

## ARLINGTON COUNTY CODE

## Chapter 26

## UTILITIES\*

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\* **Editors Note:** Ord. No. 92-25, adopted June 16, 1992, amended former Ch. 26, relative to utilities, in its entirety to read as herein set out. The provisions of former Ch. 26 derived from an ordinance adopted Oct. 11, 1969; Ord. No. 83-24, 4-1-84; Ord. No. 84-1, 4-1-84; Ord. No. 85-27, 7-13-85; Ord. No. 90-25, 8-11-90; Ord. No. 90-32, 10-6-90.

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**ARTICLE I.**

**IN GENERAL**

**DIVISION 1.**

**GENERAL PROVISIONS**

**§ 26-1. Definitions.**

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

“Act” means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq.

“Approval authority” means the Commonwealth of Virginia.

“Approved” means material, equipment, workmanship, process, or method that has been accepted by the Division as suitable for the proposed purpose.

“Approved backflow prevention device” means any device or method intended to prevent backflow into a waterworks which has been approved by the Inspection Services Division for compliance with the County Code.

“Authorized agent” means the person or agency of the County government designated by the County Board or the County Manager to act on his behalf in the enforcement of this chapter.

“Authorized representative of the industrial user”

(1) If the industrial user is a corporation, “authorized representative” means:

(a) The president, secretary, treasurer, or a vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions

for the corporation; or

- (b) The manager of one (1) or more manufacturing, production, or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five million dollars (\$25,000,000.00) (in second-quarter 1980 dollars), if authority to sign documents has been delegated to the manager in accordance with corporate procedures.

(2) If the industrial user is a partnership, association, or sole proprietorship, “authorized representative” means a general partner or the proprietor

(3) If the industrial user is representing federal, state or local governments, or an agent thereof, “authorized representative” means a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility.

(4) The individuals described in paragraphs (1) through (3) above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization has been submitted to the County.

“Auxiliary water system” means any water system from a source or available to a water user in Arlington County other than the waterworks. These auxiliary water systems may include water from sources such as wells, lakes, or streams, process fluids, or used water. They may be polluted or contaminated or objectionable, or constitute an unapproved water source or system over which the water purveyor does not have control.

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

“Best Management Practices” (BMP) means any schedule of activities, prohibitions of practice, maintenance procedures, operational practices, and other management practices to implement the prohibitions listed in § 26-35 of this Code.

“Biochemical oxygen demand” (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard methods, (five (5) days at twenty (20) degrees Centigrade) expressed in terms of weight and concentration (milligrams per liter (mg/l)).

“Categorical pretreatment standard” or “categorical standard” means any regulation containing pollutant discharge limits promulgated by the U.S. EPA in accordance with § 307(b) and (c) of the Act (3334 U.S.C. 1317) which applies to a specific category of industrial user and which appears in 40 CFR Chapter 1, Subchapter N, Parts 405 through 471 or any successor provision, incorporated herein by reference.

“Composite sample” means the sample resulting from the combination of individual wastewater samples taken at selected intervals based on either an increment of flow or time.

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

“Control authority” means the Bureau Chief of the Water Pollution Control Bureau of the Department of Environmental Services for Arlington County, Virginia.

“Cooling water” means the water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added to the water is heat.

“County” means the County of Arlington, Virginia, or the County Board of Arlington County.

“County Manager” means the County Manager of Arlington County, Virginia, or his designee(s).

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

“Customer” means any person who connects to the Arlington County waterworks and draws and uses water from that system.

“Customer's water system” means any water system located on the customer's premises, supplied by or in any manner connected to a waterworks.

“Division” means the Commonwealth of Virginia, Department of Health, Division of Water Supply Engineering.

“Domestic sewage” means human excrement, septage, and gray water from household uses, to include but not be limited to showers, toilets, dishwashing, and laundry.

“Domestic user” means persons contributing only domestic sewage to the sanitary sewage system.

“Environmental Protection Agency” or “U.S. EPA” means the U.S. Environmental Protection Agency or the Regional Water Management Division Director or other duly authorized official of that agency.

“Existing source” means any source of discharge, the construction or operation of which source commenced prior to the publication of proposed categorical pretreatment standards under §§ 307(b) and (c) (33 U.S.C. 1317) of the Act, which will be applicable to such source if the standard is thereafter promulgated in accordance with § 307 of the Act.

“Grab sample” means an individual sample which is taken from a waste stream over a period of time less than fifteen (15) minutes, without regard to the flow of the waste stream.

“Health hazard” means any condition, device, or practice in a waterworks or its operation that creates, or may create, a danger to the health and well-being of the water customer, or any persons using, operating, or maintaining the waterworks.

“Holding tank waste” means any waste from holding tanks, including vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

“Impacting user” means any industrial user for whom no permit is otherwise required, but the WPCB Chief finds to have a reasonable potential for causing interference or pass-through to the treatment plant, either alone or by interaction with other pollutants.

“Indirect discharger” means the introduction of pollutants to a wastewater treatment plant from any industrial user regulated under § 307(b), (c), or (d) of the Act.

“Industrial user” means persons contributing nondomestic pollutants to the sanitary sewage system.

“Inspection Services Division” means the Inspection Services Division of the Department of Community Planning, Housing and Development (DCPHD).

“Instantaneous limit” means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of a discrete or composited sample collected, independently of the industrial flow rate and duration of the sampling event.

“Interference” means a discharge which causes or contributes to the inhibition or disruption of the sanitary sewage system, including sewage collection facilities, the processes or operations of the treatment plant, or the process, use or disposal of sewage sludge, or causing a violation of the County's VPDES permit or any of the following regulations or permits issued thereunder (or more stringent state or local regulations): § 405 of the Clean Water Act; the Solid Waste Disposal Act (SWDA) (including Title II commonly referred to as the Resource Conservation and

Recovery Act (RCRA)); any state sludge management plan prepared pursuant to Subtitle D of the SWDA; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research and Sanctuaries Act, or any other successor provisions.

“Medical waste” means any waste resulting from medical activities including, but not limited to, isolation wastes, infectious agents, human blood and blood byproducts, pathological wastes, sharps, body parts, fomites, etiologic agents, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.

“Monitoring point” means a point at which a representative sample of the users' wastewater may be collected, as specified in the wastewater permit.

“New source” means any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction or operations of which commenced after the publication of proposed Categorical Pretreatment Standards under § 307(c) (33 U.S.C. 1317(c)) of the Act which will be applicable to such source if the standard is thereafter promulgated in accordance with § 307(c), provided that:

- (1) No other source is located at that site; or
- (2) The source completely replaces the process or production equipment of an existing source at the site; or
- (3) The new wastewater generating process of the source is substantially independent of an existing source at the site, and the construction of the source creates a new facility rather than modifies an existing source at that site.

For purposes of this definition, construction or operation has commenced if the owner or operator has:

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

“Nondomestic pollutants” means any substances other than human excrement and household gray water (from showers, dishwashing operations, etc.).

“Pass-through” means a discharge which exits the treatment plant effluent in quantities or concentrations which, in whole or in part causes or increases the magnitude or duration of a violation of any requirement of the County's VPDES permit.

“Person” means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents, or assigns. This definition includes, without limitation, all federal, state or local government entities.

“pH” means a measure of the acidity or alkalinity of a substance, expressed in standard units.

“Pollutant” means any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, industrial wastes, biological materials, radioactive materials, heat

wrecked or discharged equipment, rock, sand, cellar dirt and agricultural wastes, and the characteristics of the wastewater (such as pH, temperature, TSS, BOD, COD, toxicity and odor).

“Pollution hazard” means a condition through which an aesthetically objectionable or degrading material may enter the waterworks or a customer’s water system.

“Pretreatment” or “treatment” means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater thereby rendering them less harmful to the sanitary sewage system prior to introducing such pollutants into the system. This reduction or alteration can be obtained by physical, chemical or biological processes, by process changes, or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

“Pretreatment standard” or “pretreatment requirements” means any substantive or procedural requirement related to pretreatment, including national pretreatment categorical standards and prohibitive discharge standards, best management practices and local limits imposed on an industrial user.

“Process fluids” means any fluid or solution that may be chemically, biologically, or otherwise contaminated or polluted which would constitute a health, pollution, or system hazard if introduced into the waterworks.

“Prohibited discharge standards” or “prohibited discharges” means absolute prohibitions against the discharge of certain defined types of wastewater.

“Public water system” means the publicly-owned system of mains or pipes, valves, hydrants, pumping stations, ground and elevated storage tanks and other structures for the distribution of potable water to the residences, business buildings, institutions and industrial establishments.

“Qualified professional” means a person who, by virtue of practical or educational training, has experience in the design, development, and/or operation of such pretreatment processes which they are evaluating.

“Receiving stream” means the stream in which the sanitary sewage system discharges effluent.

“Sanitary district” means the Arlington Sanitary District, as authorized under the provisions of Chapter 161, the Acts of Assembly of Virginia, 1926, for which an order was entered in the Circuit Court of the County on April 25, 1930, and the boundaries of which as co-extensive with the boundaries of the County.

“Sanitary sewage system” means the publicly-owned system of mains or pipes, manholes, pumping stations and wastewater treatment (water pollution control) facilities for the collection and treatment of sewage.

“Sewage” means the water-carried wastes from residences, business buildings, institutions and industrial establishments.

“Significant industrial user,” except as provided in paragraph (3) and (4) below, means:

- (1) Industrial users subject to categorical pretreatment standards; or
- (2) Any other industrial user that:
  - (a) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater; or
  - (b) Contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the treatment plant; or
  - (c) Is designated as significant by the County on the basis that the industrial user has a reasonable potential for causing pass-through or interference.

(3) The WPCB Chief may determine that an industrial user subject to categorical pretreatment standards is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the industrial user never discharges more than one hundred (100) gpd of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blow-down wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:

- (a) The industrial user, prior to the WPCB Chief's finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;
- (b) The industrial user annually submits the certification statement required by 40 CFR 403.12(q), together with any additional information necessary to support the certification; and
- (c) The industrial user never discharges any untreated concentrated wastewater.

(4) Upon a finding that a user meeting the criteria in (2) above has no reasonable potential for adversely affecting the sanitary sewer collection system, the Water Pollution Control Plant's operation, or for violating any Pretreatment Standard or Requirement, the WPCB chief may determine that the user should not be considered a significant industrial user in accordance with procedures in 40 CFR 403.8(f)(6).

"Slug load" means any pollutant (including BOD) released in a discharge at a flow rate or concentration which will cause a violation of the specific discharge prohibitions in Division 2 of Article II of this chapter, or any discharge of a nonroutine episodic nature including, but not limited to, accidental spills or a noncustomary batch discharge.

"Standard Industrial Classification (SIC) Code" means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget.

"Standard Methods" means 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 waters" means all waters defined as "surface waters" in 9 VAC 25-31-10 et seq., or its successor.

"Storm drainage (storm water) system" means the publicly-owned system of mains or pipes, manholes, catch basins, box culverts and other structures for the conveyance of storm (or rain), surface and ground waters, exclusive of sewage and industrial wastes. Open watercourses in which a flow of water occurs either continuously or intermittently, whether on public or private land, shall be considered as part of the storm drainage system.

"Storm sewer system" means the publicly-owned system of mains or pipes, manholes, catch basins, box culverts, constructed open channels and other structures for the conveyance of stormwater, exclusive of sewage and industrial wastes.

"Suspended solids" means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, as determined by "Standard Methods," and which is removable by laboratory filtering.

"Toxic pollutant" means one of the pollutants or any combination of those pollutants listed as toxic in regulations promulgated by the Environmental Protection Agency (EPA) under the provision of § 307 (33 U.S.C. 1317) of the Act.

"Treatment plant" means that portion of the sanitary sewage system designed to provide treatment of sewage and industrial waste.

"Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with the pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.



“User” means any person who contributes to, causes, or allows from property he owns or operates the contribution of sewage or industrial wastewater into the sanitary sewage system, including persons who contribute such wastes from mobile sources.

“Wastewater” means the water-carried wastes from residences, business buildings, institutions and industrial establishments together with any groundwater, surfacewater or stormwater that may be present. Also referred to as "sewerage."

“Wastewater facilities” means any device used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes of a liquid nature and any conveyance which conveys wastewater to the wastewater treatment works. Also known as a Publicly Owned Treatment Works (POTW) as defined by § 212 of the Act (33 U.S.C. Section 1292).

“Water Pollution Control Bureau Chief” means the Bureau Chief for the Water Pollution Control Bureau and designated by the County to manage the operation of the sanitary sewage system and who is charged with certain duties and responsibilities by this article or his designee.

“Water, Sewer and Streets Bureau” means the Water, Sewer and Streets Bureau of the Department of Environmental Services.

“Waterworks” means a system that serves piped water for drinking or domestic use to the public. The term "waterworks" shall include all structures, equipment, and appurtenances used in the storage, collection, purification, treatment, and distribution of pure water except the piping and fixtures inside the building to which such water is delivered.

“VPDES” means the Virginia Pollutant Discharge Elimination System permit program, as administered by the Commonwealth of Virginia. (Ord. No. 92-25, 6-16-92; Ord. No. 92-38, 8-8-92; Ord. No. 93-5, 5-20-93; Ord. No. 95-10, 4-29-95; Ord. No. 95-11, 4-29-95; Ord. No. 98-3, 2-7-98; Ord. No. 01-15, 7-28-01; Ord. No. 04-25, 10-2-04; Ord. No. 08-13, 6-17-08, Ord. No. 08-11, 4-19-08, effective 1-1-08)

#### **§ 26-2. Abbreviations.**

The following abbreviations shall have the indicated meanings:

BOD -- Biochemical Oxygen Demand

CFR -- Code of Federal Regulations

COD -- Chemical Oxygen Demand

EPA -- U.S. Environmental Protection Agency

gpd -- Gallons Per Day

LC50 -- Lethal Concentration for Fifty Percent (50%) of the Test Organisms

l -- Liter

mg -- Milligrams

mg/l -- Milligrams per liter

VPDES -- Virginia Pollutant Discharge Elimination System

O&M -- Operation and Maintenance

POTW -- Publicly-Owned Treatment Works

RCRA -- Resource Conservation and Recovery Act

SIC -- Standard Industrial Classifications

SWDA -- Solid Waste Disposal Act (42 U.S.C. 6901, et seq.)

TSS -- Total Suspended Solids

USC -- United States Code

WPCB -- Water Pollution Control Bureau

(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

### § 26-3. Administration.

A. Except as otherwise provided herein, the provision of water and sewer service shall be governed by the Water Rules and Regulations Handbook, which may be amended by the County Board. The County Manager or his designee, shall administer and enforce the provisions of the Handbook.

B. The County Manager shall develop such rules and regulations as are necessary to govern the administration of the infrastructure availability fee. Such rules and regulations shall be incorporated into the County's Water Rules and Regulations Handbook.

(Ord. No. 93-11, 6-19-93; Ord. No. 07-03, 4-21-07; effective 7-1-07)

## DIVISION 2.

### WATER AND SEWER SERVICE

#### § 26-4. Public Water System.

A. It shall be unlawful for any person to connect any water supply system not specifically approved by the County Manager to the public water system.

B. It shall be unlawful for any person not specifically authorized by the County Manager to operate, injure, disturb, connect to or disconnect from, or otherwise interfere with any water meter, meter box, vault, main or pipe, valve, hydrant, pumping station, ground or elevated storage tank, or other structure which is part of the public water system.

C. *Conservation of water use.* If a water shortage occurs because of a main break, reservoir leak, pump failure or for any other reason, the County Manager is authorized to impose immediate emergency restrictions on water use, notifying the public by radio, television or door to door contact of the need for limiting water use during the emergency.

(Ord. No. 92-25, 6-16-92; Ord. No. 93-11, 6-19-93; Ord. No. 02-5, § 2, 4-20-02)

#### § 26-5. Storm Sewer System.

A. It shall be unlawful for any person not specifically authorized by the County Manager to remove a manhole cover or catch basin cover or grate inlet cover or to make any connections with, or any opening into, use, or in any way alter, disturb, or otherwise interfere with any manhole, catch basin, grate inlet, or other structure which is a part of the public storm sewer system.

B. It shall be unlawful for any person to deposit into any open watercourse or gutter or pipe or other

drainage structure any rocks, logs, dirt, paper, branches, leaves, grass, or any other material capable of causing a stoppage or disrupting the flow of storm or rain water or otherwise adversely affecting the hydraulic capacity of the watercourse or drainage structure.

C. It shall be unlawful for any person to discharge directly or indirectly into the storm sewer system or state waters, any substance likely, in the opinion of the County Manager, to have an adverse effect on the storm sewer system or state waters. A discharge may be considered serious or moderate. A serious discharge is one that is determined to be an immediate threat to the environment, public health, or safety of the County's storm sewer system or state waters. Any other discharge under this subsection shall be considered moderate. To prevent such adverse effects, the County Manager may adopt rules and regulations governing direct or indirect discharges into the storm sewer system and state waters. Discharge of any substance directly to state waters must be authorized by a separate Virginia Pollutant Discharge Elimination System (VPDES) permit in accordance with 9 VAC 25-31-10 et seq., or its successor.

(Ord. No. 92-25, 6-16-92; Ord. No. 93-11, 6-19-93; Ord. No. 01-15, 7-28-01; Ord. No. 10-13, 6-12-10)

#### **§ 26-6. Water and/or Sewer Billing.**

- A. *Responsibility.* Where the use of any water or sewer system is contracted for by an occupant who is not the owner of the premises and where such occupant's premises are separately metered for service, the owner of any such premises shall be liable for the payment of delinquent rates or charges applicable to three (3) delinquent billing periods but not to exceed a period of ninety (90) days for such delinquency, as provided by Virginia law, provided that no such lien shall be placed by the County Board (Board) unless the Board or its billing and collection agent (i) shall have advised the owner of such real estate at the time of initiating service to a lessee or tenant of such real estate that a lien will be placed on such real estate if any lessee or tenant fails to pay any fees, rents, or other charges when due for services rendered to a lessee or tenant; (ii) shall have mailed to the owner of such real estate a duplicate copy of the final bill rendered to such lessee or tenant at the time of rendering the final bill to such lessee or tenant; and (iii) shall employ the same collection efforts and practices to collect amounts due the Board from a lessee or a tenant as are employed with respect to collection of such amounts due from customers who are owners of the real estate for which service is provided.
- B. *Billing.* All water and/or sewer accounts shall be billed not less than four (4) times each year. All accounts are due and payable when rendered.
- C. *Delinquency.* If any rates, fees, or charges for the use of and for water and/or sewer services furnished by any system constructed by Arlington County are not paid within thirty (30) days after the bill date and the person who incurred the debt is the occupant of such premises, at the expiration of such thirty (30) day period the County may disconnect the water-sewer service at the premises and proceed to recover the amount of such delinquent rates, fees, or charges, with interest.
- D. *Liens.* Any unpaid charge entered in the judgement lien docket of the Circuit Court Clerk's Office shall become a lien superior to the interest of any owner, lessee, or tenant, as provided by Virginia law.
- E. *Collections.* The Treasurer of Arlington County is authorized to collect any and all utilities charges under this chapter.

(Ord. No. 93-11, 6-19-93; Ord. No. 94-22, 8-6-94; Ord. No. 98-22, 7-11-98)

#### **§ 26-7. Water/Sewer Rates and Fees.**

BASE: The charge for water/sewer service shall be based on the consumption of water as reflected by periodic readings of water meters serving the property.

RATES:

A. The rate for properties which use both shall be fourteen dollars and twenty cents (\$14.20) per thousand (1,000) gallons of water furnished. The rate for these services is set forth as follows:

1. Water Services – four dollars and ninety-one cents (\$4.91) per one thousand (1,000) gallons of water furnished.
2. Sewer services – nine dollars and twenty-nine cents (\$9.29) per one thousand (1,000) gallons of water furnished.

B. The rate for properties which are served by the County water system only shall be four dollars and ninety-one cents (\$4.91) per one thousand (1,000) gallons of water furnished.

C. The rate for properties which are served by the County sewer system only shall be nine dollars and twenty-nine cents (\$9.29) per one thousand (1,000) gallons of water furnished based on the periodic water or sewer meter reading by the utility serving the property.

D. The rate for the establishment of a late charge shall be six percent (6%) imposed on the outstanding balance of water/sewer and refuse accounts thirty (30) days after the bill date.

E. The rate for the establishment of new water service accounts shall be twenty-five dollars (\$25.00) per account. The rate for reactivation of service following the customer's request for deactivations and those reactivations necessitated by occupant delinquency or repair shall be twenty-five dollars (\$25.00) per each request.

F. The charges for drainage fixture unit inspections shall be one hundred seventy-five dollars (\$175.00) for one (1) to twenty-four (24) fixtures, two hundred seventy-five dollars (\$275.00) for twenty-five plus fixtures.

G. The charge for fire flow tests shall be three hundred dollars (\$300.00).

The rates for water and sewer service become effective with water used on July 1, 2020. The rates for the late charge and the water service activation/reactivation became effective July 1, 1992. The charges for drainage fixture unit inspections and fire flow tests became effective July 1, 2008.

(Ord. No. 93-11, 6-19-93; Ord. No. 94-11, 5-1-94; Ord. No. 94-22, 8-6-94; Ord. No. 95-10, 4-29-95; Ord. No. 95-11, 4-29-95; Ord. No. 96-4, 4-13-96; Ord. No. 98-22, 7-11-98; Ord. No. 00-09, 4-13-00; Ord. No. 01-06, 4-16-01; Ord. No. 02-09, 4-20-02; Ord. No. 03-09, 4-26-03; Ord. No. 04-07, 4-24-04; Ord. No. 05-04, 4-16-05, effective 5-1-05; Ord. No. 06-06, 4-22-06, effective 5-1-06; Ord. No. 07-04, 4-21-07, effective 5-1-07; Ord. No. 08-03, 4-19-08, effective 5-1-08; Ord. No. 08-04, 4-19-08, effective 7-1-08; Ord. No. 09-04, 4-28-09; Ord. No. 10-03, 4-24-10, effective 5-1-10; Ord. No. 12-05, 4-21-12, effective 5-1-12; Ord. No. 13-02, 4-20-13, effective 5-1-13; Ord. No. 14-03, 4-22-14, effective 5-1-14; Ord. No. 15-04, effective 5-1-15, Ord. No. 16-03, effective 5-1-16; Ord. No 17-02, 4-22-17, effective 5-1-17; Ord. No. 18-02, 4-21-18, effective 7-1-2018; Ord. No. 19-05, 4-23-19, effective 7-1-19; Ord. No. 20-05, 4-30-2020, effective 7-1-20)

#### **§ 26-8. Water Service to Buildings to be Demolished.**

The issuance of a demolition permit by the County Manager or a demolition order entered by a court shall constitute an implied request by and permission from the owner of the building for discontinuance of the water service connection.

(Ord. No. 92-25, 6-16-92; Ord. No. 93-11, 6-19-93)

#### **§ 26-9. Penalty.**

A. Any person who violates any provision of this article, except for §§ 26-5.B and 26-5.C, or any rule or regulation pursuant thereto shall be subject to a fine of not less than twenty-five dollars (\$25.00) nor more than one thousand dollars (\$1,000.00) for each violation. Each day of violation shall constitute a separate offense.

B. Any person who violates § 26-5.B or 26-5.C, or any regulations adopted thereunder or who fails,

neglects or refuses to comply with any order of the County Manager, shall be subject to a civil penalty not to exceed thirty-two thousand five hundred dollars (\$32,500.00) for each violation within the discretion of the Court. Each day of violation shall constitute a separate offense. The County Manager may issue a summons for collection of the civil penalty in the Arlington County Circuit Court. Such civil penalties shall be paid to the Treasurer of Arlington County and shall be used for the purpose of minimizing, preventing, managing, or mitigating pollution of the waters.

1. A first violation under this subsection shall be subject to a civil penalty of five hundred dollars (\$500.00) for a serious violation or one hundred dollars (\$100.00) for a moderate violation.
2. A second violation under this subsection shall be subject to a civil penalty of one thousand dollars (\$1,000.00) for a serious violation or two hundred and fifty dollars (\$250.00) for a moderate violation.
3. A third violation or thereafter under this subsection shall be subject to a civil penalty of two thousand five hundred dollars (\$2,500.00) for a serious violation or five hundred dollars (\$500.00) for a moderate violation.

C. Any person who willfully and knowingly violates any provision of §§ 26-5.B or 26-5.C shall be guilty of a Class 1 misdemeanor.

D. Violations of §§ 26-5.B or 26-5.C may also be addressed in the following ways:

1. The County may apply to the Circuit Court of Arlington County for injunctive relief to enjoin a violation or threatened violation.
2. In lieu of any appropriate civil penalty that could be imposed under subsection B, the County may, with the consent and agreement of any person who has violated or failed, neglected or refused to obey with §§ 26-5.B or 26-5.C or any regulation thereunder, provide, in an order issued against such person, for payment of civil charges for violations in specific sums, not to exceed thirty-two thousand five hundred dollars (\$32,500.00) for each violation. Any civil charges collected shall be paid to the Treasurer of Arlington County and shall be used for the purpose of minimizing, preventing, managing, or mitigating pollution of the waters.

(Ord. No. 92-25, 6-16-92; Ord. No. 93-11, 6-19-93; Ord. No. 10-13, 6-12-10)

#### **§ 26-10. Infrastructure Availability Fees.**

A. It shall be unlawful for any person to connect a structure to the public water distribution system or to the sanitary sewer system without payment of an infrastructure availability fee.

B. It shall be unlawful for any person to install plumbing fixtures in a structure previously connected to the public water distribution system or to the sanitary sewer system which results in an increase in the total drainage fixture units in that structure without payment of an infrastructure availability fee.

C. Infrastructure availability fees shall be paid in full prior to issuance of a building permit, or a plumbing permit if no building permit is required or according to regulations pursuant to § 26-3. The infrastructure availability fee shall be in accordance with the rate schedule in force at the time of issuance of the permit.

D. The infrastructure availability fee rate shall be two hundred dollars (\$200.00) per drainage fixture unit (DFU). For structures that are provided for water service only or sewer service only, the infrastructure availability fee shall be as follows:

Water Service only—eighty-five dollars (\$85.00) per DFU

Sewer Service only—one hundred and fifteen dollars (\$115.00) per DFU

E. The County Manager shall develop such rules and regulations as are necessary to govern the

administration of the infrastructure availability fee in accordance with § 26-3.B of this chapter.  
 (Ord. No. 92-25, 6-16-92; Ord. No. 93-11, 6-19-93; Ord. No. 97-8, 5-17-97; Ord. No. 07-03, 4-21-07, effective 7-1-07; Ord. No. 10-04, 4-24-10, effective 7-1-10; Ord. No. 13-02, 4-20-13, effective 7-1-13.)

**§ 26-11. Water Main Extensions.**

A. The County, to provide additional capacity, increased reliability, or to otherwise improve service, may at any time make extensions to the water distribution system.

B. Extensions to the water distribution system necessitated by redevelopment, new development, or construction shall be the responsibility of the developer or property owner to the extent permitted by Virginia law.

C. Extensions by developers or property owners shall be constructed in accordance with plans and specifications approved by the County.  
 (Ord. No. 93-11, 6-19-93)

**§ 26-12. Service Connection Charges.**

Water Connection Charges

Service Connection Size (inches)	Meter Size (inches)	Connection Charge
1	3/4	\$ 3,200.00
1 1/2	1 1/2	4,600.00
2	2	4,800.00
3	3	19,800.00
4	4	21,200.00
6	6	23,200.00
8	8	25,300.00

Meter Installation Charges

Meter Size (inches)	Installation Charge
3/4	\$100.00
1-1/2	300.00
2	600.00
3	1,800.00
4	2,000.00
6	2,200.00
8	3,000.00

Water Service Discontinuation Charge

The charge to discontinue a public way service shall be five hundred dollars (\$500.00).

Meter Box Relocation Charge:

The charge to relocate a meter box (for services two (2) inches and smaller) five (5) feet or less shall be one thousand dollars (\$1,000.00).

These charges became effective July 1, 2008.  
 (Ord. No. 93-11, 6-19-93; Ord. No. 94-22, 8-6-94; Ord. No. 08-04, 4-19-08, effective 7-1-08)

**§ 26-13. Sanitary District Tax.**

A. There is hereby imposed a sanitary district tax of \$0.013 per one hundred dollars of assessed valuation of all taxable real estate not otherwise exempt from taxation located in the sanitary district for operating and capital expenses necessary to expand and upgrade the storm drainage (storm sewer) system. Such tax shall be effective as of January 1, 2010, and payable at the same time and in the same manner as real estate taxes are paid.

B. Any person assessed who fails to pay the tax installments on or before the respective payment date shall incur a penalty thereon of ten percent (10%) or ten dollars (\$10.00), whichever shall be greater, but not to exceed the amount of the tax, which shall be added to the amount of taxes due from such person assessed.

C. Interest shall accrue on any amount past due at the same rate as real property taxes under § 27-3.1.

D. The Treasurer of Arlington County is authorized to collect any and all delinquent sanitary district taxes under this chapter.

(Ord. No. 08-11, 4-19-08, effective 1-1-08; Ord. No. 10-06, 4-24-10, effective 1-1-10)

**§§ 26-14--26-30. Reserved.**

**ARTICLE II.**

**WASTEWATER PRETREATMENT**

**DIVISION 1.**

**GENERAL PROVISIONS**

**§ 26-31. Purpose and Policy.**

This article sets forth uniform requirements for direct and indirect dischargers of pollutants from any sources into the sewage collection and treatment system for the County of Arlington and enables the County to comply with all applicable state and federal laws. The objectives of this article are:

A. To prevent the introduction into the sanitary sewage system of pollutants which will interfere with the operation of the system;

B. To prevent the introduction into the sanitary sewage system of pollutants which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;

C. To ensure that the quality of the sewage treatment plant sludge is maintained at a level which allows its marketability or safe disposal;

D. To protect persons who may come into contact with sewage, sludge and effluent in the course of their employment as well as to protect the general public;

E. To preserve the hydraulic capacity of the sanitary sewage system;

F. To improve the opportunity to recycle and reclaim wastewater and sludge from the system;

G. To provide for equitable distribution of the cost of operations, maintenance and improvement of the sanitary sewage system; and

H. To enable the County to comply with its VPDES permit conditions, sludge use and disposal requirements and any other federal or state laws to which the sanitary sewage system is subject.

This article provides for the regulation of discharge to the sanitary sewage system through the issuance of permits to certain nondomestic users and through enforcement of general requirements for other users, authorizes

monitoring and enforcement activities, establishes administrative review procedures, requires user reporting, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

This article shall apply to persons within the County and to persons outside of the County who, by contract with the County, are included as users of the sanitary sewage system.

It shall be unlawful for any person not specifically authorized by the County Manager to make any connection with or any opening into, use, alter, disturb or otherwise interfere with any manhole, main or pipe, building, tank or any other structure which is a part of the public sanitary sewer system.

Any facilities or measures called for in this article shall be provided, operated, and maintained at the industrial user's expense.

(Ord. No. 92-25, 6-16-92; Ord. No. 95-10, 4-29-95; Ord. No. 95-11, 4-29-95)

#### **§ 26-32. Administration.**

Except as otherwise provided herein, the WPCB Chief shall administer and enforce the provisions of this article. Any powers granted to or duties imposed upon the WPCB Chief may be delegated by the WPCB Chief to other County personnel.

To comply with the provisions of this article, the WPCB Chief may enter into agreements with service areas outside of Arlington County, or with industrial users as necessary.

(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

#### **§§ 26-33, 26-34. Reserved.**

### **DIVISION 2.**

#### **GENERAL SEWER USE REQUIREMENTS**

#### **§ 26-35. Prohibited Discharge Standards.**

No user shall contribute or cause to be contributed to the sanitary sewage system, directly or indirectly, any pollutant or wastewater which will cause interference or pass-through. These general prohibitions apply to all users of the sanitary sewage system whether or not the user is subject to categorical pretreatment standards or any other national, state or local pretreatment standards or requirement. No user may contribute the following substances to the system:

A. Any liquids, solids or gases which, by reason of their nature or quantity are, or may be, sufficient, either alone or by interaction with other substances, to cause fire or explosion hazard or be injurious in any other way to the sanitary sewage system. Included without limitation in this prohibition are wastestreams with a closed cup flashpoint of less than 140°F (60°C) as determined using the test method specified in 40 CFR 261.21. At no time shall either of two (2) successive readings on an explosion hazard meter at the point of discharge into the system or at any point in the system be more than five percent (5%) nor any single reading over ten percent (10%) of the lower explosive limit (LEL) of the meter.

B. Solid or viscous substances in amounts which will cause interference with the flow in a sewer but in no case solids greater than one-half (1/2) inch (1.27 centimeters) in any dimension.

C. Any fats or greases including, but not limited to, petroleum oil, nonbiodegradable cutting oil, or products of vegetable, animal or mineral oil origin, in amounts that will cause interference, pass-through or blockage of the collection system.

D. Any wastewater having a pH less than five (5.0) or more than twelve and a half (12.5); but in no case having a daily average of less than six (6); and in no case which could otherwise cause corrosive structural damage to the system, to County personnel or to equipment.



E. Any wastewater containing pollutants in sufficient quantity (flow or concentration), either alone or by interaction with other pollutants, to pass through or interfere with the sanitary sewage system, any wastewater treatment or sludge process, or constitutes a hazard to humans or animals.

F. Any noxious or malodorous liquids, gases, or solids or other wastewater which, either alone or by interaction with other wastes, is sufficient to create a public nuisance or hazard to life or is sufficient to prevent entry into the sewers for maintenance and repair.

G. Any substance which may cause the sanitary sewage system effluent or any other residues, sludges, or scums to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the system cause the County to be in noncompliance with sludge use or disposal regulations or permits issued under § 405 of the Act; the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substance Control Act, or other state requirements applicable to the sludge use and disposal practices being used by the County.

H. Any wastewater which cannot be removed by the treatment process including, but not limited to, dye wastes and vegetable tanning solutions which impart color to the sanitary sewage system effluent thereby violating the County's VPDES permit. The color of such wastewater (in combination with turbidity) shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than ten percent (10%) from the seasonably established norm for aquatic life.

I. Any wastewater having a temperature greater than 150°F (55°C), or any wastewater which due to its temperature or volume will inhibit biological activity in the sanitary sewage system resulting in interference, or which shall cause the temperature of the wastewater entering the treatment plant to exceed 104°F (40°C).

J. Any wastewater containing any radioactive wastes or isotopes, except as specifically approved by the WPCB Chief in compliance with applicable state or federal regulations.

K. Any pollutants which result in the presence of toxic gases, vapors, or fumes within the system in a quantity that may cause or endanger worker health and safety.

L. Any trucked or hauled pollutants, except at discharge points designated by the County in accordance with § 26-49.

M. Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, deionized water, and unpolluted industrial wastewater, unless specifically authorized by the WPCB Chief.

N. Nonbiodegradable cuttings oils, commonly called soluble oils, which form a persistent water emulsion, and nonbiodegradable complex carbon compounds.

O. Any sludges, screenings, or other residues from the pretreatment of industrial wastes, unless specific written permission is given by the WPCB Division Chief.

P. Any medical wastes, unless specifically permitted by the WPCB Chief.

Q. Any material identified as hazardous waste in 40 CFR Part 261, except as may be specifically permitted by the WPCB Chief.

R. Any wastewater causing the treatment plant effluent to show a lethal concentration of fifty percent (50%) (LC50) as determined by a toxicity test of ninety-six (96) hours or less, using a percentage of the discharge and aquatic test species chosen by the WPCB Chief.

S. Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the sanitary sewage system.

T. Any pollutant, including oxygen demanding pollutants (BOD, etc.), released in a discharge at a flow

rate or pollutant concentration, or both, which will cause interference at the POTW.

Wastes prohibited by this section shall not be processed or stored in such a manner that these wastes could be discharged to the sanitary sewage system. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the system.  
(Ord. No. 92-25, 6-16-92; Ord. No. 98-3, 2-7-98; Ord. No. 04-25, 10-2-04)

#### **§ 26-36. Federal Categorical Pretreatment Standards.**

Users subject to categorical pretreatment standards are required to comply with applicable standards as set out in 40 CFR Chapter I, Subchapter N, Parts 405--471 or successor provisions and incorporated herein.  
(Ord. No. 92-25, 6-16-92)

#### **§ 26-37. State Requirements.**

Users are required to comply with applicable state pretreatment standards and requirements as set out in 9 VAC 25-31-730 to 25-31-900 or successor provisions. These standards and requirements are incorporated herein.  
(Ord. No. 92-25, 6-16-92; Ord. No. 98-3, 2-7-98)

#### **§ 26-38. Specific Pollutant Limitations.**

The WPCB Chief may impose maximum mass or concentration discharge limits, or BMP's for any pollutant to protect the Water Pollution Control Plant from pass-through or interference, or to protect worker health and safety, to protect against damage to the sanitary sewer collection system, or to protect the quality of the Water Pollution Control Plant products (plant effluent, biosolids, off gasses, etc.). Concentrations shall be determined at the point where the industrial waste is discharged to the sanitary sewage collection system. All concentrations for metallic substances are for "total" metal. Compliance with all parameters may be determined from a single grab sample. Where specific prohibitions or limits on pollutants are developed for the sanitary sewage collection system in accordance with this section, such limits are deemed pretreatment standards.  
(Ord. No. 92-25, 6-16-92; Ord. No. 95-10, 4-29-95; Ord. No. 95-11, 4-29-95; Ord. No. 04-25, 10-2-04; Ord. No. 08-13, 6-17-08)

#### **§ 26-39. Special Agreement.**

The County reserves the right to enter into special agreements with users setting out special terms under which the industrial user may discharge to the system. In no case will a special agreement waive compliance with a pretreatment standard. However, the industrial user may request a net gross adjustment to a categorical standard to reflect the presence of pollutants in their intake water in accordance with 40 CFR 403.15 or its successor provisions. Industrial users may also request a variance from the categorical pretreatment standard. Such a request will be approved only if the user can prove to the satisfaction of the WPCB Chief, that factors relating to its discharge are fundamentally different from the factors considered by the U.S. EPA when establishing that pretreatment standard. An industrial user requesting a fundamentally different factor variance must comply with the procedural and substantive provisions of 40 CFR 403.13 or its successor provisions.  
(Ord. No. 92-25, 6-16-92; Ord. No. 98-3, 2-7-98; Ord. No. 04-25, 10-2-04)

#### **§ 26-40. Dilution.**

No user shall increase the use of water used in any process or operation which is discharged into the sanitary sewer or in any way attempt to dilute, a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard.  
(Ord. No. 92-25, 6-16-92)

#### **§ 26-41. Inspection.**

Arlington County and Virginia Water Control Board personnel may inspect the facilities of any industrial user to ascertain whether or not the provisions of this article are being met. The industrial user shall allow authorized

representatives:

- A. To have access to and copy any records required to be kept under the terms and conditions of this article.
- B. Access during hours of operation to all parts of the premises for the purpose of inspection or sampling in the performance of any of their duties.
- C. To set on the user's property such devices as are necessary to conduct sampling/metering operations.  
(Ord. No. 92-25, 6-16-92)

**§§ 26-42--26-44. Reserved.**

### **DIVISION 3.**

#### **PRETREATMENT OF WASTEWATER**

##### **§ 26-45. Pretreatment Facilities.**

Industrial users shall provide wastewater treatment as required to comply with this article and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in Division 2 of this article. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the County for review, and shall be acceptable to the County before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility for modifying the facility as necessary to produce an acceptable discharge to the County under the provisions of this article.  
(Ord. No. 92-25, 6-16-92)

##### **§ 26-46. Additional Pretreatment Measures.**

A. Whenever found necessary to protect the sanitary sewage system and to determine the industrial user's compliance, the WPCB Chief may require industrial users to restrict the industrial user's discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate domestic sewage wastestreams from industrial wastestreams, and take such other measures as may be necessary.

B. Grease, oil and sand interceptors shall be provided when, in the opinion of the WPCB Chief, they are necessary for the proper handling of wastewater containing excessive amounts of grease, flammable substances, sand, or other harmful substances. Such interceptors shall not be required for domestic users. All interception units shall be of a type and capacity approved by the WPCB Chief and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly as needed to maintain proper working condition by the industrial users at his expense.

C. Industrial users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.  
(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

##### **§ 26-47. Spill Prevention Plans.**

Industrial users shall provide protection from accidental discharge of materials which may interfere with the sanitary sewage system by developing and implementing spill prevention plans. No industrial user shall implement a spill prevention plan, including the facilities and the operating procedures, until it has been approved by the County. The spill prevention plan shall include as a minimum the following:

- A. Description of discharge practices, including nonroutine batch discharges.
- B. Description of stored chemicals.

C. Procedures for immediately notifying the WPCB Chief of any accidental or slug discharges. Such notification must also be given for any discharge which would violate any of the prohibited discharges in Division 2 of this article.

D. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures shall include, but not be limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

Significant industrial users or industrial users that store hazardous substances shall not contribute to the sanitary sewage system after the effective date of this ordinance from which this article is derived unless a spill prevention plan has been approved by the County. Approval of such plans shall not relieve industrial users from complying with all other laws and regulations governing the use, storage, and transportation of hazardous substances. (Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

#### **§ 26-48. Tenant Responsibility.**

Any industrial user who shall rent, lease, or otherwise occupy space which it does not own and is entitled to discharge based on a wastewater permit held by the property owner shall, together with the wastewater permit holder, be held jointly and severally responsible for any violation. (Ord. No. 92-25, 6-16-92)

#### **§ 26-49. Hauled Wastewater.**

Septic tank waste (septage) will be accepted into the sanitary sewage system at a designated receiving structure within the treatment plant area at such times as are established by the WPCB Chief. The WPCB Chief may refuse to accept any septage which contains toxic or hazardous pollutants or which violates any other requirement established by the County. Permits for individual vehicles to use such facilities may be issued by the WPCB Chief.

A. Commercial haulers of holding tanks wastes must obtain a septage hauler permit from the WPCB Chief prior to any discharge to the sanitary sewage system.

B. The WPCB Chief shall have authority to prohibit the disposal of any hauled wastewater if such disposal has a potential for interfering with the treatment plant operation. Wastewater haulers shall be subject to all other sections of this article.

C. Fees for discharging hauled wastewater will be established as part of the user fee system as authorized in Division 10 of this Article. (Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

#### **§ 26-50. Appeals.**

Any decision made by the WPCB Chief pursuant to these provisions may be appealed to the County Manager by the user within thirty (30) days of receiving written notice by the WPCB Chief. The County Manager shall make a response within thirty (30) days of receiving the appeal and shall communicate his decision in writing. (Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

### **DIVISION 4.**

#### **WASTEWATER PERMIT ELIGIBILITY**

#### **§ 26-51. Wastewater Survey.**

When requested by the WPCB Chief, industrial users shall submit information on the nature and

characteristics of their wastewater prior to commencing their discharge. The WPCB Chief is authorized to prepare a survey form for this purpose and shall periodically require industrial users to update the survey. Failure to complete this survey shall be reasonable grounds for terminating service to the industrial user and shall be considered a violation of this article.

(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

**§ 26-52. Wastewater Permit Requirement.**

It shall be unlawful for significant industrial users to discharge wastewater into the County's sanitary sewer system without first obtaining a wastewater permit from the WPCB Chief. Any violation of the terms and conditions of the wastewater permit shall be deemed a violation of this article and subject the industrial user to the sanctions set out in Division 8 of this article. Obtaining a wastewater permit shall not relieve a user of its obligation to obtain other permits required by federal, state, or local laws.

(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

**§ 26-53. Permitting New Connections.**

Any significant industrial user proposing to begin or recommence discharging industrial wastes into the sanitary sewage system must obtain a wastewater permit for such discharge before any discharge or commencement of operations.

(Ord. No. 92-25, 6-16-92)

**§ 26-54. Permitting Extra-Jurisdictional Industrial User.**

Any existing significant industrial user located outside of the County shall submit a permit application, in accordance with § 26-55 below, within ninety (90) days of the effective date of this ordinance from which this article is derived. New significant industrial users located outside of the County limits shall submit such applications to the WPCB Chief ninety (90) days before any discharge into the sanitary sewage system. Upon review of such application, the WPCB Chief may enter into a contract with the industrial user which requires the industrial user to subject itself to and abide by this article, including all permitting, compliance monitoring, reporting, and enforcement provisions herein. However, if the WPCB Chief has entered into an agreement, before the time that a permit would otherwise be required with the jurisdiction in which the significant industrial user is located to provide for the implementation and enforcement of pretreatment program requirements, the industrial user shall be subject to those requirements and no permit shall be required from the County.

(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

**§ 26-55. Wastewater Permit Application Contents.**

No permit shall be granted to an industrial user until it has submitted the information required by § 26-67.A of this article on a form approved by the WPCB Chief. In addition, at the WPCB Chief's request, the following information shall be included.

A. Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW.

B. Number and type of employees, hours of operation, and proposed or actual hours of operation.

C. Each product produced by type, amount, process or processes, and rate of production.

D. Type and amount of raw materials processed (average and maximum per day).

E. The site plans, floor plans, mechanical and plumbing plans, detailed to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge.

F. Time and duration of discharge by the user.

G. Any other information as may be deemed necessary by the WPCB Chief to evaluate the wastewater discharge permit application.

H. A statement reviewed and certified by an authorized representative of the user indicating whether or not the pretreatment standards are being met on a consistent basis, and if not, what additional pretreatment is necessary.

I. If additional pretreatment or O&M will be required to meet the standards, then the industrial user shall prepare a schedule to indicate the shortest amount of time necessary to accomplish installation or adoption of such additional treatment or O&M. The following conditions apply to this schedule:

1. The schedule shall contain dates for the commencement and completion of additional pretreatment measures as required for the user to meet the applicable pretreatment standards. No increment shall exceed nine (9) months, nor shall the total compliance period exceed eighteen (18) months.
2. No 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 WPCB Chief including as a minimum whether or not the user complied with the requirements for incremental progress, the reason for any delay, and the steps being taken by the user to return to the established schedule. In no event shall more than nine (9) months elapse between such progress reports to the WPCB Chief.

Incomplete or inaccurate applications will not be processed and will be returned to the industrial user for revision.

(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

#### **§ 26-56. Application Signatories and Certification.**

All permit applications and industrial user reports must contain the following certification statement and be signed by an authorized representative of the industrial user:

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

(Ord. No. 92-25, 6-16-92)

#### **§ 26-57. Wastewater Permit Decisions.**

The WPCB Chief will evaluate the data furnished by the industrial user and may require the industrial user to submit additional information. Within ninety (90) days of receipt of a complete permit application, the WPCB Chief will determine whether or not to issue a wastewater permit. If no determination is made within this time period, the application will be deemed denied.

(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

#### **§§ 26-58, 26-59. Reserved.**

### **DIVISION 5.**

#### **WASTEWATER PERMIT ISSUANCE PROCESS**

#### **§ 26-60. Wastewater Permit Duration.**

Permits shall be issued for a time period specified by the WPCB Chief, not exceeding five (5) years. Each

permit will indicate a specific date upon which it will expire.  
(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

**§ 26-61. Permit Contents.**

Wastewater permits shall include such conditions as are deemed necessary by the WPCB Chief to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, protect ambient air quality, and protect against damage to the sanitary sewage system.

- A. Wastewater permits will contain the following:
  - 1. A statement that indicates the date of issuance, expiration, and effectiveness, which in no event shall the duration exceed five (5) years.
  - 2. A statement that the permit is nontransferable without prior notification to and written approval from the County and that the current owner or operator is responsible for furnishing the new owner or operator with a copy of the existing permit.
  - 3. Effluent limits and Best Management Practices, applicable to the user based on applicable standards in federal, state and local law.
  - 4. A statement of self-monitoring, sampling, reporting, notification and record-keeping requirements. These requirements shall include an identification of pollutants or Best Management Practice to be monitored, sampling location, sampling frequency, and sample type based on federal, state and local law.
  - 5. A statement of applicable penalties for violation of pretreatment standards and requirements and compliance schedules.
  - 6. Requirements for immediate reporting of any instance of noncompliance and for automatic resampling and reporting within thirty (30) days where self-monitoring indicates a violation(s).
  - 7. A requirement for development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or routine discharges.
- B. Permits may contain, without limitation, the following:
  - 1. Limits on the instantaneous, daily and monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties.
  - 2. Requirements for the installation of pretreatment technology or construction of appropriate containment devices, etc., designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.
  - 3. Compliance schedules for meeting pretreatment standards and requirements.
  - 4. A statement that compliance with permit terms does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the permit.
  - 5. Any other conditions as found necessary by the WPCB Chief to ensure compliance with this article and state and federal laws, rules, and regulations.

(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04; Ord. No. 08-13, 6-17-08)

**§ 26-62. Wastewater Permit Appeals.**

Any person, including the industrial user, may file a written petition with the County Manager to reconsider and change the terms of the permit within fifteen (15) days after the notice that the permit is denied or awarded is mailed to the industrial user.

A. Failure to submit a timely petition of review shall be deemed to be a waiver of the right to appeal.

B. In its petition, the appealing party must indicate which permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to have included in the permit.

C. A permit and all conditions shall be effective pending the appeal.

D. If the County Manager fails to act on the appeal within thirty (30) days, the request for reconsideration shall be deemed to be denied. Decisions not to reconsider a permit, not to issue a permit, or not to modify a permit shall be considered final administrative action for purposes of judicial review.

(Ord. No. 92-25, 6-16-92)

**§ 26-63. Wastewater Permit Modification.**

The WPCB Chief may modify a permit at any time for good cause including, but not limited to, the following:

A. To incorporate any new or revised federal, state, or local pretreatment standards or requirements.

B. To address significant alterations or additions to the industrial user's operation, processes, or wastewater volume or character since the time of permit issuance.

C. A change in the sanitary sewage system that requires either a temporary or permanent reduction or elimination of a previously authorized discharge.

D. Information indicating that the permitted discharge poses a threat to the County's sanitary sewage system, County personnel, or the receiving waters.

E. Violation of any terms or conditions of the wastewater permit.

F. Misrepresentation or failure to disclose fully all relevant facts in the permit application or in any required reporting.

G. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13.

H. Typographical or other errors in the permit.

I. Transfer of the permittee's facility ownership and/or operation to a new owner/operator.

The filing of a request by the permittee for a permit modification shall not stay or suspend any permit condition.

(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

**§ 26-64. Wastewater Permit Transfer.**

Permits may be reassigned or transferred to a new owner and/or operator with prior written approval of the WPCB Chief. The permittee must give at least thirty (30) days advance notice to the WPCB Chief. The notice must include a written certification by the new owner which:

A. States that the new owner has no immediate intent to change the facility's operations and processes.



- B. Identifies the specific date on which the transfer is to occur.
- C. Agrees to assume responsibility for complying with the existing permit.

Failure to provide advance written notice of a transfer shall be a violation of the wastewater permit as of the date of facility transfer.

(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

**§ 26-65. Wastewater Permit Revocation.**

Wastewater permits may be revoked for the following reasons:

- A. Failure to notify the County of significant changes to the wastewater prior to the changed discharge;
- B. Falsifying self-monitoring reports;
- C. Tampering with monitoring equipment;
- D. Refusing to allow the County timely access to the facility premises and records;
- E. Failure to meet effluent limitations;
- F. Failure to pay fines;
- G. Failure to pay sewer charges;
- H. Failure to meet compliance schedules;
- I. Failure to complete a wastewater survey;
- J. Failure to provide advance notice of the transfer of a permitted facility;
- K. Violation of any pretreatment standard or requirement or any terms of the permit or the ordinance.

Permits shall be void upon nonuse for a period of one (1) year or longer, or upon permanent cessation of operations. In addition, all prior permits are void upon the issuance of a new wastewater permit.

(Ord. No. 92-25, 6-16-92; Ord. No. 95-10, 4-29-95; Ord. No. 95-11, 4-29-95)

**§ 26-66. Wastewater Permit Reissuance.**

A significant industrial user shall apply for permit reissuance by submitting a complete permit application in accordance with § 26-55 at least ninety (90) days before the expiration of the user's existing permit.

(Ord. No. 92-25, 6-16-92)

**DIVISION 6.**

**REPORTING REQUIREMENTS**

**§ 26-67. Baseline Monitoring Reports.**

Within one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or one hundred eighty (180) days after the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing significant industrial users subject to such categorical pretreatment standards and currently discharging to or scheduled to discharge to the municipal system shall be required to submit to the County a report which contains the information listed in paragraph A below. At least ninety (90) days prior to

commencement of their discharge, new sources, including existing users which have changed their operation or processes so as to become new sources, shall be required to submit to the county a report which contains the information listed in paragraph A below. A new source shall also be required to report the method of pretreatment it intends to use to meet applicable pretreatment standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged.

- A. The information required by this section includes:
1. *Identifying information.* The user shall submit the name and address of the facility including the name of the operator and owners.
  2. *Permits.* The user shall submit a list of any environmental permits held by or for the facility.
  3. *Description of operations.* The user shall submit a brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such industrial user. This description should include a schematic process diagram which indicates points of discharge to the system from the regulated processes.
  4. *Flow measurement.* The user shall submit information showing the measured average and maximum daily flow, in gallons per day, to the sanitary sewage system from regulated process streams and other streams as necessary to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).
  5. *Measurement of pollutants.*
    - a. The industrial user shall identify the categorical pretreatment standards applicable to each regulated process;
    - b. In addition, the industrial user shall submit the results of sampling and analysis identifying the nature and concentration (and/or mass, where required by the standard or County local limit) of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long term average concentrations (or mass, where required) shall be reported. The sample shall be representative of daily operations. Sampling and analysis shall be performed in accordance with procedures set out in 40 CFR Part 136.
    - c. A minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics. All other pollutants will be measured by composite samples obtained through flow proportional sampling techniques. If flow proportional composite sampling is infeasible, samples may be obtained through time proportional sampling techniques or through four (4) grab samples if the user proves such a sample will be representative of the discharge.
  6. *Special certification.* A statement reviewed by an authorized representative of the industrial user 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 in order to meet the pretreatment standards and requirements.
  7. *Compliance schedule.* If additional pretreatment and/or O&M will be required to meet the pretreatment standard, the industrial user shall provide the shortest possible schedule to provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in 26-55.I of this article.
  8. *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with § 26-56.

(Ord. No. 92-25, 6-16-92)

**§ 26-68. Compliance Deadline Reports.**

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source, following commencement of the introduction of wastewater into the sanitary sewage system, any industrial user subject to such pretreatment standards and requirements shall submit to the county a report containing the information described in § 26-67.A.5 and 6 of this article. For industrial users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long term production rate. For all other industrial users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation) this report shall include user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with § 26-56. (Ord. No. 92-25, 6-16-92)

**§ 26-69. Periodic Compliance Reports.**

All significant industrial users shall, at a frequency determined by the WPCB Chief, which shall not be less frequent than two (2) times per year, submit a written report indicating the nature, concentration and flow of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flow for the reporting period. All periodic compliance reports must be signed and certified in accordance with § 26-56.

A. The user shall report all monitoring results collected at the proscribed monitoring point as specified in the wastewater permit.

B. The industrial user shall be responsible for ensuring that all wastewater samples are representative of the industrial user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of an industrial user to properly operate and maintain its monitoring facility shall not be grounds for the industrial user to claim that sample results are unrepresentative of its discharge.

C. In the event an industrial user's monitoring results indicate that a violation has occurred, the industrial user must immediately notify the WPCB Chief and resample its discharge. The industrial user must report the results of the resampling within thirty (30) days of discovering the first violation.

D. In cases where the Pretreatment Standard or permit requires compliance with a Best Management Practice or pollution prevention alternative, the User must submit documentation required by the WPCB Chief or the Pretreatment Standard necessary to determine compliance status of the user.

E. The WPCB Chief may authorize an industrial user subject to categorical pretreatment standards to forgo sampling of a pollutant regulated by a categorical standard if the industrial user has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the facility's discharge, or is present only at background levels from the intake water and without any increase in the pollutant due to activities of the industrial user. This authorization is subject to the following conditions:

1. The waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical standard and otherwise includes no process wastewater.
2. The monitoring waiver is valid only for the duration of the effective period of the individual wastewater discharge permit, but in no case longer than five (5) years. The user must submit a new request for the waiver before the waiver can be granted for each subsequent individual wastewater discharge permit.
3. In making a demonstration that a pollutant is not present, the industrial user must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the

facility that is representative of all wastewater from all processes.

4. The request for a monitoring waiver must be signed by an authorized representative as defined in § 26-1 of this chapter, and include the certification statement specified in § 26-56.
5. Non-detectable sample results may be used only as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.
6. Any grant of the monitoring waiver by the WPCB Chief must be included as a condition in the user's permit. The reasons supporting the waiver and any information submitted by the User in its request for the waiver must be maintained by the WPCB Chief for three (3) years after expiration of the waiver.
7. Upon approval of the monitoring waiver and revision of the User's permit by the WPCB Chief, the Industrial User must certify on each report with the statement in § 26-56 of this chapter, that there has been no increase in the pollutant in its wastestream due to activities of the industrial user.
8. In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the user's operations, the user must immediately notify the WPCB Chief and comply with the monitoring requirements of this section, or other more frequent monitoring requirements imposed by the WPCB Chief.
9. This provision does not supersede certification processes and requirements established in categorical Pretreatment Standards, except as otherwise specified in the categorical Pretreatment Standard.

(Ord. No. 92-25, 6-16-92; Ord. No. 95-10, 4-29-95; Ord. No. 95-11, 4-29-95; Ord. No. 04-25, 10-2-04; Ord. No. 08-13, 6-17-08)

#### **§ 26-70. Report of Changed Conditions.**

Each industrial user shall notify the WPCB Chief of any planned significant changes to the industrial user's operations or pretreatment systems which might alter the nature, quality or volume of its wastewater including, but not limited to, increased potential for spills or slug loading, or, the listed or characteristic hazardous waste for which the industrial user has submitted initial notification under 40 CFR 403.12(p). In the event of any such changes:

A. The WPCB Chief may require the industrial user to submit such information as the WPCB Chief may deem necessary to evaluate the changed condition, including the submission of a wastewater permit application under § 26-55, if necessary.

B. The WPCB Chief may issue a wastewater permit under § 26-57 or modify the existing wastewater permit under § 26-63.

C. No industrial user shall implement the planned changed condition(s) until and unless the WPCB Chief has responded to the industrial user's notice in writing.

D. For purposes of this requirement, flow increases of ten percent (10%) or greater and the discharge of any previously unreported pollutant shall be deemed significant.

(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04; Ord. No. 08-13, 6-17-08)

#### **§ 26-71. Reports of Potential Problems.**

Each industrial user shall provide protection from accidental or intentional discharges of prohibited materials or other substances regulated by this article. Detailed plans showing facilities and operating procedures which provide protection shall be submitted to the County for review and shall be approved by the County before construction of the facility. Review and approval of such plans and operating procedures shall not relieve the industrial user from the

responsibility to modify the user's facility as necessary to meet the requirements of this article.

A. In the case of an accidental or other discharge which may cause problems for the sanitary sewage system, it shall be the responsibility of the user to immediately telephone and notify the County of the incident. This notification shall include the location of discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

B. Within five (5) days following an accidental discharge, the user shall submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future discharges. 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 system, natural resources, or any other person or property; nor shall such notification relieve the user from liability for any fine, civil penalty, or other obligation which may be imposed by this article.

C. Failure to notify the County of a discharge violation shall be deemed a violation separate from the actual discharge violation.

D. A notice shall be permanently posted on a user's bulletin board or other prominent place advising the user's employees whom to call in the event of discharge described in paragraph B above. Employers shall ensure that all employees who may be present when such a discharge occurs are advised of the emergency notification procedure.

(Ord. No. 92-25, 6-16-92)

#### **§ 26-72. Reports from Nonsignificant Users.**

All industrial users not subject to categorical pretreatment standards and not required to obtain a wastewater permit shall provide such reports to the County as the WPCB Chief may require.

(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

#### **§ 26-73. Sample Collection.**

Except for those samples included in subsection A below, wastewater samples collected for purposes of determining industrial user compliance with pretreatment standards and requirements must be obtained using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the WPCB Chief may authorize the use of time proportional sampling.

A. Samples for oil and grease, temperature, pH, cyanide, phenols, toxicity, sulfides, and volatile organic chemicals must be taken using grab collection techniques.

(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

#### **§ 26-74. Analytical Requirements.**

All pollutant analyses, including sampling techniques, to be submitted as part of a permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 or, if 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, in accordance with procedures approved by the EPA and the County.

(Ord. No. 92-25, 6-16-92)

#### **§ 26-75. Monitoring Charges.**

The WPCB Chief may recover the County's expenses incurred in collecting and analyzing samples of the industrial user's discharge by adding the costs to the industrial user's sewer charges.

(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

#### **§ 26-76. Timing.**

Written reports will be deemed to have been transmitted when received by the WPCB or sent by certified

mail, postage prepaid, by the United States Postal Service.  
(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

**§ 26-77. Record-Keeping.**

Industrial users shall retain and make available for inspection and copying all records and information required to be retained under 40 CFR 403.12(a), including documents associated with required Best Management Practices. These records shall remain available for a period of at least three (3) years. This period shall automatically be extended for the duration of any litigation regarding the discharge of pollutants by the industrial user or concerning compliance with this article, or where the industrial user has been specifically notified of a longer retention period by the WPCB Chief or the EPA.

(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04; Ord. No. 08-13, 6-17-08)

**§ 26-78. Notice of Violation/Repeat Sampling and Reporting.**

If sampling performed by an industrial user indicates a violation, the industrial user must notify the WPCB within twenty-four (24) hours of becoming aware of the violation. The industrial user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the WPCB within thirty (30) days after becoming aware of the violation. The industrial user is not required to resample if the POTW performs sampling between the industrial users initial sampling and when the industrial user receives the results of this sampling.

(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

**DIVISION 7.**

**COMPLIANCE MONITORING**

**§ 26-79. Inspection and Sampling.**

Industrial users shall allow the WPCB Chief or his representatives ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, ascertaining whether the requirements of this article are being met, and any other purposes related to the requirements of this article.

A. Where a user has security measures in force which require proper identification and clearance before entry into their premises, the industrial user shall make necessary arrangements with its security guards so that upon presentation of suitable identification personnel from the County, state, and U.S. EPA will be permitted to enter, without delay, for the purpose of performing their specific responsibilities.

B. The County, state, and U.S. EPA shall have the right to set up or require installation on the industrial user's property such devices as are necessary to conduct sampling and/or metering of the user's operations.

C. The County may require the industrial user to install monitoring equipment, as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition. All devices used to measure wastewater flow and quality shall be calibrated periodically to ensure their accuracy.

D. Any temporary or permanent obstruction to safe and easy access to the industrial facility to be inspected and/or sampled shall be promptly removed by the industrial user at the written or verbal request of the WPCB Chief and shall not be replaced. The costs of clearing such access shall be borne by the industrial user.

E. Refusal to provide County personnel access to the industrial user's premises shall be a violation of this article.

(Ord. No. 92-25, 6-16-92; Ord. No. 04-22, 10-2-04)

**§ 26-80. Confidential Information.**

Information and data on an industrial user obtained from reports, questionnaires, permit applications, permits, and monitoring programs, and from County inspection and sampling activities shall be available to the public without

restriction unless the industrial user specifically requests and is able to demonstrate to the satisfaction of the County that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable state law.

A. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

B. Upon request and demonstration to the County's satisfaction that such information should be confidential, the portions of the report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available immediately upon request to governmental agencies for uses related to this article, the Virginia Pollutant Discharge Elimination System (VPDES) program, and in enforcement proceedings involving the person furnishing the report.  
(Ord. No. 92-25, 6-16-92)

**§§ 26-81--26-84. Reserved.**

## **DIVISION 8.**

### **ENFORCEMENT REMEDIES**

In addition to any other remedies allowed by law, the County shall have the following remedies:

#### **§ 26-85. Publication of Significant Violators.**

The County shall annually publish, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the industrial users which during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall mean:

A. Sixty-six percent (66%) or more of wastewater pretreatment measurements taken during a six (6) month period exceed the discharge limit for any one (1) pollutant, a numeric pretreatment standard, or requirement including instantaneous limits;

B. Thirty-three percent (33%) or more of wastewater measurements taken during a six (6) month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits, daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

C. Any other discharge violation that the County determines it has caused, alone or in combination with other discharges, interference or pass-through (including endangering the health of County personnel or the general public);

D. Any discharge of pollutants that has caused imminent danger to the public or to the environment, or has resulted in the County's exercise of its emergency authority to halt or prevent such a discharge;

E. The user has failed to meet, within ninety (90) days after the scheduled date, a compliance schedule milestone contained in a permit or enforcement order for starting construction, completing construction, or attaining final compliance;

F. The user has failed to provide, within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, ninety-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

G. The user has failed to accurately report noncompliance; or

(h) The user is responsible for any other violation(s), which may include a violation of Best

Management Practices, which the County has reason to believe will adversely affect the operation or implementation of the pretreatment program, or is otherwise significant.  
(Ord. No. 92-25, 6-16-92; Ord. No. 98-3, 2-7-98; Ord. No. 08-13, 6-17-08)

**§ 26-86. Notice of Violation.**

Whenever the WPCB Chief finds that any industrial user has violated or is violating this article, a wastewater permit or order issued hereunder, or any other pretreatment requirement the WPCB Chief or his agent may serve upon the user a written notice of violation. Within ten (10) days of the receipt of this notice, the user must submit to the WPCB Chief an explanation of the violation and a plan for the satisfactory correction and prevention thereof to include specific required actions. Submission of this plan shall not relieve the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the County to take emergency action without first issuing a notice of violation.  
(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

**§ 26-87. Consent Orders.**

The WPCB Chief may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing agreements with industrial users responsible for noncompliance. Such orders may include specific action to be taken by the industrial user to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as compliance orders issued pursuant to §§ 26-88 and 26-89 below and shall be judicially enforceable.  
(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

**§ 26-88. Show Cause Hearing.**

The WPCB Chief may order any industrial user which causes or contributes to violation(s) of this article, wastewater permits, or orders issued hereunder, or any other pretreatment requirement to appear before the WPCB Chief and show cause why a proposed enforcement action should not be taken. Notice shall be served on the industrial user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the industrial user. Whether or not the industrial user appears as noticed, immediate enforcement action may be pursued following the hearing date.  
(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

**§ 26-89. Cease and Desist and Compliance Orders.**

When the WPCB Chief finds that an industrial user has violated or continues to violate this article, permits or orders issued hereunder, or any other pretreatment requirement the WPCB Chief may issue an order to the industrial user directing it to cease and desist all such violations and directing the user to:

- A. Immediately comply with all requirements.
- B. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.
- C. Take such action as might be reasonably necessary and appropriate to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. Furthermore, the WPCB Chief may continue to require such additional self-monitoring for at least ninety (90) days after consistent compliance has been achieved, after which time the self-monitoring conditions in the discharge permit shall control.

Such orders may also provide that sewer service shall be discontinued unless after a specific time period, adequate treatment facilities, devices, or other related appurtenances are installed and properly operated.  
(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)



**§§ 26-90, 26-91. Reserved.****§ 26-92. Emergency Suspensions.**

The WPCB Chief may suspend the wastewater permit of an industrial user, for a period of up to thirty (30) days, whenever such suspension is necessary in order to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons, interferes with the operation of the sanitary sewage system, or which presents or may present an endangerment to the environment.

A. Any industrial user notified of the suspension of its wastewater permit shall immediately stop or eliminate its contribution. In the event of an industrial user's failure to immediately comply voluntarily with the suspension order, the WPCB Chief shall take such steps as he deems necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the system, its receiving stream, or endangerment to any individuals. The WPCB Chief shall allow the industrial user to recommence its discharge when the user has demonstrated to the satisfaction of the County that the period of endangerment has passed, unless the termination proceedings set forth in § 26-93 are initiated against the user, in which case the discharge may not be recommenced.

B. An industrial user which is responsible, in whole or in part, for any discharge presenting imminent endangerment to the health or welfare of persons or the environment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the WPCB Chief prior to the date of any show cause or termination hearing under §§ 26-88 and 26-93.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

**§ 26-93. Termination of Permit.**

In addition to those provisions in § 26-65 of this article, any industrial user which violates the following conditions of this article, wastewater permits, or orders issued hereunder is subject to permit termination:

A. Failure to accurately report the wastewater constituents and characteristics of its discharge.

B. Refusal to grant reasonable access to the user's premises for the purpose of inspection, monitoring or sampling. Noncomplying industrial users will be notified of the proposed termination of their wastewater permit and be offered an opportunity to show cause under § 26-88 of this article why the proposed action should not be taken.  
(Ord. No. 92-25, 6-16-92)

**§ 26-94. Injunctive Relief.**

Whenever an industrial user has violated or continues to violate the provisions of this article, permits or orders issued hereunder, or any other pretreatment requirement, the WPCB Chief, may in addition to other remedies allowed by law petition the Circuit Court for the issuance of a temporary or permanent injunction, as may be appropriate, which restrains or compels the specific performance of the wastewater permit, order, or other requirement imposed by this article on activities of the industrial user.

(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

**§ 26-95. Penalties.**

Any person who violates any provisions of this article, any orders or permits issued hereunder, or any other pretreatment requirement shall be guilty of a Class 1 misdemeanor, punishable by a fine of no more than one thousand dollars (\$1,000.00) per violation per day, or imprisonment for not less than thirty (30) days nor more than six (6) months, or both. Each day on which a violation exists shall be a separate violation. In addition to any other remedies allowed by law, the County shall have the following remedies:

A. The WPCB Chief may recover reasonable attorney's fees, court costs, and other expenses, and the cost of any actual damages incurred by the County.

B. The County may recover any amount assessed against it as a civil penalty from any user whose acts proximately causes the violation which resulted in the civil penalty as provided in § 62.1-44.32 of the Virginia Code. (Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

**§ 26-96. False Statements.**

Any industrial user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan or other documentation filed or required to be maintained pursuant to this article, or wastewater permit, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this article shall, upon conviction, be punished by a fine of not more than one thousand dollars (\$1,000.00) per violation per day or imprisonment for not more than six (6) months or both. (Ord. No. 92-25, 6-16-92)

**§§ 26-97--26-99. Reserved.**

**DIVISION 9.**

**AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS**

**§ 26-100. Upset.**

An upset shall be an affirmative defense to an enforcement action brought against a user for violating a categorical pretreatment standards if the following conditions are met:

- A. The user can identify the cause of the upset.
- B. The facility was operating in a prudent and workmanlike manner at the time of the upset and was in compliance with applicable O&M procedures.
- C. The user submits within twenty-four (24) hours of becoming aware of the upset a description of the discharge and its causes, the period of noncompliance (if not corrected, then time noncompliance is anticipated to end), and the steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance.
- D. If this report is given orally, the user must also submit a written report containing such information within five (5) days after the oral report.
- E. Upset shall mean an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards and requirements because of factors beyond the reasonable control of the industrial user. Noncompliance caused by operational error, improperly designed pretreatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation does not constitute an upset. (Ord. No. 92-25, 6-16-92; Ord. No. 98-3, 2-7-98)

**§ 26-101. General/Specific Prohibitions.**

In determining what enforcement action will be brought for a violation of any section of this article except §§ 26-35.A and D, the WPCB may, but is not required, to consider:

- A. Whether the user knew or should have known that its discharge, alone or in conjunction with discharges from other sources, would cause pass-through or interference, or
- B. A local limit exists for each pollutant discharged and the user was in compliance with each limit

directly prior to and during the pass-through or interference, or

C. No local limits exists but the discharge did not change substantially in nature or constituents from the user's prior discharge when the County was regularly in compliance with the VPDES permit, and in the case of interference, in compliance with applicable sludge use or disposal requirements.  
(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

#### **§ 26-102. Bypass.**

The intentional diversion of wastestreams from any portion of an individual user's treatment facility shall be an affirmative defense to an enforcement action brought against the industrial user if the user can demonstrate to the WPCB Chief's satisfaction that such a bypass was unavoidable to prevent loss of life, personal injury, or severe property damage. In order to be eligible for the affirmative defense, the industrial user must demonstrate that there was no feasible alternative to the bypass and submit notice of the bypass as required by 40 CFR 403.17.

Additionally, an industrial user may allow a bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operations. This type of bypass shall comply with the requirements of 40 CFR 403.17(c)(1).

The County may approve an anticipated bypass if it meets the above criteria. In all other situations, bypass is prohibited. The County may take enforcement action against an industrial user for a prohibited bypass.  
(Ord. No. 92-25, 6-16-92; Ord. No. 98-3, 2-7-98; Ord. No. 04-25, 10-2-04)

#### **§§ 26-103, 26-104. Reserved.**

### **DIVISION 10.**

#### **MISCELLANEOUS PROVISIONS**

#### **§ 26-105. Pretreatment Charges and Fees.**

The following fees shall be charged for use of the County's pretreatment program:

A. Each industrial user holding a valid wastewater permit shall pay an annual fee of one thousand five hundred sixty dollars (\$1,560.00) plus three thousand six hundred forty dollars (\$3,640.00) for each monitoring point specified by the user's permit.

B. Each user holding a valid septage hauler permit shall pay an annual fee of two thousand eight hundred three dollars (\$2,803.00) for each individual vehicle used to deliver septage to the WPCB.

C. A late charge of six percent (6%) per year shall be imposed on the outstanding balance of pretreatment fees unpaid thirty (30) days after the date payment of the bill is due. In addition to all other enforcement procedures permitted by law, if any pretreatment fees charged by Arlington County are not paid within thirty (30) days, and the person who incurred the debt is an occupant of such premises, the water and/or sewer service to the premises may be terminated. The County may proceed to recover the amount of any such delinquent rates, fees, or charges, with interest.

Annual fees shall be payable for each Arlington County fiscal year, or any part thereof, for which the user has been in operation. Annual fees are due and payable to the County on or before May 30 of each Arlington County fiscal year for which the fees are assessed. All other fees shall be invoiced to the user quarterly.  
(Ord. No. 92-25, 6-16-92; Ord. No. 93-5, 5-20-93; Ord. No. 95-10, 4-29-95; Ord. No. 95-11, 4-29-95; Ord. No. 99-13, 5-22-99; Ord. No. 04-25, 10-2-04)

#### **§ 26-106. Severability.**

If any provision of this article is invalidated by any court of competent jurisdiction, the remaining provisions

shall not be affected and shall continue in full force and effect.  
(Ord. No. 92-25, 6-16-92)

**§ 26-107. Conflicts.**

In any case where a provision of this chapter is found to be in conflict with any other provision of the Arlington County Code existing on the effective date of this chapter, the provision which establishes the more stringent standard for the promotion and protection of the health and safety of the people shall prevail.  
(Ord. No. 92-25, 6-16-92)

**ARTICLE III.**

**CROSS-CONNECTION CONTROL AND BACKFLOW PREVENTION**

**§ 26-108. General.**

This article provides for the protection of the County's drinking water supply from possible contamination caused by back pressure or back siphonage conditions, in accordance with the regulations of the Virginia Department of Health and Virginia Uniform Statewide Building Code (BOCA Plumbing Code). As defined in this article, "premises" shall refer to property where there is a use or presence of a contaminant, as defined in this article, and the use of the contaminant on the premises may pose a risk to the waterworks through a backflow occurrence.  
(Ord. No. 92-38, 8-8-92)

**§ 26-109. Administration and Enforcement.**

A. The Inspection Services Division shall be responsible for the administrative, inspections, and record-keeping functions required by this article.

B. The Inspection Services Bureau shall notify the Water, Sewer and Streets Bureau of noncompliance with the backflow prevention requirements by a customer. The Water, Sewer and Streets Bureau may, as provided for in this article, deny water service to a customer if the backflow prevention requirements are not complied with.  
(Ord. No. 92-38, 8-8-92; Ord. No. 04-25, 10-2-04)

**§ 26-110. Cross-Connection.**

A. No person shall install or maintain a water service connection to any premises where cross-connections to the County's water system or a customer's water system may exist unless such cross-connections are abated or controlled to the satisfaction of the County according to state law.

B. No person shall install or maintain any connection to the waterworks whereby water from an auxiliary water supply may enter the County's or customer's water supply unless the auxiliary water system and the method of connection and use of such system shall have been approved by the County.  
(Ord. No. 92-38, 8-8-92)

**§ 26-111. Where Protection is Required.**

A. An approved backflow prevention device shall be installed on each service line from the waterworks to a customer's water system where any of the following conditions exist:

1. Premises having an auxiliary water system, unless such auxiliary water system is accepted as an additional water supply source by the County.
2. Premises for which the Inspection Services Division determines that any substance is handled in a manner which creates a backflow hazard to the water system (including premises having sources or systems containing process fluids or an auxiliary water system).

3. Premises having internal cross-connections or intricate plumbing arrangements which make it impractical for the Inspection Services Division to determine whether or not cross-connections exist.
  4. Premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical for the inspection services division to make a complete cross-connection survey.
  5. Premises having a history of cross-connections, as shown in the records of the Inspection Services Division.
  6. Premises having fire protection systems utilizing combinations of sprinklers, fire loops, storage tanks, pumps, antifreeze protection, or auxiliary water system (fire loops and sprinkler systems with openings not subject to flooding, and containing no antifreeze or other chemicals, or separate fire storage, or auxiliary sources, will not normally require backflow prevention unless a potential hazard is found to exist).
- B. Premises where a booster pump is connected to the waterworks shall be equipped with a low-pressure cutoff device to shut off the booster pump when the pressure in the waterworks drops to a minimum of ten (10) psi gauge.
- C. An approved backflow prevention device shall be installed on each service line to a customer's water system serving the following types of facilities:
1. Hospitals, mortuaries, clinics, veterinary establishments, nursing homes, and medical buildings;
  2. Laboratories;
  3. Piers, docks, or waterfront facilities;
  4. Sewage treatment plants, sewage pumping stations, or stormwater pumping stations;
  5. Food and beverage processing plants;
  6. Chemical plants, dyeing plants, and pharmaceutical plants;
  7. Metal plating industries;
  8. Petroleum processing or storage plants;
  9. Radioactive materials processing plants or nuclear reactors;
  10. Car washes and laundries;
  11. Facilities with lawn sprinkler systems or irrigations systems;
  12. Fire service systems;
  13. Slaughterhouses and poultry processing plants;
  14. Farms where the water is used for other than household purposes;
  15. Commercial greenhouses and nurseries;
  16. Health clubs with swimming pools, therapeutic baths, hot tubs, or saunas;
  17. Paper and paper products plants and printing plants;

18. Pesticide or exterminating companies and their vehicles with storage or mixing tanks;
19. Schools or colleges with laboratories;
20. Highrise buildings (four (4) or more stories);
21. Multi-use commercial, office, or warehouse facilities;
22. Others specified by the Inspection Services Division or the division for a potential backflow or cross-connection hazard.

(Ord. No. 92-38, 8-8-92)

**§ 26-112. Installation and Maintenance of Devices.**

A. Approval of backflow prevention devices and the type of protection required shall be in accordance with these requirements and the standards provided in Part II, Article 3, of the Virginia Department of Health Waterworks Regulations.

B. Where backflow prevention and low-pressure cutoff devices are required, they shall be installed and maintained continuously in satisfactory and effective operation by the customer, at his expense.

(Ord. No. 92-38, 8-8-92)

**§ 26-113. Initial Inspection.**

The County shall make an initial inspection of the water systems of new commercial and multifamily residential developments and industrial piping customers to determine whether there is any hazard to the water system from backflow or cross-connection. Customers will be notified by mail of the date and time of the initial inspection.

(Ord. No. 92-38, 8-8-92)

**§ 26-114. Testing and Inspection of Devices.**

The County shall make inspections and operational tests at least annually of backflow prevention devices or low-pressure cutoff devices where customer use has been determined by the inspection services division to create a pollution hazard.

(Ord. No. 92-38, 8-8-92)

**§ 26-115. Right of Entry to Enforce Article.**

The County may inspect the facilities of any commercial, multifamily development, and industrial piping system customer to ascertain whether the purposes of this article are being met and all requirements are being complied with. Customers shall allow the County Manager or his duly authorized agent bearing proper credentials ready access at all reasonable times to those parts of the premises necessary to inspect, observe, and test in accordance with the provisions of this article.

(Ord. No. 92-38, 8-8-92)

**§ 26-116. Notice of Violation of Article.**

If a violation of any provision of this article is found upon any inspection, the customer shall be notified in writing of the violations and be given thirty (30) days to correct the violations. At the end of the thirty (30) day period another inspection shall be made. If the violations have not been remedied, a letter of violation will be issued to the customer who must make repairs within ten (10) days, or further actions may be taken by the County.

(Ord. No. 92-38, 8-8-92)

**§ 26-117. Denial or Discontinuance of Service.**

Upon finding a violation of any part of this article, the County may immediately disconnect a customer's water service if the violation poses a substantial threat to life and health as determined by the County Manager or his designee. Otherwise, water service to a customer may be denied or discontinued upon continuation of any violation beyond the time limit provided in the letter of violation provided for in § 26-116.  
(Ord. No. 92-38, 8-8-92)