

**AMENDMENT AND RESTATEMENT OF  
CHAPTER 170  
WATER AND SEWERS**

**of the Code of the Town of Elkton**

**CREATING NEW CHAPTER 135  
SEWERS  
ADDING NEW SECTIONS FOR A SEWER USE ORDINANCE**

**SECOND READING SEPTEMBER 19, 2011**

**WHEREAS**, the Elkton Town Council has determined it to be in the best interest of the Town to regulate the Town's sewer system and to comply with the terms of the Revolving Loan Fund by adopting a sewer use ordinance.

**WHEREAS**, one amendment is hereby made to the ordinance submitted as a first reading on August 15, 2011 to change the last sentence in §135-15 subparagraph (b) to read as follows:

“A permit and inspection fee for a Class I, or a Class II connection permit shall be paid to the Town at the time the application is filed in such amount as is set by the Elkton Town Council from time to time in the latest approved rate schedule.”

**NOW THEREFORE, BE IT ORDAINED** by the Elkton Town Council that the Town Code be and is hereby amended by the addition of the following:

**ARTICLE I - GENERAL PROVISIONS**

§ 135-1 - Purpose

The purpose of this Ordinance is to provide for the maximum possible beneficial public use of the Town of Elkton treatment works through regulation of sewer construction, sewer use, and wastewater discharges; to provide for equitable distribution of the costs of the treatment works; and to provide procedures for complying with the requirements contained herein.

§ 135-2 - Scope

(a) The definitions of terms used in this Ordinance are found in Article II. The provisions of this Ordinance shall apply to the discharge of all wastewater to treatment works of the Town. This Ordinance provides for use of the Town's treatment works, regulation of sewer construction, control of the quantity and quality of wastewater discharged, wastewater pretreatment, equitable 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 Ordinance.

(b) This Ordinance shall apply to the Town of Elkton and to persons outside the Town who are, by contract, permit or agreement with the Town, users of the Town's treatment works.

§ 135-3 - Administration

Except as otherwise provided herein, the Director of the Town's Public Works Department shall administer, implement, and enforce the provisions of this Ordinance.

§ 135-4 - Fees and Charges

(a) All fees and charges payable under the provisions of this Ordinance shall be paid to the Town. Such fees and charges shall be as set forth herein or as established in the latest approved rate schedule.

(b) All user fees, penalties and charges collected under this Ordinance (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.

(c) All fees and charges payable under the provisions of this Ordinance 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 most recent adopted water and sewer rate structure.

(d) *Installment payments of sewer availability and connection fees.*

(1) The Town Manager, Public Works Director and/or the authorized representative is hereby authorized to accept, on behalf of the Town, notes for the payment of sewer availability/connection fees for single-family residences and duplexes (no more than two residential units) which are existing completed homes or have received a building permit on or before the date of enactment of this section. The terms of such note shall be all availability/connection fees to be paid in equal monthly payments over a four-year period.

(2) Installment payments of the sewer availability/connection fees is provided for certain property owners who qualify under this section. The approval of installment payments is to be administered by the Town Manager or his authorized designee. The Town Manager is hereby authorized and empowered to prescribe, adapt, and enforce such rules and regulations, including the requirement of answers under oath, as may be reasonably necessary to determine qualifications for installment payments. The Town Manager may require the production of certified tax returns and appraisal reports to establish income and financial worth.

(3) Installment payments shall be granted under this section subject to the following provisions;

(i) Title to the property for which the recovery fee exemption is sought must be held or partially held by the applicant for at least 120 days prior to the installation, or scheduled date of installation, whichever comes first, of the sewer line.

(ii) The owner of the title or partial title must be 65 years of age or older at least 120 days prior to the installation or scheduled installation date, whichever comes first, of the sewer line. If such person is under 65 years of age, he or she shall possess a certification by the Social Security Administration, the Veterans Administration, or the Railroad Retirement Board, or if such person

is not eligible for certification by any of these agencies, a sworn affidavit by two medical doctors licensed to practice medicine in the Commonwealth, to the effect that such person is permanently and totally disabled, as defined in Subsection 6 of this section. The affidavit of at least one of such doctors shall be based upon a physical examination of such person by such doctor. The affidavit of one of such doctors may be based upon medical information contained in the records of the Civic Service Commission which are relevant to the standards for determining permanent and total disability as defined in Subsection 6 of this section. Such medical affidavits shall be filed with the Town Manager at such time as the applicant files a sewer line fee payment plan application.

- (iii) The dwelling to be connected to the sewer line must be the sole dwelling of the applicant claiming hardship.
- (iv) The total combined income of the owner and the owner's relatives living in the household during the year immediately preceding the installation must be determined by the Town Manager as not exceeding the most recent federally established poverty thresholds.
- (v) The total combined income during the immediately preceding calendar year from all sources of the owners of the dwelling living therein and of the owners relatives living in the dwelling does not exceed \$23,500, provided that the first \$5,000 of income of each relative, other than spouse or spouses of the owner or owners living in the dwelling, shall not be included in such total, and provided further that the first \$7,500 or any portion thereof of income received by a permanently and totally disabled owner shall not be included in such total.
- (vi) The net combined financial worth of the owner shall not exceed \$80,000, excluding the fair market value of the house to be connected to the sewer line. Net combined financial worth shall include the value of all assets, including equitable interest, of the owner and the spouse of the owner

(4) Person applying for availability/connection fee payment plan under this section must file with the Town Manager an availability/connection fee payment plan affidavit, setting forth, in a manner prescribed by the Town Manager, the location and value of the property to be connected to the sewer line, the names of the persons related to the owner and occupying the dwelling, their gross combined income and their net combined financial worth. If such applicant is under 65 years of age, medical certification or affidavits, as set forth in Subsection 3(ii) of this section, shall also be filed with the Town Manager.

(5) If, within 12 months after the payment plan is obtained under this section, the applicant's financial position should change so that its effect would be to remove the person holding the exemption from within the limits and standards of this section, then the remaining balance is due.

(6) For purposes of this section, a person is permanently and totally disabled if he is so certified as required in Subsection 3(ii) of this section and is found by the Town Manager to be unable to engage in any substantial gainful activity by reason of any medically determined

physical or mental impairment or deformity which can be expected to result in death or can be expected to last for the duration of such person's life.

(7) Any person falsely claiming an exemption or violating any provisions of this section shall be guilty of a Class 1 misdemeanor.

(e) *Inflow and Infiltration Surcharges:* The Town reserves the right to charge a reasonable fee as set for in the adopted water and sewer rate structure for any contributions of inflow and infiltration that directly result from illegal drainage connections that have been identified during inspection of premises and have not been corrected within the subsequent billing cycle. Property owner will be required to provide documentation to the Town that any illegal have been corrected.

#### § 135-5 - Inspections

(a) The Town Manager, Public Works Director and/or authorized representative 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 Ordinance.

(b) The Town Manager, Public Works Director and/or 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.

(c) While performing any necessary work on private properties referred to in Sections 5(a) and (b) above, the Town Manager, Public Works Director and/or authorized representative shall observe all safety and occupational rules established by the owner or occupant of the property and applicable to the premises.

#### § 135-6 - Vandalism

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is a part of the Town's treatment works. Any person who violates this section shall be guilty of a misdemeanor and, upon conviction, is punishable by a fine or imprisonment to the maximum extent allowed by law..

#### § 135-7 - 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.

#### § 135-8 - Amendments of the Ordinance

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 Ordinance.

### **ARTICLE II - DEFINITIONS**

#### § 135-9 - Specific Definitions

Unless the context of usage indicates otherwise, the meaning of specific terms in this Ordinance 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
- 3) A duly authorized representative of the individual designated in #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 Town Manager, Public Works Director and/or authorized representative 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 days at 20 degrees C, expressed in milligrams per liter.

**“Building Sewer”** shall mean the extension from a building wastewater plumbing facility to 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) & 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.

**“Domestic Sewage”** shall mean sewage or waste of a character not in excess of 400 ppm of BOD, or, not in excess of 600 ppm of suspended solids, either or both.

**“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.

**“Illegal Connection”** shall mean any connection to the sewer collection system or service connection that contributes inflow or infiltration.

**“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.

**“Infiltration”** shall mean groundwater that enters the sewer system. Sources of infiltration include foundation drains, sump pumps, loose joints in sewer pipes and manholes, and other sources of subsurface entry into the sewer system.

**“Inflow”** shall mean storm water that enters the sewer collection system. Sources of inflow include foundation drains, roof drains, floor drains, sump pumps, stormwater inlets, runoff into manhole, and other sources of direct runoff into the sewer system.

**“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.

**“Lateral”** shall mean a sanitary sewer connection from the Main to the customer.

**“Main”** shall mean a sanitary sewer line that services more than one connection.

**“Manager”** shall mean the Town Manager, Public Works Director and/or authorized representative of the Town of Elkton's Wastewater Systems or an authorized designee.

**“May”** is permissible; **“Shall”** is mandatory.

**“Municipality”** shall mean a city, county, 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.

**“PPM”** shall mean parts per million gallons.

**“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, radioactive 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 Elkton 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 Garbages”** 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 ½ inch in any dimension.

**“Residential User (Class 1)”** shall mean all premises used only for human residency and which is 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:

- (a) Has a process wastewater\* flow of 25,000 gallons or more per average work day;  
(\*Excludes sanitary, non-contact cooling and boiler blowdown wastewater)
- (b) Contributes a process waste stream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW;
- (c) Is subject to categorical pretreatment standards; or
- (d) 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 of this Ordinance 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:

- (i) 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;
- (ii) all interstate waters, including interstate “wetlands”;
- (iii) 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:
  - (1) which are or could be used by interstate or foreign travelers for recreational or other purposes;

- (2) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
- (3) which are used or could be used for industrial purposes by industries in interstate commerce.
- (iv) all impoundments of waters otherwise defined as surface waters under 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 Ordinance.

**“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 storm water that may be present.

**“WPCF”** shall mean the Water Pollution Control Federation.

#### § 135-10 - General Definitions

Unless the context of usage indicates otherwise, the meaning of terms in this Ordinance and not defined in § 135-9 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.

### **ARTICLE III - USE OF TOWN'S TREATMENT WORKS & TREATMENT FACILITY**

#### § 135-11 - 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 Elkton, or in any area under the jurisdiction of said Town, any human or animal excrement, garbage, or other objectionable waste.

§ 135-12 - Wastewater Discharges

- (a) It shall be unlawful under State and Federal Law to discharge without a VPDES permit to any natural outlet within the Town of Elkton or in any area under its jurisdiction. Wastewater discharges to the Town's treatment works are not authorized unless permitted by Town Manager, Public Works Director and/or authorized representative in accordance with provisions of this Ordinance.
- (b) Neither the exhaust, the blowoff, drip pipe or sediment from any boiler, nor the discharge of large volumes of hot water from any source, shall be discharged into the sewer. Such pipes may first discharge into a basin properly tapped and vented which, after being relieved of sediment, pressure or high temperature, may discharge into the Town sewer. Water over 130°F, shall not be admitted into the Town sewer. Any damage, such as cracked sewer pipe, resulting from admitting water or sewage exceeding this temperature shall be repaired at the total expense of the violator.

§ 135-13 - Wastewater Disposal

Except as provided in this Ordinance, 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.

§ 135-14 - 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 Ordinance, within 60 days after notice that sewer is available within 150 feet of the property line and provided further that no person shall be required to cross the private property of any other person to make such connection. The aforementioned shall not apply to an existing building now having a serviceable septic tank. However, if said serviceable septic tank fails at any time to meet the applicable standards established by the Virginia Department of Health, the owner shall also provide to the Town Council a written plan for bringing the septic tank back into compliance or apply for connection to the public sewer system within 15 days. Owners exempt from a sanitary sewer system connection, as described above, may be required to pay an availability fee and/or a monthly nonuser service charge if imposed by the Town Council.

**ARTICLE IV - BUILDING SEWERS AND CONNECTIONS**

§ 135-15 - Connection Permit

- (a) 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 Town Manager, Public Works Director and/or authorized representative. Prior to applying for a permit from the Town, if the Applicant's land lies outside the corporate limits of the Town of Elkton, the Applicant shall obtain at least preliminary approval from the County of Rockingham for the development project. Preliminary approval may take whatever form is acceptable to both the County and the Manager, and need not commit the

County to final approval. Such evidences of County approval shall be submitted with the application to the Town.

- (b) There shall be two (2) classes of permits for connections to the Town's Treatment Works & 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 Ordinance. A permit and inspection fee for a Class I, or a Class II connection permit shall be paid to the Town at the time the application is filed in such amount as is set by the Elkton Town Council from time to time in the latest approved rate schedule.

- (c) Town may furnish sewer service outside Town limits, if requested and approved by Council or their authorized representative.
- (d) Where the intended use of the Applicant's land is residential involving four (4) or fewer units, the Manager shall either approve or reject the application. Where there is any other intended use the Manager shall forward the permit application to the Planning Commission for its recommendation. After consideration by the Commission, the permit application shall be forwarded to the Town Council, with the recommendations of both the Commission and the Manager for final approval or rejection.
- (e) Prior to acting on the application, for residential projects of five (5) or more units, and for all other categories of projects, the Manager shall require, and for residential projects of four (4) or fewer units the Manager may require, that the Applicant submit appropriate engineering reports or studies that demonstrate the anticipated impact on the Town's sanitary sewer system, along with any recommendations for changes or additions to the Town's infrastructure indicated because of the proposed new connections. All engineering studies and reports shall be paid for by the Applicant.
- (f) Connections to a storm sewer shall be subject to a permit and inspection fee of (     ) dollars. Such connections shall be subject to the provisions of this Ordinance and the approval of the Town Manager, Public Works Director and/or authorized representative.
- (g) Any permit issued under this provision shall expire if (i) construction on the unit for which it was issued is not commenced within three (3) months of the date of issuance, or (ii) if the building permit issued by Rockingham County is canceled or expires for any reason, but (iii) shall expire in any event at the expiration of eighteen (18) months after the date of issuance if the project is not completed. Once a permit expires a new permit must be obtained by filling a new permit application and paying all fees and charges at the rates in effect at the time of application.
- (h) Terms of this Section may be modified on a project by project basis only by the Town Council acting to approve a contract with a specific developer by ordinance. Contracts between the Town and a specific developer already approved and signed prior to the adoption of Chapter 135 Sewer Use Ordinance.
- (i) Permits issued under this Section are non-transferrable.

- (j) The Manager may charge a reasonable fee to cover time and expenses of processing the application.

§ 135-16 - Connection Charges

(a) *Connection charges within Town:* Before a connection to the Town sewer system is made within the Town, the applicant therefore shall pay to the Town Treasurer a connection fee in accordance with the Town adopted water and sewer rates. The Sewer Department shall run all sewer lines to the applicant's property line for a distance not to exceed 100 feet. If the distance exceeds 100 feet, the applicant shall pay all costs in excess of 100 feet; provided, however, that if the Town Council determines it to be in the best interests of the Town to extend existing sewer lines partly or wholly at Town expense, it may enter into agreements with individual, landowners, or developers whereby such extensions of existing sewer lines shall be accomplished and costs thereof shared as mutually agreed; or, in the proper case, the Town Council may resolve to extend the Town sewer system wholly at Town expense. In determining the best interests of the Town, the Council shall consider:

- (1) The number of potential connections which such extension of the system might be expected to facilitate;
- (2) The enhancement to the value or capability of the existing system that would result from such extension;
- (3) The value of any easements that would be granted to the Town under such agreements;
- (4) The potential for increased revenue from utility service charges and taxes that could be expected to result from future development made possible by extension of the sewer system; and
- (5) The potential for increased employment opportunities and economic development that might reasonably be expected to follow such extension of the sewer system.

(b) *Connection charges outside the Town:* Before a connection to the Town sewer system is made outside the Town, the applicant for connection to the Town sewer system shall pay to the Town Treasurer a connection fee in accordance with the Town adopted water and sewer rates. Applicant shall install at his or her expense the connecting line to existing available Elkton sewer lines. The installation must meet Town requirements and becomes Town property when connect to the Town lines; provided, however, that if it is in the best interest of the Town to extend existing sewer line partly or wholly at Town expense, it may enter into agreements with individuals, landowners, or developers whereby such extensions of existing sewer lines shall be accomplished and the costs thereof shared as mutually agreed; or, in the proper case, the Town Council may resolve to extend the Town sewer system wholly at Town expense. In determining the best interests of the Town; the Council shall consider:

- (1) The number of potential connections which such extension of the system might be expected to facilitate;
- (2) The enhancement to the value or capability of the existing system that would result from such extension;
- (3) The value of any easements that would be granted to the Town under such agreements;

- (4) The potential for increased revenue from utility service charges and taxes that could be expected to result from future development made possible by extension of the sewer system; and
  - (5) The potential for increased employment opportunities and economic development that might reasonably be expected to follow such extension of the sewer system.
- (c) *Subdivisions inside Town:* In case of subdivisions inside the Town, the owner shall install all sewer mains at his or her own expense in the particular subdivision. Such installation shall be in accordance with the standards of the Town Sewer Department, which standards shall be on file in the office of the Town Manager, Public Works Director and/or the authorized representative. The sewer main shall be of a diameter determined by the Town and in no case less than six inches in diameter.

In addition to the requirements of this section, the individual home owner shall pay the regular sewer connection charges for the property.

After all sewer mains in a subdivision inside the Town have been installed to the satisfaction of the Town Manager or the authorized representative, they shall become the property of the Town and shall be maintained by the Town.

#### § 135-17 - Separate Connections Required

A separate and independent building sewer shall be provided for every building except where one 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. When this occurs, the building sewer serving the front building may be extended to the rear building and the whole considered as one building sewer. The Town assumes no obligation or responsibility for damage caused by or resulting from any single building sewer which serves two buildings.

#### § 135-18 - 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 Town Manager, Public Works Director and/or authorized representative, to meet the requirements of this Ordinance.

#### § 135-19 - 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.

#### § 135-20 - 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.

### § 135-21 - Surface Runoff and Groundwater Drains

- (a) 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 unless such connection is authorized in writing by the Town Manager, Public Works Director and/or authorized representative. The connection of such drains shall conform to codes specified in §135-22 (a) or as specified by the Town Manager as a condition of approval of such connection.
- (b) Except as provided above, roof, foundation, areaway, parking lot, roadway, or other surface runoff or groundwater drains shall discharge to natural outlets or storm sewers.

### § 135-22 - Conformance to Applicable Codes

- (a) 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 Town Manager, Public Works Director and/or authorized representative before installation.
- (b) A copy of all such standards adopted by the Town Council for sewer main construction or extension shall be maintained in the office of the Town Manager or the authorized representative and be open to public inspection.

### § 135-23 – Service Connections

- (a) *Inspection of New Service Connection:* The applicant for a building sewer or other drainage connection permit shall notify the Town Manager, Public Works Director and/or authorized representative when such sewer or drainage connection is ready for inspection prior to its connection to the Town's treatment works. Inspection will be performed by the Public Works Director and/or authorized representative.
- (b) *Inflow and Infiltration Inspections:* The Town Manager, Public Works Director and/or authorized representative, bearing proper credentials and identification shall be permitted to enter all private property that is connected to the Town's sanitary sewer system for the purposes of inspecting the premises for contributing sources of inflow and infiltration. These inspections are for the purposes of identifying improper connections of drainage and stormwater items such as foundation drains, roof leaders, sump pumps, floor drains, and similar items. Any identified items will be documented in writing and provided to the property owner for correction.
- (c) *Sewer connection cleanout services:* Upon request, the Town will provide a cleanout service for private sewer connections in accordance with rules and regulations established by the Town Manager, Public Works Director and/or authorized representative. A private sewer connection is determined to be the connection from the main line to the structure owned or occupied by the sewer service customer. When it is determined by the Town Manager or the authorized representative that stoppage of the sewer connection is the responsibility of the customer, a special charge for these cleanout services shall be made in accordance with rates set and established by the Council. A copy of such schedule of rates and a copy of such rules and regulations shall be maintained in the office of the Town Manager or the authorized representative and in the Treasurer's office and shall be available for public inspection during working hours. Billing for sewer cleanout services shall be made and included on the customer's water and sewer bill, and provisions relating to the imposition of penalties and

termination of service for nonpayment set out elsewhere in this chapter shall be applicable to the sewer connection cleanout services charge.

§ 135-24 - 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 disturbed in the course of the work shall be restored in a manner satisfactory to the Town.

§ 135-25 - Protection of Capacity for Existing Users

The Town Manager, Public Works Director and/or authorized representative 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 Town Manager, Public Works Director and/or authorized representative may permit such a connection if there are legally binding commitments to provide the needed capacity.

**ARTICLE V - CONDITIONS TO USE THE TOWN'S TREATMENT WORKS**

§ 135-26 - Special Uses of Treatment Works

All discharges of storm water, 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, except as authorized under Article IV, § 135-21. 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 ordinance.

§ 135-27 - Commercial and Industrial Users, General Prohibition Upon

A commercial or 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.

§ 135-28 - Restricted Discharges

(a) 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:

- 1) 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 flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using test methods specified in 40 CFR 261.21;
- 2) Cause corrosive damage or hazard to structures, equipment, or personnel of the wastewater facilities, but in no case discharges with the following properties:
  - (i) having a pH lower than 5.0 or greater than 11.0
- 3) Cause obstruction to the flow in sewers, or other interference with the operation of treatment facilities due to accumulation of solid or viscous materials;

- 4) 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;
  - 5) 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 65 degrees C (150 degrees F) or the temperature of the influent to the treatment facilities to exceed 40 degrees C (104 degrees F) unless the facilities can accommodate such heat and the Town has obtained prior approval from the approval authority;
  - 6) Contain more than 100 milligrams per liter of nonbiodegradable oils of mineral or petroleum origin;
  - 7) Contain floatable oils, fat, or grease;
  - 8) 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;
  - 9) Contain radioactive wastes in harmful quantities as defined by applicable State and Federal regulations;
  - 10) Contain any garbage that has not been properly shredded;
  - 11) Contain any odor or color producing substances exceeding concentration limits which may be established by the Town Manager, Public Works Director and/or authorized representative for purposes of meeting the Town's VPDES permit.
  - 12) Petroleum oil, nonbiodegradable cutting oil or products of mineral oil origin in amounts that will cause interference or pass through.
  - 13) Any trucked or hauled pollutants except at designated discharge points.
- (b) If, in establishing discharge restrictions, discharge limits, or pretreatment standards pursuant to the Article, the Town Manager, Public Works Director and/or authorized representative establishes concentration limits to be met by a user, the Town Manager, Public Works Director and/or authorized representative 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.

§ 135-29 - Categorical Pretreatment Standards

- (a) 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 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.
- (b) The Town Manager, Public Works Director and/or authorized representative shall notify any industrial user affected by the provisions of this Section and establish an enforceable compliance schedule for each.

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

§ 135-30 - 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.

§ 135-31 - Water & Energy Conservation

The conservation of water and energy shall be encouraged by the Town Manager, Public Works Director and/or authorized representative. In establishing discharge restrictions upon users, the Town Manager, Public Works Director and/or authorized representative shall take into account already implemented or planned conservation steps revealed by the user. Upon request of the Town Manager, Public Works Director and/or authorized representative, each user will provide the Town Manager, Public Works Director and/or authorized representative 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 Town Manager, Public Works Director and/or authorized representative, he shall make adjustments to discharge restrictions, which have been based on concentrations to reflect the conservation steps.

§ 135-32 - 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.

§ 135-33 - Accidental Discharges

- (a) Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this Ordinance. 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 ordinance 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 ordinance. 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.
- (b) Within five (5) days following an accidental discharge; the user shall submit to the Town Manager, Public Works Director and/or authorized representative 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.

- (c) 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.

## **ARTICLE VI - INDUSTRIAL DISCHARGERS**

### § 135-34 - Information Requirements

- (a) All industrial dischargers shall file with the Town wastewater information deemed necessary by the Town Manager, Public Works Director and/or authorized representative for determination of compliance with this Ordinance, 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 Town Manager, Public Works Director and/or authorized representative 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 § 135-34 (c) of this article.
- (b) Where a person owns, operates or occupies properties designated as an industrial discharger at more than one location, separate information submittals shall be made for each location as may be required by the Town Manager, Public Works Director and/or authorized representative.
- (c) 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 Ordinance, 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.

### § 135-35 - User Permits

- (a) 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 (180) days after the effective date of this Ordinance.

(b) Significant Industrial Users required to obtain a Permit shall complete, and file with the Town, an application in the form prescribed by the Town, and accompanied by a fee of ( ). Existing significant industrial users shall apply for a Permit within (30) days after the effective date of this Ordinance, and proposed new significant industrial users shall apply at least (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:

- 1) Name, address, and location, (if different from address);
- 2) SIC number according to the Standards Industrial Classification Manual, Bureau of the Budget, 1987, as amended;
- 3) Wastewater constituents and characteristics including but not limited to those addressed in Article V of this Ordinance 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;
- 4) Time and duration of contribution;
- 5) Average daily and peak wastewater flow rates, including daily, monthly and seasonal variations, if any;
- 6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by their size, location and elevation;
- 7) Description of activities, facilities and plant processes on the premises including all materials which are or could be discharged;
- 8) 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;
- 9) 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:

- (i) 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.).

- (ii) No increment referred to in paragraph (i) shall exceed (1) year.
  - (iii) Not later than 14 days following each date in the schedule and the final date for compliance, the User shall submit a progress report to the Town Manager, Public Works Director and/or authorized representative 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 1 year elapse between such progress reports to the Town Manager, Public Works Director and/or authorized representative.
- 10) Each product produced by type, amount, process or processes and rate of production;
  - 11) Type and amount of raw materials processed (average and maximum per day);
  - 12) Number of type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;
  - 13) Any other information as may be deemed by the Town to be necessary to evaluate the user permit application.

The Town will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the Town may issue a User Permit subject to terms and conditions provided herein.

- (c) Within 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, the User shall apply for a User Permit within 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 Town Manager, Public Works Director and/or authorized representative, within 180 days after the promulgation of an applicable Federal Categorical Pretreatment Standard, the information required by this Article.

(d) Permit Conditions:

User Permits shall be expressly subject to all provisions of this Ordinance and all other applicable regulations, user charges and fees established by the Town. Permits may contain the following:

- 1) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;
- 2) Limits on the average and maximum wastewater constituents and characteristics **(Permits must contain this item)**;
- 3) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization. **(Permits must contain this item)**;
- 4) Requirements for installation and maintenance of inspection and sampling facilities;
- 5) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;
- 6) Compliance schedules;
- 7) Requirements for submission of technical reports or discharge reports - See Article VI, § 135-6 **(Permits must contain this item)**;
- 8) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the Town, and affording the Town access thereto **(Permits must contain this item)**;
- 9) 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 **(Permits must contain this item)**;
- 10) Requirements for immediate notification of slug discharges **(Permits must contain this item)**;
- 11) Other conditions as deemed appropriate by the Town to ensure compliance with this ordinance.
- 12) Statement of applicable remedies.

(e) User Permits shall be issued for a specified time period, not to exceed five (5) (optional) 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 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 § 135-35 are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least 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.

(f) 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.

§ 135-36 - Reporting Requirements for Permittee

- (a) Within 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 Manager 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 Article VI or required by the Town. This statement shall be signed by an authorized representative of the User, and certified to by a qualified professional.
- (b)(1) 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 Town Manager, Public Works Director and/or authorized representative during the months of June and December, unless required more frequently in the Pretreatment Standard or by the Town Manager, Public Works Director and/or authorized representative, 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 Town Manager, Public Works Director and/or authorized representative and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Town Manager, Public Works Director and/or authorized representative may agree to alter the months during which the above reports are to be submitted.
- (2) The Town Manager, Public Works Director and/or authorized representative 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 (1) of this paragraph 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 Town Manager, Public Works Director and/or authorized representative, 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.

§ 135-37 - Provision for Monitoring

- (a) When required by the Town Manager, Public Works Director and/or authorized representative, 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 Town Manager, Public Works Director and/or authorized representative. The access shall be provided and maintained at the owner's expense so as to be safe and accessible at reasonable times.
- (b) The Town Manager, Public Works Director and/or authorized representative 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.
- (c) Where the Town Manager, Public Works Director and/or authorized representative determines access and equipment for monitoring or measuring Class II wastewater discharges is not practicable, reliable, or cost effective, the Town Manager, Public Works Director and/or authorized representative may specify alternative methods of determining the characteristics of the wastewaters discharge which will, in the Town Manager, Public Works Director and/or authorized representative's judgment, provide a reasonably reliable measurement of such characteristics.
- (d) Measurements, tests, and analyses of the characteristics of wastewater required by this Ordinance shall conform to 40 CFR, Part 136 and be performed by a qualified laboratory. When such analyses are required of a discharger, the discharger may, in lieu of using the Town's laboratory, make arrangement with any qualified laboratory, including that of the discharger, to perform such analyses.
- (e) Fees for any given measurement, test, or analysis of wastewater required by this Ordinance 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.

#### § 135-38 - 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 Town Manager, Public Works Director and/or authorized representative 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.

### **ARTICLE VII - PRETREATMENT**

#### § 135-39 - Wastewaters with Special Characteristics

- (a) While the Town Manager, Public Works Director and/or authorized representative 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 Town

Manager, Public Works Director and/or authorized representative may require any or all of the following:

- 1) Pretreatment by the user or discharger to a condition acceptable for discharge to the treatment works;
- 2) Control over the quantities and rates of discharge;
- 3) The development of compliance schedules to meet any applicable pretreatment requirements;
- 4) The submission of reports necessary to assure compliance with applicable pretreatment requirements;
- 5) Carry out all inspection, surveillance, and monitoring necessary to determine compliance with applicable pretreatment requirements;
- 6) Obtain remedies for noncompliance by any user. Such remedies may include injunctive relief, the civil penalties specified in Article IX of this Ordinance, or appropriate criminal penalties; or
- 7) Reject the wastewater if evidence discloses that discharge will create unreasonable hazards or have unreasonable deleterious effects on the treatment works or treatment facilities.

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

(c) 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.

#### § 135-40 - Compliance with Pretreatment Requirements

Persons required to pretreat wastewater in accordance with § 135-39 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 Town Manager, Public Works Director and/or authorized representative as described in Article VI, § 135-35 (b) (9). The plan (including schedules) shall be consistent with applicable conditions of the town's Permit or other local, State or Federal laws.

#### § 135-41 - 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.

§ 135-42 - 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 § 135-39 (a) of this article if they are more stringent.

§ 135-43 - 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.

**ARTICLE VIII - WASTEWATER SERVICE, CHARGES AND INDUSTRIAL COST RECOVERY**

§ 135-44 - 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.

§ 135-45 - 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.

§ 135-46 - Determination of System Use

- (a) 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 Article VI to the extent such measurement and analysis is considered by the Town Manager, Public Works Director and/or authorized representative to be feasible and cost-effective.
- (b) 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) below.
- (c) The Town Manager, Public Works Director and/or authorized representative, 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 Town Manager, Public Works Director and/or authorized representative.

(The actual average water use by each residential user (Class I) during the three 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.)

## **ARTICLE IX ENFORCEMENT**

### § 135-47 - 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 non-complying 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 15 days of the date of occurrence.

### § 135-48 - 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 of this Ordinance for:

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

### § 135-49 - Notification of Violation

Whenever the Town finds that any User has violated or is violating this Ordinance, 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 30 days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the Town by the user.

### § 135-50 - Show Cause Hearing

- (a) 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.

- (b) The Town Manager, Public Works Director and/or authorized representative may conduct the hearing and take the evidence, or may designate any of its members or any officer or employee of the (assigned department) to:
- 1) Issue in the name of the Town Manager, Public Works Director and/or authorized representative notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;
  - 2) Take the evidence;
  - 3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Town Manager, Public Works Director and/or authorized representative for action thereon.
- (c) At any hearing held pursuant to this ordinance, 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.
- (d) After the Town Manager, Public Works Director and/or authorized representative 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.

#### § 135-51 - Legal Action

If any person discharges sewage, industrial wastes or other wastes into the town's treatment works contrary to the provisions of this Ordinance, applicable Federal or State Pretreatment Requirements, or any order of the Town or if any industrial user refuses access to the Town Manager, Public Works Director and/or authorized representative 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.

#### § 135-52 - Penalties

- (a) Any person or user that violates the provisions of this ordinance or a user/discharge permit hereunder shall be subject to a penalty of \$1000.00 per day and/or shall, upon conviction, be guilty of a class II misdemeanor for each day the violation continues.
- (b) Each day, or portion thereof, a violation continues shall constitute a separate violation.

#### § 135-53 - 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 Ordinance, 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.

**BE IT ORDAINED** that this ordinance is enacted and shall be effective from the 19<sup>TH</sup> day of September, 2011.

**ADOPTED AND APPROVED** this 19<sup>th</sup> day of September, 2011.



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Roy G. Davis  
Mayor, Town of Elkton

Atteste:



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Denise R. Monger  
Clerk of the Council