties connecting to the system may also qualify for a grant of up to \$?,000 (amount from Section (a.) reduced by 50%) grant from the Town.