



DANVILLE CITY COUNCIL REGULAR MEETING AGENDA

MUNICIPAL BUILDING

November 17, 2020

7:00 P.M.

REVISED

PRESIDING: Alonzo L. Jones, Mayor

CITY COUNCIL MEMBERS: James B. Buckner
L.G. "Larry" Campbell, Jr.
Barry P. Mayo
Samuel A. Kushner

Dr. Gary P. Miller, Vice Mayor
Sherman M. Saunders
J. Lee Vogler, Jr.,
Madison J.R. Whittle

STAFF: Ken F. Larking, City Manager
Earl B. Reynolds, Jr., Deputy City Manager

W. Clarke Whitfield, Jr., City Attorney
Susan M. DeMasi, City Clerk

The City Council is the City of Danville's legislative body and is composed of nine Council members. Council members are elected to serve a four year term of office and elects one of its own to serve as Mayor and presiding officer for a two year term.

Time and Place of Meeting

The public is invited and encouraged to attend and participate in the City Council meetings. The City Council meets in the City Hall, Fourth Floor, Council Chambers at 7:00 p.m. on the first and third Tuesday of each month. All meetings of the Council are open to the public.

Communications from Visitors

Communication from Visitors is an opportunity for citizens to address Council on matters not on the agenda. Citizens who desire to speak on agenda items will be heard when the agenda item is considered. Each speaker shall clearly state his or her name and address. Each individual speaker shall have five uninterrupted minutes. A representative of a group may have up to ten uninterrupted minutes to make a presentation. The representative shall identify the group and a group may have no more than one spokesperson. Time will be kept using the electronic timer on the podium.

Guidelines for Public Hearings

For Public Hearings the applicant or his or her representative shall be the first speaker(s). There shall be a time limit of ten (10) minutes for the applicant's or his or her representative's presentation. The presiding officer shall then solicit comments from the public, asking those in favor of the proposal to speak first, and then those opposed to the proposal. Each speaker must clearly state his or her name and address. There shall be a time limit of three (3) minutes for each individual speaker. If the speaker represents a group, there shall be a time limit of five (5) minutes. A speaker representing a group shall identify the group at the

beginning of his or her remarks. A group may have no more than one spokesperson. The presiding officer may limit or preclude comment which is repetitive, redundant, cumulative, or irrelevant to the subject of the public hearing. After public comments have been received, in a land use case, the applicant or the representative of the applicant, at his or her discretion, may respond with a rebuttal. There shall be a five (5) minute time limit for rebuttal.

MEETING CALLED TO ORDER

ROLL CALL

INVOCATION - J. Lee Vogler, Jr.

PLEDGE OF ALLEGIANCE TO THE FLAG

ANNOUNCEMENTS AND SPECIAL RECOGNITION

Proclamation: Danville Entrepreneurship Week
November 16-22, 2020

Presented to: Jessica Edwards
Dan River Region Entrepreneur Ecosystem Principal Coordinator

COMMUNICATIONS FROM VISITORS

Citizens who desire to speak on matters not listed on the agenda will be heard at this time. Citizens who desire to speak on agenda items will be heard when the agenda item is considered.

CONSENT AGENDA

All matters listed under the Consent Agenda are considered to be routine, have previously been discussed by City Council and/or introduced for First Reading. There will be no separate discussion on these items and they will be enacted by one motion. If discussion is desired by a Council Member or a citizen, the item(s) will be removed from the consent process and considered separately.

- A. Public Hearing
- B. Consideration of Approval of Minutes from Regular Council Meeting held on October 20, 2020.
Council Letter Number CL - 2447.
- C. Consideration of Amending the Fiscal Year 2021 Budget Appropriation Ordinance for HUD Funds in the Amount of \$1,197,320.
Council Letter Number CL - 2426.

A Ordinance Amending the Fiscal Year 2021 Budget Appropriation Ordinance for Projects to be or being Undertaken to Improve the Danville Community Financed with Community Development Block Grant, Home Investment Partnership Funds from the U.S. Department of Housing and Urban Development, and Estimated Program Income for a Total Appropriation of \$1,197,320.00.

FINAL ADOPTION

- D. Consideration of Amending the Fiscal Year 2021 Budget Appropriation Ordinance for Food Service Operations at W.W. Moore, Jr., Detention Home in the Amount of \$51,491.
Council Letter Number CL - 2406.

An Ordinance Amending the Fiscal Year 2021 Budget Appropriation Ordinance for a Federal Grant in the Amount of Approximately \$51,491 to Aid the Food Service Operations at W. W. Moore, Jr. Detention Home and Appropriating Same.

FINAL ADOPTION

- E. Consideration of Amending the Fiscal Year 2021 Budget Appropriation Ordinance for Electronic Monitoring and Outreach Detention Programs and Prevention Services in the Amount of \$126,829.
Council Letter Number CL - 2418.

An Ordinance Amending the Fiscal Year 2021 Budget Appropriation Ordinance for a Grant from the Department of Juvenile Justice in the Amount of \$86,999 and a Local Share of \$39,830, for a Total Appropriation of \$126,829, to Provide for the Electronic Monitoring and Outreach Detention Programs and Prevention Services for the City of Danville at the W. W. Moore Jr. Detention Home and Appropriating Same.

FINAL ADOPTION

- F. Consideration of Amending the Fiscal Year Budget Appropriation Ordinance for the Proceeds of the Issuance of Bonds.
Council Letter Number CL - 2429.

An Ordinance Amending the Fiscal Year 2021 Budget Appropriation Ordinance by Anticipating the Proceeds from the Issuance of Bonds and Appropriating Same for Anticipated Expenditures

FINAL ADOPTION

NEW BUSINESS

- A. Review of General Fund Financials.
Council Letter Number CL - 2414.

- B. Consideration of the Sale of Parcel #22434 on Spring Street.
Council Letter Number CL - 2422.

1. Public Hearing

2. A Resolution of the City Council of Danville, Virginia Declaring Certain City-Owned Property to be Surplus to the Needs of the City and Approving and Authorizing the Sale of City Parcel Number #22434, Spring Street, for a Sale Price of \$4,000.00.

- C. Consideration of the Sale of Parcel #72866 on Mount Cross Road.
Council Letter Number CL - 2421.

1. Public Hearing

2. A Resolution of the City Council of Danville, Virginia Declaring Certain City-Owned Property to be Surplus to the Needs of the City and Approving and Authorizing the Sale of City Parcel Number 72866, Mount Cross Road, for a Sales Price of \$850.00.

- D. Consideration of Establishing Juneteenth as an Observed Holiday for City of Danville Employees.
Council Letter Number CL - 2431.

An Ordinance Amending the Personnel System of the City of Danville Providing for the Classification, Compensation, and Employee Development for Employment Positions of the City

- E. Consideration of Authorizing the City Manager to Execute the Fifth Amendment to the Inframark Wastewater Agreement.
Council Letter Number CL - 2417.

A Resolution Authorizing the Fifth Amendment to the Agreement with Inframark, LLC of the City of Danville's Wastewater Operation and Maintenance Agreement with Inframark, LLC.

- F. Consideration of Authorizing the Execution of an Agency Designation Agreement with AMP.
Council Letter Number CL - 2412.

A Resolution Authorizing the City Manager to Execute the Agency Designation Schedule with American Municipal Power for the Pinnacles Hydro Metering and Billing.

- G. Consideration of Amending Chapter 34 of the Danville City Code to Revise the Sewer Code.
Council Letter Number CL - 2416.

An Ordinance Amending and Reordaining Chapter 34 Entitled "Sewers and Sewage Disposal" of the Code of the City of Danville, 1986 As Amended, Providing for the Harmonization of City, State, and Federal Regulations.

- H. Consideration of Authorizing a Request for a Five-Year Extension to Enterprise Zone 57B.
Council Letter CL - 2430.

A Resolution Approving and Authorizing the City Manager to Submit to the Virginia Department of Housing and Community Development an Enterprise Zone Renewal Application for the City's Portion of the Joint Enterprise Zone with Pittsylvania County (Enterprise Zone #57B).

- I. Consideration of Amending the City Manager's Contract.
Council Letter Number CL - 2450.

A Resolution Amending Section 11 Entitled "Retirement" and Amending Section 12 (B) Entitled "Termination by the City and Severance Pay" of the City Manager's Employment Agreement.

- J. Consideration of Amending the Fiscal Year 2021 Budget Appropriation Ordinance in the Amount of \$201,640 for Upgrades to the E-911 Center.
Council Letter Number CL - 2407.

An Ordinance Amending the Fiscal Year 2021 Budget Appropriation Ordinance to Provide for a Grant from the Virginia Department of Emergency Management in an Amount of \$179,560.25 and Local Share in the Amount of \$22,078.10 for Equipment and Service Upgrades to the Danville 9-1-1 Emergency Services Communication Center for a Total Appropriation in the Amount of \$201,640, and Appropriating Same.

FIRST READING

- K. Consideration of Authorizing Mayor Alonzo L. Jones to Execute the City's Post Referendum Letter of Certification.
Council Letter Number CL - 2455.

A Resolution of the City Council of the City of Danville, Virginia, Pursuant to Virginia Code Section § 58.1-4109, Formally Certifying Caesars Virginia, LLC as the City's Preferred Casino Gaming Operator and Authorizing Mayor Alonzo L. Jones to Submit the City's Post-Referendum Letter of Certification of Caesars Virginia, LLC as the City's Preferred Casino Gaming Operator to the Virginia Lottery Department along with any other Related Information as may be Needed Consistent with this Resolution.

COMMUNICATIONS FROM:

- A. City Manager
- B. Deputy City Manager
- C. City Attorney
- D. City Clerk
- E. Roll Call

ADJOURNMENT

Council Letter

City of Danville, Virginia



CL-2447

Consent Agenda B.

City Council Regular Meeting

Meeting Date: 11/17/2020

Subject: Consideration of Approval of Meeting Minutes

From: Susan M. DeMasi, City Clerk

COUNCIL ACTION

Business Meeting: 11/17/2020

SUMMARY

Consideration of Approval of Minutes from Regular Council Meeting held on October 20, 2020.

Council Letter Number CL - 2447.

Attachments

Meeting Minutes

October 20, 2020

The Second Regular October meeting of the Danville City Council was held on October 20, 2020, at 7:00 p.m. in the Council Chambers located on the Fourth Floor of the Municipal Building. The following Council Members were present: James B. Buckner, L.G. "Larry" Campbell Jr., Mayor Alonzo L. Jones, Samuel A. Kushner, Barry P. Mayo, Vice Mayor Gary P. Miller, Sherman M. Saunders, J. Lee Vogler, Jr., and Madison J.R. Whittle (9).

Staff Members present were: City Manager Ken F. Larking, Deputy City Manager Earl B. Reynolds, Jr., City Attorney W. Clarke Whitfield Jr., and City Clerk Susan M. DeMasi.

INVOCATION

The Invocation was given by Sherman M. Saunders and followed by the Pledge of Allegiance.

Mayor Jones requested a Motion to add a Closed Session to the agenda. Council Member Campbell **moved** to add the Closed Session item to the Agenda. The Motion was **seconded** by Council Member Saunders and carried by the following vote:

VOTE: 9-0
AYE: Buckner, Campbell, Jones, Kushner,
Mayo, Miller, Saunders, Vogler and Whittle (9)
NAY: None

ANNOUNCEMENTS AND SPECIAL RECOGNITIONS

Mayor Jones recognized Sheila Williamson Branch, Treasurer for the City of Danville who discussed certifications obtained in her office by staff and noted that the Treasurer's Office has been recognized for the achievement of accreditation from the Treasurer's Association of Virginia. Council Members congratulated Ms. Branch on this achievement, and thanked her for all that she does for the City.

COMMUNICATIONS FROM VISITORS

Mayor Jones recognized Harold Garrison, Danville, VA, who noted his anger and disappointment regarding the Council's urgency to vote on a new Police Station, stating he was angry that Council could not wait for the November 3rd vote and disappointed that they placed the wants of the developer before the wishes of the citizens.

CONSENT AGENDA

Council Member Buckner **moved** for adoption of the following Consent Agenda items:

Minutes from the September 15, 2020 Regular Council meeting. Draft copies of the minutes had been distributed prior to the meeting.

Amending the Fiscal Year 2021 Budget Appropriation Ordinance for a Grant from the US Department of Justice in the Amount of \$91,550

An Ordinance entitled, Ordinance No. 2020-10.02, Amending the Fiscal Year 2021 Budget Appropriation Ordinance by Increasing Revenue from the United States Department of Justice Community Policing Development Program Grant in the Amount of \$91,550 for Use in Establishing a Program for Proactive Police Response to Prevent Domestic Violence.

October 20, 2020

The Motion was **seconded** by Council Member Whittle and carried by the following vote:

VOTE: 9-0
AYE: Buckner, Campbell, Jones, Kushner,
Mayo, Miller, Saunders, Vogler and Whittle (9)
NAY: None

GENERAL FUND FINANCIAL REPORT

Director of Finance Michael Adkins gave the General Fund Financial Report as of September 30, 2020 noting this marks 25% of the current fiscal year to date. Under Revenues, the collection of delinquent property tax accounts was doing well this year, both for Real Estate and Personal Property. The City has collected \$85,000 more for real estate than the prior year, at 38% of budget; Personal Property was \$82,000 over last year. The City occasionally has a public auction of delinquent tax parcels and were hoping to schedule one around November 19th; they were looking at details to maintain social distancing related to COVID. The current year tax bills for the first half will be mailed out the first week of November; as they move through the next few months, he will have comments on the collection of those taxes. Overall, local taxes were about \$200,000 over last year, all of that was due to Sales Tax. As he commented last month, sales tax was outperforming the prior year. Last week, they received their installment for August retail sales and it was the highest one received in October for August for at least the past ten years; sales tax was at 27% of budget. Meals and Hotel Tax were still a little sluggish with the restrictions placed upon restaurants, and having less travel than usual. However, they were not doing too bad, meals tax was coming in at 24% of budget, just 1% and about \$62,000 behind where the City was last year. Hotel tax was about 23.5% of budget, just 1.5% behind budget and about \$28,000 less than last year; staff hopes these will improve as the year goes on. The only other revenue item that had some decrease was Charges for Services; this was primarily related to Parks & Rec. A lot of their programs normally held in July, August and September could not be done this year because of the pandemic. However, related expenses in Parks & Rec have also been affected. While charges for services were down \$145,000, the Parks & Rec expenses were down about \$130,000; they were at 19% of budget this year.

Departmental Expenditures show departmental spending was at 23% of budget and under Non Departmental, the most significant expense in that category was group health insurance; currently that was at 24.5% of budget. The current audit was going on for FY 2020 and it should be wrapping up the next three to four weeks. Brown, Edwards will probably come before Council at the December 15th meeting to present the report.

APPOINTMENTS

Vice Mayor Miller **moved** for adoption of the following Resolutions:

Resolution No. 2020-10.09 - Appointing Faye Brown as a Member of the Danville Redevelopment and Housing Authority.

Resolution No. 2020-10.10 – Reappointing Vanessa Cain as a Member of the Danville Redevelopment and Housing Authority.

Resolution No. 2020-10.11 – Reappointing Courtney Nicholas as a Member of the River District Design Commission.

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Resolution No. 2020-10.12 – Reappointing Andrew Hessler as a Member of the River District Design Commission.

The Motion was **seconded** by Council Member Buckner and carried by the following vote:

VOTE: 9-0
AYE: Buckner, Campbell, Jones, Kushner,
Mayo, Miller, Saunders, Vogler and Whittle (9)
NAY: None

NEW BUSINESS

CONSIDERATION OF THE ACQUISITION OF PARCEL #24277 ON STOKES STREET

Council Member Campbell **moved** for adoption of a Resolution entitled:

RESOLUTION NO. 2020-10.13

APPROVING AND AUTHORIZING THE ACCEPTANCE OF REAL PROPERTY IDENTIFIED AS PARCEL 24277 FOR STREETSCAPING ALONG STOKES STREET

The Motion was **seconded** by Council Member Buckner and carried by the following vote:

VOTE: 9-0
AYE: Buckner, Campbell, Jones, Kushner,
Mayo, Miller, Saunders, Vogler and Whittle (9)
NAY: None

CONSIDERATION OF THE ACQUISITION OF PARCEL #21548 ON PAXTON STREET

Council Member Vogler **moved** for adoption of a Resolution entitled:

RESOLUTION NO. 2020-10.14

APPROVING AND AUTHORIZING THE ACCEPTANCE OF REAL PROPERTY IDENTIFIED AS PARCEL 21548 FOR STREETSCAPING ALONG BERRYMAN AVENUE

The Motion was **seconded** by Council Member Buckner and carried by the following vote:

VOTE: 9-0
AYE: Buckner, Campbell, Jones, Kushner,
Mayo, Miller, Saunders, Vogler and Whittle (9)
NAY: None

CONSIDERATION OF THE ACQUISITION OF PARCEL #20792 ON LEE STREET

Council Member Buckner **moved** for adoption of a Resolution entitled:

RESOLUTION NO. 2020-10.15

APPROVING AND AUTHORIZING THE ACCEPTANCE OF REAL PROPERTY IDENTIFIED

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AS PARCEL 20792 FOR STREETSCAPING ALONG LEE STREET

The Motion was **seconded** by Council Member Whittle.

Council Member Whittle questioned these items and Assistant City Attorney Ryan Dodson explained all three represent parcels that used to have a house on them, and were demolished because of blight. Currently, there were large tax liens on the properties that exceed the value of the lot. Staff was in the process of doing tax foreclosures on these three, and by acquiring them in this way, they cut the process down by a year and save the City money. In the Lee Street parcel, one of the neighbors has expressed an interest in acquiring the lot, so the City could have that back on the tax rolls in the next few months.

The **Motion** was carried by the following vote:

VOTE: 9-0
AYE: Buckner, Campbell, Jones, Kushner,
Mayo, Miller, Saunders, Vogler and Whittle (9)
NAY: None

APPROVAL OF FREE BUS SERVICE IN THE CITY OF DANVILLE ON ELECTION DAY

Council Member Vogler **moved** for adoption of a Resolution entitled:

RESOLUTION NO. 2020-10.16

AUTHORIZING THE DANVILLE TRANSIT SYSTEM TO OFFER FREE BUS SERVICE ON TUESDAY, NOVEMBER 3, 2020

The Motion was **seconded** by Council Member Mayo and carried by the following vote:

VOTE: 9-0
AYE: Buckner, Campbell, Jones, Kushner,
Mayo, Miller, Saunders, Vogler and Whittle (9)
NAY: None

COMMUNICATIONS

City Manager Ken Larking noted he wanted to remind Council and the public that the City had one town hall meeting related to the Investing in Danville committee; there was another on Thursday from 2:00 p.m. to 4:00 p.m.; that meeting will be virtual and will have a sign language interpreter. Some of the themes heard on the first town hall included education, work force training, neighborhood infrastructure, housing improvements, home ownership, tourism, blight, historic preservation, public safety, enhanced offender programs, and economic development. It will be good to hear from more of the community, and there were also surveys the public can fill out. Once the town halls and surveys were complete, the Investing in Danville group will compile those results and provide a report to City Council, probably sometime in November.

City Attorney Clarke Whitfield noted he wanted to recognize Assistant City Attorney Alan Spencer and publicly acknowledge and thank him for all the hard work he did behind the scenes in bringing Dr. Hairston to the City.

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There were no communications from Deputy City Manager or City Clerk.

Council Member Vogler noted the Heels to Heal event this past Saturday at Two Witches was a wonderful fundraiser; what they raised far exceeded their fundraising goal. Mr. Vogler noted he was excited about Danville's future, believes the City was on the cusp of many great things and it was because there were strong, resilient people in the City. The citizens move forward, they don't return to yesterday, they build a better tomorrow, work towards what can be, lift others up and work for one another. Mr. Vogler reminded citizens to vote.

Council Member Whittle noted on the police station item, he still has some struggles with it and hopes the City Manager will make the Council understands all the costs incurred with that property before they sign off on it.

Council Member Buckner noted this Saturday was the Bridge Street Food Truck Rodeo, it will be socially distanced with a different set up and a limited amount of people let in at a time. Mr. Buckner noted this could be the most important election for the City coming up on November 3rd and encouraged everyone to go out and vote; the bus rides would be free in Danville.

Council Member Campbell commended the City Manager for the way he has engaged with the citizens regarding the benefits of the casino locating in Danville. Personally he has received controversial comments, but he tells people it was more than just gambling, it was entertainment and conferences coming to the area, which was a big plus. Mr. Campbell noted his agreement with Mr. Buckner and Mr. Vogler, this was a very important time, encouraged people to go vote, and make it a personal experience. It was important to show children the importance of voting; this was a democracy and everyone had the right to vote.

Council Member Kushner noted his agreement with the comments made by Mr. Buckner and Mr. Vogler; this was a critical election for Danville, and for the nation at all levels of government. The City needed to elect a Council Member, a new Fifth District representative, a senator and a president, and was hoping the City would see the biggest turnout of voters in any election seen in years. Mr. Kushner noted he watched the town hall meeting, they were a real opportunity for participatory democracy. Caesars has the potential of being the greatest financially positive impact for the community in many, many years, and how the money was spent should the referendum pass, was also critically important. He was impressed by the number of people who participated on the 15th, and the nature of the questions and comments that were made. This was an opportunity for the community to tune in, participate and send in their questions.

Council Member Mayo noted his agreement with Council Members, it was a critical election and encouraged citizens to exercise their right to go out and vote. Mr. Mayo thanked the City Manager for all he does behind the scenes, along with Mr. Reynolds, keeping Council informed. The engagement with the town hall was good, and encouraged the citizens to ask the questions, that was their time to ask. Mr. Mayo noted he was proud of the movement in Danville, that the City continues to move forward, and noted his congratulations to the School Board on the nomination of Dr. Hairston.

Vice Mayor Miller noted the next City Council meeting will not be on Election Day, it will be moved to November 5th. Dr. Miller noted the City had a very powerful Electoral Board; Peggy Petty was the registrar and the Electoral Board has Neal Morris, Ralph Hogg, and Sylvester Jennings. This will be a fair election in Danville. Dr. Miller stated what was decided in Council Chambers and at the State level was more important than the presidential level in people's day to day lives. City Council needs to be made whole again with nine members and asked people to vote, and decide

who they want to be as a council member. Dr. Miller noted the resort casino if it does not pass, there will be gambling in Danville that passed last year, historic horse racing was legal in Danville. There will be most probably a Rosie's-like facility in Danville without the resort attached to it, and asked citizens to think carefully about the vote.

Council Member Saunders confirmed Council would not be meeting on November 3rd, but on November 5th. Mr. Saunders noted his congratulations to Sheila Williamson Branch on being certified and accredited for the City's Treasurer's office. Mr. Saunders noted he cast his first vote when he was a young soldier in Germany using an absentee ballot, has not missed an election since, and encouraged everyone to please vote.

Mayor Jones noted the *Virginia Town and City* magazine, on page thirty eight, has a picture of Sherman Saunders and a great article. Mayor Jones noted he appreciated the City Attorney introducing Alan Spencer this evening; they were at the Institute with the City Manager and himself for a meeting and he did a great job. Mayor Jones stated he attended the town hall, the City Manager did a great job with the questions like he always does. Mayor Jones encouraged citizens to get out and vote; Council voted for free bus service on Election Day to get citizens to the polls.

CLOSED MEETING

At 7:42 p.m., Vice Mayor Miller **moved** that this meeting of the City Council of the City of Danville, Virginia be recessed and that Council immediately reconvene in a Closed Meeting for the following purposes: discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected as permitted by Subsection (A)(6) of Section 2.2-3711 of the Code of Virginia, 1950, as amended more specifically to consider discussion or consideration of an intergovernmental agreement involving the investment of public funds where negotiation and bargaining are involved; and discussion of a private personal matter not related to public business as permitted by Subsection (A)(4) of Section 2.2-3711 of the Code of Virginia, 1950 as amended.

The Motion was **seconded** by Council Member Buckner and carried by the following vote:

VOTE: 9-0
AYE: Buckner, Campbell, Jones, Kushner,
Mayo, Miller, Saunders, Vogler and Whittle (9)
NAY: None

Upon unanimous vote at 7:52 p.m., Council reconvened in open session, and Vice Mayor Miller moved for adoption of the following Resolution:

CERTIFICATE OF CLOSED MEETING

WHEREAS, the Council convened in Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Freedom of Information Act; and

WHEREAS, Section 2.1-344.1 of the Code of Virginia, 1950, as amended, requires a Certification by the Council that such Closed Meeting was conducted in conformity with Virginia Law;

NOW, THEREFORE, BE IT RESOLVED that the Council hereby certifies that, to the best of each Member's knowledge, (i) only public business matters lawfully exempted from open meeting

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requirements of Virginia Law under Section 2.2-3711 were heard, discussed or considered, and (ii) only such public business matters as were identified in the Motion by which the Closed Meeting was convened were heard, discussed or considered by the Committee.

The Motion was **seconded** by Council Member Buckner and carried by the following vote:

VOTE: 9-0

AYE: Buckner, Campbell, Jones, Kushner,
Mayo, Miller, Saunders, Vogler and Whittle (9)

NAY: None

ADJOURNED: 7:54 P.M.

APPROVED:

MAYOR

ATTEST:

CITY CLERK

Council Letter

City of Danville, Virginia



CL-2426

Consent Agenda C.

City Council Regular Meeting

Meeting Date: 11/17/2020

Subject: Fiscal Year 2020-21 Community Development Programs

From: Kenneth C. Gillie, Jr., Community Development Director

COUNCIL ACTION

First Reading: 11/05/2020

Final Adoption: 11/17/2020

SUMMARY

The City of Danville is a participating jurisdiction under the U.S. Department of Housing and Urban Development (HUD). Under this designation, the City receives Community Development Block Grant (CDBG) and HOME Investments Partnership Program (HOME) funds annually. The City has received its funding agreement from HUD in the amount of \$1,197,320 and needs to appropriate the money to be used for housing related programs.

BACKGROUND

In July, City Council approved a new five-year Consolidated Plan and Fiscal Year 2020-21 Annual Action Plan, specifying projects and activities that will be funded in the fiscal year. A large majority of the CDBG funds have historically been used for neighborhood revitalization efforts and it is proposed to continue focusing on this effort in the 2020-21 Plan. In addition, there is a public service category which can be funded with up to 15% of the annual allocation. It provides funding to assist non-profit organizations to carry out programs that benefit low- to moderate-income individuals and/or households.

The City has received the program agreement from HUD for a total budget of \$1,197,320 for Fiscal Year 2020-21, comprised of \$879,978 CDBG funds, \$268,342 HOME funds, and \$49,000 estimated program income generated from loan repayments and the sale of houses currently under city programs.

This total has been reduced by \$107 in CDBG funding, and \$50 in HOME funding from what was read at the November 5th meeting, as HUD provided incorrect figures to staff.

RECOMMENDATION

It is recommended that City Council adopt the attached Budget Appropriation Ordinance appropriating \$1,197,320 from HUD for Fiscal Year 2020-21 for use in Housing related programs.

Attachments

Ordinance

PRESENTED: _____

ADOPTED: _____

ORDINANCE NO. 2020-____.____

A ORDINANCE AMENDING THE FISCAL YEAR 2021 BUDGET APPROPRIATION ORDINANCE FOR PROJECTS TO BE OR BEING UNDERTAKEN TO IMPROVE THE DANVILLE COMMUNITY FINANCED WITH COMMUNITY DEVELOPMENT BLOCK GRANT, HOME INVESTMENT PARTNERSHIP FUNDS FROM THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, AND ESTIMATED PROGRAM INCOME FOR A TOTAL APPROPRIATION OF \$1,197,320.00.

WHEREAS, the United States Department of Housing and Urban Development has made available \$879,978 in Community Development Block Grant (CDBG) and \$268,342 in HOME Partnership Program (HOME) Entitlement funds to be used for projects to improve the Danville community; and

WHEREAS, it is projected that an aggregated amount of \$24,000 in CDBG program income and \$25,000 in HOME program income will be generated during the period from July 1, 2020 through June 30, 2021 from the Community Development Block Grant and HOME Entitlement funds which will be used to improve the Danville Community.

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Danville, Virginia, that the estimated/anticipated revenues and appropriation of funds to finance the Budget of the Community Development Block and HOME Partnership Program are hereby, as follows:

**CDBG/HOME FUND
ESTIMATED/ANTICIPATED REVENUES**

<u>Description</u>		<u>Account No.</u>	<u>Amount</u>
Federal Aid-CDBG:	FY2021	61582000-48025	\$879,978
Federal Aid-HOME:	FY2021	61583000-48030	\$268,342
CDBG Program Income:	FY2021	61582000-44381	\$ 24,000
HOME Program Income:	FY2021	61583000-44361	\$ 25,000
		TOTAL:	<u>\$1,197,320</u>

ESTIMATED/ANTICIPATED EXPENDITURES

<u>Description</u>	<u>Account No.</u>	<u>Amount</u>
H & D ADMIN	FY2021	
Salaries & Wages	61584000-51100	\$49,000
FICA Taxes	61584000-51450	\$3,700
Retirement	61584000-51525	\$3,900
Group Hospital	61584000-51600	\$5,000
Group Life Insurance	61584000-51630	\$200
HSA Cont Exp	61584000-51632	\$900
Maintenance Service Contracts	61584000-52225	\$1,100
Advertising	61584000-52275	\$3,500
Outside Services	61584000-52349	\$10,100
Vehicles	61584000-52550	\$1,800
Print Shop – Print Jobs	61584000-52650	\$100
Print Shop – Supplies	61584000-52655	\$700
Postal Service	61584000-54050	\$7,100
Telephone/Internet	61584000-54100	\$1,000
General Liability Insurance	61584000-54650	\$100
Travel/Training	61584000-54900	\$3,400
Uniforms	61584000-56050	\$200
	TOTAL:	<u>\$91,800</u>

CDBG REHAB ADMIN:	FY2021	
Salaries & Wages	61585000-51100	\$192,000
FICA Taxes	61585000-51450	\$13,000
Retirement	61585000-51525	\$10,000
Group Hospital	61585000-51600	\$28,000
Group Life Insurance	61585000-51630	\$500
HAS Cont Exp	61585000-51632	\$1,800
Legal Services	61585000-52170	\$600
Maintenance Service Contracts	61585000-52225	\$700
Outside Services	61585000-52349	\$6,500
Vehicles Radio	61585000-52500	\$200
Vehicles	61585000-52550	\$5,400
Print Shop - Supplies	61585000-52655	\$500
Postal Service	61585000-54050	\$100
Telephone	61585000-54100	\$2,000
General Liability Insurance	61585000-54650	\$100
Travel/Training	61585000-54900	\$6,000
Materials & Supplies	61585000-55930	\$200
Dues & Memberships	61585000-56242	\$1,000
	TOTAL:	<u>\$268,600</u>

REHABILITATION:	FY2021		
CDBG Housing Rehab Projects		61586000-50	<u>\$285,538</u>
HSG L-TO-P PGM	FY2021		
Lease to Purchase Program		61587000-50	<u>\$2,000</u>
FAIR HOUSING	FY2021		
Fair Housing Admin		61588000-50	<u>\$10,000</u>
PUBLIC SERVICE ACTIVITIES (PSA):	FY2021		
Head Start/CIC		61596068-55005	\$38,000
College Bound		61596069-55005	\$17,000
Center for Housing Counselling		61596117-55005	\$3,000
Big Brothers/Big Sisters		61596122-55005	\$13,000
Neighbors Helping Neighbors		61596125-55005	\$15,000
Haven of the Dan River		61596131-55005	\$9,000
Legal Aid		61596415-55005	\$7,040
Ex-Offenders Program		61596416-55005	\$5,000
		TOTAL:	<u>\$107,040</u>
PRT PUBLIC FACILITIES	FY2021	61593999-50	\$50,000
TEMP SHLTR SGL PARENTS W/CHILDREN	FY2021	61595999-50	\$14,000
HOME ADMIN	FY2021		
Salaries & Wages		61589000-51100	\$15,000
FICA Taxes		61589000-51450	\$1,900
Retirement		61589000-51525	\$1,500
Group Hospital		61589000-51600	\$2,300
Group Life Insurance		61589000-51630	\$100
HSA Cont Exp		61589000-51632	\$200
		TOTAL:	<u>\$21,000</u>
HOME REHABILITATION:	FY2021		
HOME Housing Rehab Projects		61590999-50	<u>\$81,370</u>

HOME CHDO/SOUTHSIDE FY2021

CHDO Set Aside Rehab of Private Property	61591065-52230	\$37,247
CHDO Administration Expense	61591000-55815	\$3,725

TOTAL:		<u>\$40,972</u>
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HOME CHDO/HFH	FY2021	61592065-52230	<u>\$50,000</u>
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DRHA SENIOR HOUSING	FY2021	61597000-52230	<u>\$100,000</u>
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DRHA COMMUNITY CTR	FY2021	61594000-50	<u>\$75,000</u>
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GRAND TOTAL		<u>\$1,197,320</u>
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AND BE IT FURTHER ORDAINED that a flexible budget is hereby authorized whereby appropriations may be increased to the extent that actual revenues from Interest and Program Incomes exceed the original budget amount; and

BE IT FINALLY ORDAINED that all other accounts and provisions of the Fiscal Year 2021 Budget Appropriations Ordinance, as amended, not hereby amended, shall continue in full force and effect unless and until hereafter further amended or repealed.

APPROVED:

MAYOR

ATTEST:

CLERK

Approved as to
Form and Legal Sufficiency:

CITY ATTORNEY

Council Letter

City of Danville, Virginia



CL-2406

Consent Agenda D.

City Council Regular Meeting

Meeting Date: 11/17/2020

Subject: USDA Grant for Food Services at W. W. Moore, Jr. Detention Home

From: Scott Booth, Police Chief

COUNCIL ACTION

First Reading: 11/05/2020

Final Adoption: 11/17/2020

SUMMARY

Each year, the W. W. Moore, Jr. Detention Home receives funds from the United States Department of Agriculture (USDA) as a result of the detention home's participation in the National School Nutrition Program. The revenue from the USDA offsets some of the costs related to the Food Service Operation at the detention home. It is projected the City will receive \$51,491 for Fiscal Year 2021. The amount of funds received may be more or less depending on changes in the daily population.

BACKGROUND

The W. W. Moore, Jr. Detention Home will participate in the National School Nutrition Program during Fiscal Year 2021. The anticipated revenue is projected, and an appropriation is requested based on utilization rates, reimbursement rates, and the number of days each meal or snack is reimbursed. The USDA reimbursement rates provided by the Department of Juvenile Justice Food Service Operations Unit for Fiscal Year 2021 are as follows: Breakfast - \$2.26; Lunch - \$3.60; and Snack - \$.96. Breakfast and Lunch meals are reimbursed 365 days per year. Snacks are reimbursed 104 days per year. There is no reimbursement for Dinner meals. Based on the Average Daily Population of 23 last Fiscal Year, and the number of days meals and snacks are reimbursed, the W. W. Moore, Jr. Detention Home expects to receive approximately \$51,491. USDA funds are received quarterly by the City of Danville.

RECOMMENDATION

It is recommended that City Council adopt the attached Ordinance appropriating funds within the Special Grants Fund for expenses related to the Food Service Operation at the W. W. Moore, Jr. Detention Home.

Attachments

Ordinance

PRESENTED: _____

ADOPTED: _____

ORDINANCE NO. 2020-____

AN ORDINANCE AMENDING THE FISCAL YEAR 2021 BUDGET APPROPRIATION ORDINANCE FOR A FEDERAL GRANT IN THE AMOUNT OF APPROXIMATELY \$51,491 TO AID THE FOOD SERVICE OPERATIONS AT W. W. MOORE, JR. DETENTION HOME AND APPROPRIATING SAME.

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Danville, Virginia that the Fiscal Year 2021 Budget Appropriation Ordinance be, and it is hereby, amended to anticipate revenues from a grant in the amount of approximately \$51,491 from the United States Department of Agriculture to the W. W. Moore, Jr. Detention Home for the purpose of aiding the food service operations and appropriating same in the Special Grants Fund for Fiscal Year 2021, such revenue and appropriation to be as follows:

ANTICIPATED REVENUES

<u>Description</u>	<u>Account No.</u>	<u>Amount</u>
Categorical Aid-State: USDA - Detention Home	60114000-47210	<u>\$51,491</u>

ANTICIPATED EXPENDITURES

<u>Description</u>	<u>Account No.</u>	<u>Amount</u>
W. W. Moore, Jr. Detention Home Food Supplies/Food Services	60114000-55825	<u>\$51,491</u>

AND BE IT FURTHER ORDAINED that this appropriation shall be a continuing appropriation and such appropriations shall carry forward from year to year until such funds are expended for the purpose for which they were appropriated; and

BE IT FURTHER ORDAINED that a flexible budget is hereby authorized whereby appropriations may be increased to the extent that actual revenues from the State

and other sources exceed the original revenue estimate and authorization for a transfer from Special Grants Fund Balance if needed; and

BE IT FINALLY ORDAINED that all other accounts and provisions of the Fiscal Year 2021 Budget Appropriation Ordinance, as amended, not hereby amended, shall continue in full force and effect unless and until hereafter further amended or repealed.

APPROVED:

MAYOR

ATTEST:

CLERK

Approved as to
Form and Legal Sufficiency:

CITY ATTORNEY

Council Letter

City of Danville, Virginia



CL-2418

Consent Agenda E.

City Council Regular Meeting

Meeting Date: 11/17/2020

Subject: Virginia Juvenile Community Crime Control Act Funding Appropriation

From: Scott Booth, Police Chief

COUNCIL ACTION

First Reading: 11/05/2020

Final Adoption: 11/17/2020

SUMMARY

The Virginia Juvenile Community Crime Control Act (VJCCCA) requires the locality to develop and submit a plan outlining how the City will serve juvenile offenders before intake on complaints, or from the court on petitions alleging the juvenile is delinquent, in need of services, or in need of supervision, with allocated funds. The locality's plan and funding was approved for Fiscal Year 2021. The VJCCCA Plan for Fiscal Year 2021 will continue to provide the Electronic Monitoring and Outreach Detention Programs. It is projected that ten (10) juveniles will be served in the Outreach Detention Program and thirty-five (35) will be served in the Electronic Monitoring Program. The plan will also offer Prevention Services for Non-DJJ and DJJ youth referred to the program through the City's Youth and Gang Violence Prevention Coordinator. It is projected the program will serve eight (8) juveniles for a period of 90 days. During Fiscal Year 2021, the City will receive \$86,999 from the Department of Juvenile Justice to support the delivery of programs and services to juvenile offenders. The City will provide a match of \$39,830. The total allocation to operate the VJCCCA Programs is \$126,829.

BACKGROUND

In 1995, the General Assembly enacted the Virginia Juvenile Community Crime Control Act (VJCCCA) which appropriated additional funds to localities to implement non-secure detention programs and services to meet the needs of juveniles involved with the Juvenile & Domestic Relations Court Services Unit. The City has been the recipient of VJCCCA funds since its inception. The VJCCCA funding allows the W. W. Moore, Jr. Detention Home to operate an Electronic Monitoring and Outreach Detention Program and provide other identified services based on the needs of the juveniles referred by the Danville Juvenile & Domestic Relations Court. Without these programs and services, it is possible many of these juveniles would be placed in secure detention or an out-of-home placement, resulting in a greater cost to the locality.

RECOMMENDATION

It is recommended that City Council approve the attached Ordinance appropriating funds to operate non-secure detention programs to provide services for offenders in the Juvenile Justice System.

Attachments

Ordinance

PRESENTED: _____

ADOPTED: _____

ORDINANCE NO. 2020-____.____

AN ORDINANCE AMENDING THE FISCAL YEAR 2021 BUDGET APPROPRIATION ORDINANCE FOR A GRANT FROM THE DEPARTMENT OF JUVENILE JUSTICE IN THE AMOUNT OF \$86,999 AND A LOCAL SHARE OF \$39,830, FOR A TOTAL APPROPRIATION OF \$126,829, TO PROVIDE FOR THE ELECTRONIC MONITORING AND OUTREACH DETENTION PROGRAMS AND PREVENTION SERVICES FOR THE CITY OF DANVILLE AT THE W. W. MOORE JR. DETENTION HOME AND APPROPRIATING SAME.

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Danville, Virginia that the Fiscal Year 2021 Budget Appropriation Ordinance be, and it is hereby, amended to anticipate revenues from a grant in the amount of \$86,999 from the Virginia Juvenile Community Crime Control Act for the purpose of operating programs which provide alternatives to detention and appropriating same in the Special Grants Fund, and \$39,830 be appropriated from the General Fund Account such revenue and appropriation to be as follows:

ANTICIPATED REVENUES

<u>Description</u>	<u>Account No.</u>	<u>Amount</u>
Categorical Aid-State: Virginia Juvenile Community Crime Control Act (VJCCCA)	61506000-47240	86,999
Local Share: Transfers from General Fund	61506000-6101	<u>39,830</u>
	TOTAL:	<u>\$126,829</u>

ANTICIPATED EXPENDITURES

<u>Description</u>	<u>Account No.</u>	<u>Amount</u>
W. W. Moore, Jr. Detention Home Electronic Monitoring, Outreach Detention Program And DJJ Youth Prevention Services and Non-DJJ Youth Prevention Services		
FT Sal/Wages Reg	61575000 51100	\$96,369

FICA	61575000 51450	6,301
Retirement ERS	61575000 51525	6,859
Telephone	61575000 54100	800
Materials & Supplies	61575000 55930	3,000
Travel/Train Exp	61575000 54900	7,000
Equipment Leased	61575000 54750	<u>6,500</u>
TOTAL:		<u>126,829</u>

AND BE IT FURTHER ORDAINED that all other accounts and provisions of the Fiscal Year 2021 Budget Appropriation Ordinance, as amended, not hereby amended, shall continue in full force and effect unless and until hereafter further amended or repealed.

APPROVED:

MAYOR

ATTEST:

CLERK

Approved as to
Form and Legal Sufficiency:

CITY ATTORNEY

Council Letter

City of Danville, Virginia



CL-2429

Consent Agenda F.

City Council Regular Meeting

Meeting Date: 11/17/2020

Subject: Fiscal Year 2021 Bond Appropriation

From: Cynthia Thomasson, Budget Director

COUNCIL ACTION

First Reading: 11/05/2020

Final Adoption: 11/17/2020

SUMMARY

The City Council has authorized the issuance of General Obligation Bonds to fund various projects as specified in the Fiscal Year 2021 Capital Improvements & Special Projects Plan.

BACKGROUND

The City's Fiscal Year 2021 Capital & Special Projects Plan includes funding in the amount of \$6,576,694 for General Fund and Schools projects and \$5,800,000 for Electric Fund Projects. The attached ordinance is a flexible ordinance providing for posting of issuance costs and refinancing of previous bonds to be determined upon the issuance of the bonds.

RECOMMENDATION

It is recommended that the City Council adopt the attached ordinance Amending the Fiscal Year 2021 Budget Appropriation Ordinance for Capital and Special Projects.

Attachments

Ordinance

PRESENTED: _____

ADOPTED: _____

ORDINANCE NO. 2020-_____._____

AN ORDINANCE AMENDING THE FISCAL YEAR 2021 BUDGET APPROPRIATION ORDINANCE BY ANTICIPATING THE PROCEEDS FROM THE ISSUANCE OF BONDS AND APPROPRIATING SAME FOR ANTICIPATED EXPENDITURES.

WHEREAS, the City Council has authorized the issuance of general obligation bonds to finance various capital projects; and

WHEREAS, City Council desires to appropriate the proceeds to fund the various projects including fire apparatus purchase, various street and building improvements, elevator and roof replacements, emergency generator purchase, park facility improvements, electric system improvements and upgrades, and and estimated bond issuance costs.

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Danville, Virginia, that the Fiscal Year 2021 Budget Appropriation Ordinance be, and it is hereby, amended by appropriating funds from the sale bonds as follows:

REVENUES

<u>Description</u>	<u>Account No.</u>	<u>Amount</u>
Capital Project Fund:		
CCTV System Expansion	61436000-43020	75,000
Police Equipment Replacement	61602000-43020	35,000
Fire Apparatus Eqpt	60184000-43020	553,145
General Street Improvements	60000067-43020	138,420
River District Street Improvements	60906000-43020	222,518
Stormwater Improvements	60022000-43020	200,000
Signal-S Main & Updike Pl	61607000-43020	400,000
Ped Impr-Rvrsd-Piney Forest	61608000-43020	140,200
Sidewalk-Kemper Rd	61609000-43020	87,400
Elevator Replacement	60000437-43020	275,000
Roof Replacements	60000119-43020	250,000
City-Owned Parking Lots	61512000-43020	100,000
Emergency Generator Purchases	60000126-43020	160,000

HVAC Replacement	60000120-43020	275,000
Exterior Painting-City Buildings	61513000-43020	100,000
Recreation-Facility Improvements	60901000-43020	65,000
Park Improvements	60902000-43020	50,000
Park Paving Projects	61076000-43020	50,000
Park Equipment Acquisition	61516000-43020	55,000
Splash Pads	61618000-43020	635,000
City Auditorium Improvements	61603000-43020	500,000
School Improvements	60031000-43020	2,000,000
Runway 13/31 Rehab & Narrow	61604000-43020	210,011
Sub-Total		<u>\$6,576,694</u>
Electric Fund:		
Line Rebuilds/25kV Conversion	60654000-43020	1,800,000
Substation Upgrades	61029000-43020	4,000,000
Sub-Total		<u>\$5,800,000</u>
Total Revenues		<u>\$12,376,694</u>

EXPENDITURES

<u>Description</u>	<u>Account No.</u>	<u>Amount</u>
Capital Project Fund:		
CCTV System Expansion	61436999-50	75,000
Police Equipment Replacement	61602999-50	35,000
Fire Apparatus Eqpt	60184999-50	553,145
General Street Improvements	60000067-6999	138,420
River District Street Improvements	60906999-50	222,518
Stormwater Improvements	60022999-50	200,000
Signal-S Main & Updike Pl	61607999-50	400,000
Ped Impr-Rvrsd-Piney Forest	61608999-50	140,200
Sidewalk-Kemper Rd	61609999-50	87,400
Elevator Replacement	60000437-6999	275,000
Roof Replacements	60000119-6999	250,000
City-Owned Parking Lots	61512999-50	100,000
Emergency Generator Purchases	60000126-6999	160,000
HVAC Replacement	60000120-6999	275,000
Exterior Painting-City Buildings	61513999-50	100,000
Recreation-Facility Improvements	60901999-50	65,000
Park Improvements	60902999-50	50,000
Park Paving Projects	61076999-50	50,000
Park Equipment Acquisition	61516999-50	55,000
Splash Pads	61618999-50	635,000

EXPENDITURES (Cont.)

City Auditorium Improvements	61603999-50	500,000
School Improvements	60031999-50	2,000,000
Runway 13/31 Rehab & Narrow	61604999-50	<u>210,011</u>
Sub-Total		<u>\$6,576,694</u>

Electric Fund:		
Line Rebuilds/25kV Conversion	60654999-50	1,800,000
Substation Upgrades	61029999-50	<u>4,000,000</u>
Sub-Total		<u>\$5,800,000</u>

Total Revenues	<u>\$12,376,694</u>
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AND BE IT FURTHER ORDAINED that this is a flexible appropriation as related to refinancing of existing bonds and issuance costs, both to be determined when the bonds are issued; and

BE IT FINALLY ORDAINED that all other accounts and provisions of the Fiscal Year 2021 Budget Appropriation Ordinance, as amended, not hereby amended, shall continue in full force and effect unless and until hereafter further amended or repealed.

APPROVED:

MAYOR

ATTEST:

CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

CITY ATTORNEY

Council Letter

City of Danville, Virginia



CL-2414

New Business A.

City Council Regular Meeting

Meeting Date: 11/17/2020

Subject: Financial Report

From: Michael Adkins, Director of Finance

COUNCIL ACTION

Business Meeting: 11/17/2020

SUMMARY

A brief report will be given on the General Fund financial results through October 31, 2020. Financial statements are included.

Attachments

Financial Statements



To: Ken F. Larking, City Manager

From: Michael L. Adkins, Director of Finance

Date: November 6, 2020

Subject: Summary of Preliminary General Fund Financial Results for October 31, 2020

After completing four months of fiscal year 2021, revenues are slightly behind the previous year. At October 31, General Fund revenues were \$25,083,338, representing 22.4% of the FY 2021 budget. Last year, at this time, we had collected \$25,479,824 or 23.1% of budget. Decreases are seen in Recovered Costs due to a reduction in allocated costs to utility funds. This allocation has decreased as a result in lower group health insurance costs. In addition, the timing of revenues from the Commonwealth resulted in a temporary decrease in Categorical Aid (State), specifically in the areas of Social Services and the annual Fire Safety Grant, both of which will be realized later this year.

We continue to see steady performance in the collection of delinquent real estate taxes this year with \$413,183 realized in the first four months of this fiscal year. This accounts for 41.3% of the current year budget. Tax bills for FY 2021 were mailed earlier this month and we will begin realizing collection of current real estate and personal property taxes in the next several weeks. Local taxes collected through October 31, were \$7,766,264, or 27.6% of budget. This exceeds FY 2020 collections by \$197,206. Sales tax collections through October amounted to \$3,241,914 or 35.4% of budget, an increase of \$264,510 from last year. Meals taxes collected for the first four months of the fiscal year amounted to \$2,712,229 or 31.4% of budget, a decrease of \$145,630 from last year. Business Licenses realized at the end of October were \$533,732, an increase of \$20,507 from the prior year. Lodging taxes received as of October 31, were \$549,670, or 34.4% of budget, an increase of \$13,748 from the prior year. Meals tax is still showing some effects of the COVID-19 pandemic, while other consumer-driven taxes are performing well at this time. Nearly all other revenue categories are at or near the prior year and are tracking well with budget at this point.

Expenditures at October 31 were \$42,241,248 or 34.7% of budget. This is a decrease of \$2,739,439 compared to October 31, 2019, primarily resulting from the timing of budgeted transfers to Danville City Schools and the Capital Projects Fund. Departmental expenditures at the end of October show a decrease of about \$1,161,000 from last year

with an increase in general government attributed to the timing of expenditures offset by a decrease in public safety and essentially all other departments . The most significant decrease is attributed to covering one month of public safety salaries with CARES Act funding. General Fund expenditures exceeded revenues by \$17,157,910. This is typical for the start of the fiscal year in the General Fund because the timing of the revenue recognition is not matched to expenditures. At this point, the General Fund is performing as expected.

CITY OF DANVILLE, VIRGINIA

GENERAL FUND REPORT

33% OF YEAR LAPSED AS OF OCTOBER 31, 2020

PRE-CLOSING FIGURES - SUBJECT TO CHANGE - UNAUDITED

	Budgets & Appropriations For Current Year	Actual Revenues & Expenditures For Year-to-Date	Percent Realized/Expended This Year	Encumbrances	Balance to be Realized/Expended	Actual Revenues & Expenditures At This Date Last Year
REVENUES:						
Property Taxes	\$ 34,515,700	\$ 2,145,649	6.22%		\$ 32,370,051	\$ 1,474,027
Other Local Taxes	28,117,000	7,766,264	27.62%		20,350,736	7,569,058
License Permits & Privilege Fees	258,350	81,366	31.49%		176,984	101,909
Fines & Forfeitures	345,550	89,849	26.00%		255,701	128,195
Revenue From Use Money & Property	1,161,715	311,146	26.78%		850,569	471,065
Charges For Services	3,393,360	1,210,727	35.68%		2,182,633	1,090,225
Miscellaneous Revenue	130,523	99,240	76.03%		31,282	48,117
Recovered Cost	7,962,360	2,462,832	30.93%		5,499,528	2,848,920
Non-Categorical Aid	5,868,720	1,747,581	29.78%		4,121,139	1,709,373
Shared Expenses (Categ. Aid State)	5,174,940	1,643,779	31.76%		3,531,161	1,593,546
Categorical Aid (State)	9,328,810	2,396,484	25.69%		6,932,326	3,327,722
Emergency Services (Federal)	27,020	-	0.00%		27,020	-
Categorical Aid (Federal)	79,754	10,754	13.48%		69,000	-
Transfers From Utilities	15,353,000	5,117,667	33.33%		10,235,333	5,117,667
Transfers From Other	-	-			-	-
TOTAL REVENUES	\$ 111,716,802	\$ 25,083,338	22.45%		\$ 86,633,464	\$ 25,479,824
EXPENDITURES:						
General Government Administration	\$ 11,094,670	\$ 4,369,508	39.38%	\$ 305,747	\$ 6,419,415	\$ 4,125,370
Judicial Administration	7,325,738	2,387,461	32.59%	10,530	4,927,747	2,360,006
Public Safety	31,338,206	9,325,848	29.76%	245,557	21,766,801	10,084,669
Public Works	4,436,941	1,352,672	30.49%	211,953	2,872,316	1,499,783
Health, Education, Welfare & Soc. Svc.	8,971,175	2,061,400	22.98%	122,695	6,787,080	2,421,431
Parks, Recreation & Cultural	5,227,943	1,360,257	26.02%	62,938	3,804,748	1,514,264
Community Development	2,187,136	1,028,353	47.02%	187,279	971,504	1,041,397
Non-Departmental	12,347,095	4,592,889	37.20%	-	7,754,206	3,980,536
Transfer to Schools - Operating	30,552,929	9,696,465	31.74%	1,426,907	19,429,556	13,670,702
Transfer to Capital Projects	3,655,040	3,655,040	100.00%	-	-	2,638,930
Transfer to Other Funds	4,552,690	2,411,355	52.97%	-	2,141,335	1,643,600
TOTAL EXPENDITURES	\$ 121,689,563	\$ 42,241,248	34.71%	\$ 2,573,605	\$ 76,874,709	\$ 44,980,688
Revenue over(under) Expenditures	<u>\$ (17,157,910)</u>					<u>\$ (19,500,864)</u>
FUND BALANCE:						
Beginning Fund Balance 07/01/2020		\$ 43,310,847				\$ 39,927,182
Revenue over(under) Expenditures		(17,157,910)				(19,500,864)
Ending Fund Balance 10/31/2020		<u>\$ 26,152,937</u>				<u>\$ 20,426,318</u>
Composition of Fund Balance:						
Reserved for Encumbrances/Designated Funds		\$ 10,509,179				\$ 8,132,871
Unassigned		15,643,758				12,293,447
TOTAL FUND BALANCE 10/31/2020		<u>\$ 26,152,937</u>				<u>\$ 20,426,318</u>

City of Danville, Virginia
Summary of Other Local Tax Revenues - PRE-CLOSING - UNAUDITED
For the period ending October 31, 2020

Description	Current Budget	Revenue Realized	Percentage Realized	Prior Year Budget	Prior Year Realized	Percentage Prior Year
Sales Tax	\$ 9,150,000	\$ 3,241,914	35.43%	\$ 9,150,000	\$ 2,977,404	32.54%
Business Licenses	5,250,000	533,732	10.17%	5,200,000	513,224	9.87%
Meals Tax	8,645,000	2,712,229	31.37%	8,400,000	2,857,859	34.02%
Utility Taxes	967,000	303,654	31.40%	975,000	315,934	32.40%
Vehicle License Fees	990,000	141,127	14.26%	990,000	146,277	14.78%
Bank Stock Tax	900,000	-	0.00%	900,000	37,860	4.21%
Recordation Tax	180,000	165,644	92.02%	195,000	62,021	31.81%
Hotel Motel Tax	1,600,000	549,670	34.35%	1,514,250	535,921	35.39%
Daily Property Rental Tax	15,000	5,691	37.94%	18,400	7,931	43.10%
Motor Vehicle Tax	175,000	68,219	38.98%	150,000	57,701	38.47%
DMV Fees	245,000	44,386	18.12%	220,000	56,925	25.87%
TOTAL	\$ 28,117,000	\$ 7,766,264	27.62%	\$ 27,712,650	\$ 7,569,058	27.31%

**CITY OF DANVILLE, VIRGINIA
GENERAL FUND
COMPOSITION OF FUND BALANCE
PRELIMINARY - AS OF OCTOBER 31, 2020**

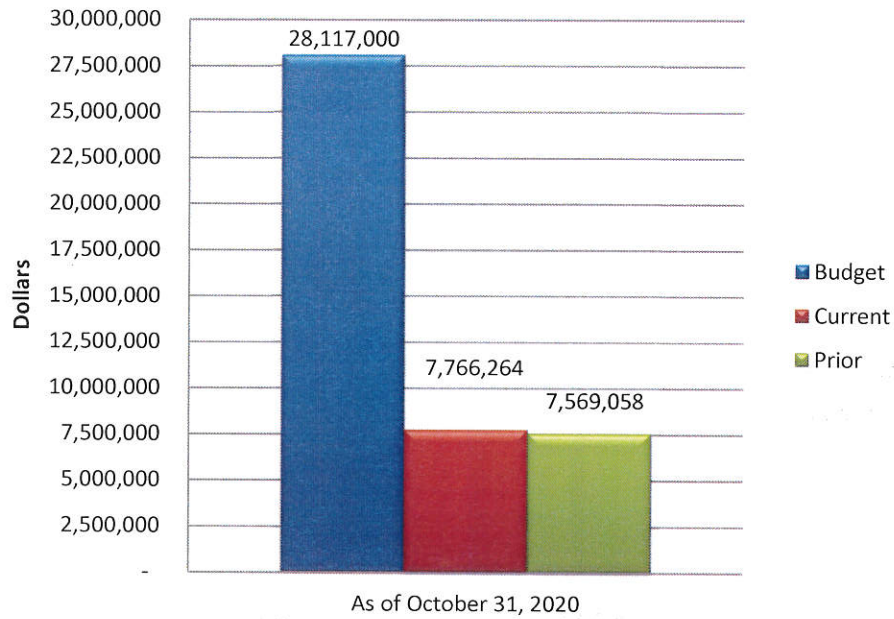
Beginning Total Fund Balance, July 1, 2020	43,310,847.48
Add: General Fund Revenues	25,083,337.71
Deduct: General Fund Expenditures	<u>(42,241,248.12)</u>
Ending Total Fund Balance, October 31, 2020	<u><u>26,152,937.07</u></u>

Composition of Fund Balance:

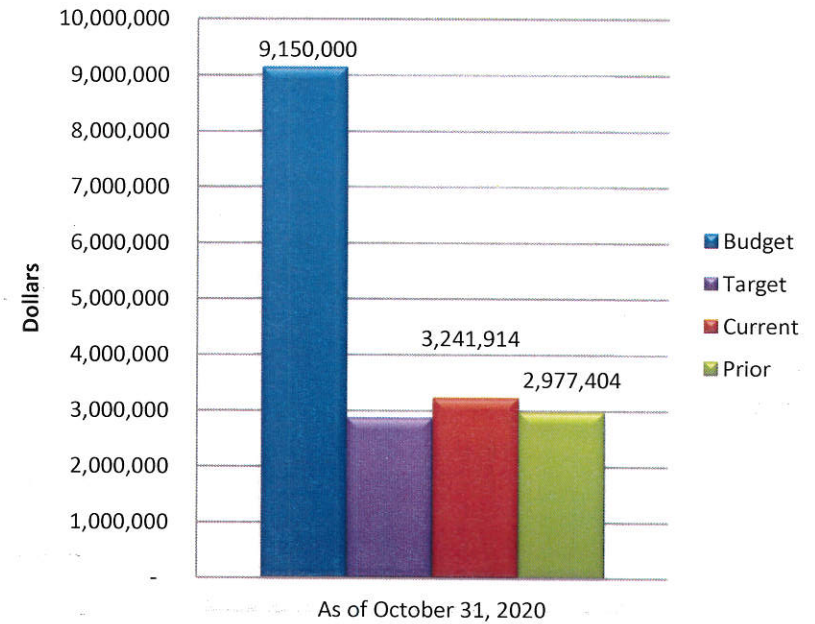
Restricted for Commonwealth Attorney	108,985.76
Restricted for Police Department	58,782.48
Restricted for Fire Department	96,319.34
Committed for Sheriff's Department	240.92
Committed to Schools	3,814,751.71
Committed to Budget Stabilization	3,000,000.00
Committed transfer of Fund Balance FY2021	302,570.00
Assigned to Sheriff's Department	18,182.85
Assigned to Community Development	6,368.58
Assigned for Encumbrances	2,573,605.41
Nonspendable (Inventory and Prepaids)	529,372.38
UNASSIGNED	<u>15,643,757.64</u>
Total Fund Balance, October 31, 2020	<u><u>26,152,937.07</u></u>

Unassigned fund balance from above	15,643,757.64
Unassigned Minimum per policy (20% of General Fund Operating Revenues) based on FY 2021 budget	<u>22,282,846.36</u>
Current surplus (deficit) over (under) minimum	(6,639,088.72)

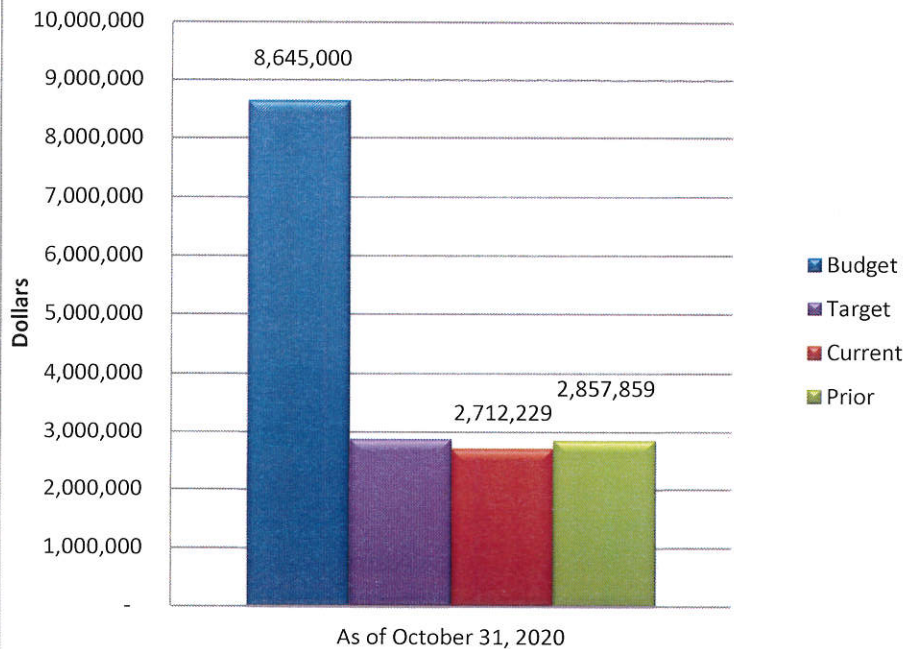
Local Taxes



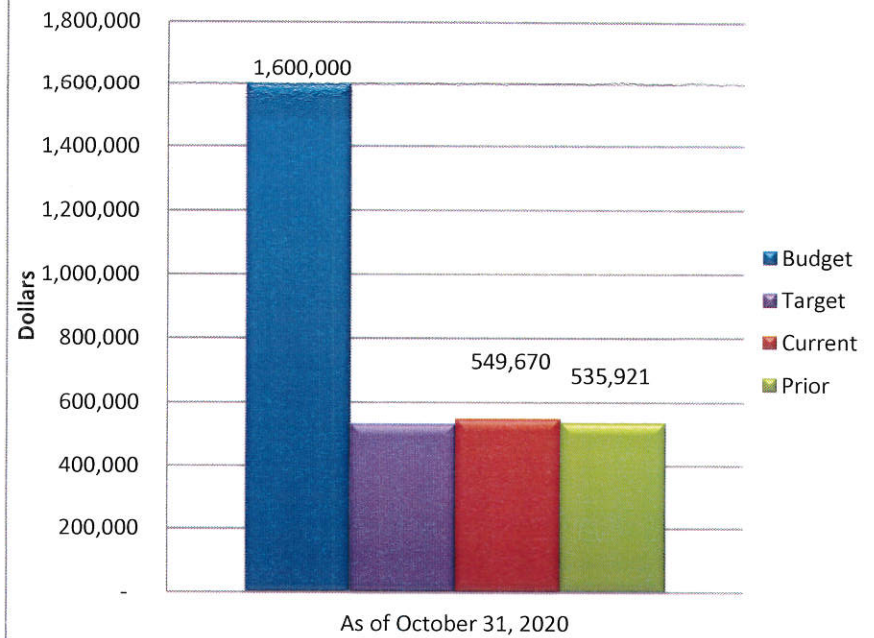
Sales Tax

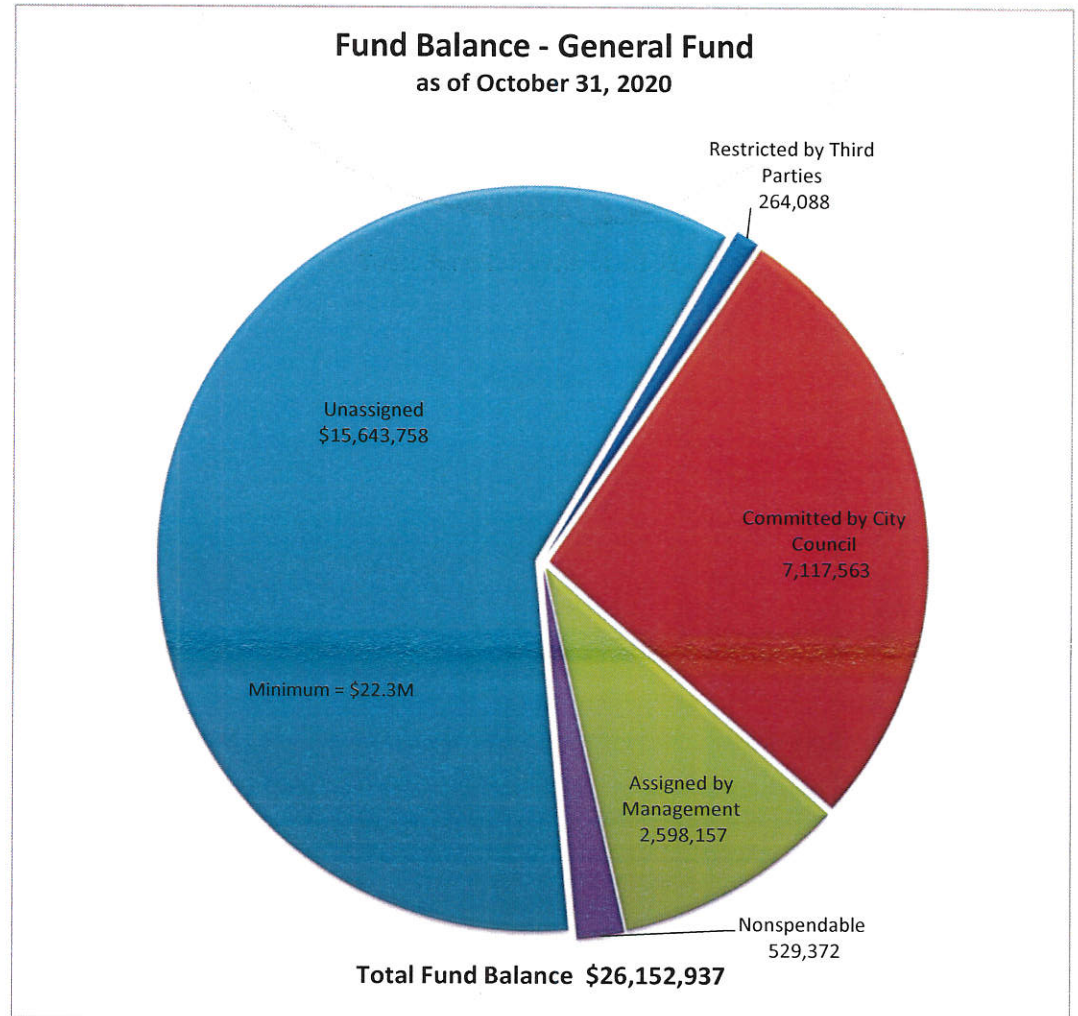
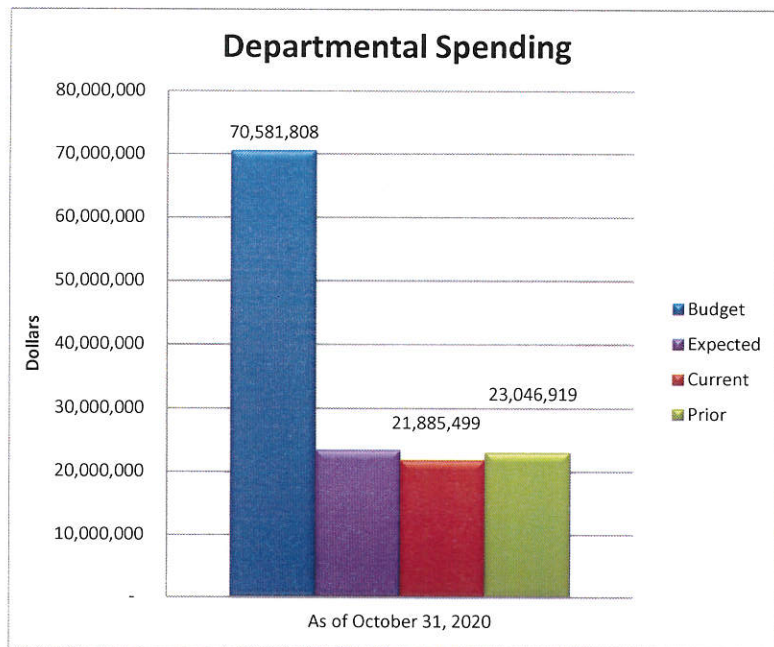
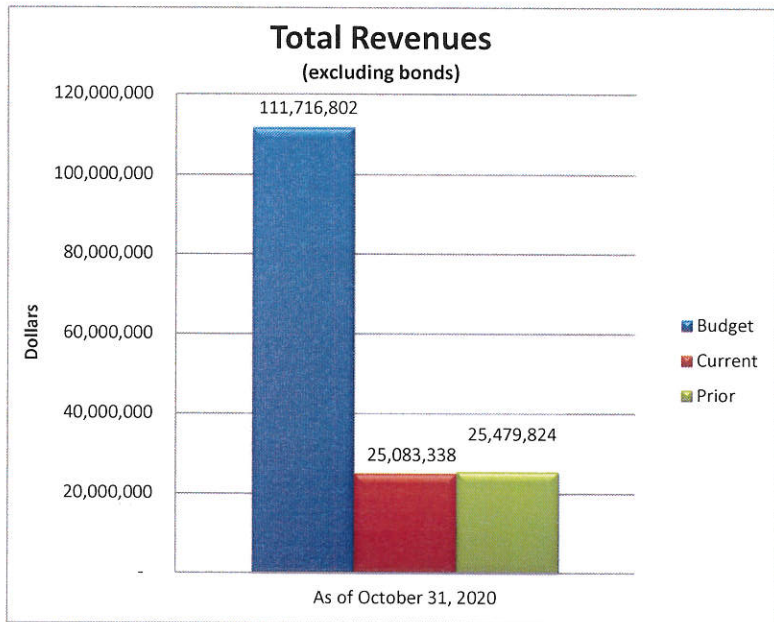


Meals Tax



Lodging Tax





Council Letter

City of Danville, Virginia



CL-2422

New Business B.

City Council Regular Meeting

Meeting Date: 11/17/2020

Subject: Sale of Parcel #22434 - Spring Street

From: W. Clarke Whitfield, Jr., City Attorney

COUNCIL ACTION

Business Meeting: 11/17/2020

SUMMARY

City Staff is seeking approval to sell a surplus vacant lot along Spring Street, to the neighboring property owners.

BACKGROUND

The City owns a vacant lot along Spring Street identified as Parcel #22434 that was purchased in 1990 with federal assistance, to demolish a blighted building situated upon it. There are not currently any limitations on the disposition or use of the lot related to the federal assistance. City Staff has determined that the City has no current or future intended use for the lot and it appears to be surplus to the needs of the City. Staff wishes to sell the surplus lot to the neighboring property owners to return it to the tax rolls, and eliminate future maintenance costs.

RECOMMENDATION

City staff recommends proceeding with selling Parcel #22434 on Spring Street to 510 Spring Street, LLC, in exchange for \$4,000.00 and the cost of recordation.

Attachments

Resolution

PRESENTED: _____

ADOPTED: _____

RESOLUTION NO. 2020-____.____

A RESOLUTION OF THE CITY COUNCIL OF DANVILLE, VIRGINIA
DECLARING CERTAIN CITY-OWNED PROPERTY TO BE SURPLUS TO THE NEEDS OF
THE CITY AND APPROVING AND AUTHORIZING THE SALE OF CITY PARCEL NUMBER
#22434, SPRING STREET, FOR A SALES PRICE OF \$4,000.00.

WHEREAS, The City of Danville owns Parcel #22434 along Spring Street
across from the City Bus Terminal (the "Parcel"); and

WHEREAS, the Parcel was acquired in 1990 using federal funds to eliminate
a blighted building upon the lot visible from Spring Street; and

WHEREAS, the City no longer has any expected need or use for the Parcel, it
is surplus to the needs of the City, and there are no longer any restrictions imposed by the
federal government on disposition of the Parcel; and

WHEREAS, 510 Spring Street, LLC, the neighboring landowner adjacent to
the Parcel, desires to purchase the Parcel for a price of \$4,000.00 in order to maintain the
land; and

WHEREAS, the proposed sale of the Parcel fulfils the original purpose sought
by the City in acquiring the Parcel without the need for any future City-funded maintenance
while simultaneously putting the Parcel back on the tax rolls;

NOW THEREFORE, BE IT RESOLVED, by the City Council of Danville,
Virginia that the sale of Parcel #22434 in exchange for purchase price of \$4,000.00 is hereby
accepted by the City of Danville, Virginia; and

BE IT FURTHER RESOLVED, pursuant to Sections 15.2-1800 and 15.2-1813
of the Code of Virginia 1950, as amended, and in consideration of the public hearing this day
held by Council, that the City Manager, Kenneth F. Larking, be, and he is hereby, authorized
and directed to convey ownership of Parcel #22434, Spring Street, on behalf of the City of
Danville; and

BE IT FINALLY RESOLVED, by the City Council of Danville, Virginia hereby approves and authorizes the City Manager, Kenneth F. Larking, to execute on behalf of the City any and all documents as may be necessary to effect the transfer of Parcel #22434 on Spring Street pursuant to this resolution.

APPROVED:

MAYOR

ATTEST:

CITY CLERK

Approved as to
Form and Legal Sufficiency:

ASSISTANT CITY ATTORNEY

Council Letter

City of Danville, Virginia



CL-2421

New Business C.

City Council Regular Meeting

Meeting Date: 11/17/2020

Subject: Sale of Parcel #72866 - Mount Cross Road

From: W. Clarke Whitfield, Jr., City Attorney

COUNCIL ACTION

Business Meeting: 11/17/2020

SUMMARY

City Staff is seeking approval to sell a surplus vacant lot along Mount Cross Road to the neighboring property owners.

BACKGROUND

The City owns a vacant lot along Mount Cross Road identified as Parcel #72866 that is left over from a 2017 road-widening project. Staff has determined that the City has no current or future intended use for the lot, and it appears to be surplus to the needs of the City. City Staff wishes to sell the surplus lot to the neighboring property owners to return it to the tax rolls, and eliminate future maintenance costs.

RECOMMENDATION

City staff recommends proceeding with selling Parcel #72866 on Mount Cross Road to Bobby Carlton Pleasant, Sr., Larry Wayne Pleasant, Terry Lee Pleasant, and Thomas Roger Pleasant, Sr., in exchange for \$850.00 and the cost of recordation.

Attachments

Resolution

PRESENTED: _____

ADOPTED: _____

RESOLUTION NO. 2020-____.____

A RESOLUTION OF THE CITY COUNCIL OF DANVILLE, VIRGINIA DECLARING CERTAIN CITY-OWNED PROPERTY TO BE SURPLUS TO THE NEEDS OF THE CITY AND APPROVING AND AUTHORIZING THE SALE OF CITY PARCEL NUMBER 72866, MOUNT CROSS ROAD, FOR A SALES PRICE OF \$850.00.

WHEREAS, the City of Danville, Virginia, owns a certain Parcel of real property commonly known as Mount Cross Road, Parcel #72866, in Danville, Virginia (the "Parcel"); and

WHEREAS, the City of Danville acquired ownership of this Parcel using federal Department of Transportation funds as part of a road expansion project; and

WHEREAS, the City no longer has any expected need or use for the Parcel and it is surplus to the needs of the City; and

WHEREAS, federal law requires that any surplus property acquired for road projects using Department of Transportation funds must be sold at fair-market value and the sales proceeds must be directed towards eligible transportation projects; and

WHEREAS, an independent appraisal has been conducted determining that the fair-market value of the Parcel is \$850.00; and

WHEREAS, Bobby Pleasant, Larry Pleasant, Terry Pleasant, and Roger Pleasant, the owners of the adjacent property, desire to purchase the Parcel from the City at fair-market value.

NOW THEREFORE, BE IT RESOLVED, by the City Council of Danville, Virginia, that it hereby approves and authorizes the sale of Parcel #72866, Mount Cross Road for a purchase price of \$850.00 to be used exclusively for eligible transportation projects, as well as any recording related costs; and

BE IT FURTHER RESOLVED, pursuant to Sections 15.2-1800 and 15.2-1813 of the Code of Virginia 1950, as amended, and in consideration of the public hearing this day held by Council, that the City Manager, Kenneth F. Larking, be, and he is hereby, authorized and directed to convey ownership of Parcel #72866, Mount Cross Road in Danville, Virginia, on behalf of the City of Danville, Virginia; and

BE IT FINALLY RESOLVED that the City Manager, Kenneth F. Larking, be and he is hereby authorized to execute on behalf of the City any and all documents as may be necessary to complete the above referenced sale and effectuate such conveyance from the City of Danville.

APPROVED:

MAYOR

ATTEST:

CLERK

Approved as to
Form and Legal Sufficiency:

ASSISTANT CITY ATTORNEY

Council Letter

City of Danville, Virginia



CL-2452

New Business D.

City Council Regular Meeting

Meeting Date: 11/17/2020

Subject: Juneteenth Holiday

From: Sara Weller, Director of Human Resources

COUNCIL ACTION

Business Meeting: 11/17/2020

SUMMARY

Governor Northam signed a bill in October 2020 making Juneteenth an official permanent holiday in the Commonwealth of Virginia. With City Council's approval, the City will establish Juneteenth as an observed employee holiday.

BACKGROUND

Juneteenth, also known as Freedom Day, Liberation Day, Jubilee Day, and Emancipation Day, is celebrated on June 19th of each year. The holiday honors and celebrates the day in 1865 when the last remaining enslaved persons in the former Confederate states were emancipated.

Governor Northam granted the Juneteenth holiday to State employees in June 2020. At that time, the City of Danville granted employees a floating holiday to observe Juneteenth in 2020. In October 2020, Governor Northam signed a bill making Juneteenth a permanent holiday in the Commonwealth of Virginia. Given this recognition by the Commonwealth, the City of Danville recommends establishing Juneteenth as an observed employee holiday.

City holidays are established by City Council through the Personnel System Ordinance. Section 5.23.1. Designation of Holiday is attached and reflects the required change for establishing Juneteenth as a holiday. Currently, the City observes the following holidays:

New Year's Day	Columbus Day
Martin Luther King Day	Veterans Day
Easter Monday	1/2 day the Day before Thanksgiving
George Washington Day	Thanksgiving Day and the day after
Memorial Day	Christmas Eve
Fourth of July	Christmas Day
Labor Day	Employee Birthday

RECOMMENDATION

It is recommended that City Council adopt the attached ordinance establishing Juneteenth as an observed holiday for City of Danville employees.

Attachments

Ordinance

PSR Attachment

PRESENTED: _____

ADOPTED: _____

ORDINANCE NO. 2020-____.____

AN ORDINANCE AMENDING THE PERSONNEL SYSTEM OF THE CITY OF DANVILLE PROVIDING FOR THE CLASSIFICATION, COMPENSATION, AND EMPLOYEE DEVELOPMENT FOR EMPLOYMENT POSITIONS OF THE CITY.

WHEREAS, certain revisions need to be made to the Personnel System of the City of Danville for the purpose of providing for the Classification of and Compensation for the employment positions of the City, responsibilities hereunder and the administration thereof, and to make other appropriate changes in the provisions of the Personnel System of the City of Danville, as adopted and ordained in Ordinance No. 83-11.16, adopted November 28, 1983.

WHEREAS, revisions to the Classification system including formatting, editing, and creation of new class descriptions is necessary for alignment with the Compensation system the City Manager upon recommendation of the Director of Human Resources may, during the fiscal year, make necessary adjustments to the Classification system without presentation of each class description to the Council of the City of Danville.

NOW THEREFORE, BE IT ORDAINED, by the Council of the City of Danville, Virginia, that the Personnel System of the City of Danville be, and is hereby, amended and reordained, as attached hereto and made a part hereof as if fully set out herein; and

BE IT FURTHER ORDAINED, that all Chapters, Sections, Subsections, Sub-subsections, Paragraphs, Subparagraphs, Class Descriptions, and provisions of said Personnel System of the City of Danville, as heretofore amended, which are not amended

or repealed by this Ordinance, shall continue in full force and effect unless and until the same be, and are hereby, reordained; and

BE IT FINALLY ORDAINED that this Ordinance shall become and be effective on and as of January 1, 2021.

APPROVED:

MAYOR

ATTEST:

CLERK

Approved as to
Form and Legal Sufficiency:

City Attorney



5.23. Holidays

5.23.1. Designation of Holiday

The public offices of the City shall be closed on the following dates or parts thereof, and on any other day proclaimed as a holiday by City Council:

New Year's Day	Columbus Day
Martin Luther King, Jr. Day	Veterans Day
Easter Monday	1/2 day Day before Thanksgiving
George Washington Day	Thanksgiving Day and the day after
Memorial Day	Christmas Eve
Juneteenth	Christmas Day
Fourth of July	Employee Birthday
Labor Day	

Within each calendar year, the Commonwealth of Virginia may grant additional holiday time which is not scheduled on its adopted holiday calendar for that year, for example extra time around the Christmas or New Year's holidays. When this occurs, the public offices of the City shall also be closed.

Days or parts of days during which the public offices of the City are closed by directive of the City Manager because of emergency conditions shall not constitute nor be considered as a Holiday within the meaning of this section.

Council Letter

City of Danville, Virginia



CL-2417

New Business E.

City Council Regular Meeting

Meeting Date: 11/17/2020

Subject: Proposed Agreement with Inframark to Accept Biosolids from the Town of Chatham, Virginia

From: Jason Grey, Utilities Director

COUNCIL ACTION

Business Meeting: 11/17/2020

SUMMARY

The City's wastewater plant operator, Inframark, has proposed amending the City's agreement to accept biosolids from Chatham's wastewater treatment plant for \$0.005/gallon. Inframark also operates the Town of Chatham, Virginia's water and wastewater plants. Staff expects, that based on the Chatham plant's current volume, approximately 150,000 gallons would be delivered to the City's wastewater plant. The proposal would involve blending Chatham's biosolids with Danville's biosolids to go through the same stabilization process. The blended biosolids will ultimately be land applied following the rules and regulations set by Virginia DEQ, North Carolina DEQ, and the EPA. The Danville Utility Commission recommended City Council approve this item at their August meeting.

BACKGROUND

The City owns a twenty-million gallon per day wastewater treatment plant near Anglers Park. Inframark, formerly known as Severn Trent Environmental Services, has been the plant operator since 2013. The City treats approximately eight million gallons per day of wastewater and is actively looking for new ways to utilize and increase revenues at the wastewater plant. Inframark currently manages over 200 wastewater plants across 19 states.

RECOMMENDATION

Staff recommends Danville City Council authorize the City Manager to amend the current agreement with Inframark to include accepting biosolids from the town of Chatham, VA.

Attachments

Resolution

Amendment

PRESENTED: _____

ADOPTED: _____

RESOLUTION NO. 2020-____.____

A RESOLUTION AUTHORIZING THE FIFTH AMENDMENT TO THE AGREEMENT WITH INFRAMARK, LLC OF THE CITY OF DANVILLE'S WASTEWATER OPERATION AND MAINTENANCE AGREEMENT WITH INFRAMARK, LLC.

WHEREAS, the City of Danville, Virginia and Inframark, LLC, formerly Severn Trent Environmental Services, entered into a Wastewater Operation and Maintenance Agreement on December 9, 2013; and

WHEREAS, Inframark, LLC also operates the Town of Chatham, Virginia's wastewater plant and proposes to deliver approximately 150,000 gallons per year of biosolids to the City's wastewater treatment plant for land application at a rate of \$0.005/gallon; and

WHEREAS, the proposal would involve blending biosolids from Chatham and Danville as they both go through the same stabilization process before land application; and

WHEREAS, the City owns a twenty-million gallon per day wastewater treatment plant and is looking for additional ways to utilize the facility and increase wastewater revenues.

NOW THEREFORE, BE IT RESOLVED, by the Council of the City of Danville, Virginia, that it does hereby approves and authorizes the Fifth Amendment with Inframark, LLC attached hereto as **Exhibit A**; and

BE IT FURTHER RESOLVED, that the City Manager, Kenneth F. Larking, be, and he is hereby, authorized to execute on behalf of the City and all documents as may be necessary to complete the above referenced transaction.

APPROVED:

MAYOR

ATTEST:

CLERK

Approved as to
Form and Legal Sufficiency:

ASSISTANT CITY ATTORNEY

FIFTH AMENDMENT
TO THE
WATER AND WASTEWATER OPERATION AND MAINTENANCE AGREEMENT

between

INFRAMARK, LLC

and

THE CITY OF DANVILLE

Dated December 9, 2013

THIS FIFTH AMENDMENT (the “Amendment”) is made on this _____ day of _____ 2020, by the City of Danville, Virginia (hereinafter the “City”), and Inframark, LLC, a Texas limited liability company with its principal place of business at 2002 West Grand Parkway North, Suite 100, Katy TX 77449.

WHEREAS, the City and Severn Trent Environmental Services, Inc. entered into a Water and Wastewater Operation and Maintenance Agreement (the “Original Agreement”) dated December 9, 2013;

WHEREAS, on January 30, 2015, the City and Severn Trent Environmental Services, Inc. entered into a First Amendment to the Original Agreement (hereinafter referred to as the “First Amendment”);

WHEREAS, in June of 2017, Severn Trent Environmental Services, Inc. changed its structure to Severn Trent Environmental Services, LLC, which assumed all rights and obligations of Severn Trent Environmental Services, Inc.;

WHEREAS, on September 12, 2017, the City and Severn Trent Environmental Services, LLC entered into a Second Amendment to the Original Agreement (hereinafter referred to as the “Second Amendment”);

WHEREAS, on December 1, 2017, Severn Trent Environmental Services, LLC changed its name to Inframark, LLC (hereinafter referred to as the “Operator”), which assumed all rights and obligations of Severn Trent Environmental Services, Inc. and Severn Trent Environmental Services, LLC;

WHEREAS, pursuant to Section 9.1 of the Agreement, the Agreement was automatically renewed until December 31, 2023;

WHEREAS, on December 28, 2018, the City and Operator entered into a Third Amendment to the Original Agreement (hereinafter referred to as the “Third Amendment”);

WHEREAS, on March 1, 2020, the City and Operator entered into a Fourth Amendment to the Original Agreement (hereinafter referred to as the “Third Amendment”) (the Original Agreement as amended by the First Amendment, Second Amendment, Third Amendment, and Fourth Amendment is hereafter collectively referred to as the “Agreement”);

NOW, THEREFORE, in consideration of the mutual promises contained herein and subject to the terms and conditions herein stated, the Parties hereby agree to amend the Agreement as follows:

1. All capitalized terms contained in this Amendment and not specifically defined herein, shall have the meaning provided to such terms in the Agreement.
2. The following shall be added to the Agreement as Section 8.7:

At the end of each Agreement Year, Client shall invoice Operator \$0.005 per gallon of Process Residue delivered to the Facilities from the Town of Chatham, Virginia's wastewater treatment facility in accordance with Client's Process Residue Management Plan, which is attached hereto as Exhibit E. Operator shall pay such invoice within sixty (60) days of receipt of an invoice from Client.

3. The Client's Process Residue Management Plan as attached hereto shall be added to the Agreement as Exhibit E.
4. All remaining terms and provisions of the Agreement shall remain in full force and effect to the extent that they do not conflict with this Amendment. In the event of any conflict between the provisions of this Amendment and the provisions of the Agreement, the provisions in this Amendment shall control.
5. The Amendment shall be binding upon the parties hereto and their respective legal representatives, successors and assigns.
6. This Amendment may be executed in one or more counterparts, each of which will be deemed an original copy of this Amendment and all of which, when taken together, will be deemed one and the same agreement.

IN WITNESS WHEREOF, Client and Operator have caused this Amendment to the Agreement to be executed in their respective names by their duly authorized representatives on this 29th day of May 2020.

CITY OF DANVILLE, VIRGINIA:

By: _____

Name: Ken Larking

Title: Danville, VA City Manager

INFRAMARK, LLC:

By: _____

Name: Jerry Shupe, Jr.

Title: Vice President, Mid-Atlantic Region

EXHIBIT E

Danville, Virginia Wastewater Treatment Plant Biosolids Management Plan

Summary (June 1, 2017)

This Biosolids Management Plan, as required by the NPDES/VPDES, outlines the biosolids treatment processes and the respective monitoring and analysis required to meet state and federal regulations. The original biosolids management plan was originally approved by the Virginia Department of Environmental Quality (DEQ) and is being updated to comply with the new VPDES permit requirements that became effective June 1, 2014.

The Northside Wastewater Treatment Plant (NSWWTP) biosolids consist of primary and secondary sludge that are wasted to the sludge holding tanks and then pumped to the Southside storage facility for stabilization. The Southside storage facility contains two 7.5-million-gallon basin that provide treatment and storage for the City of Danville biosolids.

In addition to the biosolids wasted from the NSWWTP to the Southside storage facility, waste biosolids from the Town of Chatham Wastewater Treatment Plant are also hauled to the storage facility for stabilization. Chatham's biosolids are blended with Danville's and go through the same stabilization process. The blended biosolids will ultimately be land applied following rules and regulations set by Virginia DEQ, North Carolina DEQ, and EPA.

The City of Danville has one primary method of treatment and two alternatives that could be used if the primary method fails. The treatment methods can be found in the Appendix pages 4-11. The treatment methods will all meet class B requirements.

All of the biosolids, no matter the treatment, will be land applied. The City of Danville has 960 acres of land permitted in North Carolina. At present, EMA Resources Inc. is contracted to perform the land application of biosolids and develop the annual report for the VADEQ, NCDEQ and EPA.

The required sampling and testing will comply with VPDES permit VA0060593 and NCDEQ Residuals Land Application Permit WQ0036561. All samples shall be representative of the contents of the basin or the sludge being applied as required. Sampling and analysis will be completed prior to and during biosolids disposal to meet Federal 503 regulations and VPDES Permit requirements. All samples will be analyzed by a TNI (The NELAC Institute) accredited laboratory accepted by the state of Virginia.

Odor control is another component of this plan and is addressed on pages 12-14 of the Appendix. The odor control plans are specific to the treatment and land application of biosolids.

Reporting

Quarterly Reports

A monthly report to the Department of Environmental Quality (DEQ)-Blue Ridge Regional Office and a copy of the report to the DEQ Office of Land Application by the **10th** day of each quarter (as evidenced by the transmission date or postmark), for biosolids activities that occurred in the previous calendar quarter.

If biosolids are not generated, monitored or provided to the land applier under this permit during a calendar quarter, a report shall be submitted stating that no biosolids were generated, monitored or delivered during the reporting period.

The quarterly report will include at minimum:

- a. The amount of biosolids generated, in dry tons.
- b. The amount of biosolids provided to a permitted land applier, in dry tons.
- c. Biosolids Monitoring Data – The following data shall be submitted with the quarterly report
 - (1) The results of the monitoring specified in (if monitored in the previous quarter):
 - (a) Part III.A.1.b. Biosolids – Metals Limitations;
 - (b) Part III.A.1.c. Biosolids – Pathogen Reduction and Vector Attraction Reduction (VAR) requirements;
 - (c) Part III.A.1.d. Biosolids – Biosolids Characteristics;
 - (2) Monitoring data required by Part III.B.1.c. (1) shall be submitted in the format provided in the Biosolids Monitoring Report. Supporting documentation, including laboratory chain of custody forms and certificates of analyses, shall be submitted with the report;
 - (3) Quarterly average shall be reported as the average of the results of all samples collected within a calendar quarter and analyzed using an approved method, in accordance with Part II.A.1-2 of this Permit. For monitoring periods which include multiple months, if one sample is collected during the monitoring period, that result shall be reported as the monthly average. If samples are collected in different months during the monitoring period, a monthly average shall be calculated for each month in the reporting period and the highest monthly average reported. Individual results and calculations shall be submitted with the report; and
 - (4) The maximum concentration shall be reported as the highest single result from all samples collected and analyzed during a monitoring period.

Annual Report

An Annual Report will be submitted not later than **February 19th** of each year to the DEQ-Blue Ridge Regional Office. Each report is for the previous calendar year's activity. If no biosolids were generated and provided to a land applier under this permit during the reporting year, a report shall be submitted stating that no biosolids were generated or delivered during the year. The report shall include at minimum:

- a. A copy of any DMR submitted to EPA;
- b. Part III.A.1.a. Sewage Sludge Annual Production Monitoring;
- c. A summary of biosolids disposal contracts, if any, currently held with other generators, as well as any other biosolids or sludges currently being handled through subcontracts or other agreements. Include biosolids or sludges given to other generators, contractors or land filled, and biosolids or sludges accepted from other generators for treatment or land application. Attach a copy of any Notice and Necessary Information (NANI)'s received with biosolids accepted for land application, and NANI's you provided to contractors to whom you provided biosolids.
- d. Identify other methods used to dispose of or use biosolids or sludge produced during the previous calendar year. Report the annual total amount of biosolids or sludge (in dry metric tons) disposed of or used by each method identified.
- e. Any biosolids monitoring data required by Part III.A. that were not submitted during the reporting calendar year.
- f. The annual report shall be certified and signed in accordance with Part II.K. VPDES VA0060593
- g. Records will be maintained for at least 5 years to comply with state and federal regulations.

APPENDIX

Treatment Method

Page

Primary- Stabilization Treatment

4-5

Alternative 1- Liquid Alkaline Stabilization

6-8

Alternative 2-Alkaline Stabilization (Hydrated Lime)

9-11

Odor Control

Biosolids Basin Odor Control Plan

12-13

Land Application Odor Control Plan

14

Stabilization Treatment Class B

General

The objective of the stabilization treatment at the Southside Treatment Plant is to substantially reduce the number of pathogenic organisms, thereby minimizing the health hazard of the sludge, and to substantially reduce the numbers of odor-producing organisms, thereby minimizing nuisance conditions caused by sludge disposal. By meeting Class B requirements without adding lime, the sludge can be land applied to fields that the lime stabilized sludge cannot be applied on due to the high pH of the sludge.

This stabilization process consists of stabilization in the two 7.5 million-gallon tanks at the Southside WWTP. The stabilization tanks will provide the pathogen and vector attraction reduction requirements for land application of Class B sludge.

Process Monitoring and Parameters

A. Physical Observation

A close watch over treatment stabilization tanks at the Southside WWTP, in combination with operating experience, will enable an operator to optimize system performance. The system will be monitored for odor to ensure proper operation.

B. Sampling and Testing Parameters

Required Analysis

Biosolids Characteristics:

These parameters are required **twice during the quarter** when biosolids are being land applied.

- Total Kjeldahl Nitrogen
- Ammonia Nitrogen
- Total Phosphorus
- Nitrate – Nitrite
- Metals
- Total Potassium
- pH
- Alkalinity
- Percent Total Solids
- Percent Total Volatile Solids

Pathogen Reduction: Alternative 1 (9VAC25-31-710.B.3) (40CFR Part 503; table 5-7)

This analysis is required **twice during the quarter** when biosolids are being land applied. Seven samples will be collected from the basin being hauled from, to document that the necessary pathogen reduction criterion of < 2,000,000 MPN/gram of total solids (dry weight basis) is met.

- Fecal Coliform

**Vector Attraction Reduction (VAR): (9VAC25-31-710.B.1) (40CFR Part 503; table 5-8)
(Option 1)**

This analysis is required **twice during the quarter** when biosolids are being land applied. (Option 1) Samples will be collected from the basin being hauled from, to document that there has been a minimum of 38% reduction in volatile solids when compared to the volatile solids content of the basin source biosolids (Waste Activated Sludge). If the volatile reduction method option is not used, then a 40-day anaerobic process, with a bench-scale demonstration (Option 2) can be performed.

Yearly comprehensive and TCLPs will be performed.

**Alternative 1 - Liquid Alkaline Stabilization
Class B
(NOT CURRENTLY USED)**

General

The objectives of liquid alkaline stabilization of sludge are (1) to substantially reduce the numbers of pathogenic organisms, thereby minimizing the health hazard of the sludge, and (2) to substantially reduce the numbers of odor-producing organisms, thereby minimizing nuisance conditions caused by sludge disposal. By meeting Class B sludge requirement in the EPA Part 503 Regulations, the alkaline stabilized sludge can be applied to agricultural land and will provide a good source of nitrogen and lime, as well as beneficial organic matter.

Alkaline stabilization is achieved by pumping sludge from the Stabilization Treatment process if it does not meet the required stabilization requirement, to the two 750,000-gallon alkaline stabilization tanks. There the sludge will be mixed with liquid lime. The liquid system consists of two 750,000 tanks which is where the liquid alkaline stabilization process takes place.

Sludge is pumped to fill these tanks to an appropriate level. After the tanks are filled and mixed, a sample is collected to measure the percentage total solids. Using the volume and percentage total solids, the total dry tons are calculated. The dry tons will be used to calculate the lime requirement at 32 percent on a dry weight basis. The required lime requirement is then ordered.

Lime is delivered by truck and pumped into the tanks while re-circulated sludge in the tank. This procedure eliminates any lime dust.

The alkaline stabilization process adds sufficient lime to liquid sludge to (1) raise the pH of the mixture to pH 12 or more for two hours, and (2) maintain a pH of 11.5 for 22 hours. The lime dosage is approximately 0.32 pounds per pound of dry solids. The chemical reaction between the solids and the lime also results in an elevated temperature of the solids. The combination of the elevated temperature and high pH normally destroys or inhibits pathogens, as well as microorganisms involved in the decomposition of the liquid solids. Little or no biological decomposition occurs, and the alkaline stabilization process produces few odors. The destruction of pathogenic organisms reduces bacterial hazards from the solids to a relatively safe level.

Process Monitoring and Parameters

A. Physical Observation

A close watch over liquid alkaline stabilization facilities operation, in combination with operating experience, should enable an operator to optimize system performance. Consistent lime and liquid solids will ensure proper lime dosage and proper operation of the process. A consistent, well-mixed liquid/lime mixture with the required pH value indicates proper operation of the alkaline stabilization system.

B. Sampling and Testing Parameters

Sampling and regular monitoring of the liquid/lime mixture is necessary to evaluate the performance of the liquid alkaline stabilization system. The pH must be carefully monitored to ensure that an adequate pH is maintained for a sufficient period of time. Probes must be properly cleaned, calibrated, and maintained. Operators must be aware that the absence of odors is not a good indication of adequate solids stabilization.

Required Analysis

Biosolids Characteristics:

These parameters are required **twice during the quarter** when biosolids are being land applied.

- Total Kjeldahl Nitrogen
- Ammonia Nitrogen
- Total Phosphorus
- Nitrate – Nitrite
- Metals
- Total Potassium
- pH
- CCE
- Percent Total Solids
- Percent Total Volatile Solids

Pathogen Reduction: (Alternative 2) (40 CFR Part 503; table 5-7) (PSRP Option 5) (9VAC25-31-710.D.5)

Sufficient lime is added to the sewage sludge to raise the pH of the sewage to 12 after two hours of contact.

Vector Attraction Reduction (VAR): (40CFR Part 503; table 5-8; Option 6) (9VAC25-31-720.B.6)

Sufficient alkali is added to the sewage sludge to raise the pH of the sewage sludge to 12 or higher, and without the addition of more alkali, maintain the pH at 12 S.U. for two hours and then 11.5 S.U. or higher for an additional 22 hours.

Yearly comprehensive and TCLPs will be performed.

C. Process Parameters

Contact Time and pH

Both contact time and pH are important for the alkaline stabilization process. The pH must be raised to a pH of 12 for two hours and maintained at a pH of 11.5 for 22 hours to inactivate or destroy pathogens.

A reduction in pH after lime addition (referred to pH decay) occurs in the following sequence. Initially, atmospheric carbon dioxide (which forms a weak acid when dissolved in water) is taken up and gradually consumes the residual alkalinity of the liquid/lime mixture. As the alkalinity is consumed, the pH begins to gradually decrease. Eventually, a pH is reached where bacterial action can resume and the pH continues to drop from the production of organic acids.

Enough lime must be added to ensure that the pH is maintained at the required value for the total contact time required.

Dosage

The lime dosage must be adequate to provide enough residual alkalinity to maintain a high enough pH for the required contact time before disposal. Adequate lime dosage will help prevent the pH from dropping and permitting growth or reactivation of odor producing and pathogenic organisms. The lime dosage depends on a number of factors, including type of sludge, chemical composition of sludge and solids concentration of sludge. The typical lime dosage is approximately 0.25 pounds per pound of dry solids for class B biosolids.

Alternate 2-Alkaline Stabilization (Hydrated Lime) Class B (NOT CURRENTLY USED)

General

The objectives of alkaline stabilization of sludge are (1) to substantially reduce the numbers of pathogenic organisms, thereby minimizing the health hazard of the sludge, and (2) to substantially reduce the numbers of odor-producing organisms, thereby minimizing nuisance conditions caused by sludge disposal. By meeting Class B sludge requirements in the EPA Part 503 Regulations, the alkaline stabilized sludge can be applied to agricultural land and will provide a good source of nitrogen and lime, as well as beneficial organic matter.

Alkaline stabilization is achieved by mixing the dewatered sludge with lime, followed by transporting it by truck to a curing pad for further drying and stabilization. The alkaline stabilization system consists of one lime storage silo, one bin activator for the storage silo, one volumetric feeder, one alkaline feed screw conveyor, one solids/lime mixer, one belt conveyor (No. 4), and one loading station conveyor (No. 5). Cement kiln dust can also be used as an alternate alkaline stabilizing material. Dewatered sludge from the belt filter presses is discharged to Conveyor No. 1 and then travels to an incline conveyor (No. 2), which carries the dewatered solids to the solids/lime mixer. Conveyor No. 3 can be used to feed recycled alkaline-stabilized material or dewatered solids from Belt Filter Press No. 3 or another location to the solids/lime mixer.

Lime is delivered by truck and conveyed by air into the storage silo by a truck-mounted filling system. Exhaust air for the silo passes through a dust collector. Lime is fed from the lime silo through a volumetric feeder to the alkaline feed screw conveyor.

This conveyor carries the lime to the solids/lime mixer, where it is mixed with the solids from the belt filter presses. The mixture of lime and solids is transported by Conveyors No. 4 and 5 to trucks, and transported by truck to open and covered storage areas for further drying and stabilization.

The alkaline stabilization process adds sufficient lime to dewatered sludge to (1) raise the pH of the mixture to pH 12 or more for 2 hours, and (2) maintain a pH of 11.5 for 22 hours. The lime dosage is approximately 0.25 pounds per pound of dry solids. The chemical reaction between the solids and the lime also results in an elevated temperature of the solids. The combination of the elevated temperature and the high pH normally destroys or inhibits pathogens, as well as microorganisms involved in the decomposition of the dewatered solids. As an added benefit, the elevated temperatures remove excess water. Little or no biological decomposition occurs, and the alkaline stabilization process produces few odors. The destruction of pathogenic organisms reduces bacterial hazards from the solids to a relatively safe level. After curing and further stabilization, the solids content of the alkaline-stabilized solids can increase to over 50 percent.

Process Monitoring and Parameters

A. Physical Observation

A close watch over alkaline stabilization facilities operation, in combination with operating experience, should enable an operator to optimize system performance. Consistent lime and dewatered solids feed to the mixer is very important since this will ensure proper lime dosage and proper operation of the mixer. A consistent, well-mixed solids/lime mixture with the required pH value indicates proper operation of the alkaline stabilization system.

B. Sampling and Analysis

Sampling and regular monitoring of the solids/lime mixture is necessary to evaluate the performance of the alkaline stabilization system. The pH must be carefully monitored to ensure that an adequate pH is maintained for a sufficient period of time. pH probes must be properly cleaned, calibrated, and maintained. Operators must be aware that the absence of odors is not a good indication of adequate solids stabilization.

Required Analysis

Biosolids Characteristics:

These parameters are required **twice during the quarter** when biosolids are being land applied.

- Total Kjeldahl Nitrogen
- Ammonia Nitrogen
- Total Phosphorus
- Nitrate – Nitrite
- Metals
- Total Potassium
- pH
- CCE
- Percent Total Solids
- Percent Total Volatile Solids

Pathogen Reduction: (Alternative 2) (40 CFR Part 503; table 5-7) (PSRP Option 5)
(9VAC25-31-710.D.5)

Sufficient lime is added to the sewage sludge to raise the pH of the sewage to 12 after two hours of contact.

Vector Attraction Reduction (VAR): (40CFR Part 503; table 5-8; Option 6)
(9VAC25-31-720.B.6)

Sufficient alkali is added to the sewage sludge to raise the pH of the sewage sludge to 12 or higher, and without the addition of more alkali, maintain the pH at 12 S.U. for two hours and then 11.5 S.U. or higher for an additional 22 hours.

Yearly comprehensive and TCLPs will be performed.

C. Process and Parameters

Contact Time and pH

Both contact time and pH are important for the alkaline stabilization process. The pH must be raised to a pH of 12 for 2 hours and maintained at a pH of 11.5 for 22 hours to inactivate or destroy pathogens.

A reduction in pH after lime addition (referred to as pH decay) occurs in the following sequence. Initially, atmospheric carbon dioxide (which forms a weak acid when dissolved in water) is taken up and gradually consumes the residual alkalinity of the solids/lime mixture. As the alkalinity is consumed, the pH begins to gradually decrease. Eventually, a pH is reached where bacterial action can resume and the pH continues to drop from the production of organic acids.

Enough lime must be added to ensure that the pH is maintained at the required value for the total contact time required.

Dosage

The lime dosage must be adequate to provide enough residual alkalinity to maintain a high enough pH for the required contact time before disposal. Adequate lime dosage will help prevent the pH from dropping and permitting growth or reactivation of odor producing and pathogenic organisms. The lime dosage depends on a number of factors, including type of sludge, chemical composition of sludge and solids concentration of sludge. The typical lime dosage is approximately 0.25 pounds per pound of dry solids for class B biosolids.

Biosolids Odor Control Plan – Northside and Southside Wastewater Treatment Plants

Facility Name: Danville Northside and Southside Wastewater Treatment Plants

VPDES/NPDES Permit Number: VA0060593

Address: 229 Northside Drive

City State: Danville, Virginia

Owner Contact Name: Alan Johnson

Phone Number: 434-799-6473

Email address: johnsra@danvilleva.gov

Operator Contact Name: Jerry Shupe

Phone Number: 434-799-5137

Email Address: Jerry.Shupe@Inframark.com

Definitions:

Malodor- an unusually strong or offensive odor associated with biosolids or sewage sludge as distinguished from odors commonly associated with biosolids or sewage sludge.

1) Identify methods used to minimize odor during production of biosolids:

Vector Attraction Reduction Method:

☐ 38% VSS solids reduction – Treatment minimizes odors through anaerobic digestion to produce Class B biosolids. Digestion detention times and digester temperatures along with volatile solids reduction are monitored to ensure that State and Federal standards are achieved.

☐ Lime Addition: Treatment includes adding sufficient lime to the biosolids to raise the pH to > 12 after two hours and then testing again after an additional 22 hours for a pH greater than 11.5. Lime feed rates and biosolids pH data will be recorded and checked.

Additional procedures (if applicable):

☐ 15-day minimum detention time and a minimum of 95 degrees F in anaerobic digestion will be maintained

☐ SOUR testing of biosolids

☐ Fecal coliform testing of biosolids

2) Identify methods used to identify malodorous biosolids at the generating facility:

☐ Wastewater treatment facility staff will periodically perform visual as well as odor observations of the biosolids being discharged from the centrifuge or pug mill to ensure that nothing out of the ordinary is occurring during processing operations. If the solids

appear to be off color or have unusual odors, these biosolids will be separated from the normal biosolids or sent to landfill.

- Volatile solids testing and tracking
- Wastewater treatment facility staff will periodically observe loading operations to check odor conditions of biosolids

3) Identify methods used to identify and abate malodor after delivery to a land application site (before land application):

- The land application contractor's personnel will perform a visual as well as odor observation of biosolids delivered to the land application sites. They will determine if any of the individual loads arriving on-site appear to be more odorous and darker in color than usual. If malodor of the biosolids is present, the contractor will confer with wastewater treatment plant staff and can remove the biosolids and return those loads to the wastewater treatment plant for further treatment or transport to a landfill.
- Confer with land applicator and utilize a remote land application site
- Check pH levels on suspect lime stabilized biosolids
- Contract land applicator will use methods identified in land applicator's odor control plan

4) Identify methods used to abate malodor after land application:

- Incorporate biosolids into the soil
- Use a deodorizer
- Contract land applicator will use methods identified in land applicator's odor control plan, see page 14 Biosolids Management Plan

City of Danville Land Application Odor Control Plan

1. Purpose

To reduce and control malodorous conditions both before land application and after land application has occurred.

2. Operational Functions

In the event that malodors are detected once the material has been transported to a field but before the material has been land applied, EMA Project managers will notify Severn Trent Services personnel of the problem and future loads will be stopped until the issue is resolved. EMA Resources Project managers will look for more remote land application sites to minimize local impact. If no suitable

sites can be found, and the odor is deemed to be unsuitable, the load will be returned to the lagoon and lime addition will be considered.

In the event that malodors are detected once the material has been land applied to a field, EMA Resources Project managers will notify Severn Trent Services personnel and future trucks will be stopped until the issue is resolved. Methods to address the nuisance conditions will consist of incorporation using a disc. If that is unsuitable for the field or the farmer, agricultural lime can be applied to reduce any malodors that remain.

Council Letter

City of Danville, Virginia



CL-2412

New Business F.

City Council Regular Meeting

Meeting Date: 11/17/2020

Subject: Pinnacles Hydro Metering and Billing-American Municipal Power

From: Jason Grey, Utilities Director

COUNCIL ACTION

Business Meeting: 11/17/2020

SUMMARY

The City of Danville is in the process of selling the Pinnacles Hydro facility to Northbrook Energy. The City will need to establish a metering point at the plant to be used for system statistics and billing purposes; the City will continue to receive the ten megawatts of hydro energy from the facility. From a financial perspective, staff would like City Council's approval to have American Municipal Power (AMP) meter the hydro facility and bill the City for the energy, capacity, and renewable energy credits produced. AMP currently provides this service for the Kentuck solar farm, Schoolfield Hydro facility, Whitmell/Irish Road solar farms, and soon to be completed Ringgold solar farm.

BACKGROUND

In July 2020, City Council authorized entering into a twenty-five-year purchase power agreement with Northbrook Energy for the 10.6 megawatts of hydro generation at the Pinnacles' facility in Patrick County, Virginia. The City is finalizing the FERC license transfer to Northbrook Energy and staff anticipates closing on the property before the end of the year. Pinnacles will continue to be a local source of energy and help save on rising transmission and capacity charges.

RECOMMENDATION

Staff recommends that City Council authorize the City Manager to enter into American Municipal Power's (AMP) Agency Designation Agreement, which will allow AMP to manage the revenue meters associated with the Pinnacles Hydro Facility in Patrick County, Virginia. AMP will bill the City for any electric generation produced at the facility.

Attachments

Resolution

PRESENTED: _____

ADOPTED: _____

RESOLUTION NO. 2020-____.____

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGENCY DESIGNATION SCHEDULE WITH AMERICAN MUNICIPAL POWER FOR THE PINNACLES HYDRO METERING AND BILLING.

WHEREAS, the City of Danville, Virginia (herein "Municipality") owns and operates an electric system for the benefit of its residents and customers; and

WHEREAS, by working jointly with American Municipal Power, Inc. (hereinafter "AMP") and the other municipalities which are members of AMP, the Municipality can supply its electric utility consumers with reliable service at reasonable rates; and

WHEREAS, Municipality has entered into a Power Purchase Agreement ("PPA") for hydroelectric power with Northbrook Energy ("Northbrook"), "Seller"; and

WHEREAS, Municipality desires to enter into an agreement that, among other things, grants AMP authority to act as the Municipality's authorized agent with such authority as is necessary for invoicing and payment collection of the amounts owed by Municipality for power from the Sellers' hydroelectric facility; and

WHEREAS, AMP is willing to accept appointment as Municipality's agent for purposes of invoicing and payment collection for and, to the extent possible, necessary for collection of the amounts owed by Municipality for power from the Sellers' hydroelectric facility; and

WHEREAS, after due consideration, Municipality has determined that it is reasonable and in its best interest to proceed as authorized herein below and requests and authorizes AMP to serve as the metering and billing agent upon the terms and conditions set forth in the Agency Designation Agreement.

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF DANVILLE, VIRGINIA that:

SECTION 1: That the form of the Agency Agreement attached hereto/on file with the Clerk is hereby approved, subject to and with any and all changes therein or hereinafter provided.

SECTION 2: That the City Manager is hereby authorized to execute the Agency Agreement substantially in the form of Exhibit 1, along with such modifications to the same that are deemed by the City Manager as not adverse to the interests of the Municipality, provided that neither this resolution or the Agency Agreement authorize or obligate the Municipality to undertake the construction and operation of any hydroelectric facility.

SECTION 3: This Council finds and determines that all formal actions of this Council concerning and relating to the adoption of this Resolution, to the extent required to be, were taken in an open meeting of this Council and that all deliberations of this Council and any of its committees that resulted in those formal action were in compliance with the Law.

SECTION 4: For the reasons set forth in the preamble hereto, this Resolution is

APPROVED:

MAYOR

ATTEST:

CLERK

Approved as to
Form and Legal Sufficiency:

CITY ATTORNEY

Council Letter

City of Danville, Virginia



CL-2416

New Business G.

City Council Regular Meeting

Meeting Date: 11/17/2020

Subject: Update to Sewer Use Ordinance

From: Jason Grey, Utilities Director

COUNCIL ACTION

Business Meeting: 11/17/2020

SUMMARY

The Virginia Department of Environmental Quality has requested wastewater operators to update their sewer use ordinances and treatment terminology to current requirements. Attached is a PowerPoint summarizing terms that have changed and treatment measures that have been added. The items that have been added are the addition of metal limits that were not previously mandated in the current sewer use ordinance. Also, pH levels have been increased to have a less acidic effect on sewer mains and wastewater treatment plants.

BACKGROUND

The purpose of the City's Sewer Use Ordinance in Chapter 34 of the Danville Municipal Code, is to regulate the use of public and private sewers and drains, private wastewater disposal, the installation and connection of building sewers, and the discharge of waste into the City's sewer system. Also, to establish uniform requirements for direct and indirect discharges into the City's sewers, to provide for maximum beneficial public use of the City's wastewater facilities and to comply with all applicable state and federal laws including the "Clean Water Act of 1977, as amended," and the General Pretreatment Regulations (40 Code of Federal Regulations (CFR) Part 403).

RECOMMENDATION

Staff recommends that Danville City Council approve updating the City's sewer use ordinance to comply with current EPA and DEQ regulations.

Attachments

Ordinance

Attachment 1

Current Use

Presentation

PRESENTED: _____

ADOPTED: _____

ORDINANCE NO. 2020-____.____

AN ORDINANCE AMENDING AND REORDAINING CHAPTER 34 ENTITLED “SEWERS AND SEWAGE DISPOSAL” OF THE CODE OF THE CITY OF DANVILLE, 1986 AS AMENDED, PROVIDING FOR THE HARMONIZATION OF CITY, STATE, AND FEDERAL REGULATIONS.

WHEREAS, certain revisions need to be made to the Sewer Code of the City of Danville for the purpose of harmonizing City regulations with those required under federal and state law, and to make other appropriate changes in the provisions of the Sewer Code of the City of Danville, as adopted and ordained in Ordinance No. 2005-05.04, adopted May 17, 2005; and

WHEREAS, revisions to the Sewer Code also include formatting, editing, and the elimination of an obsolete job title; and

NOW THEREFORE, BE IT ORDAINED, by the Council of the City of Danville, Virginia, that Chapter 34 Entitled “Sewers and Sewage Disposal” of the City of Danville, Virginia, 1986 as amended, and the same be, and is hereby, amended and reordained, as attached hereto and made a part hereof as if fully set out herein; and

BE IT FURTHER ORDAINED, that all Chapters, Sections, Subsections, Sub-subsections, Paragraphs, Subparagraphs, Class Descriptions, and provisions of said Chapter of the Code of the City of Danville, as heretofore amended, which are not amended or repealed by this Ordinance, shall continue in full force and effect unless and until the same be, and are hereby, reordained; and

BE IT FINALLY ORDAINED, that this Ordinance shall become and be effective on and as of January 1, 2021.

APPROVED:

MAYOR

ATTEST:

CLERK

Approved as to
Form and Legal Sufficiency:

ASSISTANT CITY ATTORNEY

WASTEWATER COLLECTION AND DISPOSAL

Footnotes:

--- (1) ---

Editor's note— Ord. No. 2005-05.04, adopted May 17, 2005, amended Ch. 34 in its entirety to read as herein set out. Former Ch. 34, §§ 34-1—34-37, 34-47—34-64, 34-71—34-74, 34-79, 34-80, 34-94—34-100, pertained to similar subject matter, and derived from Ord. No. 90-2.11, § 2, adopted Feb. 6, 1990; Ord. No. 92-5.4, §§ 2—5, adopted May 7, 1992; Ord. No. 93-9.7, adopted Sept. 7, 1993; Ord. No. 93-9.9, adopted Sept. 7, 1993.

Cross reference— Director of Community Development and Engineering to have control of design and planning of sewers and treatment plants, § 2-177; building and development regulations generally, Ch. 9; storm drainage, § 9-151 et seq.; erosion and sediment control, Ch. 13; garbage and refuse, Ch. 17; subdivisions, Ch. 35.5; utility services, Ch. 38; zoning, Ch. 41.

State Law reference— Authority of city to establish, maintain and operate sewage disposal systems, Code of Virginia, § 15.2-2122; authority to regulate sewage disposal, § 15.2-2157; sewage disposal generally, § 32.1-163 et seq.

ARTICLE I. - IN GENERAL

DIVISION 1. - GENERALLY

Sec. 34-1. - Objectives.

(a) The purpose of this chapter is to regulate the use of public and private sewers and drains, private wastewater disposal, the installation and connection of building sewers, and the discharge of ~~waste~~ **wastewater** into the City's sewer system, to establish uniform requirements for direct and indirect discharges into the City's sewers, to provide for maximum beneficial public use of the City's wastewater facilities and to comply with all applicable state and federal laws including the "Clean Water Act of 1977, as amended," and the General Pretreatment Regulations (40 Code of Federal Regulations (CFR) Part 403 ~~and the VPDES Permit Regulation (9VAC25-31-10 et seq.)~~. The objectives of this chapter are:

- (1) To prevent the introduction of harmful materials into the City's sewer system which may interfere with the collection system, treatment plant operations, sludge management program, or which will "pass through" the treatment process without adequate treatment into the receiving environment or otherwise be incompatible with the system;
- (2) To establish administrative procedures for the approval of sewer construction plans, issuance of permits, issuance of minimum sewer connection standards, and set penalties and procedures to be followed in case of violation of this chapter;
- (3) To enhance the opportunity for recycling, reclamation, and reuse of the wastewater treatment plant's effluent and allow continued utilization of wastewater ~~sludges biosolids~~ generated as a soil amendment or conditioner;
- (4) To protect both Publicly Owned Treatment Works (**POTW**) personnel who may be affected by wastewater and ~~sludges biosolids~~ in the course of their employment and the general public;
- (5) To enable the City to comply with its National Pollutant Discharge Elimination System (**NPDES**) permit conditions, ~~sludges biosolids~~ use and disposal requirements, and any other Federal or State laws to which the ~~Publicly Owned Treatment Works~~ **POTW** is subject; and

- (6) To provide for the equitable distribution of the cost of sewer service to all users.
- (b) This chapter is intended to provide for the regulation of contributors to the municipal wastewater system through the issuance of permits to users, through enforcement of general requirements for all users, through monitoring and enforcement activities, through user reporting requirements, and assures that existing customer's capacity will not be preempted. This chapter further provides for the setting of fees for the purpose of equitably distributing the costs of the program established herein. This chapter shall apply within the City of Danville, Virginia, and to persons outside the City who are, by contract or agreement with the City, users of the City's POTW.

Except as otherwise provided herein, the City Manager, or his/her designated representative, shall administer, implement, and enforce the provisions of this chapter.

Applicable state and federal standards and limitations shall constitute the minimum standards and limitations acceptable for this chapter; however, if the standards and limitations contained in this chapter are, or become, more restrictive than federal or state standards because of special local requirements or because of changes in federal or state law, then the more restrictive standards and limitations contained herein shall apply.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-2. - General definitions.

Unless the context or usage indicates otherwise, the meaning of terms used in this chapter and not defined in ~~Section~~ **Sec.** 34-3 shall be defined as shown in the "Glossary: Water and Wastewater Control Engineering," current edition, prepared by the joint editorial board of the American Public Health Association, American Society of Civil Engineers, American Water Works Association, and ~~Water Pollution Control~~ **Environment** Federation.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-3. - Specific definitions.

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

Act or *the Act* shall mean The Federal Water Pollution Control Act, also known as the Clean Water Act and the Water Quality Act of 1987, 33 U.S.C. 1251, et. seq.

Approval authority shall mean the Executive Director or Director of the Department of Environmental Quality of the Commonwealth (**DEQ**).

ASTM shall mean the American Society for Testing and Materials.

Authorized representative of an industrial user shall mean:

- (1) If the user is a corporation:
- a. The president, secretary, treasurer, or a vice-president of the corporation in charge of the principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - ~~b. The manager of one or more manufacturing, production, or 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), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.~~
 - b. The manager of one or more manufacturing, production, or operation facilities provided the manager is authorized to make management decisions that govern the operation of the

regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

- (2) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.
- (3) If the user is a Federal, State or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
- (4) The individuals described in subsections (1) through (3), 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 is submitted to the City.

Baseline monitoring report or BMR shall mean a report that conforms to the provisions of 40 CFR Part 403.12(b) and 9 VAC 25-31-840-B contains the information and data contained therein.

Best Management Practices or BMPs means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Sec. IV (40 CFR 403.5(a)(1) and (b); 9VAC25-31-770 A and 770 B). BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Biochemical oxygen demand or BOD₅ shall mean a standard test used in assessing sewage wastewater strength. The measure of decomposable organic material in domestic or industrial wastewater as represented by the oxygen utilized over a period of five (5) days at 20° centigrade expressed in terms of weight and concentration (milligrams per liter) (mg/L) and as determined by the appropriate EPA approved procedure in "Standard Methods."

Building sewer shall mean a sewer conveying wastewater from the premises of a user to the POTW's collection system. The building sewer from the street right-of-way to the user's home or business is located on private property and owned by the customer or property owner served.

Categorical or pretreatment standards shall mean any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. §§ 1317) which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N parts 405 - 471.

CFR shall mean the Code of Federal Regulations.

City shall mean the City of Danville, Virginia, or any duly authorized official(s) acting on behalf of the City.

COD shall mean chemical oxygen demand.

Commercial user shall mean any nonresidential user not included within the definition of an "industrial user" and which is connected to the City's sewer system.

Compatible pollutant shall mean a pollutant such as biochemical oxygen demand, suspended solids and pH; or any additional pollutants identified in the POTW's Virginia Pollutant Discharge Elimination System (VPDES) permit, where the POTW is designed to treat such pollutants and, in fact, does treat such pollutants to the degree required by the POTW's VPDES permit.

Contract hauler shall mean any person that, under contract, hauls wastewater by tanker trucks to the City of Danville POTW for disposal and treatment.

Control authority shall refer to the City Manager or the ~~Assistant City Manager for Utilities~~ Director of Utilities or his/her designated representative, who is granted authority herein for implementing and enforcing a state-approved pretreatment program. On any occasion that the ~~Assistant City Manager for Utilities~~ Director of Utilities is not available through illness or other absence, or if that position is vacant or eliminated, the control authority shall be the Director of the Division of Water and Wastewater Treatment.

Cooling water shall mean the water discharged from any source to which the only pollutant added is heat.

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

Direct discharge shall mean the discharge of wastewater, treated or untreated, into any natural or artificial drainage system, which is not included within the definition of POTW.

Director of Utilities shall mean the person who holds that position; however, on any occasion that the Director of Utilities is not available through illness or other absence, or if that position is vacant or eliminated, the Director of the Division of Water and Wastewater Treatment will exercise any authority and perform any duty which, under the provisions of this chapter, is to be exercised or performed by the Director of Utilities.

Director of Water and Wastewater Treatment, referred to as Director here-in-after, is the person designated by the City to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this chapter, or a duly authorized representative.

Discharger shall mean a person who discharges wastewater into the City's POTW.

Environmental Protection Agency or *EPA* shall mean the United States Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director or other duly authorized officials of said agency.

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

~~*Floatable oil* shall mean oil, fat, or grease, in a physical state such that it floats on the surface of the wastewater.~~

gpd shall mean gallons per day.

Grab sample shall mean a sample, which is taken from a wastewater stream on a one time basis with no regard to the flow in the wastewater stream and over a period of time not to exceed fifteen (15) minutes.

Hazardous waste pharmaceutical is a pharmaceutical that is a solid waste, as defined in 40 CFR Part 261.2, and exhibits one or more characteristics identified in Part 261 Subpart C or is listed in Part 261 Subpart D.

Healthcare facility is any person that is lawfully authorized to (1) provide preventative, diagnostic, therapeutic, rehabilitative, maintenance or palliative care, and counseling, service, assessment or procedure with respect to the physical or mental condition, or functional status, of a human or animal or that affects the structure or function of the human or animal body; or (2) distribute, sell, or dispense pharmaceuticals, including over-the-counter pharmaceuticals, dietary supplements, homeopathic drugs, or prescription pharmaceuticals.

Incompatible pollutant shall mean any pollutants other than a compatible pollutant as defined herein.

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

Industrial user shall mean any source of indirect discharge that introduces pollutants into a POTW from any nondomestic source regulated under the Act, State law, or local ordinance.

Industrial wastewater discharge permit hearing officer (hearing officer) shall mean a duly authorized agent of the City appointed by the City Manager or his/her designated representative to conduct hearings in accordance with this chapter.

Inspector shall mean a plumbing inspector, building inspector, industrial pretreatment ~~coordinator~~ **manager** or other person duly authorized by the City to inspect wastewater generation, conveyances, processes, pretreatment and disposal facilities that are connected to and discharge into the City's POTW.

Instantaneous maximum allowable discharge limit shall mean the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.

Interference shall mean a discharge, which alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of (the City's) NPDES permit or of the prevention of ~~sewage sludge biosolids~~ use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder or any more stringent State or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State ~~sludge biosolids~~ management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research and Sanctuaries Act.

Interjurisdictional agreement shall mean a contractual agreement between the City of Danville and any other political subdivision or political subdivisions relating to the discharge of wastewater from such political subdivision(s) into the City's POTW and which provides for enforcement by such political subdivision(s) of pretreatment standards required by the City or by state or federal law. The City will administer and enforce the pretreatment standards for such political subdivision if both mutually agree to do so.

L shall mean liter.

May shall mean permissive.

Maximum permissible concentration shall mean the highest allowable constituent concentration contained in a direct or indirect discharge into the City's POTW.

Medical waste shall mean isolation waste, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

µg shall mean micrograms.

µg/L shall mean micrograms per liter (see ppb)

mg shall mean milligrams.

mg/L shall mean milligrams per liter.

National categorical pretreatment standard or pretreatment standard shall mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act.

National pollution discharge elimination system or NPDES permit shall mean the **National Pollution Discharge Elimination System** permit program.

New source shall mean:

- (1) Any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(C) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

- a. The building, structure, facility, or installation is constructed at a site at which no other source is located; or
 - b. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - c. The production or wastewater generating processes of the building, structure, facility, or installation is substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity, as the existing source should be considered.
- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of subsection (1)b. of this definition but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
- a. Begun, or caused to begin as part of a continuous onsite construction program:
 1. Any placement, assembly, or installation of facilities or equipment; or
 2. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities, which is necessary for the placement, assembly, or installation of new source facilities or equipment.
 - b. 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 contract for feasibility, engineering, and design studies, do not constitute a contractual obligation under this paragraph.

Noncontact cooling water means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

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

- (1) BOD₅: Less than or equal to 300 mg/L.
- (2) Total Suspended Solids: Less than or equal to 300 mg/L.
- (3) Total Kjeldahl Nitrogen: Less than or equal to 34.0 mg/L.
- (4) Ammonia: Less than or equal to 17 mg/L.
- (5) Flow: Less than 25,000 gallons per day.
- (6) No toxic or harmful substances are present.

North American Industry Classification System (NAICS) shall mean a classification for industries used by business and government to classify business establishments according to type of economic activity (process of production) in Canada, Mexico and the United States of America. It has largely replaced the older Standard Industrial Classification (SIC) system; however, certain government departments and agencies, still use the SIC Codes.

Occupant shall mean a person who is in control of or in actual possession of, or actually occupies a dwelling unit or building.

Overload means the imposition of any pollutant or other substance or hydraulic loading on the City's POTW in excess of its designed or legally authorized capacity.

Owner shall mean a person who holds legal title to a dwelling unit, building, or facility and an agent having charge, care, management or control of same.

Pass through shall mean a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the City of Danville VPDES permit including an increase in the magnitude or duration of a violation.

Person shall mean 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. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context. This definition includes all Federal, State and local government entities.

pH is a measure of inverse of the hydrogen ion concentration in a liquid which has a scale of 1 to 14 with 7 being neutral. Some may refer to pH as a measure of the acidity or alkalinity of a solution expressed in standard units (S.U.).

Pharmaceutical is any drug or dietary supplement for use by humans or other animals; any electronic nicotine delivery system (e.g., electronic cigarette or vaping pen); or any liquid nicotine (e-liquid) packaged for retail sale for use in electronic nicotine delivery systems (e.g., pre-filled cartridges or vials.)

Pollutant shall mean any substance, radioactive material, or heat which causes or contributes to, or may cause or contribute to, pollution, including, but not limited to, dredge spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical waste, chemical waste, biological material, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt or industrial, municipal, or agricultural waste and certain characteristics of wastewater (e. g. pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

ppb shall mean parts per billion (see µg/L).

ppm shall mean parts per million (see mg/L).

Pretreatment shall mean the reduction of the amount of pollutants, elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of introducing such pollutants into the POTW. 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 requirements shall mean any substantive or procedural requirements related to pretreatment imposed on a user other than a pretreatment standard.

Pretreatment standard or ~~standards shall mean pretreatment~~ standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.

Prohibited discharge standards or prohibited discharges shall mean absolute prohibitions against the discharge of certain substances; ~~these prohibitions which~~ appear in ~~section~~ Sec. 34-11.

Publicly owned treatment works or POTW means a "treatment works," as defined by Section 212 of the Act (33 U.S.C. §1292) which is owned by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

~~POTW treatment plant shall mean that portion of the POTW designed to provide treatment to wastewater.~~

Radiation shall mean emission of gamma and x-rays, alpha and beta particles, high speed electrons, neutrons, protons, and other nuclear particles, but not sound or radio waves or visible, infrared or ultraviolet light.

Radioactive material shall mean any material, solid, liquid, or gas that emits radiation spontaneously.

RCRA shall mean Resource Conservation and Recovery Act.

Residential user shall mean a user who discharges wastewater from premises used only for human residency, which is served by the City's sewer system.

Reverse distributor is any person that receives and accumulates prescription pharmaceuticals that are potentially creditable hazardous waste pharmaceuticals for the purpose of facilitating or verifying manufacturer credit.

Septic tank waste means sewage from holding tanks such as vessels, chemical toilets, campers, trailers and septic tanks.

Sewage means human excrement and gray water (household showers, dishwashing operations, etc.).

Sewer or sewer system shall mean that portion of the POTW designed to convey wastewater to the POTW treatment plant.

Shall shall mean mandatory.

Significant industrial user (SIU) shall mean:

- (1) A user subject to categorical pretreatment standards; or
- (2) A user that:
 - a. Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);
 - b. Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW ~~treatment plant~~; or
 - c. Is designated as such by the City of Danville on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.
- (3) Upon a finding that a user meeting the criteria in subsection (2) has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the City of Danville may, at any time, on its own initiative or in response to a petition received from a user and in accordance with procedures in 40 CFR 403.8(f) (6) and 9VAC25-31-800 F.6., determine that such user should not be considered a significant industrial user.
- (4) The City may determine that an Industrial User subject to categorical Pretreatment Standards is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:
 - (a) The Industrial User, prior to City's finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;
 - (b) The Industrial User annually submits the certification statement required in Sec. 34-36.(e) together with any additional information necessary to support the certification statement; and
 - (c) The Industrial User never discharges any untreated concentrated wastewater.
- (5) Upon a finding that a User meeting the criteria in Subsection (2) of this part has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement, the City may at any time, on its own initiative or in response to a petition received from an Industrial User, and in accordance with procedures in 40 CFR 403.8(f) (6) and 9VAC25-31-800.F.6, determine that such User should not be considered a Significant Industrial User.

Significant noncompliance shall mean any violation of this chapter, which meets one (1) or more of the following criteria:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of all of the measurements taken during a six-month period exceed (by any magnitude) the ~~daily maximum limit or the average limit for the same pollutant parameter;~~ numeric pretreatment standard or requirement including instantaneous limits as defined by 9VAC25-31-10;
- (2) Technical review criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the ~~daily maximum limit or the average limit multiplied~~ numeric pretreatment standard or requirement including instantaneous limits as defined by 9VAC25-31-10 multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);
- (3) Any other violation of a pretreatment ~~effluent limit (daily standard or requirement as defined by 9VAC25-31-10 (Daily maximum or long term average, instantaneous limits, or narrative standard))~~ that the ~~Control Authority~~ City determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);
- (4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or to the environment or has resulted in the POTW's exercise of its emergency authority ~~under 40 CFR 403.3~~ to halt or prevent such a discharge;
- (5) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
- (6) Failure to provide, within ~~thirty (30)~~ forty-five (45) days after the due date, required reports such as baseline monitoring reports, ninety-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (7) Failure to accurately report noncompliance; and
- (8) Any other violation ~~or group(s), which may include a violation of violations-Best Management Practices,~~ which the ~~Control Authority~~ City determines, will adversely affect the operation or implementation of the local pretreatment program.

~~Slug shall mean any discharge of water, sewage, or industrial wastes which, in concentration of any given constituent or in quantity of flow, exceeds for any period of duration longer than fifteen (15) minutes, five (5) times the average twenty-four (24) hours concentration or flows during normal operating level or which adversely affects the wastewater system.~~

~~Soluble oil shall mean oils, which are either of mineral or vegetable origin and disperse in water or sewage at temperatures of 32°F to 104°F (0°-40°C). For the purposes of this chapter, emulsified oil shall be considered as soluble oil.~~

~~Slug load or slug discharge shall mean any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Sec. 34-8 of this ordinance. A Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits or Permit conditions.~~

~~Standard industrial classification (SIC) shall mean a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987, or any amended or revised edition thereof. This classification system has been largely replaced by the NAICS.~~

Standard methods shall mean the publication, entitled "Standard Methods for the Examination of Water and Wastewater," current edition available from the American Public Health Association.

State shall mean the Commonwealth of Virginia.

Storm sewer or storm drain shall mean a sewer or drain designed, constructed, and intended to carry storm and surface waters and drainage, but not sewage or polluted industrial ~~wastes wastewater~~.

Storm water shall mean any flow occurring during or following any form of natural precipitation and resulting from such precipitation, including snowmelt.

Strong waste shall mean any wastewater containing more than three hundred (300) milligrams per liter of BOD or more than three hundred (300) milligrams per liter of suspended solids or other characteristics in concentrations not normally found in wastewater from residential or commercial buildings.

Suspended solids shall mean solids that either float on the surface of, or are in suspension in, water, ~~sewage-wastewater~~, or other liquids; and which are largely removed by laboratory filtering as determined by the appropriate procedure in "Standard Methods".

Toxic substances shall mean any substance whether gaseous, liquid, or solid, which when discharged into the wastewater system in sufficient quantities may tend to interfere with any wastewater treatment process, or to constitute a hazard to human beings or animals, or to inhibit aquatic life or create a hazard to recreation in the receiving waters of the effluent from the wastewater plant. These substances include but are not limited to those listed as toxic in regulations promulgated by the EPA under the provisions of Section 307(a) of the Act or other state or federal law.

Toxics shall mean any of the pollutants designated by federal regulations pursuant to Section 307(a)(1) of the Act and any substances, whether gaseous, liquid, or solid, which when discharged to the sewer system in sufficient quantities interferes with any ~~sewage wastewater~~ treatment process, materially increases the cost of treatment, constitutes a hazard to any beneficial use ascribed to the receiving waters of the effluent from the POTW treatment plant or facility, including recreation, causes a hazard to any portion of the sewage system, constitutes a hazard to fish or animal life or interferes with ~~sludge biosolids~~ disposal.

Trade secrets shall mean, but not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented, which is known only to certain individuals within a commercial concern who are using it to fabricate or produce a compound, an article of trade or a service having commercial value, and which gives its users an opportunity to obtain a business advantage over competitors who do not know or use it.

TSS shall mean total suspended solids.

Unpolluted water shall mean water of quality equal to or better than the effluent criteria in effect for the POTW ~~treatment plant~~ or water that would not cause violation of receiving water quality standards and would not be benefited by treatment by the POTW ~~treatment plant~~.

U.S.C. shall mean the United States Code.

User shall mean any person who contributes, causes, or permits the contribution of wastewater into the City's POTW.

User permit shall mean a document issued by the City to the user that permits the connection or introduction of waste into the City's sewer system under the provisions of this chapter. *Virginia Pollution Discharge Elimination System* or *VPDES Permit* shall mean a permit issued pursuant to Section 402 of the Act in the Commonwealth of Virginia who has been delegated administration authority of the NPDES permit system for Virginia.

Wastewater consists of liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

Wastewater treatment plant or treatment plant shall mean that portion of the POTW, which is designed to provide treatment of municipal ~~sewage~~ and industrial wastewater.

Waters of the State shall mean all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the State or any portion thereof.

Water pollution control facilities shall mean all facilities for collecting, pumping, transporting, treating, and disposing of wastewater.

~~WEF or Water Environment Federation~~ *WEF* shall mean the Water Environment Federation, Incorporated.

~~WPCF or Water Pollution Control Federation~~ *WPCF* shall mean the Water Pollution Control Federation, Incorporated.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-4. - Classes of permits under chapter.

Four (4) classes of permits shall be issued by the City pursuant to this chapter and the Uniform Statewide Building (BOCA) Code. Permit application forms will be provided by the City and permits issued for the installation of the following:

- (1) Private wastewater disposal systems;
- (2) Residential, commercial, or small industrial users other than significant industrial users;
- (3) Significant industrial users; and
- (4) Contract haulers.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-5. - False or misleading representations under chapter.

Any person who gives any false or misleading representation to the City under the provisions of this chapter shall be guilty of a Class 1 misdemeanor.

(Ord. No. 2005-05.04, 5-17-05)

Cross reference— Penalty for a Class 1 misdemeanor, § 1-11.

Sec. 34-6. - Unlawful disposal of excrement, wastewater, etc., generally.

- (a) It shall be unlawful for any person to place, deposit, or permit to be deposited, in any unsanitary manner on public or private property within the City or in any area under the jurisdiction of the City, any human or animal excrement or other objectionable waste.
- (b) It shall be unlawful for any person to discharge, in any area under the jurisdiction of the City, any wastewater or other polluted waters, except into the City's POTW unless otherwise authorized by the provisions of this chapter or by an approved VPDES permit.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-7. – Mandatory sewer connections.

- (a) Except as otherwise provided in this chapter, it shall be unlawful for any person to construct , repair, or maintain any privy, privy vault, septic tank, cesspool, tile field, or other facility intended to be used or used in lieu of a public sewer.
- (b) The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the City and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the City, is hereby required, at the owner's expense, to install toilet facilities as required by the Virginia Uniform Statewide Building Code, plumbing code section, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter, within sixty (60) days after the date of official notice to do so, provided the public sewer is within three hundred (300) feet of the property line. Exceptions shall be allowed where private wastewater disposal systems existing on February 1, 1984, are being used and are in good operating condition in compliance with State Department of Health regulations. When such private wastewater disposal systems fail to operate satisfactorily or cease to be in compliance with State Department of Health regulations, the building sewer served by the private system shall be connected to the public sewer.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-8. Permit to uncover, connect to, etc., sewers generally.

No unauthorized person shall uncover, make any connection with or opening into, or use, alter or disturb, any public sewer or appurtenance thereof without first obtaining a written permit from the City.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-9. - Limitation on issuance of sewer connection permit.

The City shall not issue a permit for any class of connection to the City's sewer and wastewater treatment facilities unless there is sufficient capacity, not legally committed to other users, in the POTW to convey and adequately treat the quantity of wastewater, which the requested connection will add to the system. The City may permit such a connection if there are legally binding commitments to provide the needed capacity.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-10 - Damaging, defacing, etc., property of sewer system or wastewater treatment facilities.

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the City's POTW. Any person violating this section causing damage up to one thousand dollars (\$1,000.00) shall be guilty of a Class 1 misdemeanor. Any damage over one thousand dollars (\$1,000.00) shall be charged appropriately through the Commonwealth Attorney's office.

(Ord. No. 2005-05.04, 5-17-05)

Cross reference— Penalty for a Class 1 misdemeanor, § 1-11.

Sec. 34- 11. – Prohibited Discharge standards.

- (a) *General prohibitions.* No User shall introduce or cause to be introduced into the POTW any pollutant or wastewater that causes pass through, interference or violation of any applicable water quality standard. These general prohibitions ~~and the specific prohibitions in paragraph (b) of this section apply to all users of the each User introducing pollutants into a POTW whether or not they are the User is subject to other~~ National Categorical Pretreatment Standards or any other national, State, or local pretreatment standards or requirements.
- (b) *Specific prohibitions.* No User shall introduce or cause to be introduced into the POTW the following substances, or wastewater:
- (1) Pollutants which create a fire or explosion hazard in the POTW, including, but not limited to, gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquids, solid, or gas, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using test methods specified in 40 CFR 261.21;
 - (2) Solid or viscous substances in amounts, which will cause obstruction of the flow in the POTW resulting in interference (but in no case solids greater than one-half-inch (½) or one and three-tenths centimeter(s) (1.3 cm) in any dimension);
 - (3) Wastewater having a pH less than ~~five (5)~~ six (6.0) S.U. or more then twelve (12.0) S.U. otherwise causing corrosive structural damage to the POTW or equipment or causing upsets to the treatment processes;
 - (4) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;
 - (5) Noxious or malodorous liquids, gases, solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair;
 - (6) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, ~~sludge biosolids~~, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process where the POTW is pursuing a reuse and reclamation program. In no case, shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines, or regulations developed under Section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State criteria applicable to the sludge management method being used;
 - (7) Wastewater having a temperature greater than 150°F (65°C); or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C);
 - (8) Any wastewater, which causes a hazard to human life or creates a public nuisance;
 - (9) Any petroleum oil, non-biodegradable cutting oil or products of mineral oil origin in amounts ~~exceeding one hundred (100) mg/L or~~ that will cause interference or pass through;
 - (10) Pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
 - (11) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye, wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the City's NPDES permit;

- (12) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State and Federal law requirements;
- (13) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the ~~Assistant City Manager for Utilities~~ **Director of Utilities**;
- (14) Sludge, screenings, or other residues from the pretreatment of industrial wastewater;
- (15) Medical wastes, except as specifically authorized by the **Director of Utilities** in a wastewater discharge permit;
- (16) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
- (17) Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;
- (18) Wastewater causing two (2) readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than twenty-five (25) percent or any single reading over fifty (50) percent of the lower explosive limit of the meter;
- (19) No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The ~~Assistant City Manager for Utilities~~ **Director of Utilities** may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements or in other cases when the imposition of mass limitations is appropriate.
- (20) Any trucked or hauled pollutants, except at discharge points designated by the ~~Assistant City Manager for Utilities~~ **Director of Utilities** in accordance with ~~section~~ **Sec. 34-20**.

~~(c) Violations. Any person violating this section shall be referred to the appropriate state or federal agency for criminal charges and shall be guilty of at least a Class 1 misdemeanor. Each day any violation of this section continues shall constitute a separate offense.~~

~~(Ord. No. 2005-05-04, 5-17-05)~~

- (21) Any waste or liquid with total oil and grease concentrations greater than 200 mg/L.
- (22) Waste containing non-biodegradable fats, ~~wax, grease or~~ oils, **grease, or wax**, whether emulsified or not, or containing substances which may precipitate, solidify, or become viscous at temperatures between 50°F and 104°F (10°C and 40°C).
- ~~(3) Waste containing garbage that has been properly shredded so it will pass through a one-half inch screen.~~
- (23) Materials which exert or cause:
 - a. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues), or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
 - b. Excessive discoloration (such as, but not limited to, dye waste and vegetable tanning solutions).
 - c. Unusual BOD or COD in such quantities that may upset the City's wastewater treatment processes.
 - d. Unusual volume of flow or concentration of wastes constituting slugs.

- e. Unusual amounts of scum, and/or foam that may interfere with the operation of the City's wastewater treatment facilities or cause undue additional labor in connection with handling the substance.
- f. Use of excessive quantities of chlorine to be used for stabilization in addition to biological treatment. The amount of excess demand will be determined by comparing the chlorine demand of the waste in question with the average chlorine demand of all other waste entering the plant.

24) Bulk, expired, outdated or concentrated prescription or non-prescription pharmaceuticals.

(25) Hazardous waste pharmaceuticals or DEA controlled substances by a healthcare facility or reverse distributor.

- (c) Violations. Any person violating this section shall be referred to the appropriate state or federal agency for criminal charges and shall be guilty of at least a Class 1 misdemeanor. Each day any violation of this section continues shall constitute a separate offense.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34- 12. – Limited discharges.

(a) The following described substances, materials, waters, or waste that shall be limited in discharges into the City's sewers to concentrations or quantities which will not harm the sewers or wastewater treatment facilities, will not have an adverse effect on the receiving stream and will not otherwise endanger public property or constitute a nuisance:

- (1) Strong waste as defined in this chapter.
- (2) Waste containing solids that have been properly shredded so it will pass through a one-half-inch screen.
- (3) Overflow from holding tanks or other receptacles storing organic waste, septic tank waste, and other waste from contract haulers.
- ~~(6) Caustic wastes having a high pH, which causes damage to the sewer system or causes the treatment plant influent pH to exceed 10.0 s.u.~~
- ~~(7)~~ 4) Industrial wastewater discharges containing substances subject to an applicable federal categorical pretreatment standard. Upon the promulgation of federal categorical pretreatment standards for a particular industrial subcategory, such standard, if more stringent than limitations imposed under this chapter, shall supersede the local limitations of this chapter. The City shall notify all affected users of the applicable reporting requirements under 40 CFR 403.12 and 9VAC25-31-840. Compliance with a categorical pretreatment standard for new sources shall be required upon initiation of discharge or in accordance with the provisions of the state or federal law or regulations establishing the more stringent categorical pretreatment standard.
- ~~(8)~~ 5) Concentrations of constituents listed in local limits established by the City in accordance with EPA guidance manuals and procedures for developing local discharge limits for a pretreatment program. Such discharge limits promulgated by the City may be modified from time to time when deemed necessary to comply with the objectives of this chapter. The City's pretreatment program has developed the following local limits for pollutants of concern for Significant Industrial Users covered under the program.

CITY OF DANVILLE LOCAL LIMITS

Parameter	Concentration
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Total Arsenic	0.100 ppm
Total Cadmium	0.050 ppm
Total Chromium	1.000 ppm
Total Copper	3.000 ppm
Total Cyanide	0.150 ppm
Total Lead	0.350 ppm
Total Mercury	0.040 ppm
Total Molybdenum	2.000 ppm
Total Nickel	2.000 ppm
Total Selenium	0.200 ppm
Total Silver	0.050 ppm
Total Zinc	7.000 ppm

- (b) The EPA or the State may set more stringent limitations if more severe limitations are necessary to meet the water quality standards of the receiving stream of the wastewater treatment facility discharge. In that event, the most restrictive limitations shall apply.
- (c) Any person violating this section shall be referred to the appropriate state or federal agency for criminal charges. If no criminal charges are assessed, then they shall be guilty of a Class 1 misdemeanor. Each day any violation of this section shall continue shall constitute a separate offense.
- (d) The Director of Utilities may develop Best Management Practices (BMPs), by ordinance or in individual wastewater discharge permits, to implement Local Limits and the requirements of Sections 34-8 and 34-9.
- (e) The discharge of wastewater containing BOD₅, total suspended solids, total Kjeldahl nitrogen (TKN), or ammonia in excess of the concentrations found in normal wastewater as defined in Sec. 34-3 must be approved by the City or other authorized representative and may be subject to surcharges.

(Ord. No. 2005-05.04, 5-17-05)

Cross reference— Penalty for a Class 1 misdemeanor, § 1-11.

Sec. 34-13. - POTW pretreatment program requirements.

A POTW pretreatment program must be based on the following legal authority and include the following procedures. These authorities and procedures shall at all times be fully and effectively exercised and implemented.

- (a) *Legal authority.* The POTW shall operate pursuant to legal authority enforceable in federal, state or local courts, which authorizes or enables the POTW to apply and to enforce the requirements of Sections 307(b), (c) and (d), and 402(b)(8) of the CWA and any regulations implementing those sections. Such authority may be contained in a statute or ordinances, which the POTW is authorized to enforce and which are authorized by state law. At a minimum, this legal authority shall enable the POTW to:
 - (1) Deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, to the POTW by Industrial Users where such contributions do not meet

applicable pretreatment standards and requirements or where such contributions would cause the POTW to violate its VPDES permit:

- (2) Require compliance with applicable pretreatment standards and requirements by industrial users:
- (3) Control through permit, or order the contribution to the POTW by each industrial user to ensure compliance with applicable pretreatment standards and requirements. In the case of industrial users identified as significant in 40 CFR 403.3(v) and 9VAC25-31-10, this control shall be achieved through permits or equivalent individual control mechanisms issued to each such user. Such control mechanisms must be enforceable and contain, at a minimum, the following conditions:
 - a. Statement of duration (in no case more than five (5) years);
 - b. Statement of non-transferability without, at a minimum, prior notification to the POTW and provision of a copy of the existing control mechanism to the new owner or operator;
 - c. Effluent limits based on applicable general pretreatment standards in this part, categorical pretreatment standards, local limits, and the law;
 - d. Self-monitoring, sampling, reporting, notification and record keeping requirements, including an identification of the pollutants to be monitored, sampling location, sampling frequency, and sample type, based on the applicable general pretreatment standards in this part, categorical pretreatment standards, local limits, and the law;
 - e. Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements;
 - f. Any applicable compliance schedules, which may not extend beyond applicable federal deadlines;
- (4) Require:
 - a. The development of a compliance schedule by each industrial user for the installation of technology required to meet applicable pretreatment standards and requirements.
 - b. The submission of all notices and self-monitoring reports from industrial users as are necessary to assess and assure compliance by industrial users with pretreatment standards and requirements, including but not limited to the reports required in ~~subsection~~ Sec. 34-50(a) (2);
- (5) Carry out all inspection, surveillance and monitoring procedures necessary to determine, independent of information supplied by industrial users, compliance or noncompliance with applicable pretreatment standards and requirements by industrial users. Representatives of the POTW shall be authorized to enter at reasonable times any premises of any industrial user in which a discharge source or treatment system is located or in which records are required to be kept under ~~subsection~~ Sec. 34-50(m) to assure compliance with pretreatment standards. The ~~Assistant City Manager for Utilities~~ Director of Utilities shall have the right to set up on the industrial user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations. Such authority shall be at least as extensive as the authority provided under Section 308 of the CWA;
- (6) Obtain remedies for noncompliance by any industrial user with any pretreatment standard and requirement. All POTW's shall be able to seek injunctive relief for non-compliance by industrial users with pretreatment standards and requirements. All POTWs shall also have authority to seek or assess civil or criminal penalties in at least the amount of one thousand dollars (\$1,000.00) a day for each violation by industrial users of pretreatment standards and requirements. Pretreatment requirements which will be enforced through the remedies set forth in this subsection, will include but not be limited to, the duty to allow or carry out

inspections, entry, or monitoring activities; any rules, regulations, or orders issued by the POTW; any requirements set forth in individual control mechanisms issued by the POTW; or any reporting requirements imposed by the POTW or this part. The POTW shall have authority and procedures (after informal notice to the discharger) to immediately and effectively halt or prevent any discharge of pollutants to the POTW which reasonably appears to present an imminent endangerment to the health or welfare of persons. The POTW shall also have authority and procedures (which shall include notice to affected industrial users and an opportunity to respond) to halt or prevent any discharge to the POTW which presents or may present an endangerment to the environment or which threatens to interfere with the operation of the POTW. The Director of DEQ shall have authority to seek judicial relief and may also use administrative penalty authority when the POTW has sought a monetary penalty which the Director of DEQ believes to be insufficient;

- (7) Comply with the requirements to maintain the confidentiality of any information submitted to the pretreatment program by an industrial user that may be claimed as secret formulae, secret processes or secret methods. Industrial user effluent data may not be claimed to be confidential.
- (b) *Procedures.* The POTW shall develop and implement procedures to ensure compliance with the requirements of a pretreatment program. At a minimum, these procedures shall enable the POTW to:
- (1) Identify and locate all possible industrial users, which might be subject to the POTW pretreatment program. Any compilation, index or inventory of industrial users made under this paragraph shall be made available to ~~the Regional Administrator~~ EPA or DEQ upon request;
 - (2) Identify the character and volume of pollutants contributed to the POTW by the industrial users identified under subsection (b) (1) above. This information shall be made available to ~~the Regional Administrator~~ EPA or DEQ upon request;
 - (3) Notify industrial users identified under subsection (b) (1) above, of applicable pretreatment standards and any applicable requirements under Sections 204(b) and 405 of the CWA and Subtitles C and D of the Resource Conservation and Recovery Act. Within thirty (30) days of approval of a list of significant industrial users (SIU), notify each ~~significant industrial user~~ SIU of its status as such and of all requirements applicable to it as a result of such status;
 - (4) Receive and analyze self-monitoring reports and other notices submitted by industrial users in accordance with the self-monitoring requirements stated in their permits;
 - (5) Randomly sample and analyze the effluent from industrial users and conduct surveillance activities in order to identify, independent of information supplied by industrial users, occasional and continuing noncompliance with pretreatment standards. Inspect and sample the effluent from each ~~significant industrial user~~ SIU at least once a year. Evaluate, ~~at least once every two (2) years, whether each such significant industrial user needs the need for a~~ plan to slug control ~~slug discharges~~ plan within 1 year of SIU designation. For purposes of this subsection, a slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or non-customary batch discharge. The results of such activities shall be available to DEQ upon request. If the POTW decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:
 - a. Description of discharge practices, including non-routine batch discharges;
 - b. Description of stored chemicals;
 - c. Procedures for immediately notifying the POTW ~~of~~ slug discharges, including any discharge that would violate a prohibition listed in ~~subsection~~ Sec. 34-11(b), with procedures for follow-up written notification within five (5) days;

- d. If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment necessary for emergency response;
- (6) Investigate instances of noncompliance with pretreatment standards and requirements, as indicated in the reports and notices required by the industrial users' permits, or indicated by analysis, inspection, and surveillance activities. Sample taking and analysis and the collection of other information shall be performed with sufficient care to produce evidence admissible in enforcement proceedings or in judicial actions;
- (7) Comply with the public participation requirements of the Code of Virginia and 40 CFR Part 25 (2016) in the enforcement of national pretreatment standards. ~~section~~ Sec. 34-53 includes the criteria for enforcement.
- (c) *Funding.* The POTW shall have sufficient resources to carry out the authorities and procedures described in subsections (a) and (b) herein.
- (d) *Local limits.* The POTW shall develop local limits as necessary to prevent pollutants from industrial users to pass through the treatment works, cause interference of the plant's operation or violation of water quality standards by the POTW. Current influent, effluent and ~~sludge biosolids~~ data shall be used to develop the local limits if they should be necessary. Sec. 34-12 (a) (8)
- (e) *Enforcement response plan.* The POTW shall develop and implement an enforcement response plan. This plan shall contain detailed procedures indicating how a POTW will investigate and respond to instances of industrial user noncompliance.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-14. - National categorical pretreatment standards.

The categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405—471 are hereby incorporated.

- (a) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater the ~~Assistant City Manager for Utilities~~ Director of Utilities may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c) and 9VAC25-31-780 C.
- (b) When the limits in a categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the Director of Utilities, or his designee, may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual Industrial Users.
- (c) When a categorical Pretreatment Standard is expressed only in terms of pollutant concentrations, a user may request that the City convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the Director of Utilities. The City may establish equivalent mass limits only if the user meets all the conditions set forth in Sec. 34-14(c)(1)(a) through Sec. 34-14(c)(1)(e) below.
 - (1) To be eligible for equivalent mass limits, the Industrial User must:
 - a. Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its individual wastewater discharge permit;

- b. Currently use control and treatment technologies adequate to achieve compliance with the applicable categorical Pretreatment Standard, and not have used dilution as a substitute for treatment;
 - c. Provide sufficient information to establish the facility's actual average daily flow rate for all wastestreams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and the long-term average production rate must be representative of current operating conditions;
 - d. Not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the discharge; and
 - e. Have consistently complied with all applicable categorical Pretreatment Standards during the period prior to the user's request for equivalent mass limits.
- (2) A user subject to equivalent mass limits must:
- a. Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;
 - b. Continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;
 - c. Continue to record the facility's production rates and notify the Director of Utilities whenever production rates are expected to vary by more than 20 percent from its baseline production rates determined in paragraph (1)(c) of this section. Upon notification of a revised production rate, the Director of Utilities will reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and
 - d. Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to paragraphs (1)(a) of this section so long as it discharges under an equivalent mass limit.
- (3) When developing equivalent mass limits, the Director of Utilities:
- a. Will calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the user by the concentration-based Daily Maximum and Monthly Average Standard for the applicable categorical Pretreatment Standard and the appropriate unit conversion factor;
 - b. Upon notification of a revised production rate, will reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and
 - c. May retain the same equivalent mass limit in subsequent individual wastewater discharge permit terms if the Industrial User's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment pursuant to Sec. 34-11(b)(19). The user must also be in compliance with Sec. 34-55(c) regarding the prohibition of bypass.
- (d) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the ~~Assistant City Manager for Utilities~~ Director of Utilities shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e) and 9VAC25-31-780 E.
- (e) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13 and 9VAC25-31-850, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

~~(d) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.~~

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-15. - Grease,~~oil and sand~~ interceptors and oil/water separator and similar oil and grease removal devices.

(a) *Requirements:*

- (1) All industrial or commercial users that generate oil and grease of animal or vegetable origin shall install adequately sized grease interceptors or other grease removing pretreatment equipment as required by the Director of Utilities. Grease interceptors shall be installed at the user's expense, when such user operates a cooking establishment. Grease interceptors may also be required in non-cooking or cold dairy and frozen foodstuffs establishments and other industrial or commercial establishments when it is deemed necessary by the Director of Utilities for the proper handling of liquid wastes containing grease.
- (2) All industrial or commercial users which have lubricating oil, cutting oil, kerosene, gasoline, naphtha, paraffin, tri-sodium phosphate and any other light density or volatile oil or any other oil of petroleum or mineral origin shall install adequately sized oil/water separator or similar device to remove the oil as required by the Director of Utilities.

(b) *Design, sizing, operation and maintenance:*

- (1) No user shall allow wastewater discharge concentration from any grease interceptor, oil/water separator or similar device to exceed that specified in Sec. 34-11(b). All grease interceptors, oil/water separator or similar device shall be of a type, design, location and capacity according to the manufacturer's instructions based on the anticipated conditions of use and approved by the Department of Building Inspection of the city of Danville and shall be readily and easily accessible for user cleaning and City inspection. All such grease interceptors, oil/water separator and similar devices shall be serviced by user and emptied of accumulated waste content as required in order to maintain minimum design capability or effective volume of the grease interceptor or similar devices.
- (2) Industrial or commercial users who are required to operate a grease interceptor and/or oil/water separator and/or similar device shall:
 - (a) Size the grease interceptor and oil/water separator in accordance with the current Virginia Plumbing Code. The grease interceptor sizing shall also consider the type of food being prepared, seating capacity, frequency of maintenance, equipment connected to the trap and any other pertinent factors.
 - (b) Inspect the grease interceptor, oil/water separator or similar device every two weeks if not sooner.
 - (c) Adequately cover the grease interceptor, oil/water separator and other similar device to exclude stormwater from entering the sewer system.
 - (d) For grease interceptor, remove any accumulated grease cap and sludge pocket as required at the users' expense. Grease interceptors shall be kept free of inorganic solid materials such as grit, rocks, gravel, sand, eating utensils, cigarettes, towels, rags, etc., which could settle into this pocket and thereby reduce the effective volume of the grease interceptor.

- (e) Grease interceptor, oil/water separator shall be pumped out and cleaned, at a minimum, when 80 percent of the retention capacity is filled with oil and grease and/or solids, or on a more frequent basis as determined by the industrial user or the City.
- (f) For oil/water separator being used for any vehicle wash facility, provide a grit interceptor.
- (g) Accept the following conditions: If any skimmed or pumped wastes or other materials removed from grease interceptor are treated in any fashion onsite and reintroduced back into the grease interceptor as an activity of and after onsite treatment, the user shall be responsible for the attainment of established oil and grease numerical limit consistent with Sec. 34-8(b) before discharging into the City's sewerage system.
- (h) Operate the grease interceptor, oil/water separator or similar device in a manner to consistently achieve attainment of oil and grease limit. "Consistently" shall mean any wastewater sample taken from the downstream side of the device shall be subject to terms of numerical limit attainment described in Sec. 34-11(b).
- (i) Shall not connect the garbage disposal or non-grease laden sources to the grease interceptor or similar device.
- (j) Shall evaluate the adequacy of the size of grease interceptor or other similar devices should the menu or seating capacity changes and notify the Department of Building Inspection of the City of Danville in writing within two weeks of the change.

(c) *Recordkeeping:*

- (1) The industrial or commercial user shall maintain a written record of trap, oil/water separator, interceptor or similar device maintenance for three years. All such records shall be available for inspection by the City at all times.
- (2) Shall maintain at its facility and practice the best management plan and/or waste minimization plan for oil and grease control.
- (3) Shall maintain a written standard operating procedure for that equipment posted in a location accessible to all operating personnel.

(d) *Enforcement and cost recovery:*

- (1) If at any time the City's sewerage system is obstructed and that causes a sewer overflow to the extent that an impact on the environment is realized and an overflow or failure of the sanitary sewer collection system to convey sewage can be attributed in part or in whole to accumulation of grease in the City's sewer main(s), the City will take appropriate enforcement actions, as stipulated in the City's approved Industrial Pretreatment Enforcement Response Plan and Sewer Use Ordinance, against the generator or contributor of such grease. Industrial or commercial users shall reimburse the City for all the cost associated with cleaning the sewer system. The industrial or commercial user will also be liable for all the damages to the environment, property and personnel as a result of its grease contribution to the sanitary sewer overflows.
- (2) As a part of enforcement action, the City may require supplemental environmental projects to mitigate the environmental damage done by industrial or commercial users not managing their grease in accordance with the City's ordinances.
- (3) Existing industrial or commercial users that either do not have oil/water separator, grease interceptor or other similar devices, or the existing device is undersized shall be put on a compliance schedule not to exceed six months to comply with the requirements of this section.

~~Grease, oil, and sand interceptors shall be provided when they are necessary for the proper handling of liquid wastes containing grease or any flammable wastes, sand, or other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the City and shall be located so as to be readily and easily accessible for cleaning and inspection. In maintaining the interceptors, the owner shall be responsible for the proper removal and disposal by appropriate means, of the captured materials and shall maintain records of disposal, which shall be subject to review by the City. Any removal and hauling of collected materials not performed by the owner's personnel must be performed by licensed waste disposal firms. Inspection and reviews of operating and maintenance records for these facilities shall be performed by the City's sanitary sewer maintenance supervisors and other authorized City inspectors.~~

~~(b) Any person violating this section shall be guilty of a Class 3 misdemeanor.~~

~~(Ord. No. 2005-05.04, 5-17-05)~~

~~**Cross reference**—Penalty for a Class 3 misdemeanor, § 1-11.~~

Sec. 34-16. - City's alternatives as to limited discharges.

- (a) When any wastewater containing substances or characteristics which have or potentially will have a deleterious effect upon the City's POTW, or receiving waters, or which constitutes a public nuisance or hazard, is discharged or proposed for discharge into the City's POTW, the City may deny or condition the discharge as follows:
 - (1) Require pretreatment by the user of the discharge to a condition acceptable for discharge into the City's POTW.
 - (2) Require control over the quantities and rates of discharge.
 - (3) Require a special contract for handling and payment to cover added cost of handling and treating the wastewater not covered by existing fees or charges.
 - (4) Require the development and submission of a compliance schedule to meet any applicable pretreatment requirements.
 - (5) Require the submission of reports necessary to assure compliance with applicable pretreatment requirements.
 - (6) Require the inspection, surveillance, and monitoring necessary to determine compliance with applicable pretreatment requirements.
 - (7) Reject the wastewater if evidence discloses that the discharge will create unreasonable hazards or have unreasonable deleterious effects on the POTW. Pursue remedies for noncompliance by any user, which may include injunctive relief with the civil penalties specified in this chapter or appropriate criminal penalties and fines.
- (b) When discharge restrictions, discharge limits or pretreatment standards pursuant to this chapter are established as concentration limits to be met by a user, the City in lieu of concentration limits, may establish mass limits to comparable stringency for an individual user at the request of such user or as necessary to protect City facilities.
- (c) When considering the above alternatives, the City shall evaluate cost effectiveness, the economic impact of the alternatives and the willful noncompliance of the discharger.
- (d) The City shall encourage the conservation of water and energy. In establishing discharge restrictions upon users, the City shall take into account already implemented or planned conservation steps revealed by the user.

- (e) If a special contract for handling an industrial waste is required pursuant to this section, it will be subject to Council approval and provide for such charges as may be agreed upon to compensate the City for the cost of handling the particular waste treatment needs of the industry. Contracting for treatment of industrial waste shall be considered only after such testing and examination as required to determine the nature and volume of the waste to be treated. The contract will take into consideration the requirements of the particular industry and the acceptability to the City and the Department of Environmental Quality (DEQ) of such waste. Such contracts shall not waive federal categorical pretreatment requirements.
- (f) The following pollutants, at a minimum, must be considered for all industrial dischargers: total ~~recoverable~~ arsenic, ~~biochemical oxygen demand~~ BOD₅, total ~~recoverable~~ cadmium, total ~~recoverable~~ chromium, total ~~recoverable~~ copper, cyanide, total Kjeldahl nitrogen (TKN), total ~~recoverable~~ lead, total mercury, total molybdenum, total ~~recoverable~~ nickel, total oil and grease (Method 166A), total phosphorus, total selenium, total ~~recoverable~~ silver, total suspended solids (TSS), pH, ammonia (NH₃-N) and total ~~recoverable~~ zinc.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-17. - City's right of revision.

The City reserves the right to establish by amendment of this chapter, more stringent limitations or requirements on discharges to the City's POTW if deemed necessary to comply with the objectives set forth in ~~section~~ Sec. 34-1.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-18. - Notification.

All users of the City sewer system shall notify the POTW treatment plant immediately, by telephone or in person, of any wastewater discharges that may cause potential problems for the City's POTW. This includes non-routine discharges, non-customary batch discharges, and slug discharges. Such notification shall include the location of discharge, type of waste, concentration of pollutants, volume, and corrective actions taken or proposed to stop violation.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-19. - Accidental discharge/slug control plans.

~~At least once every two (2) years, the Assistant City Manager for Utilities~~ Director of Utilities

shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. Alternatively, the ~~Assistant City Manager for Utilities~~ Director of Utilities may develop such a plan for any user. An accidental discharge/slug control plan shall address, at a minimum, the following:

- (a) Description of discharge practices, including non-routine batch discharges;
- (b) Description of stored chemicals;
- (c) Procedures for immediately notifying the ~~Assistant City Manager for Utilities~~ Director of Utilities of any accidental or slug discharge, as required by ~~section~~ Sec. 34-18 and ~~subsection~~ Sec. 34-50(f)(1) herein; and

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

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-20. - Contract haulers.

Any person engaging in the activities permitted by this section shall be referred to as contract haulers. Contract haulers shall be permitted to empty septic tank sludge, ~~or~~ wastes from chemical toilets, ~~or permitted industrial wastes~~ into the POTW at the designated structure located at the City of Danville Northside ~~Wastewater~~ Treatment Plant. This discharge is subject to the following limitations and conditions:

- (a) The contract hauler must apply for and receive a ~~truck-discharge~~ Hauler Discharge permit from the City. All applicants for a ~~truck-discharge~~ Septic Hauler or Industrial Waste Hauler ~~Wastewater Discharge~~ permit shall complete such forms as required by the City, pay any appropriate fees and agree in writing to abide by the provisions of this chapter and any special conditions or regulations established by the City. Such permits shall be valid for a period of two (2) years from the date of issuance provided that such permit shall be subject to revocation by the City for violation of any provisions of this chapter or any other regulation established by the City. If the contract hauler is hauling wastewater from a ~~significant industrial user (SIU)~~, the permit must specifically authorize the discharge of such wastewater into the City's POTW. Such permission shall not be granted unless the ~~significant industrial user (SIU)~~ has also obtained a separate ~~wastewater~~ discharge permit. Otherwise, such permits shall be limited to the discharge of domestic sewage waste containing no industrial waste. The City may refuse to accept any truckload of waste when it appears that the waste could interfere with the effective operation of the POTW.
- (b) The contract hauler must dump or empty all wastes only at the designated structure at the City ~~of Danville Northside~~ POTW and must keep this area maintained and clean.
- (c) The contract hauler must provide accurate and complete information as to the origin of the septic tank waste, by use of a manifest.
- (d) Any discharge of any waste other than the domestic type from a septic tank is forbidden without special permission from the City and only after laboratory analysis of the waste. The cost of the laboratory analyses shall be paid by the contract hauler.
- (e) Spot checks of septic tank wastes shall be made at the discretion of the City and laboratory analyses performed. Should any waste be found in violation of this chapter, the following civil penalties may be assessed the contract hauler.
 - (1) First Offense - \$100.00 civil penalty
 - (2) Second Offense - \$250.00 civil penalty
 - (3) Third Offense - Permission to discharge septic tank wastes into the POTW shall be revoked.
- (f) A contract hauler may apply to the City to regain permission to dump septic tank wastes. Any such permission shall be subject to the condition that all septic tank waste be checked and analyzed until the City is satisfied that no more violations are likely to occur. The cost of the laboratory analyses shall be paid by the contract hauler.
- (g) No permit shall be required to discharge domestic waste from a recreation vehicle holding tank provided such discharge is made at the approved site at the ~~Northside City of Danville~~ POTW.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-21. - Resource Conservation and Recovery Act notices.

The City shall give notice to all ~~"significant industrial users"~~ "(SIU)" of its POTW that they possibly have special reporting and compliance requirements under the Resource Conservation and Recovery Act (RCRA).

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-22. - Users of other sewer systems.

The provisions of articles I, II and IV of this chapter, except for ~~sections Sec.~~ 34-7, 34-9, 34-~~31~~, and 34-79 shall be applicable to persons who discharge wastewater into the Pittsylvania County Service Authority's sewer system or the sewer system owned, operated, and maintained by Caswell County, North Carolina, which is ultimately received into the City's POTW for treatment.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-23. - Other political subdivisions which discharge wastewater into the City's POTW.

It shall be unlawful for any political subdivision owning, operating, and maintaining a sewer system which discharges wastewater into the City's POTW for treatment to permit or allow any user of that system to discharge wastewater into that sewer system in violation of the provisions of any user permit issued jointly with the City, in violation of the applicable provisions of this chapter, or contrary to the provisions of any agreement between such political subdivision and the City.

(Ord. No. 2005-05.04, 5-17-05)

DIVISION 2. - ENFORCEMENT

Sec. 34-24. - Administrative enforcement penalties.

- (a) Whenever the ~~Assistant City Manager for Utilities~~ Director of Utilities finds that any ~~significant industrial user~~ SIU has violated or is violating this chapter or a user permit or order issued hereunder the ~~Assistant City Manager for Utilities~~ Director of Utilities or his agent may serve upon said user, written notice of the violation. Within fourteen (14) days from the receipt date of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the ~~Assistant City Manager for Utilities~~ Director of Utilities. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation.
- (b) The ~~Assistant City Manager for Utilities~~ Director of Utilities is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the ~~significant industrial user~~ SIU responsible for the non-compliance. Such orders will include specific action to be taken by the ~~significant industrial user~~ SIU to correct the noncompliance within a time period also specified by the order. A consent order shall have the same force and effect as administrative orders.
 - (1) The ~~Assistant City Manager for Utilities~~ Director of Utilities may order any ~~significant industrial user~~ SIU, which causes or contributes to violation of this chapter or order or user permit issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and date for the hearing, the proposed enforcement

action and 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 hearing shall be served personally or by registered or certified mail (return receipt requested) at least fourteen (14) days prior to the hearing. Such notice may be served on any principal executive, general partner, or corporate officer of the ~~significant user SIU~~. In the event a duly notified ~~significant industrial user SIU~~ does not appear as noticed immediate enforcement action may be pursued.

- (2) At any hearing held pursuant to this chapter, testimony taken must be under oath and either audio or stenographically recorded. The transcript, so recorded, will be made available to any party of the hearing, and any member of the public upon payment of the usual charges thereof.
- (c) When the ~~Assistant City Manager for Utilities~~ Director of Utilities finds that a ~~significant industrial user SIU~~ has violated or continues to violate the chapter or a user permit or order issued thereunder, he may issue an order to the ~~significant industrial user SIU~~ responsible for the discharge directing that, following a specified time period, wastewater treatment service for that user shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances have been installed and are properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring, and management practices.
- (d) When the ~~Assistant City Manager for Utilities~~ Director of Utilities finds that a ~~significant industrial user SIU~~ has violated or continues to violate this chapter or those (restrictions) contained in any user permit issued hereunder, the ~~Assistant City Manager for Utilities~~ Director of Utilities may issue an order to cease and desist, all such violations, and direct those persons in noncompliance to:
 - (1) Comply forthwith.
 - (2) Comply in accordance with a compliance time schedule set forth in the order.
 - (3) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.
- (e) Any ~~significant industrial user SIU~~ who is found to have violated any provision of this chapter, or the orders and permits issued hereunder, may be fined at least one thousand dollars (\$1,000.00) a day for each violation. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation. Such assessments may be added to the user's next scheduled sewer service charge and the ~~Assistant City Manager for Utilities~~ Director of Utilities shall have such other collection remedies as he has to collect other service charges.
 - (1) The ~~Assistant City Manager for Utilities~~ Director of Utilities may suspend the wastewater treatment service and/or a user permit whenever such suspension is necessary in order to stop an actual or threatened discharge presenting or causing any of the following conditions:
 - a. An imminent or substantial endangerment to the health or welfare of persons, or the environment.
 - b. An interference or pass through.
 - c. A violation of any condition of the POTW's VPDES permit.
 - (2) Any ~~significant industrial user SIU~~ notified of a suspension of the wastewater treatment service and/or the user permit should immediately stop or eliminate its contribution. A hearing will be held within fifteen (15) days of the notice of suspension to determine whether the suspension may be lifted or the ~~significant industrial user SIU~~ permit terminated. In the event of a failure of the ~~significant industrial user SIU~~ to comply voluntarily with the suspension order, the ~~Assistant City Manager for Utilities~~ Director of Utilities shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the City's POTW or endangerment to any individuals. The ~~Assistant City Manager for Utilities~~ Director of Utilities shall reinstate the user permit and/or the wastewater treatment service upon proof of the elimination of the noncomplying discharge.

- (3) A ~~significant industrial user~~ SIU which is responsible, in whole or in part, for imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the ~~Assistant City Manager for Utilities~~ Director of Utilities prior to the date of the hearing described in subsection (e)(2) above.
- (f) Any user who violates the following conditions of this chapter, user permit, order, or any applicable State or Federal law or regulation, is subject to user permit termination.
 - (1) Failure to accurately report the wastewater constituents and characteristics of its discharge;
 - (2) Failure to report significant changes in operations or wastewater constituents and characteristics;
 - (3) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling, and
 - (4) Intentional violation of permit conditions;
 - (5) Failure of the user to pay any and all costs or charges authorized by the provisions of this chapter.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-25. - Remedies.

- (a) If any person discharges sewage, industrial wastes or other wastes into the City's POTW contrary to the provisions of this chapter or any order or user permit issued hereunder, the ~~Assistant City Manager for Utilities~~ Director of Utilities, through the City Attorney, may commence an action for appropriate legal and/or equitable relief in the Circuit Court for the City of Danville, Virginia, or any other court having jurisdiction.
- (b) Whenever a ~~significant industrial user~~ SIU has violated or continues to violate the provisions of this chapter or an order or user permit issued hereunder the ~~Assistant City Manager for Utilities~~ Director of Utilities, through the City Attorney, may request the appropriate court to issue a preliminary or permanent injunction, or both (as may be appropriate) which restrains or compels the activities on the part of the ~~significant industrial user~~ SIU. In the event the ~~Assistant City Manager for Utilities~~ Director of Utilities chooses to correct the violation himself, the cost of such correction may be added to the next scheduled sewer service charge payable by the person(s) causing the violation. The ~~Assistant City Manager for Utilities~~ Director of Utilities shall have such remedies to collect these fees, as it has to collect other sewer service charges.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-26. - Civil penalties.

- (a) Any ~~significant industrial user~~ SIU who has violated or continues to violate this chapter or any order or user permit issued hereunder, shall be liable for a civil penalty of at least one thousand dollars (\$1,000.00) and not more than ten thousand dollars (\$10,000.00), plus actual damages incurred by the POTW, per violation per day for as long as the violation(s) continues. In addition to the above described penalty and damages, the ~~Assistant City Manager for Utilities~~ Director of Utilities may recover reasonable attorney's fees, court costs, and other expenses, his enforcement activities, including special sampling and monitoring expenses.
- (b) The ~~Assistant City Manager for Utilities~~ Director of Utilities shall petition the court to impose, assess, and recover such sums. In determining amount of liability, the court shall take into account all relevant circumstances, including, but not limited to, the magnitude, and duration, any economic

benefit gained through the significant industrial user's violation, corrective actions by the ~~significant industrial-user SIU~~, the compliance history of the user, and any other factors as justice requires.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-27. - Criminal violations.

- (a) *Violations; generally.* Any ~~significant industrial-user SIU~~ who willfully or negligently violates any provision of this chapter, or any order, or user permit issued hereunder shall, upon conviction, be guilty of up to a Class 1 misdemeanor punishable by a fine of at least one thousand dollars (\$1,000.00). Any second or subsequent violation shall constitute a Class 1 misdemeanor.
- (b) *Violations; continuing.* Each day any violation described in subsection (a) continues shall constitute a separate offense.
- (c) *Falsifying information.* Any ~~significant industrial-user SIU~~ who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other document filed or required to be maintained pursuant to this chapter, or user permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter shall, upon conviction, be punishable by a fine of at least one thousand dollars (\$1,000.00) per violation and be guilty of a Class 1 misdemeanor.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-28. - Annual publication of significant violations and significant non-compliance.

The ~~Assistant City Manager for Utilities~~ Director of Utilities shall publish, at least annually, in the largest daily newspaper circulated in the service area, the names of those ~~significant industrial-users SIU~~ which are found to be in significant violation and significant non-compliance, as defined in ~~sections Sec.~~ 34-3 and 34-52 of this chapter, with any provisions of this chapter or any order or permit issued hereunder during the period since the previous publication.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-29. - Water supply severance.

Whenever a ~~significant industrial-user SIU~~ has violated or continues to violate the provisions of this chapter or an order or user permit issued hereunder, water service to the ~~significant industrial-user SIU~~ may be severed and service will only recommence, at the user's expense, after it has satisfactorily demonstrated consistent compliance.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-30. - Operating upsets.

- (a) Any ~~significant industrial-user SIU~~ which experiences an upset in operations that places it in a temporary state of noncompliance, which is not the result of operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation, shall inform the ~~Assistant City Manager for Utilities~~ Director of Utilities thereof immediately upon first awareness of the upset. Where such information is given orally, the user thereof shall file a written report within five (5) days. The report shall contain:
 - (1) A description of the upset, its cause(s) and impact on the discharger's compliance status:

- (2) The duration of noncompliance, including exact dates and times of noncompliance, and if the noncompliance is continuing, the time by which compliance is reasonably expected to be restored;
- (3) All steps taken or planned to reduce, eliminate, and prevent recurrence of such an upset.
- (b) A ~~significant industrial user SIU~~ which timely complies with the notification provisions of this section shall have an affirmative defense to any enforcement action brought by the ~~Assistant City Manager for Utilities Director of Utilities~~ for noncompliance with categorical standards only, which arises out of violations alleged to have occurred during the period of the documented and verified upset.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-31. - Treatment bypasses.

- (a) A bypass of the ~~significant industrial user's SIU's~~ treatment system is prohibited unless all of the following conditions are met:
 - (1) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (2) There was no feasible alternative to the bypass, including the use of auxiliary treatment or retention of the wastewater; and
 - (3) The significant industrial user properly notified the ~~Assistant City Manager for Utilities Director of Utilities~~ as described in subsection (b) below.
- (b) ~~Significant industrial users SIUs~~ must provide immediate notice to the ~~Assistant City Manager for Utilities Director of Utilities~~ upon discovery of an unanticipated bypass. If necessary, the ~~Assistant City Manager for Utilities Director of Utilities~~ may require the ~~significant industrial user SIU~~ to submit a written report explaining the cause(s), nature, and duration of the bypass and the steps being taken to prevent its recurrence.
- (c) A ~~significant industrial user SIU~~ may allow a bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it is for essential maintenance to ensure efficient operation of its treatment system. ~~Significant industrial users SIUs~~ anticipating a bypass must submit notice to the ~~Assistant City Manager for Utilities Director of Utilities~~ at least ten (10) days in advance. The ~~Assistant City Manager for Utilities Director of Utilities~~ may only approve the anticipated bypass if the circumstances satisfy those set forth in subsection (a) above.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-32. - Review and appeal procedures under chapter.

The following procedures control the course of reconsideration, rehearing, and appeal to the City with respect to the construction, application, or enforcement of this chapter and may be used if informal methods do not achieve satisfaction:

- (a) Any user permit applicant, user permit holder, authorized industrial wastewater discharger or other discharger adversely affected by any decision, act, or determination made by or on behalf of the City by the ~~Assistant City Manager for Utilities Director of Utilities~~ or his authorized representative in interpreting or implementing the provisions of this chapter or any user permit issued hereunder may file with the City Manager a written request for reconsideration. Such request shall be received within thirty (30) days of the date of the occurrence of the City's action or decision in dispute. All requests shall set forth the requestor's name and address, along with a brief statement of the reasons and the factual basis for the request. Requests shall be filed in triplicate and sent by certified mail to the City Manager.

- (b) The City Manager or his/her designated representative shall notify the applicant, within fifteen (15) days after receipt of any request for reconsideration, of the time and place for hearing. Upon the request, the hearing shall be conducted by the City Manager or his/her designated representative not less than ten (10) days or more than thirty (30) days after mailing such notice. The hearing may be continued for a reasonable time for good cause shown, at the discretion of the City Manager or his/her designated representative. The hearing shall be held as an informal consultation and conference at which the requestor, in person or by counsel, shall present his argument, evidence, data, and proof in connection with the issue submitted. The City Manager or his/her designated representative shall not be bound by legal rules of evidence. The hearing shall be recorded and the requestor shall be provided with a transcript thereof upon request and upon payment of the cost thereof. The written decision of the City Manager or his/her designated representative shall be made known to the requestor by certified mail within thirty (30) days after the hearing.
- (c) The requestor may file a request for rehearing, which shall be filed by certified mail within ten (10) days of the rendition of the City Manager's decision, and rehearing may be allowed for good cause shown. The procedures for rehearing are to be substantially the same as those stated above.

(Ord. No. 2005-05.04, 5-17-05)

ARTICLE II. - BUILDING SEWERS

Sec. 34-33. - Exemptions from article.

Existing building sewers connected to the City's POTW prior to February 1, 1984, and that were installed in compliance with applicable City and State code requirements when installed shall be exempt from requirements of this article until repairs or changes are made in the building being served by the POTW.

(Ord. No. 2005-05.04, 5-17-05)

~~Sec. 34-34. - Permit for construction or installation.~~

Any person proposing a new discharge into the City's POTW or a substantial change in the volume or character of pollutants that are being discharged shall notify the City at least forty-five (45) days prior to the proposed change or connection. There shall be two (2) classes of building sewer permits: One for residential, commercial, and insignificant small industrial service as provided in the plumbing code of the City and one for service to significant industrial users. In either case, the owner or his agent shall make application on forms furnished by the City. Permit applications for significant industrial connections shall be supplemented by plans, specifications, or other pertinent information. A permit fee to cover the cost for processing the application, inspection, and other costs associated therewith shall be charged to the owner for each permit issued and be paid to the City at the time the application is filed. In the event the premises changes ownership before the work is completed or if another contractor is chosen to perform or finish the work, the original permit becomes void and a new permit must be obtained by the new parties in interest.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-35. - General construction and installation standards.

The size, slope, alignment, and materials of construction of a building sewer and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfiring the trench, shall all conform to the requirements of the building and plumbing codes and other applicable rules and regulations of the City. In the absence of code provisions or in amplification thereof, the materials and procedures set forth for building sewer construction in ASTM and WPCF specifications shall apply.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-36. - Use of old sewers for new buildings.

Old building sewers may be used in connection with new buildings only when they are tested by a licensed plumber and documentation provided to the City verifying the sewer is in good repair for the intended use and meets all requirements of this chapter.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-37. - Elevation; lifting devices.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, wastewater carried by such building drain shall be lifted by an approved means and discharged to the building sewer. Duplex lift systems shall be provided when required by the plumbing code.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-38. - Excavations to be guarded; restoration of disturbed public property.

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-39. - Inspection and connection to public sewer generally.

- (a) The applicant for the building sewer permit shall notify the City when the building sewer is ready for inspection and connection to the public sewer. The City shall do such inspection and testing as may be necessary.
- (b) The connection of the building sewer into the public sewer shall conform to the requirements of the City and State building and plumbing codes or other applicable laws and regulations of the City and State and shall be made gas tight and water tight and be verified by proper testing.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-40. - Location of sewer tap prior to installation.

No drainage system shall be installed until the location and elevation of the sewer tap is determined. All costs and expense incident of the installation, connection, and maintenance of the building sewer from the building drain to the public sewer mains shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-41. - Individual building sewers.

Any lot of records on which buildings are existing or proposed, and in which plumbing fixtures are installed or are proposed to be installed, shall be provided with an individual building sewer, which is separate from and independent of that serving buildings on any other lot.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-42. - Surface runoff and groundwater drains.

- (a) No person shall connect roof, foundation, areaway, parking lot, roadway, or other surface runoff or groundwater drains to any sewer, which is connected to a treatment works unless such connection is authorized in writing by the Control Authority. The connection of such drains shall conform to codes specified in the applicable codes or as specified by the Control Authority as a condition of approval of such connection.
- (b) Except as provided in subsection (a) above, roof, foundation, areaway, parking lot, roadway, or other surface runoff or groundwater drains shall discharge to natural outlets or storm sewers.

(Ord. No. 2005-05.04, 5-17-05)

Secs. 34-43—34-46. - Reserved.

ARTICLE III. - STANDARDS FOR INDUSTRIAL WASTE DISCHARGERS

Sec. 34-47. - Wastewater discharge permit application.

- (a) *Wastewater analysis.* When requested by the ~~Assistant City Manager for Utilities~~ Director of Utilities a user must submit information on the nature and characteristics of its wastewater within thirty (30) days of the request. The ~~Assistant City Manager for Utilities~~ Director of Utilities is authorized to prepare a form for this purpose and may periodically require users to update this information.
- (b) *Wastewater discharge permit requirements.*
 - (1) No ~~significant industrial user~~ SIU shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the ~~Assistant City Manager for Utilities~~ Director of Utilities, except that a ~~significant industrial user~~ SIU that has filed a timely application pursuant to subsection (c) below may continue to discharge for the time period specified therein.
 - (2) The ~~Assistant City Manager for Utilities~~ Director of Utilities may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this ordinance.
 - (3) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in ~~sections~~ Sec. 34-53 and 34-55. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or requirements or with any other requirement of Federal, State and local law.
- (c) *Wastewater discharge permitting; existing connections.* Any user required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this ordinance and who wishes to continue such discharges in the future, shall, within thirty (30) days after said date, apply to the ~~Assistant City Manager for Utilities~~ Director of Utilities for a wastewater discharge permit in accordance with this section of this ordinance, and shall not cause or allow discharges to the POTW to continue after ninety (90) days of the effective date of the ordinance from

which this chapter derives except in accordance with a wastewater discharge permit issued by the ~~Assistant City Manager for Utilities~~ Director of Utilities.

- (d) Wastewater discharge permitting; new connections. Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with subsection (e) below, must be filed at least thirty (30) days prior to the date on which any discharge will begin or recommence.
- (e) *Wastewater discharge permit application contents.* All users required to obtain a wastewater discharge permit must submit a permit application. The ~~Assistant City Manager for Utilities~~ Director of Utilities may require all users to submit, as part of an application, the following information:
 - (1) All information required by ~~subsections~~ Sec. 34-506(a) (2) a. through h. herein;
 - (2) 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;
 - (3) Number and type of employees, hours of operation, and proposed or actual hours of operation;
 - (4) Each product produced by type, amount, process or processes, and rate of production;
 - (5) Type and amount of raw materials processed (average and maximum per day);
 - (6) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains and appurtenances by size, location, and elevation, and all points of discharge;
 - (7) Time and duration of discharges; and
 - (8) Any other information as may be deemed necessary by the ~~Assistant City Manager for Utilities~~ Director of Utilities to evaluate the wastewater discharge permit application.
- (f) *Application signatories and certification.* All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement: "I certify under penalty of law that this document and all attachments were prepared under my direction and 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."

Signed: _____

Date: _____

Printed Name: _____

- (g) *Wastewater discharge permit decisions.* The ~~Assistant City Manager for Utilities~~ Director of Utilities will evaluate the data furnished by the user and may require additional information. Within seven (7) days of receipt of a complete wastewater discharge permit application, the ~~Assistant City Manager for Utilities~~ Director of Utilities will determine whether or not to issue a wastewater discharge permit. The ~~Assistant City Manager for Utilities~~ Director of Utilities may deny any application for a wastewater discharge permit.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-48. - Industrial waste survey requirements.

- (a) All industrial dischargers shall file with the City wastewater information required for determination of compliance with this chapter, the City's VPDES permit conditions and state and federal law. Such information shall be provided by completion of a questionnaire designed and supplied by the City and by supplements thereto as may be necessary.
- (b) Where a person owns, operates, or occupies properties at more than one location, which constitute separate industrial discharges, separate information submittals shall be made for each location as may be required by the City.
- (c) The City shall implement measures to ensure the confidentiality of information provided by an industrial discharger pursuant to this chapter. Upon the written request of the person furnishing a report, permit application, or questionnaire under the provisions of this chapter which might disclose trade secrets or secret processes, such information shall not be made available to the public, except as may be required by State or Federal law. The physical and chemical characteristics of a discharger's wastewater effluent discharged to the City's sewer system shall not be recognized as confidential information or as a trade secret. However, all records relating to compliance with pretreatment standards and all other records or documents required by state or federal law to be subject to public access shall be available to the public.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-49. - Wastewater discharge permit issuance process.

- (a) *Duration.* A wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the ~~Assistant City Manager for Utilities~~ **Director of Utilities**. Each wastewater discharge permit will indicate a specific date upon which it will expire.
- (b) *Contents.* A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the ~~Assistant City Manager for Utilities~~ **Director of Utilities** 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, and protect against damage to the POTW.
 - (1) Wastewater discharge permits must contain:
 - a. A statement that indicates wastewater discharge permits duration, which in no event shall exceed five (5) years.
 - b. A statement that the wastewater discharge permit is nontransferable without prior notification to the City in accordance with subsection (e) below, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
 - c. Effluent limits, **including Best Management Practices**, based on applicable pretreatment standards;
 - d. Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law; and
 - e. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.
 - f. **Requirements to control Slug Discharge, if determined by the Director of Utilities to be necessary.**
 - (2) Wastewater discharge permits may contain, but need not be limited to, the following conditions:

- a. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulations and equalization;
 - b. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
 - c. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;
 - d. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
 - e. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;
 - f. Requirements for installation and maintenance of inspection and sampling facilities and equipment;
 - g. A statement that compliance with the wastewater discharge permit 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 wastewater discharge permit; and
 - h. Other conditions as deemed appropriate by the ~~Assistant City Manager for Utilities~~ Director of Utilities to ensure compliance with this ordinance, and State and Federal laws, rules and regulations.
- (c) *Appeals.* The ~~Assistant City Manager for Utilities~~ Director of Utilities shall provide public notice of the issuance of a wastewater discharge permit. Any person, including the user, may petition the ~~Assistant City Manager for Utilities~~ Director of Utilities to reconsider the terms of a wastewater discharge permit within ten (10) days of notice of its issuance.
- (1) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
 - (2) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
 - (3) The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
 - (4) If the ~~Assistant City Manager for Utilities~~ Director of Utilities fails to act within ten (10) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.
 - (5) Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the appropriate court, which has jurisdiction.
- (d) *Modification.* The ~~Assistant City Manager for Utilities~~ Director of Utilities may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:
- (1) To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;
 - (2) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;
 - (3) A change in the POTW that requires either a temporary or permanent reduction of elimination of the authorized discharge;

- (4) Information indicating that the permitted discharge poses a threat to the City's POTW, City personnel, or the receiving waters;
 - (5) Violation of any terms or conditions of the wastewater discharge permit;
 - (6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
 - (7) Revisions of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13 and 9VAC25-31-850;
 - (8) To correct typographical or other errors in the wastewater discharge permit; or
 - (9) To reflect a transfer of the facility ownership or operation to a new owner or operator.
- (e) *Transfer.* Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least thirty (30) days advance notice to the ~~Assistant City Manager for Utilities~~ Director of Utilities and the ~~Assistant City Manager for Utilities~~ Director of Utilities approves the wastewater discharge permit transfer. The notice to the ~~Assistant City Manager for Utilities~~ Director of Utilities must include a written certification by the new owner or operator which:
- (1) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
 - (2) Identifies the specific date on which the transfer is to occur; and
 - (3) Acknowledges full responsibility for complying with the existing wastewater discharge permit.
- Failures to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer.
- (f) *Revocation.* The ~~Assistant City Manager for Utilities~~ Director of Utilities may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons.
- (1) Failure to notify the ~~Assistant City Manager for Utilities~~ Director of Utilities of significant changes to the wastewater prior to the changed discharge;
 - (2) Failure to provide prior notification to the ~~Assistant City Manager for Utilities~~ Director of Utilities of changed conditions pursuant to subsection Sec. 34-50(e);
 - (3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
 - (4) Falsifying self-monitoring reports;
 - (5) Tampering with monitoring equipment;
 - (6) Refusing to allow the ~~Assistant City Manager for Utilities~~ Director of Utilities timely access to the facility premises and records;
 - (7) Failure to meet effluent limitations;
 - (8) Failure to pay fines;
 - (9) Failure to pay sewer charges;
 - (10) Failure to meet compliance schedules;
 - (11) Failure to complete a wastewater survey or the wastewater discharge permit applications;
 - (12) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
 - (13) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this ordinance. Wastewater discharge permits shall be voided upon cessation of operations or transfer of business ownership. All wastewater discharge permits

issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

- (g) *Re-issuance.* A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with ~~subsection~~ **Sec. 34-47(e)** herein, a minimum of ninety (90) days prior to the expiration of the user's existing wastewater discharge permit
- (h) *Regulation of waste received from other jurisdictions.*
 - (1) If another municipality, county, town or user located within another municipality, contributes wastewater to the POTW, the ~~Assistant City Manager for Utilities~~ **Director of Utilities** shall enter into an intergovernmental agreement with the contributing municipality, **authority**, county or town.
 - (2) Prior to entering into an agreement required by subsection (1) above, the ~~Assistant City Manager for Utilities~~ **Director of Utilities** shall request the following information from the contributing government:
 - a. A description of the quality and volume of wastewater discharged to the POTW by the contributing government;
 - b. An inventory of all users located within the contributing government that are discharging to the POTW; and
 - c. Such other information as the ~~Assistant City Manager for Utilities~~ **Director of Utilities** may deem necessary.
 - (3) An intergovernmental agreement, as required by subsection (1) above shall contain the following conditions:
 - a. A requirement for the contributing government to adopt a sewer use ordinance which is at least as stringent as this ordinance with local limits which are at least as stringent as those established by the City. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the City's ordinance or local limits;
 - b. A requirement for the contributing government to submit a revised user inventory on at least an annual basis;
 - c. A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling and enforcement, will be conducted by the contributing government; which of these activities will be conducted by the ~~Assistant City Manager for Utilities~~ **Director of Utilities** and which of these activities will be conducted jointly by the contributing government and the ~~Assistant City Manager for Utilities~~ **Director of Utilities**.
 - d. A requirement for the contributing government to provide the ~~Assistant City Manager for Utilities~~ **Director of Utilities** with access to all information that the contributing government obtains as part of its pretreatment activities;
 - e. Limits on the nature, quality, and volume of the contributing governments wastewater at the point where it discharges to the POTW;
 - f. Requirements for monitoring the contributing governments discharge;
 - g. A provision ensuring the ~~Assistant City Manager for Utilities~~ **Director of Utilities** access to the facilities of users located within the contributing governments jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the ~~Assistant City Manager for Utilities~~ **Director of Utilities**; and
 - h. A provision specifying remedies available for breach of the items of the inter-governmental agreement.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-50. - Industrial user reporting requirements.

(a) *Baseline monitoring reports.*

- (1) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a) (4) and 9VAC25-31-780 A4, whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the ~~Assistant City Manager for Utilities~~ Director of Utilities a report which contains the information listed in subsection (2) below. At least ninety (90) days prior to commencement of their discharge new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the ~~Assistant City Manager for Utilities~~ Director of Utilities a report which contains the information listed in subsection (2) below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.
- (2) Users described above shall submit the information set forth below.
 - a. *Identifying information.* The name and address of the facility, including the name of the operator and owner.
 - b. *Environmental permits.* A list of any environmental control permits held by or for the facility.
 - c. *Description of operations.* A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram that indicates points of discharge to the POTW from the regulated processes.
 - d. *Flow measurement.* The user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW 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) and 9VAC25-31-780 E.
 - e. *Measurement of pollutants.*
 1. The user shall identify the pretreatment standards applicable to each regulated process.
 2. In addition, the user shall submit the results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the Standard or by the ~~Assistant City Manager for Utilities~~ Director of Utilities, 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 and shall be analyzed in accordance with procedures set out in paragraph (a) above.
 3. Sampling must be performed in accordance with procedures set out in subsection (k) below.
 - f. *Certification.* A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
 - g. *Compliance schedule.* If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M must be used. 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 subsection (b) below.

- h. *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with ~~subsection Sec.~~ 34-47(f) herein.
- (b) *Compliance schedule progress report.* The following conditions shall apply to the compliance schedule required by subsection (a) (2)g. above.
 - (1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
 - (2) No increment referred to above shall exceed nine (9) months;
 - (3) The user shall submit a progress report to the ~~Assistant City Manager for Utilities~~ Director of Utilities no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and
 - (4) In no event shall more than nine (9) months elapse between such progress reports to the ~~Assistant City Manager for Utilities~~ Director of Utilities.
- (c) *Reports on compliance with categorical pretreatment standard deadline.* 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 POTW, any user subject to such pretreatment standards and requirements shall submit to the ~~Assistant City Manager for Utilities~~ Director of Utilities a report containing the information described in subsections (a) (2) d. through f. above. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c) and 9VAC25-31-780 C, this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or the measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with ~~subsection Sec.~~ 34-47(f) herein.
- (d) *Periodic compliance reports.*
 - (1) Any industrial user subject to a categorical pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the Control Authority during the months of June and December, unless required more frequently in the pretreatment standard or by the Control Authority or the ~~Assistant City Manager for Utilities~~ Director of Utilities, a report indicating the nature and concentration of pollutants in the effluent which are limited by such categorical pretreatment standards. In addition, this report shall include a record of measured or estimated average and maximum daily flows for the reporting period for the discharge reported in ~~subsection Sec.~~ 34-50(a) (2) d. except that the Control Authority may require more detailed reporting of flows. At the discretion of the Control Authority and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Control Authority may agree to alter the months during which the above reports are to be submitted. ~~In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the industrial user must submit documentation required by the Director of Utilities or the Pretreatment Standard necessary to determine the compliance status of the industrial user.~~ All periodic compliance reports must be signed and certified in accordance with ~~subsection Sec.~~ 34-47(f).

- (2) The Control Authority shall require appropriate reporting from those industrial users with discharges that are not subject to categorical pretreatment standards. Significant non-categorical industrial users shall submit to the Control Authority at least once every six (6) months (on dates specified by the Control Authority) a description of the nature, concentration, and flow of the pollutants required to be reported by the Control Authority. These reports shall be based on sampling and analysis performed in the period covered by the report, and performed in accordance with the techniques described in 40CFR Part 136 (2016) and amendments thereto. Where 40 CFR Part 136 (2016) does not contain sampling or analytical techniques for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the POTW or other persons, approved by the EPA.
- (3) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
- (4) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the ~~Assistant City Manager for Utilities~~ Director of Utilities, using the procedures prescribed in paragraph k below of this section, the results of this monitoring shall be included in the report.

(e) Annual Certification for Non-Significant Categorical Industrial Users.

A facility determined to be a Non-Significant Categorical Industrial User by the Director of Utilities pursuant to the definition of Significant Industrial User in Sect. 34-3 must annually submit the following certification statement signed in accordance with the signatory requirements under the definition of Authorized Representative defined in Sect. 34-3. This certification must accompany an alternative report required by the Director of Utilities:

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

- (a) The facility described as _____ [facility name] met the definition of a Non-Significant Categorical Industrial User as described in Section 34-3;
- (b) The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and (c) the facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.

This compliance certification is based on the following information:

(f) Notification of changed conditions. Each user must notify the ~~Assistant City Manager for Utilities~~ Director of Utilities of any planned significant changes to the user's operations or system, which might alter the nature, quality, or volume of its wastewater at least thirty (30) days before the change.

- (1) The ~~Assistant City Manager for Utilities~~ Director of Utilities may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under ~~subsection~~ Sec. 34-47(e) herein.
- (2) The ~~Assistant City Manager for Utilities~~ Director of Utilities may issue a wastewater discharge permit under ~~subsection~~ Sec. 34-47(g) herein or modify an existing wastewater discharge

permit under ~~subsection~~ Sec. 34-49(d) herein in response to changed conditions or anticipated changed conditions.

- (3) For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty (20) percent or greater and the discharge of any previously unreported pollutants.

(g) Notification of potential problems.

- (1) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the ~~Assistant City Manager for Utilities~~ Director of Utilities and the Northside Wastewater Treatment Plant as identified in the industrial discharge permit of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
- (2) Within five (5) days following such discharge, the user shall, unless waived by the ~~Assistant City Manager for Utilities~~ Director of Utilities, 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 occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability, which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.
- (3) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in subsection (1) above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.
- 4) Users are required to notify the Director of Utilities and the Northside Wastewater Treatment Plant as identified in the industrial discharge permit immediately of any changes at its facility affecting the potential for a slug discharge.

(h) Notification of discharge of hazardous waste.

- (1) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under ~~subsection~~ Sec. 34-50(e) herein. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of ~~subsections~~ Sec. 34-50(a), (c), and (d) herein.
- (2) Dischargers are exempt from the requirements of subsection (1), above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and

261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

- (3) In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the ~~Assistant City Manager for Utilities~~ Director of Utilities, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.
 - (4) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
 - (5) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued hereunder, or any applicable Federal or State law.
- (i) *Reports from unpermitted users.* All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the ~~Assistant City Manager for Utilities~~ Director of Utilities as he may require.
 - (j) *Notice of violation/repeat sampling and reporting.* If sampling performed by a user indicates a violation, the user must notify the ~~Assistant City Manager for Utilities~~ Director of Utilities within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the ~~Assistant City Manager for Utilities~~ Director of Utilities within thirty (30) days after becoming aware of the violation. The user is not required to resample if the ~~Assistant City Manager for Utilities~~ Director of Utilities monitors at the user's facility at least once a month, or if the ~~Assistant City Manager for Utilities~~ Director of Utilities samples between the ~~user's~~ users initial sampling and when the user receives the results of this sampling.
 - (k) *Analytical requirements.* All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA. The City and all users of the POTW may use one (1) or more of the following standard methods for the analysis of effluent where they coincide with 40 CFR Part 136:
 - (1) *Standard Methods for the Examination of Water and Wastewater.* (~~EPA Approved Edition~~)
 - (2) *American Society for Testing and Materials (ASTM) Annual Book of Standards;* or
 - (3) *Environmental Protection Agency Methods for Chemical Analysis of Water and Wastes.*

(Ord. No. 90-2.11, § 2, 2-6-90; Ord. No. 92-5.4 § 5, 5-7-92)

(l) *Sample collection.*

Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

- (1) Except as indicated in subsection (2), below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is not

feasible the ~~Assistant City Manager for Utilities~~ Director of Utilities may authorize the use of time proportional sampling or a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. ~~In addition, grab samples may be required to show compliance with instantaneous discharge limits.~~ Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the City, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

~~(2) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.~~

(2) For sampling required in support of baseline monitoring and 90-day compliance reports required in Sec. 34-50(a) and Sec. 34-50(c) [40 CFR 403.12(b) and (d) and 9VAC25-31-840 B and (D)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Director of Utilities may authorize a lower minimum. For the reports required by paragraphs Sec. 34-50(d) (40 CFR 403.12(e) and 403.12(h) and 9VAC25-31-840E and (H), the user is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.

(m) *Timing.* Written reports will be deemed to have been submitted on the date postmarked. For reports, which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

(n) *Record keeping.* Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements ~~and documentation associated with Best Management Practices established under Sect. 34-12(d).~~ Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the date's analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user of the City or where the user has been specifically notified of a longer retention period by the ~~Assistant City Manager for Utilities~~ Director of Utilities.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-51. - Compliance monitoring.

(a) *Right of entry; inspection and sampling.* The ~~Assistant City Manager for Utilities~~ Director of Utilities, ~~or his/her designated representative,~~ shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this ordinance and any wastewater discharge permit or order issued hereunder. Users shall allow the ~~Assistant City Manager for Utilities~~ Director of Utilities ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

(1) Where a user has security measures in force, which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the ~~Assistant City Manager for~~

~~Utilities~~ Director of Utilities, or his/her designated representative, will be permitted to enter without delay for the purposes of performing specific responsibilities.

- (2) The ~~Assistant City Manager for Utilities~~ Director of Utilities shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.
 - (3) The ~~Assistant City Manager for Utilities~~ Director of Utilities may require the 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 by the user at his own expense. All devices used to measure wastewater flow and quality shall be calibrated weekly to ensure their accuracy.
 - (4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the ~~Assistant City Manager for Utilities~~ Director of Utilities and shall not be replaced. The costs of clearing such access shall be borne by the user.
 - (5) Unreasonable delays in allowing the ~~Assistant City Manager for Utilities~~ Director of Utilities, or his/her designated representative, access to the user's premises shall be a violation of this ordinance.
- (b) *Search warrants.* If the ~~Assistant City Manager for Utilities~~ Director of Utilities, or his/her designated representative, has been refused access to a building, structure, or property, or any part thereof and is able to demonstrate probable cause to believe that there may be a violation of this ordinance or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with this ordinance or any permit or order issued hereunder or to protect the overall public health, safety and welfare of the community then the ~~Assistant City Manager for Utilities~~ Director of Utilities may seek issuance of a search warrant from the appropriate court.
- (c) *Confidential information.* Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits and monitoring programs and from the ~~Assistant City Manager for Utilities~~ Director of Utilities inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests and is able to demonstrate to the satisfaction of the ~~Assistant City Manager for Utilities~~ Director of Utilities that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-52. - Publication of users in significant noncompliance.

The ~~Assistant City Manager for Utilities~~ Director of Utilities shall publish annually, in ~~the largest daily~~ a newspaper published in the municipality where of general circulation that provides meaningful public notice within the jurisdictions served by the POTW is located, a list of the 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) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of wastewater measurements taken during a six-month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;
- (b) Technical review criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
- (c) Any other discharge violation that the ~~Assistant City Manager for Utilities~~ Director of Utilities believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;
- (d) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment or has resulted in the direct exercise of its emergency authority to halt or prevent such a discharge;
- (e) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- (f) Failure to provide within ~~thirty (30)~~ forty-five (45) days after the due date, any required reports including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (g) Failure to accurately report noncompliance; or
- (h) Any other violation(s) which may include a violation of Best Management Practices, that the ~~Assistant City Manager for Utilities~~ Director of Utilities determines will adversely affect the operation or implementation of the local pretreatment program.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-53. - Administrative enforcement remedies.

- (a) *Notification of violation.* When the ~~Assistant City Manager for Utilities~~ Director of Utilities finds that a user has violated or continues to violate, any provision of this ordinance a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement the ~~Assistant City Manager for Utilities~~ Director of Utilities may serve upon that user a written Notice of Violation (NOV). Within five (5) days of the receipt of this notice an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the ~~Assistant City Manager for Utilities~~ Director of Utilities. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the ~~Notice of Violation~~ NOV. Nothing in this section shall limit the authority of the ~~Assistant City Manager for Utilities~~ Director of Utilities to take any action, including emergency actions or any other enforcement action without first issuing a ~~Notice of Violation~~ NOV.
- (b) *Consent orders.* The ~~Assistant City Manager for Utilities~~ Director of Utilities may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to subsections (a) and (c) of this section.
- (c) *Show cause hearing.* The ~~Assistant City Manager for Utilities~~ Director of Utilities may order a user which has violated, or continues to violate, any provision of this ordinance a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, to appear

before the ~~Assistant City Manager for Utilities~~ Director of Utilities and show cause why the proposed enforcement action should not be taken. Notice shall be served on the 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 the 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 fourteen (14) days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

- (d) *Compliance orders.* When the ~~Assistant City Manager for Utilities~~ Director of Utilities finds that a user has violated, or continues to violate, any provisions of this ordinance a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement the ~~Assistant City Manager for Utilities~~ Director of Utilities may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided sewer service may be discontinued unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against or a prerequisite for, taking any other action against the user.
- (e) *Cease and desist orders.* When the ~~Assistant City Manager for Utilities~~ Director of Utilities finds that a user has violated or continues to violate any provision of this ordinance a wastewater discharge permit or order issued hereunder or any pretreatment standard or requirement, or that the user's past violations are likely to occur the ~~Assistant City Manager for Utilities~~ Director of Utilities may issue an order to the user directing it to cease and desist all such violations and directing the user to:
- (1) Immediately comply with all requirements; and
 - (2) 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.

Issuance of a cease and desist order shall not be a bar against or a prerequisite for taking any other action against the user.

(f) *Administrative fines.*

- (1) When the ~~Assistant City Manager for Utilities~~ Director of Utilities finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the ~~Assistant City Manager for Utilities~~ Director of Utilities may fine such user in an amount of at least one thousand dollars (\$1,000.00) per day. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.
- (2) Unpaid charges, fines, and penalties shall, after ninety (90) calendar days, be assessed an additional penalty of two (2) percent of the unpaid balance, and interest shall accrue thereafter at a rate of two (2) percent per month. A lien against the user's property will be sought for unpaid charges, fines, and penalties.
- (3) Users desiring to dispute such fines must file a written request for the ~~Assistant City Manager for Utilities~~ Director of Utilities to reconsider the fine along with full payment of the fine amount within thirty (30) days of being notified of the fine. Where a request has merit, the ~~Assistant City Manager for Utilities~~ Director of Utilities may convene a hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The ~~Assistant City Manager for Utilities~~ Director of Utilities may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

- (4) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.
- (g) *Emergency suspensions.* The ~~Assistant City Manager for Utilities~~ Director of Utilities may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary 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. The ~~Assistant City Manager for Utilities~~ Director of Utilities may also immediately suspend a user's discharge, after notice and opportunity to respond that threatens to interfere with the operation of the POTW, or which presents, or may present an endangerment to the environment.
- (1) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order the ~~Assistant City Manager for Utilities~~ Director of Utilities may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The ~~Assistant City Manager for Utilities~~ Director of Utilities may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the ~~Assistant City Manager for Utilities~~ Director of Utilities that the period of endangerment has passed, unless the termination proceedings in paragraph (h) of this section are initiated against the user.
- (2) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the ~~Assistant City Manager for Utilities~~ Director of Utilities prior to the date of any show cause or termination hearing under subsections (c) and (h) of this section.

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

- (h) *Termination of discharge.* In addition to the provisions in ~~subsection Sec.~~ 34-49(f) herein, any user who violates the following conditions is subject to discharge termination:
- (1) Violation of wastewater discharge permit conditions;
- (2) Failure to accurately report the wastewater constituents and characteristics of its discharge;
- (3) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge;
- (4) Refusal or reasonable access to the user's premises for the purpose of inspection, monitoring or sampling; or
- (5) Violation of the pretreatment standards. Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under subsection (c) herein why the proposed action should not be taken. Exercise of this option by the ~~Assistant City Manager for Utilities~~ Director of Utilities shall not be a bar to, or a prerequisite for, taking any other action against the user.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-~~54~~ - Judicial enforcement remedies.

- (a) *Injunctive relief.* When the ~~Assistant City Manager for Utilities~~ Director of Utilities finds that a user has violated, or continues to violate any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the ~~Assistant City Manager for Utilities~~ Director of Utilities may petition the Court through the City's attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by

this ordinance on activities of the user. The ~~Assistant City Manager for Utilities~~ Director of Utilities may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

(b) *Civil penalties.*

- (1) A user who has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder or any other pretreatment standard or requirement shall be liable to the City for at least one thousand dollars (\$1,000.00) per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.
- (2) The ~~Assistant City Manager for Utilities~~ Director of Utilities may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses and the cost of any actual damages incurred by the City.
- (3) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.
- (4) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

(c) *Criminal prosecution.*

- (1) A user who willfully violates any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a Class 1 misdemeanor. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.

A user who negligently violates any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall upon conviction, be guilty of a Class 2 misdemeanor. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law. Two (2) or more such violations within two (2) years shall constitute a Class 1 violation.

- (2) A user who willfully introduces any substance into the POTW, which causes personal injury or property damage, shall, upon conviction, be guilty of a Class 1 misdemeanor. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.

A user who negligently introduces any substance into the POTW, which causes personal injury or property damage, shall, upon conviction, be guilty of a Class 2 misdemeanor. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law. Two (2) or more such violations within two (2) years shall constitute a Class 1 misdemeanor.

- (3) A 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 ordinance, wastewater discharge permit, or order issued hereunder or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be guilty of a Class 1 misdemeanor. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.
- (4) A user who fails to submit reports or other data required by this ordinance shall be guilty of a Class 3 misdemeanor. Two (2) such violations within two (2) years shall constitute a Class 2 misdemeanor. Class 1, 2 and 3 misdemeanors are defined in ~~Section~~ Chapter 1, General Provisions, and Sec. 1-11 of this Code.

- (d) *Remedies nonexclusive.* The remedies provided for in this ordinance are not exclusive. The ~~Assistant City Manager for Utilities~~ Director of Utilities may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the City's enforcement response plan. However, the ~~Assistant City Manager for Utilities~~ Director of Utilities may take other action against any user when the circumstances warrant. Further, the ~~Assistant City Manager for Utilities~~ Director of Utilities is empowered to take more than one enforcement action against any noncompliant user.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-55. - Affirmative defenses to discharge violations.

(a) *Upset.*

- (1) For the purposes of this section, "upset," means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, and lack of preventive maintenance or careless or improper operation.
 - (2) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subsection (3) below are met.
 - (3) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - a. An upset occurred and the user can identify the cause(s) of the upset;
 - b. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
 - c. The user has submitted the following information to the ~~Assistant City Manager for Utilities~~ Director of Utilities within twenty-four (24) hours of becoming aware of the upset (if this information is provided orally a written submission must be provided within five (5) days):
 1. A description of the indirect discharge and cause of noncompliance;
 2. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 3. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
 - d. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
 - e. Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
 - f. Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.
- (b) . A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in ~~subsection Sec. 34-11~~(a) or the specific prohibitions in ~~subsection Sec. 34-11~~(b) if it can prove that it did not know, or have reason to know that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

- (1) 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
 - (2) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the City was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.
- (c) *Bypass.*
- (1) For the purposes of this section,
 - a. "Bypass" means the intentional diversion of wastestreams from any portion of a user's treatment facility.
 - b. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities, which causes them to become inoperable, or substantial and permanent loss of natural resources, which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
 - (2) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it is also for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of subsections (3) and (4) below.
 - (3)
 - a. If a user knows in advance of the need for a bypass, it shall submit prior notice to the ~~Assistant City Manager for Utilities~~ Director of Utilities at least ten (10) days before the date of the bypass, if possible.
 - b. A user shall submit oral notice to the ~~Assistant City Manager for Utilities~~ Director of Utilities of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass.
 - (4)
 - a. Bypass is prohibited, and the ~~Assistant City Manager for Utilities~~ Director of Utilities may take an enforcement action against a user for a bypass, unless:
 1. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 3. The user submitted notices as required under subsection (3) above.
 - b. The ~~Assistant City Manager for Utilities~~ Director of Utilities may approve an anticipated bypass, after considering its adverse effects, if the ~~Assistant City Manager for Utilities~~ Director of Utilities determines that it will meet the three (3) conditions listed in subsection (4)a. of this section.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-56. - Miscellaneous provisions.

- (a) *Pretreatment charges and fees.* The City may adopt reasonable fees for reimbursement of costs of setting up and operating the City's pretreatment program, which may include:
- (1) Fees for wastewater discharge permit applications including the cost of processing such applications;
 - (2) Fees for monitoring, inspection and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports submitted by users;
 - (3) Fees for reviewing and responding to accidental discharge procedures and construction;
 - (4) Fees for filing appeals; and
 - (5) Other fees as the City may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this ordinance and are separate from all other fees, fines and penalties chargeable by the City.
- (b) *Severability.* If any court of competent jurisdiction invalidates any provision of this ordinance, the remaining provisions shall not be affected and shall continue in full force and effect.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-57. - Effect of issuance.

Issuance of a discharge permit under this chapter shall not relieve the discharger from complying with all applicable laws, regulations, and chapters promulgated by the City or other Government authority nor shall the issuance of a discharge permit be construed as a representation by the City that the discharge permitted therein complies with such laws, regulations, and chapters. Such permits are issued solely to govern the discharges of wastewater into the City's POTW and the applicable receiving stream and shall not be construed to be agreements or obligations for the benefit of third parties.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-58. - Control structure.

~~Significant industrial users~~ SIUs shall build a control structure in the discharge line from his premises just prior to the entrance of the discharge line into the City wastewater system (or any other location acceptable to the City), suitable for sampling and measuring of his waste. Plans for this structure shall be approved by the City. There shall be ample room in or near such sampling facility to allow accurate sampling and preparation of samples for analyses. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user. Blueprints for such facilities will be made available by the ~~significant industrial users~~ SIUs to the City.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-59. - Authority of City to furnish technical advice.

The City is authorized to consult with and furnish technical assistance and advice to industrial user of the City's POTW in order to assist them in devising procedures and constructing equipment to reduce or eliminate from industrial wastes objectionable characteristics or properties which may not otherwise be discharged into the wastewater system under this chapter.

(Ord. No. 2005-05.04, 5-17-05)

Secs. 34-60—34-78. - Reserved.

ARTICLE IV. - FEES

Sec. 34-79. - Sewer use charges.

- (a) Charges for use of the City's POTW shall be set by the **City** Council. Such charges and rates shall be based on wastewater volumes and strength determined by metering, sampling, and laboratory analysis of the discharges into the City's sewerage system as provided in this chapter.
- (b) All persons discharging wastewater into the City's POTW shall be rendered bills for the charges for such service. The bill shall include the proportionate share of:
 - (1) All fixed charges, amortization costs, and interest on all facilities required for collecting, pumping, transporting, and treating the wastewater.
 - (2) All variable charges for operation and maintenance costs incurred by the City in collecting, pumping, transporting, and treating the wastewater in its facilities.
- (c) For billing purposes, the volume of waste discharged into the city's sewer system shall normally be based on the metered water consumption of the user as shown in the records of meter reading maintained by the City. Whenever any industrial user purchases all his water from the City and considers that significant quantities of water used in his plant are not returned to the POTW, he may request that the billings be based upon metered wastewater quantities. If approved by the City, such user may then provide and maintain, at the user's own expense a meter acceptable to the City for the measurement of the quantities of wastewater discharged. The meter shall be accessible for inspection by the City at all times and shall be maintained to produce an accurate record of the true quantities of wastewater discharged. Whenever the user obtains any part of his water supply from sources other than the City the quantities of wastewater shall be determined from the metered quantities of wastewater discharged to the City's POTW. Wastewater meters shall be provided and maintained by the owner to produce an accurate record of the true quantities of wastewater discharged to the sewer system. In lieu of wastewater meters the user may use a water meter on his input water line and, when acceptable to the City, this water meter reading shall be used as the volume of wastewater flow for computing charges. All costs of meter installation, calibration and maintenance shall be borne by the user at his own expense. The type of meters shall be acceptable to the City and the meters shall be accessible at all times for inspection by the City. Single-family residence users and businesses and commercial establishments with wastewater discharges less than five hundred (500) gallons per day may be charged a flat monthly charge in lieu of installing metering equipment as required above. Flow rates and charges may be determined by population equivalents or water usage for these users.
- (d) Rates and charges for wastewater services shall be payable as billed. The bills shall be sent through the United States mail or hand delivered notifying all persons of the amount and date due. Failure to receive notice shall not be an excuse for nonpayment of bills. Persons not having paid their bills within the period specified on the bill will be delinquent. After proper notice of delinquency and hearing in accordance with this chapter and City policy, the water or sewer connection serving the premises may be terminated until the bill is paid.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-80. - Sampling fees.

The City shall publish no less frequently than yearly a schedule of water and wastewater analyses fees. These fees shall reflect the cost of personnel, equipment and materials needed to collect and analyze the significant industrial user wastewater samples.

The City shall charge all such users uniformly according to said schedule of fees and shall charge for surcharge monitoring, compliance monitoring, and any additional monitoring requested by such user.

The City shall not perform industrial user routine self-monitoring required under the provisions of an industrial discharge permit.

(Ord. No. 2005-05.04, 5-17-05)

Secs. 34-81—34-93. - Reserved.

ARTICLE V. - PRIVATE WASTEWATER DISPOSAL SYSTEMS

Sec. 34-94. - When required.

Where a public sanitary sewer is not available within three hundred (300) feet of a property line, the building sewer for such premises shall be connected by the owner or occupant to a private wastewater disposal system approved by the ~~State Department of Health~~ DEQ.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-95. - Permit to construct; inspection of work.

- (a) Before commencement of construction of a private wastewater disposal system, the owner shall first obtain a permit from the City and have approval of the ~~State Department of Health~~ DEQ as required in ~~section~~ Sec. 34-94. The application for the City permit shall be made on a form furnished by the City which the applicant shall supplement by any plans, specifications, and other information required by the City. A permit and inspection fee shall be paid to the City at the time the application is filed.
- (b) A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the City and the ~~State Department of Health~~ DEQ. The City shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the City when the work is ready for final inspection, and before any underground portions are covered.
- (c) City permits issued for private wastewater disposal systems in the City are issued solely to govern such construction and operation within the City as specified and, being an agreement between the property owner and the City, shall not be construed to benefit any third party.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-96. - Type, capacity, location, etc.

The type, capacities, location, and layout of a private wastewater disposal system shall comply with the recommendations and guidelines of ~~the Department of Health of the Commonwealth of Virginia~~ DEQ. No permit shall be issued for any private wastewater disposal system employing subsurface soil absorption facilities where the area of the lot is less than twenty thousand (20,000) square feet.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-97. - Operation and maintenance.

The owner shall operate and maintain private wastewater disposal facilities in a sanitary manner at all times in accordance with City and State criteria, at no expense to the City.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-98. - Septic tanks and cesspools not to discharge into natural outlets.

No septic tank or cesspool shall be permitted to discharge into any natural outlet.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-99. - Connection to public sewer and abandonment of private facilities.

At such time as a public sewer becomes available within three hundred (300) feet of the property line of a property served by a private wastewater disposal system, as provided by ~~section~~ Sec. 34-7 and malfunction or failure of the private system occurs, a direct connection shall be made to the public sewer within sixty (60) days in compliance with this chapter, and any septic tanks, cesspools, and similar private wastewater disposal facilities shall be abandoned, cleaned of sludge, and filled with suitable material.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-100. - Additional requirements.

No provision of this article shall be construed to interfere with any additional requirements that may be imposed by other local, state, or federal laws and regulations.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-101. - Effective date.

This chapter shall be in full force and effect immediately following its passage, approval, and publication, as provided by law.

(Ord. No. 2005-05.04, 5-17-05)

Chapter 34 - SEWERS AND SEWAGE DISPOSAL^[1]

Footnotes:

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Editor's note— Ord. No. 2005-05.04, adopted May 17, 2005, amended Ch. 34 in its entirety to read as herein set out. Former Ch. 34, §§ 34-1—34-37, 34-47—34-64, 34-71—34-74, 34-79, 34-80, 34-94—34-100, pertained to similar subject matter, and derived from Ord. No. 90-2.11, § 2, adopted Feb. 6, 1990; Ord. No. 92-5.4, §§ 2—5, adopted May 7, 1992; Ord. No. 93-9.7, adopted Sept. 7, 1993; Ord. No. 93-9.9, adopted Sept. 7, 1993.

Cross reference— Director of Community Development and Engineering to have control of design and planning of sewers and treatment plants, § 2-177; building and development regulations generally, Ch. 9; storm drainage, § 9-151 et seq.; erosion and sediment control, Ch. 13; garbage and refuse, Ch. 17; subdivisions, Ch. 35.5; utility services, Ch. 38; zoning, Ch. 41.

State Law reference— Authority of city to establish, maintain and operate sewage disposal systems, Code of Virginia, § 15.2-2122; authority to regulate sewage disposal, § 15.2-2157; sewage disposal generally, § 32.1-163 et seq.

ARTICLE I. - IN GENERAL

DIVISION 1. - GENERALLY

Sec. 34-1. - Objectives.

- (a) The purpose of this chapter is to regulate the use of public and private sewers and drains, private wastewater disposal, the installation and connection of building sewers, and the discharge of waste into the City's sewer system, to establish uniform requirements for direct and indirect discharges into the City's sewers, to provide for maximum beneficial public use of the City's wastewater facilities and to comply with all applicable state and federal laws including the "Clean Water Act of 1977, as amended," and the General Pretreatment Regulations (40 Code of Federal Regulations (CFR) Part 403). The objectives of this chapter are:
- (1) To prevent the introduction of harmful materials into the City's sewer system which may interfere with the collection system, treatment plant operations, sludge management program, or which will "pass through" the treatment process without adequate treatment into the receiving environment or otherwise be incompatible with the system;
 - (2) To establish administrative procedures for the approval of sewer construction plans, issuance of permits, issuance of minimum sewer connection standards, and set penalties and procedures to be followed in case of violation of this chapter;
 - (3) To enhance the opportunity for recycling, reclamation, and reuse of the wastewater treatment plant's effluent and allow continued utilization of wastewater sludges generated as a soil amendment or conditioner;
 - (4) To protect both Publicly Owned Treatment Works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
 - (5) To enable the City to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the Publicly Owned Treatment Works is subject; and
 - (6) To provide for the equitable distribution of the cost of sewer service to all users.
- (b) This chapter is intended to provide for the regulation of contributors to the municipal wastewater system through the issuance of permits to users, through enforcement of general requirements for all

users, through monitoring and enforcement activities, through user reporting requirements, and assures that existing customer's capacity will not be preempted. This chapter further provides for the setting of fees for the purpose of equitably distributing the costs of the program established herein. This chapter shall apply within the City of Danville, Virginia, and to persons outside the City who are, by contract or agreement with the City, users of the City POTW.

Except as otherwise provided herein, the City Manager, or his/her designated representative, shall administer, implement, and enforce the provisions of this chapter.

Applicable state and federal standards and limitations shall constitute the minimum standards and limitations acceptable for this chapter; however, if the standards and limitations contained in this chapter are, or become, more restrictive than federal or state standards because of special local requirements or because of changes in federal or state law, then the more restrictive standards and limitations contained herein shall apply.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-2. - General definitions.

Unless the context or usage indicates otherwise, the meaning of terms used in this chapter and not defined in Section 34-3 shall be defined as shown in the "Glossary: Water and Wastewater Control Engineering," current edition, prepared by the joint editorial board of the American Public Health Association, American Society of Civil Engineers, American Water Works Association, and Water Pollution Control Federation.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-3. - Specific definitions.

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

Act or *the Act* shall mean The Federal Water Pollution Control Act, also known as the Clean Water Act and the Water Quality Act of 1987, 33 U.S.C. 1251, et. seq.

Approval authority shall mean the Executive Director or Director of the Department of Environmental Quality of the Commonwealth.

Assistant City Manager for Utilities shall mean the person who holds that position; however, on any occasion that the Assistant City Manager for Utilities is not available through illness or other absence, or if that position is vacant or eliminated, the Director of the Division of Water and Wastewater Treatment will exercise any authority and perform any duty which, under the provisions of this chapter, is to be exercised or performed by the Assistant City Manager for Utilities.

ASTM shall mean the American Society for Testing and Materials.

Authorized representative of an industrial user shall mean:

(1) If the user is a corporation:

- a. The president, secretary, treasurer, or a vice-president of the corporation in charge of the principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
- b. The manager of one or more manufacturing, production, or 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), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

- (2) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.
- (3) If the user is a Federal, State or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
- (4) The individuals described in subsections (1) through (3), 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 is submitted to the City.

Baseline monitoring report or *BMR* shall mean a report that conforms to the provisions of 40 CFR Part 403.12(b) and contains the information and data contained therein.

Biochemical oxygen demand or *BOD₅* shall mean a standard test used in assessing sewage strength. The measure of decomposable organic material in domestic or industrial wastewater as represented by the oxygen utilized over a period of five (5) days at 20° centigrade expressed in terms of weight and concentration (milligrams per liter) (mg/l) and as determined by the appropriate procedure in "Standard Methods."

Building sewer shall mean a sewer conveying wastewater from the premises of a user to the POTW.

Categorical or pretreatment standards shall mean any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. §§ 1317) which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N parts 405—471.

CFR shall mean the Code of Federal Regulations.

City shall mean the City of Danville, Virginia, or any duly authorized official(s) acting on behalf of the City.

COD shall mean chemical oxygen demand.

Commercial user shall mean any nonresidential user not included within the definition of an "industrial user" and which is connected to the City's sewer system.

Compatible pollutant shall mean a pollutant such as biochemical oxygen demand, suspended solids and pH; or any additional pollutants identified in the POTW's VPDES permit, where the POTW is designed to treat such pollutants and, in fact, does treat such pollutants to the degree required by the POTW's VPDES permit.

Contract hauler shall mean any person that, under contract, hauls wastewater by tanker trucks to the City of Danville POTW for disposal and treatment.

Control authority shall refer to the City Manager or the Assistant City Manager for Utilities or his/her designated representative, who is granted authority herein for implementing and enforcing a state-approved pretreatment program. On any occasion that the Assistant City Manager for Utilities is not available through illness or other absence, or if that position is vacant or eliminated, the control authority shall be the Director of the Division of Water and Wastewater Treatment.

Cooling water shall mean the water discharged from any source to which the only pollutant added is heat.

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

Direct discharge shall mean the discharge of wastewater, treated or untreated, into any natural or artificial drainage system, which is not included within the definition of POTW.

Director of Water and Wastewater Treatment, referred to as Director here-in-after, is the person designated by the City to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this chapter, or a duly authorized representative.

Discharger shall mean a person who discharges wastewater into the City's POTW.

Environmental Protection Agency or *EPA* shall mean the United States Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director or other duly authorized officials of said agency.

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

Floatable oil shall mean oil, fat, or grease, in a physical state such that it floats on the surface of the wastewater.

gpd shall mean gallons per day.

Grab sample shall mean a sample, which is taken from a wastewater stream on a one time basis with no regard to the flow in the wastewater stream and over a period of time not to exceed fifteen (15) minutes.

Incompatible pollutant shall mean any pollutants other than a compatible pollutant as defined herein.

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

Industrial user shall mean any source of indirect discharge that introduces pollutants into a POTW from any nondomestic source regulated under the Act, State law, or local ordinance.

Industrial wastewater discharge permit hearing officer (hearing officer) shall mean a duly authorized agent of the City appointed by the City Manager or his/her designated representative to conduct hearings in accordance with this chapter.

Inspector shall mean a plumbing inspector, building inspector, industrial pretreatment coordinator or other person duly authorized by the City to inspect wastewater generation, conveyances, processes, pretreatment and disposal facilities that are connected to and discharge into the City's POTW.

Instantaneous maximum allowable discharge limit shall mean the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.

Interference shall mean a discharge, which alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of (the City's) NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder or any more stringent State or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research and Sanctuaries Act.

Interjurisdictional agreement shall mean a contractual agreement between the City of Danville and any other political subdivision or political subdivisions relating to the discharge of wastewater from such political subdivision(s) into the City's POTW and which provides for enforcement by such political subdivision(s) of pretreatment standards required by the City or by state or federal law. The City will administer and enforce the pretreatment standards for such political subdivision if both mutually agree to do so.

l shall mean liter.

May shall mean permissive.

Maximum permissible concentration shall mean the highest allowable constituent concentration contained in a direct or indirect discharge into the City's POTW.

Medical waste shall mean isolation waste, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

mg shall mean milligrams.

mg/L shall mean milligrams per liter.

National categorical pretreatment standard or pretreatment standard shall mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act.

National pollution discharge elimination system or NPDES permit shall mean the national pollution discharge elimination system permit program.

New source shall mean:

- (1) Any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(C) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
 - a. The building, structure, facility, or installation is constructed at a site at which no other source is located; or
 - b. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - c. The production or wastewater generating processes of the building, structure, facility, or installation is substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity, as the existing source should be considered.
- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of subsection (1)b. of this definition but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
 - a. Begun, or caused to begin as part of a continuous onsite construction program:
 1. Any placement, assembly, or installation of facilities or equipment; or
 2. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities, which is necessary for the placement, assembly, or installation of new source facilities or equipment.
 - b. 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 paragraph.

Noncontact cooling water means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

Occupant shall mean a person who is in control of or in actual possession of, or actually occupies a dwelling unit or building.

Overload means the imposition of any pollutant or other substance or hydraulic loading on the City's POTW in excess of its designed or legally authorized capacity.

Owner shall mean a person who holds legal title to a dwelling unit, building, or facility and an agent having charge, care, management or control of same.

Pass through shall mean a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the City of Danville VPDES permit including an increase in the magnitude or duration of a violation.

Person shall mean 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. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context. This definition includes all Federal, State and local government entities.

pH is a measure of the acidity or alkalinity of a solution expressed in standard units.

Pollutant shall mean any substance, radioactive material, or heat which causes or contributes to, or may cause or contribute to, pollution, including, but not limited to, dredge spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical waste, chemical waste, biological material, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt or industrial, municipal, or agricultural waste and certain characteristics of wastewater (e. g. pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

Pretreatment shall mean the reduction of the amount of pollutants, elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of introducing such pollutants into the POTW. 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 requirements shall mean any substantive or procedural requirements related to pretreatment imposed on a user other than a pretreatment standard.

Pretreatment standard or standards shall mean pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.

Prohibited discharge standards or prohibited discharges shall mean absolute prohibitions against the discharge of certain substances; these prohibitions appear in section 34-11.

Publicly owned treatment works or POTW means a "treatment works," as defined by Section 212 of the Act (33 U.S.C. §1292) which is owned by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

POTW treatment plant shall mean that portion of the POTW designed to provide treatment to wastewater.

Radiation shall mean emission of gamma and x-rays, alpha and beta particles, high speed electrons, neutrons, protons, and other nuclear particles, but not sound or radio waves or visible, infrared or ultraviolet light.

Radioactive material shall mean any material, solid, liquid, or gas that emits radiation spontaneously.

RCRA shall mean Resource Conservation and Recovery Act.

Residential user shall mean a user who discharges wastewater from premises used only for human residency, which is served by the City's sewer system.

Septic tank waste means sewage from holding tanks such as vessels, chemical toilets, campers, trailers and septic tanks.

Sewage means human excrement and gray water (household showers, dishwashing operations, etc.).

Sewer or sewer system shall mean that portion of the POTW designed to convey wastewater to the POTW treatment plant.

Shall shall mean mandatory.

Significant industrial user shall mean:

- (1) A user subject to categorical pretreatment standards; or
- (2) A user that:
 - a. Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);
 - b. Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
 - c. Is designated as such by the City of Danville on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.
- (3) Upon a finding that a user meeting the criteria in subsection (2) has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the City of Danville may, at any time, on its own initiative or in response to a petition received from a user and in accordance with procedures in 403.8(f)(6), determine that such user should not be considered a significant industrial user.

Significant noncompliance shall mean any violation of this chapter, which meets one (1) or more of the following criteria:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of all of the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;
- (2) Technical review criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);
- (3) Any other violation of a pretreatment effluent limit (daily maximum or long term average) that the Control Authority determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);
- (4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or to the environment or has resulted in the POTW's exercise of its emergency authority under 40 CFR 403.3 to halt or prevent such a discharge;
- (5) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
- (6) Failure to provide, within thirty (30) days after the due date, required reports such as baseline monitoring reports, ninety-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (7) Failure to accurately report noncompliance; and

- (8) Any other violation or group of violations, which the Control Authority determines, will adversely affect the operation or implementation of the local pretreatment program.

Slug shall mean any discharge of water, sewage, or industrial wastes which, in concentration of any given constituent or in quantity of flow, exceeds for any period of duration longer than fifteen (15) minutes, five (5) times the average twenty-four (24) hours concentration or flows during normal operating level or which adversely affects the wastewater system.

Soluble oil shall mean oils, which are either of mineral or vegetable origin and disperse in water or sewage at temperatures of 32°F to 104°F (0°-40°C). For the purposes of this chapter, emulsified oil shall be considered as soluble oil.

Standard industrial classification (SIC) shall mean a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987, or any amended or revised edition thereof.

Standard methods shall mean the publication, entitled "Standard Methods for the Examination of Water and Wastewater," current edition available from the American Public Health Association.

State shall mean the Commonwealth of Virginia.

Storm sewer or storm drain shall mean a sewer or drain designed, constructed, and intended to carry storm and surface waters and drainage, but not sewage or polluted industrial wastes.

Storm water shall mean any flow occurring during or following any form of natural precipitation and resulting from such precipitation, including snowmelt.

Strong waste shall mean any wastewater containing more than three hundred (300) milligrams per liter of BOD or more than three hundred (300) milligrams per liter of suspended solids or other characteristics in concentrations not normally found in wastewater from residential or commercial buildings.

Suspended solids shall mean solids that either float on the surface of, or are in suspension in, water, sewage, or other liquids; and which are largely removed by laboratory filtering as determined by the appropriate procedure in "Standard Methods".

Toxic substances shall mean any substance whether gaseous, liquid, or solid, which when discharged into the wastewater system in sufficient quantities may tend to interfere with any wastewater treatment process, or to constitute a hazard to human beings or animals, or to inhibit aquatic life or create a hazard to recreation in the receiving waters of the effluent from the wastewater plant. These substances include but are not limited to those listed as toxic in regulations promulgated by the EPA under the provisions of Section 307(a) of the Act or other state or federal law.

Toxics shall mean any of the pollutants designated by federal regulations pursuant to Section 307(a)(1) of the Act and any substances, whether gaseous, liquid, or solid, which when discharged to the sewer system in sufficient quantities interferes with any sewage treatment process, materially increases the cost of treatment, constitutes a hazard to any beneficial use ascribed to the receiving waters of the effluent from the POTW treatment plant or facility, including recreation, causes a hazard to any portion of the sewage system, constitutes a hazard to fish or animal life or interferes with sludge disposal.

Trade secrets shall mean, but not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented, which is known only to certain individuals within a commercial concern who are using it to fabricate or produce a compound, an article of trade or a service having commercial value, and which gives its users an opportunity to obtain a business advantage over competitors who do not know or use it.

TSS shall mean total suspended solids.

Unpolluted water shall mean water of quality equal to or better than the effluent criteria in effect for the POTW treatment plant or water that would not cause violation of receiving water quality standards and would not be benefited by treatment by the POTW treatment plant.

U.S.C. shall mean the United States Code.

User shall mean any person who contributes, causes, or permits the contribution of wastewater into the City's POTW.

User permit shall mean a document issued by the City to the user that permits the connection or introduction of waste into the City's sewer system under the provisions of this chapter. *Virginia Pollution Discharge Elimination System* or *VPDES Permit* shall mean a permit issued pursuant to Section 402 of the Act in the Commonwealth of Virginia who has been delegated administration authority of the NPDES permit system for Virginia.

Wastewater consists of liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

Wastewater treatment plant or *treatment plant* shall mean that portion of the POTW, which is designed to provide treatment of municipal sewage and industrial waste.

Waters of the State shall mean all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the State or any portion thereof.

Water pollution control facilities shall mean all facilities for collecting, pumping, transporting, treating, and disposing of wastewater.

WEF or *Water Environment Federation* shall mean the Water Environment Federation, Incorporated.

WPCF or *Water Pollution Control Federation* shall mean the Water Pollution Control Federation, Incorporated.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-4. - Classes of permits under chapter.

Four (4) classes of permits shall be issued by the City pursuant to this chapter and the Uniform Statewide Building (BOCA) Code. Permit application forms will be provided by the City and permits issued for the installation of the following:

- (1) Private wastewater disposal systems;
- (2) Residential, commercial, or small industrial users other than significant industrial users;
- (3) Significant industrial users; and
- (4) Contract haulers.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-5. - False or misleading representations under chapter.

Any person who gives any false or misleading representation to the City under the provisions of this chapter shall be guilty of a Class 1 misdemeanor.

(Ord. No. 2005-05.04, 5-17-05)

Cross reference— Penalty for a Class 1 misdemeanor, § 1-11.

Sec. 34-6. - Unlawful disposal of excrement, wastewater, etc., generally.

- (a) It shall be unlawful for any person to place, deposit, or permit to be deposited, in any unsanitary manner on public or private property within the City or in any area under the jurisdiction of the City, any human or animal excrement or other objectionable waste.
- (b) It shall be unlawful for any person to discharge, in any area under the jurisdiction of the City, any wastewater or other polluted waters, except into the City's POTW unless otherwise authorized by the provisions of this chapter or by an approved VPDES permit.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-7. - Mandatory sewer connections.

- (a) Except as otherwise provided in this chapter, it shall be unlawful for any person to construct, repair, or maintain any privy, privy vault, septic tank, cesspool, tile field, or other facility intended to be used or used in lieu of a public sewer.
- (b) The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the City and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the City, is hereby required, at the owner's expense, to install toilet facilities as required by the Virginia Uniform Statewide Building Code, plumbing code section, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter, within sixty (60) days after the date of official notice to do so, provided the public sewer is within three hundred (300) feet of the property line. Exceptions shall be allowed where private wastewater disposal systems existing on February 1, 1984, are being used and are in good operating condition in compliance with State Department of Health regulations. When such private wastewater disposal systems fail to operate satisfactorily or cease to be in compliance with State Department of Health regulations, the building sewer served by the private system shall be connected to the public sewer.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-8. - Permit to uncover, connect to, etc., sewers generally.

No unauthorized person shall uncover, make any connection with or opening into, or use, alter or disturb, any public sewer or appurtenance thereof without first obtaining a written permit from the City.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-9. - Limitation on issuance of sewer connection permit.

The City shall not issue a permit for any class of connection to the City's sewer and wastewater treatment facilities unless there is sufficient capacity, not legally committed to other users, in the POTW to convey and adequately treat the quantity of wastewater, which the requested connection will add to the system. The City may permit such a connection if there are legally binding commitments to provide the needed capacity.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-10. - Damaging, defacing, etc., property of sewer system or wastewater treatment facilities.

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the City's POTW. Any person violating this section causing damage up to one thousand dollars (\$1,000.00) shall be guilty of a Class 1

misdemeanor. Any damage over one thousand dollars (\$1,000.00) shall be charged appropriately through the Commonwealth Attorney's office.

(Ord. No. 2005-05.04, 5-17-05)

Cross reference— Penalty for a Class 1 misdemeanor, § 1-11.

Sec. 34-11. - Prohibited discharge standards.

- (a) *General prohibitions.* No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater that causes pass through, interference or violation of any applicable water quality standard. These general prohibitions apply to all users of the POTW whether or not they are subject to National Categorical Pretreatment Standards or any other National, State, or local pretreatment standards or requirements.
- (b) *Specific prohibitions.* No user shall introduce or cause to be introduced into the POTW the following substances, or wastewater:
 - (1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquids, solid, or gas, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using test methods specified in 40 CFR 261.21;
 - (2) Solid or viscous substances in amounts, which will cause obstruction of the flow in the POTW resulting in interference (but in no case solids greater than one-half-inch ($\frac{1}{2}$) or one and three-tenths centimeter(s) (1.3 cm) in any dimension);
 - (3) Wastewater having a pH less than five (5.0) s.u. or otherwise causing corrosive structural damage to the POTW or equipment or causing upsets to the treatment processes;
 - (4) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;
 - (5) Noxious or malodorous liquids, gases, solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair;
 - (6) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process where the POTW is pursuing a reuse and reclamation program. In no case, shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines, or regulations developed under Section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State criteria applicable to the sludge management method being used;
 - (7) Wastewater having a temperature greater than 150°F (65°C); or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C);
 - (8) Any wastewater, which causes a hazard to human life or creates a public nuisance;
 - (9) Any petroleum oil, nonbiodegradable cutting oil or products of mineral oil origin in amounts exceeding one hundred (100) mg/L or that will cause interference or pass through;
 - (10) Pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems;

- (11) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye, wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the City's NPDES permit;
 - (12) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State and Federal law requirements;
 - (13) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the Assistant City Manager for Utilities;
 - (14) Sludge, screenings, or other residues from the pretreatment of industrial wastes;
 - (15) Medical wastes, except as specifically authorized by the Director in a wastewater discharge permit;
 - (16) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
 - (17) Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;
 - (18) Wastewater causing two (2) readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than twenty-five (25) percent or any single reading over fifty (50) percent of the lower explosive limit of the meter;
 - (19) No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Assistant City Manager for Utilities may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements or in other cases when the imposition of mass limitations is appropriate.
 - (20) Trucked or hauled pollutants, except at discharge points designated by the Assistant City Manager for Utilities in accordance with section 34-20.
- (c) *Violations.* Any person violating this section shall be referred to the appropriate state or federal agency for criminal charges and shall be guilty of at least a Class 1 misdemeanor. Each day any violation of this section continues shall constitute a separate offense.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-12. - Limited discharges.

- (a) The following described substances, materials, waters, or waste shall be limited in discharges into the City's sewers to concentrations or quantities which will not harm the sewers or wastewater treatment facilities, will not have an adverse effect on the receiving stream and will not otherwise endanger public property or constitute a nuisance:
- (1) Strong waste as defined in this chapter.
 - (2) Waste containing non-biodegradable fats, wax, grease or oils, whether emulsified or not, or containing substances which may precipitate, solidify, or become viscous at temperatures between 50°F and 104°F (10°C and 40°C).
 - (3) Waste containing garbage that has been properly shredded so it will pass through a one-half-inch screen.
 - (4) Materials which exert or cause:

- a. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues), or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
 - b. Excessive discoloration (such as, but not limited to, dye waste and vegetable tanning solutions).
 - c. Unusual BOD or COD in such quantities that may upset the City's wastewater treatment processes.
 - d. Unusual volume of flow or concentration of wastes constituting slugs.
 - e. Unusual amounts of scum, and/or foam that may interfere with the operation of the City's wastewater treatment facilities or cause undo additional labor in connection with handling the substance.
 - f. Use of excessive quantities of chlorine to be used for stabilization in addition to biological treatment. The amount of excess demand will be determined by comparing the chlorine demand of the waste in question with the average chlorine demand of all other waste entering the plant.
- (5) Overflow from holding tanks or other receptacles storing organic waste, septic tank waste, and other waste from contract haulers.
 - (6) Caustic wastes having a high pH, which causes damage to the sewer system or causes the treatment plant influent pH to exceed 10.0 s.u.
 - (7) Industrial wastewater discharges containing substances subject to an applicable federal categorical pretreatment standard. Upon the promulgation of federal categorical pretreatment standards for a particular industrial subcategory, such standard, if more stringent than limitations imposed under this chapter, shall supersede the local limitations of this chapter. The City shall notify all affected users of the applicable reporting requirements under 40 CFR 403.12. Compliance with a categorical pretreatment standard for new sources shall be required upon initiation of discharge or in accordance with the provisions of the state or federal law or regulations establishing the more stringent categorical pretreatment standard.
 - (8) Concentrations of constituents listed in local limits established by the City in accordance with EPA guidance manuals and procedures for developing local discharge limits for a pretreatment program. Such discharge limits promulgated by the City may be modified from time to time when deemed necessary to comply with the objectives of this chapter.
- (b) The EPA or the State may set more stringent limitations if more severe limitations are necessary to meet the water quality standards of the receiving stream of the wastewater treatment facility discharge. In that event, the most restrictive limitations shall apply.
 - (c) Any person violating this section shall be referred to the appropriate state or federal agency for criminal charges. If no criminal charges are assessed, then they shall be guilty of a Class 1 misdemeanor. Each day any violation of this section shall continue shall constitute a separate offense.

(Ord. No. 2005-05.04, 5-17-05)

Cross reference— Penalty for a Class 1 misdemeanor, § 1-11.

Sec. 34-13. - POTW pretreatment program requirements.

A POTW pretreatment program must be based on the following legal authority and include the following procedures. These authorities and procedures shall at all times be fully and effectively exercised and implemented.

- (a) *Legal authority.* The POTW shall operate pursuant to legal authority enforceable in federal, state or local courts, which authorizes or enables the POTW to apply and to enforce the requirements of Sections 307(b), (c) and (d), and 402(b)(8) of the CWA and any regulations implementing those sections. Such authority may be contained in a statute or ordinances, which the POTW is authorized to enforce and which are authorized by state law. At a minimum, this legal authority shall enable the POTW to:
- (1) Deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, to the POTW by Industrial Users where such contributions do not meet applicable pretreatment standards and requirements or where such contributions would cause the POTW to violate its VPDES permit;
 - (2) Require compliance with applicable pretreatment standards and requirements by industrial users;
 - (3) Control through permit, or order the contribution to the POTW by each industrial user to ensure compliance with applicable pretreatment standards and requirements. In the case of industrial users identified as significant 40 CFR 403.3(t), this control shall be achieved through permits or equivalent individual control mechanisms issued to each such user. Such control mechanisms must be enforceable and contain, at a minimum, the following conditions:
 - a. Statement of duration (in no case more than five (5) years);
 - b. Statement of non-transferability without, at a minimum, prior notification to the POTW and provision of a copy of the existing control mechanism to the new owner or operator;
 - c. Effluent limits based on applicable general pretreatment standards in this part, categorical pretreatment standards, local limits, and the law;
 - d. Self-monitoring, sampling, reporting, notification and record keeping requirements, including an identification of the pollutants to be monitored, sampling location, sampling frequency, and sample type, based on the applicable general pretreatment standards in this part, categorical pretreatment standards, local limits, and the law;
 - e. Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements;
 - f. Any applicable compliance schedules, which may not extend beyond applicable federal deadlines;
 - (4) Require:
 - a. The development of a compliance schedule by each industrial user for the installation of technology required to meet applicable pretreatment standards and requirements.
 - b. The submission of all notices and self-monitoring reports from industrial users as are necessary to assess and assure compliance by industrial users with pretreatment standards and requirements, including but not limited to the reports required in subsection 34-50(a)(2);
 - (5) Carry out all inspection, surveillance and monitoring procedures necessary to determine, independent of information supplied by industrial users, compliance or noncompliance with applicable pretreatment standards and requirements by industrial users. Representatives of the POTW shall be authorized to enter at reasonable times any premises of any industrial user in which a discharge source or treatment system is located or in which records are required to be kept under subsection 34-50(m) to assure compliance with pretreatment standards. The Assistant City Manager for Utilities shall have the right to set up on the industrial user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations. Such authority shall be at least as extensive as the authority provided under Section 308 of the CWA;

- (6) Obtain remedies for noncompliance by any industrial user with any pretreatment standard and requirement. All POTW's shall be able to seek injunctive relief for non-compliance by industrial users with pretreatment standards and requirements. All POTWs shall also have authority to seek or assess civil or criminal penalties in at least the amount of one thousand dollars (\$1,000.00) a day for each violation by industrial users of pretreatment standards and requirements. Pretreatment requirements which will be enforced through the remedies set forth in this subsection, will include but not be limited to, the duty to allow or carry out inspections, entry, or monitoring activities; any rules, regulations, or orders issued by the POTW; any requirements set forth in individual control mechanisms issued by the POTW; or any reporting requirements imposed by the POTW or this part. The POTW shall have authority and procedures (after informal notice to the discharger) to immediately and effectively halt or prevent any discharge of pollutants to the POTW which reasonably appears to present an imminent endangerment to the health or welfare of persons. The POTW shall also have authority and procedures (which shall include notice to affected industrial users and an opportunity to respond) to halt or prevent any discharge to the POTW which presents or may present an endangerment to the environment or which threatens to interfere with the operation of the POTW. The Director of DEQ shall have authority to seek judicial relief and may also use administrative penalty authority when the POTW has sought a monetary penalty which the Director of DEQ believes to be insufficient;
 - (7) Comply with the requirements to maintain the confidentiality of any information submitted to the pretreatment program by an industrial user that may be claimed as secret formulae, secret processes or secret methods. Industrial user effluent data may not be claimed to be confidential.
- (b) *Procedures.* The POTW shall develop and implement procedures to ensure compliance with the requirements of a pretreatment program. At a minimum, these procedures shall enable the POTW to:
- (1) Identify and locate all possible industrial users, which might be subject to the POTW pretreatment program. Any compilation, index or inventory of industrial users made under this paragraph shall be made available to the Regional Administrator or DEQ upon request;
 - (2) Identify the character and volume of pollutants contributed to the POTW by the industrial users identified under subsection (b)(1) above. This information shall be made available to the Regional Administrator or DEQ upon request;
 - (3) Notify industrial users identified under subsection (b)(1) above, of applicable pretreatment standards and any applicable requirements under Sections 204(b) and 405 of the CWA and Subtitles C and D of the Resource Conservation and Recovery Act. Within thirty (30) days of approval of a list of significant industrial users, notify each significant industrial user of its status as such and of all requirements applicable to it as a result of such status;
 - (4) Receive and analyze self-monitoring reports and other notices submitted by industrial users in accordance with the self-monitoring requirements stated in their permits;
 - (5) Randomly sample and analyze the effluent from industrial users and conduct surveillance activities in order to identify, independent of information supplied by industrial users, occasional and continuing noncompliance with pretreatment standards. Inspect and sample the effluent from each significant industrial user at least once a year. Evaluate, at least once every two (2) years, whether each such significant industrial user needs a plan to control slug discharges. For purposes of this subsection, a slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or non-customary batch discharge. The results of such activities shall be available to DEQ upon request. If the POTW decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:
 - a. Description of discharge practices, including non-routine batch discharges;

- b. Description of stored chemicals;
 - c. Procedures for immediately notifying the POTW slug discharges, including any discharge that would violate a prohibition listed in subsection 34-11(b), with procedures for follow-up written notification within five (5) days;
 - d. If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment necessary for emergency response;
- (6) Investigate instances of noncompliance with pretreatment standards and requirements, as indicated in the reports and notices required by the industrial users' permits, or indicated by analysis, inspection, and surveillance activities. Sample taking and analysis and the collection of other information shall be performed with sufficient care to produce evidence admissible in enforcement proceedings or in judicial actions;
 - (7) Comply with the public participation requirements of the Code of Virginia and 40 CFR Part 25 (1995) in the enforcement of national pretreatment standards. section 34-53 includes the criteria for enforcement.
- (c) *Funding.* The POTW shall have sufficient resources to carry out the authorities and procedures described in subsections (a) and (b) herein.
 - (d) *Local limits.* The POTW shall develop local limits as necessary to prevent pollutants from industrial users to pass through the treatment works, cause interference of the plant's operation or violation of water quality standards by the POTW. Current influent, effluent and sludge data shall be used to develop the local limits if they should be necessary.
 - (e) *Enforcement response plan.* The POTW shall develop and implement an enforcement response plan. This plan shall contain detailed procedures indicating how a POTW will investigate and respond to instances of industrial user noncompliance.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-14. - National categorical pretreatment standards.

The categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405—471 are hereby incorporated.

- (a) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater the Assistant City Manager for Utilities may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
- (b) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Assistant City Manager for Utilities shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).
- (c) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.
- (d) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-15. - Grease, oil and sand interceptors.

- (a) Grease, oil, and sand interceptors shall be provided when they are necessary for the proper handling of liquid wastes containing grease or any flammable wastes, sand, or other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the City and shall be located so as to be readily and easily accessible for cleaning and inspection. In maintaining the interceptors, the owner shall be responsible for the proper removal and disposal by appropriate means, of the captured materials and shall maintain records of disposal, which shall be subject to review by the City. Any removal and hauling of collected materials not performed by the owner's personnel must be performed by licensed waste disposal firms. Inspection and reviews of operating and maintenance records for these facilities shall be performed by the City's sanitary sewer maintenance supervisors and other authorized City inspectors.
- (b) Any person violating this section shall be guilty of a Class 3 misdemeanor.

(Ord. No. 2005-05.04, 5-17-05)

Cross reference— Penalty for a Class 3 misdemeanor, § 1-11.

Sec. 34-16. - City's alternatives as to limited discharges.

- (a) When any wastewater containing substances or characteristics which have or potentially will have a deleterious effect upon the City's POTW, or receiving waters, or which constitutes a public nuisance or hazard, is discharged or proposed for discharge into the City's POTW, the City may deny or condition the discharge as follows:
 - (1) Require pretreatment by the user of the discharge to a condition acceptable for discharge into the City's POTW.
 - (2) Require control over the quantities and rates of discharge.
 - (3) Require a special contract for handling and payment to cover added cost of handling and treating the wastewater not covered by existing fees or charges.
 - (4) Require the development and submission of a compliance schedule to meet any applicable pretreatment requirements.
 - (5) Require the submission of reports necessary to assure compliance with applicable pretreatment requirements.
 - (6) Require the inspection, surveillance, and monitoring necessary to determine compliance with applicable pretreatment requirements.
 - (7) Reject the wastewater if evidence discloses that the discharge will create unreasonable hazards or have unreasonable deleterious effects on the POTW. Pursue remedies for noncompliance by any user, which may include injunctive relief with the civil penalties specified in this chapter or appropriate criminal penalties and fines.
- (b) When discharge restrictions, discharge limits or pretreatment standards pursuant to this chapter are established as concentration limits to be met by a user, the City in lieu of concentration limits, may establish mass limits to comparable stringency for an individual user at the request of such user or as necessary to protect City facilities.
- (c) When considering the above alternatives, the City shall evaluate cost effectiveness, the economic impact of the alternatives and the willful noncompliance of the discharger.
- (d) The City shall encourage the conservation of water and energy. In establishing discharge restrictions upon users, the City shall take into account already implemented or planned conservation steps revealed by the user.

- (e) If a special contract for handling an industrial waste is required pursuant to this section, it will be subject to Council approval and provide for such charges as may be agreed upon to compensate the City for the cost of handling the particular waste treatment needs of the industry. Contracting for treatment of industrial waste shall be considered only after such testing and examination as required to determine the nature and volume of the waste to be treated. The contract will take into consideration the requirements of the particular industry and the acceptability to the City and the Department of Environmental Quality (DEQ) of such waste. Such contracts shall not waive federal categorical pretreatment requirements.
- (f) The following pollutants, at a minimum, must be considered for all industrial dischargers: total recoverable arsenic, BOD₅, total recoverable cadmium, total recoverable chromium, total recoverable copper, cyanide, total recoverable lead, total mercury, total recoverable nickel, oil and grease, total recoverable silver, total suspended solids and total recoverable zinc.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-17. - City's right of revision.

The City reserves the right to establish by amendment of this chapter, more stringent limitations or requirements on discharges to the City's POTW if deemed necessary to comply with the objectives set forth in section 34-1.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-18. - Notification.

All users of the City sewer system shall notify the POTW treatment plant immediately, by telephone or in person, of any wastewater discharges that may cause potential problems for the City's POTW. This includes non-routine discharges, non-customary batch discharges, and slug discharges. Such notification shall include the location of discharge, type of waste, concentration of pollutants, volume, and corrective actions taken or proposed to stop violation.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-19. - Accidental discharge/slug control plans.

At least once every two (2) years, the Assistant City Manager for Utilities shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. Alternatively, the Assistant City Manager for Utilities may develop such a plan for any user. An accidental discharge/slug control plan shall address, at a minimum, the following:

- (a) Description of discharge practices, including nonroutine batch discharges;
- (b) Description of stored chemicals;
- (c) Procedures for immediately notifying the Assistant City Manager for Utilities of any accidental or slug discharge, as required by section 34-18 and subsection 34-50(f)(1) herein; and
- (d) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-20. - Contract haulers.

Any person engaging in the activities permitted by this section shall be referred to as contract haulers. Contract haulers shall be permitted to empty septic tank sludge or wastes from chemical toilets into the POTW at the designated structure located at the City of Danville Northside Treatment Plant. This discharge is subject to the following limitations and conditions:

- (a) The contract hauler must apply for and receive a truck discharge permit from the City. All applicants for a truck discharge permit shall complete such forms as required by the City, pay any appropriate fees and agree in writing to abide by the provisions of this chapter and any special conditions or regulations established by the City. Such permits shall be valid for a period of two (2) years from the date of issuance provided that such permit shall be subject to revocation by the City for violation of any provisions of this chapter or any other regulation established by the City. If the contract hauler is hauling wastewater from a significant industrial user, the permit must specifically authorize the discharge of such wastewater into the City's POTW. Such permission shall not be granted unless the significant industrial user has also obtained a separate discharge permit. Otherwise, such permits shall be limited to the discharge of domestic sewage waste containing no industrial waste. The City may refuse to accept any truckload of waste when it appears that the waste could interfere with the effective operation of the POTW.
- (b) The contract hauler must dump or empty all wastes only at the designated structure at the City of Danville Northside POTW and must keep this area maintained and clean.
- (c) The contract hauler must provide accurate and complete information as to the origin of the septic tank waste, by use of a manifest.
- (d) Any discharge of any waste other than the domestic type from a septic tank is forbidden without special permission from the City and only after laboratory analysis of the waste. The cost of the laboratory analyses shall be paid by the contract hauler.
- (e) Spot checks of septic tank wastes shall be made at the discretion of the City and laboratory analyses performed. Should any waste be found in violation of this chapter, the following civil penalties may be assessed the contract hauler.
 - (1) First Offense—\$100.00 civil penalty
 - (2) Second Offense—\$250.00 civil penalty
 - (3) Third Offense—Permission to discharge septic tank wastes into the POTW shall be revoked.
- (f) A contract hauler may apply to the City to regain permission to dump septic tank wastes. Any such permission shall be subject to the condition that all septic tank waste be checked and analyzed until the City is satisfied that no more violations are likely to occur. The cost of the laboratory analyses shall be paid by the contract hauler.
- (g) No permit shall be required to discharge domestic waste from a recreation vehicle holding tank provided such discharge is made at the approved site at the Northside City of Danville POTW.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-21. - Resource Conservation and Recovery Act notices.

The City shall give notice to all "significant industrial users" of its POTW that they possibly have special reporting and compliance requirements under the Resource Conservation and Recovery Act (RCRA).

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-22. - Users of other sewer systems.

The provisions of articles I, III and IV of this chapter, except for sections 34-7, 34-8, 34-9, and 34-79 shall be applicable to persons who discharge wastewater into the Pittsylvania County Service Authority's sewer system or the sewer system owned, operated, and maintained by Caswell County, North Carolina, which is ultimately received into the City's POTW for treatment.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-23. - Other political subdivisions which discharge wastewater into the City's POTW.

It shall be unlawful for any political subdivision owning, operating, and maintaining a sewer system which discharges wastewater into the City's POTW for treatment to permit or allow any user of that system to discharge wastewater into that sewer system in violation of the provisions of any user permit issued jointly with the City, in violation of the applicable provisions of this chapter, or contrary to the provisions of any agreement between such political subdivision and the City.

(Ord. No. 2005-05.04, 5-17-05)

DIVISION 2. - ENFORCEMENT

Sec. 34-24. - Administrative enforcement penalties.

- (a) Whenever the Assistant City Manager for Utilities finds that any significant industrial user has violated or is violating this chapter or a user permit or order issued hereunder the Assistant City Manager for Utilities or his agent may serve upon said user, written notice of the violation. Within fourteen (14) days from the receipt date of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the Assistant City Manager for Utilities. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation.
- (b) The Assistant City Manager for Utilities is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the significant industrial user responsible for the non-compliance. Such orders will include specific action to be taken by the significant industrial user to correct the noncompliance within a time period also specified by the order. Consent order shall have the same force and effect as administrative orders.
 - (1) The Assistant City Manager for Utilities may order any significant industrial user, which causes or contributes to violation of this chapter or order or user permit issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and date for the hearing, the proposed enforcement action and 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 hearing shall be served personally or by registered or certified mail (return receipt requested) at least fourteen (14) days prior to the hearing. Such notice may be served on any principal executive, general partner, or corporate officer of the significant user. In the event a duly notified significant industrial user does not appear as noticed immediate enforcement action may be pursued.
 - (2) At any hearing held pursuant to this chapter, testimony taken must be under oath and either audio or stenographically recorded. The transcript, so recorded, will be made available to any party of the hearing, and any member of the public upon payment of the usual charges thereof.
- (c) When the Assistant City Manager for Utilities finds that a significant industrial user has violated or continues to violate the chapter or a user permit or order issued thereunder, he may issue an order to the significant industrial user responsible for the discharge directing that, following a specified time period, wastewater treatment service for that user shall be discontinued unless adequate treatment

facilities, devices, or other related appurtenances have been installed and are properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring, and management practices.

- (d) When the Assistant City Manager for Utilities finds that a significant industrial user has violated or continues to violate this chapter or those (restrictions) contained in any user permit issued hereunder, the Assistant City Manager for Utilities may issue an order to cease and desist, all such violations, and direct those persons in noncompliance to:
 - (1) Comply forthwith.
 - (2) Comply in accordance with a compliance time schedule set forth in the order.
 - (3) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.
- (e) Any significant industrial user who is found to have violated any provision of this chapter, or the orders and permits issued hereunder, may be fined at least one thousand dollars (\$1,000.00) a day for each violation. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation. Such assessments may be added to the user's next scheduled sewer service charge and the Assistant City Manager for Utilities shall have such other collection remedies as he has to collect other service charges.
 - (1) The Assistant City Manager for Utilities may suspend the wastewater treatment service and/or a user permit whenever such suspension is necessary in order to stop an actual or threatened discharge presenting or causing any of the following conditions:
 - a. An imminent or substantial endangerment to the health or welfare of persons, or the environment.
 - b. An interference or pass through.
 - c. A violation of any condition of the POTW's VPDES permit.
 - (2) Any significant industrial user notified of a suspension of the wastewater treatment service and/or the user permit should immediately stop or eliminate its contribution. A hearing will be held within fifteen (15) days of the notice of suspension to determine whether the suspension may be lifted or the significant industrial user permit terminated. In the event of a failure of the significant industrial user to comply voluntarily with the suspension order, the Assistant City Manager for Utilities shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the City's POTW or endangerment to any individuals. The Assistant City Manager for Utilities shall reinstate the user permit and/or the wastewater treatment service upon proof of the elimination of the noncomplying discharge.
 - (3) A significant industrial user which is responsible, in whole or in part, for imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the Assistant City Manager for Utilities prior to the date of the hearing described in subsection (e)(2) above.
- (f) Any user who violates the following conditions of this chapter, user permit, order, or any applicable State or Federal law or regulation, is subject to user permit termination.
 - (1) Failure to accurately report the wastewater constituents and characteristics of its discharge;
 - (2) Failure to report significant changes in operations or wastewater constituents and characteristics;
 - (3) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling, and
 - (4) Intentional violation of permit conditions;

- (5) Failure of the user to pay any and all costs or charges authorized by the provisions of this chapter.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-25. - Remedies.

- (a) If any person discharges sewage, industrial wastes or other wastes into the City's POTW contrary to the provisions of this chapter or any order or user permit issued hereunder, the Assistant City Manager for Utilities, through the City Attorney, may commence an action for appropriate legal and/or equitable relief in the Circuit Court for the City of Danville, Virginia, or any other court having jurisdiction.
- (b) Whenever a significant industrial user has violated or continues to violate the provisions of this chapter or an order or user permit issued hereunder the Assistant City Manager for Utilities, through the City Attorney, may request the appropriate court to issue a preliminary or permanent injunction, or both (as may be appropriate) which restrains or compels the activities on the part of the significant industrial user. In the event the Assistant City Manager for Utilities chooses to correct the violation himself, the cost of such correction may be added to the next scheduled sewer service charge payable by the person(s) causing the violation. The Assistant City Manager for Utilities shall have such remedies to collect these fees, as it has to collect other sewer service charges.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-26. - Civil penalties.

- (a) Any significant industrial user who has violated or continues to violate this chapter or any order or user permit issued hereunder, shall be liable for a civil penalty of at least one thousand dollars (\$1,000.00) and not more than ten thousand dollars (\$10,000.00), plus actual damages incurred by the POTW, per violation per day for as long as the violation(s) continues. In addition to the above described penalty and damages, the Assistant City Manager for Utilities may recover reasonable attorney's fees, court costs, and other expenses, his enforcement activities, including special sampling and monitoring expenses.
- (b) The Assistant City Manager for Utilities shall petition the court to impose, assess, and recover such sums. In determining amount of liability, the court shall take into account all relevant circumstances, including, but not limited to, the magnitude, and duration, any economic benefit gained through the significant industrial user's violation, corrective actions by the significant industrial user, the compliance history of the user, and any other factors as justice requires.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-27. - Criminal violations.

- (a) *Violations; generally.* Any significant industrial user who willfully or negligently violates any provision of this chapter, or any order, or user permit issued hereunder shall, upon conviction, be guilty of up to a Class 1 misdemeanor punishable by a fine of at least one thousand dollars (\$1,000.00). Any second or subsequent violation shall constitute a Class 1 misdemeanor.
- (b) *Violations; continuing.* Each day any violation described in subsection (a) continues shall constitute a separate offense.
- (c) *Falsifying information.* Any significant industrial user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other document filed or required to be maintained pursuant to this chapter, or user permit, or who falsifies, tampers with, or

knowingly renders inaccurate any monitoring device or method required under this chapter shall, upon conviction, be punishable by a fine of at least one thousand dollars (\$1,000.00) per violation and be guilty of a Class 1 misdemeanor.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-28. - Annual publication of significant violations and significant non-compliance.

The Assistant City Manager for Utilities shall publish, at least annually, in the largest daily newspaper circulated in the service area, the names of those significant industrial users which are found to be in significant violation and significant noncompliance, as defined in sections 34-3 and 34-52 of this chapter, with any provisions of this chapter or any order or permit issued hereunder during the period since the previous publication.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-29. - Water supply severance.

Whenever a significant industrial user has violated or continues to violate the provisions of this chapter or an order or user permit issued hereunder, water service to the significant industrial user may be severed and service will only recommence, at the user's expense, after it has satisfactorily demonstrated consistent compliance.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-30. - Operating upsets.

- (a) Any significant industrial user which experiences an upset in operations that places it in a temporary state of noncompliance, which is not the result of operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation, shall inform the Assistant City Manager for Utilities thereof immediately upon first awareness of the upset. Where such information is given orally, the user thereof shall file a written report within five (5) days. The report shall contain:
 - (1) A description of the upset, its cause(s) and impact on the discharger's compliance status;
 - (2) The duration of noncompliance, including exact dates and times of noncompliance, and if the noncompliance is continuing, the time by which compliance is reasonably expected to be restored;
 - (3) All steps taken or planned to reduce, eliminate, and prevent recurrence of such an upset.
- (b) A significant industrial user which timely complies with the notification provisions of this section shall have an affirmative defense to any enforcement action brought by the Assistant City Manager for Utilities for noncompliance with categorical standards only, which arises out of violations alleged to have occurred during the period of the documented and verified upset.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-31. - Treatment bypasses.

- (a) A bypass of the significant industrial user's treatment system is prohibited unless all of the following conditions are met:

- (1) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (2) There was no feasible alternative to the bypass, including the use of auxiliary treatment or retention of the wastewater; and
 - (3) The significant industrial user properly notified the Assistant City Manager for Utilities as described in subsection (b) below.
- (b) Significant industrial users must provide immediate notice to the Assistant City Manager for Utilities upon discovery of an unanticipated bypass. If necessary, the Assistant City Manager for Utilities may require the significant industrial user to submit a written report explaining the cause(s), nature, and duration of the bypass and the steps being taken to prevent its recurrence.
- (c) A significant industrial user may allow a bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it is for essential maintenance to ensure efficient operation of its treatment system. Significant industrial users anticipating a bypass must submit notice to the Assistant City Manager for Utilities at least ten (10) days in advance. The Assistant City Manager for Utilities may only approve the anticipated bypass if the circumstances satisfy those set forth in subsection (a) above.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-32. - Review and appeal procedures under chapter.

The following procedures control the course of reconsideration, rehearing, and appeal to the City with respect to the construction, application, or enforcement of this chapter and may be used if informal methods do not achieve satisfaction:

- (a) Any user permit applicant, user permit holder, authorized industrial wastewater discharger or other discharger adversely affected by any decision, act, or determination made by or on behalf of the City by the Assistant City Manager for Utilities or his authorized representative in interpreting or implementing the provisions of this chapter or any user permit issued hereunder may file with the City Manager a written request for reconsideration. Such request shall be received within thirty (30) days of the date of the occurrence of the City's action or decision in dispute. All requests shall set forth the requestor's name and address, along with a brief statement of the reasons and the factual basis for the request. Requests shall be filed in triplicate and sent by certified mail to the City Manager.
- (b) The City Manager or his/her designated representative shall notify the applicant, within fifteen (15) days after receipt of any request for reconsideration, of the time and place for hearing. Upon the request, the hearing shall be conducted by the City Manager or his/her designated representative not less than ten (10) days or more than thirty (30) days after mailing such notice. The hearing may be continued for a reasonable time for good cause shown, at the discretion of the City Manager or his/her designated representative. The hearing shall be held as an informal consultation and conference at which the requestor, in person or by counsel, shall present his argument, evidence, data, and proof in connection with the issue submitted. The City Manager or his/her designated representative shall not be bound by legal rules of evidence. The hearing shall be recorded and the requestor shall be provided with a transcript thereof upon request and upon payment of the cost thereof. The written decision of the City Manager or his/her designated representative shall be made known to the requestor by certified mail within thirty (30) days after the hearing.
- (c) The requestor may file a request for rehearing, which shall be filed by certified mail within ten (10) days of the rendition of the City Manager's decision, and rehearing may be allowed for good cause shown. The procedures for rehearing are to be substantially the same as those stated above.

(Ord. No. 2005-05.04, 5-17-05)

ARTICLE II. - BUILDING SEWERS

Sec. 34-33. - Exemptions from article.

Existing building sewers connected to the City's POTW prior to February 1, 1984, and that were installed in compliance with applicable City and State code requirements when installed shall be exempt from requirements of this article until repairs or changes are made in the building being served by the POTW.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-34. - Permit for construction or installation.

Any person proposing a new discharge into the City's POTW or a substantial change in the volume or character of pollutants that are being discharged shall notify the City at least forty-five (45) days prior to the proposed change or connection. There shall be two (2) classes of building sewer permits: One for residential, commercial, and insignificant small industrial service as provided in the plumbing code of the City and one for service to significant industrial users. In either case, the owner or his agent shall make application on forms furnished by the City. Permit applications for significant industrial connections shall be supplemented by plans, specifications, or other pertinent information. A permit fee to cover the cost for processing the application, inspection, and other costs associated therewith shall be charged to the owner for each permit issued and be paid to the City at the time the application is filed. In the event the premises changes ownership before the work is completed or if another contractor is chosen to perform or finish the work, the original permit becomes void and a new permit must be obtained by the new parties in interest.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-35. - General construction and installation standards.

The size, slope, alignment, and materials of construction of a building sewer and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfiring the trench, shall all conform to the requirements of the building and plumbing codes and other applicable rules and regulations of the City. In the absence of code provisions or in amplification thereof, the materials and procedures set forth for building sewer construction in ASTM and WPCF specifications shall apply.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-36. - Use of old sewers for new buildings.

Old building sewers may be used in connection with new buildings only when they are found on examination and test by the City to meet all requirements of this chapter.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-37. - Elevation; lifting devices.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public

sewer, wastewater carried by such building drain shall be lifted by an approved means and discharged to the building sewer. Duplex lift systems shall be provided when required by the plumbing code.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-38. - Excavations to be guarded; restoration of disturbed public property.

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-39. - Inspection and connection to public sewer generally.

- (a) The applicant for the building sewer permit shall notify the City when the building sewer is ready for inspection and connection to the public sewer. The City shall do such inspection and testing as may be necessary.
- (b) The connection of the building sewer into the public sewer shall conform to the requirements of the City and State building and plumbing codes or other applicable laws and regulations of the City and State and shall be made gas tight and water tight and be verified by proper testing.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-40. - Location of sewer tap prior to installation.

No drainage system shall be installed until the location and elevation of the sewer tap is determined. All costs and expense incident of the installation, connection, and maintenance of the building sewer from the building drain to the public sewer mains shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-41. - Individual building sewers.

Any lot of records on which buildings are existing or proposed, and in which plumbing fixtures are installed or are proposed to be installed, shall be provided with an individual building sewer, which is separate from and independent of that serving buildings on any other lot.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-42. - Surface runoff and groundwater drains.

- (a) No person shall connect roof, foundation, areaway, parking lot, roadway, or other surface runoff or groundwater drains to any sewer, which is connected to a treatment works unless such connection is authorized in writing by the Control Authority. The connection of such drains shall conform to codes specified in the applicable codes or as specified by the Control Authority as a condition of approval of such connection.
- (b) Except as provided in subsection (a) above, roof, foundation, areaway, parking lot, roadway, or other surface runoff or groundwater drains shall discharge to natural outlets or storm sewers.

(Ord. No. 2005-05.04, 5-17-05)

Secs. 34-43—34-46. - Reserved.

ARTICLE III. - STANDARDS FOR INDUSTRIAL WASTE DISCHARGERS

Sec. 34-47. - Wastewater discharge permit application.

- (a) *Wastewater analysis.* When requested by the Assistant City Manager for Utilities a user must submit information on the nature and characteristics of its wastewater within thirty (30) days of the request. The Assistant City Manager for Utilities is authorized to prepare a form for this purpose and may periodically require users to update this information.
- (b) *Wastewater discharge permit requirements.*
 - (1) No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Assistant City Manager for Utilities, except that a significant industrial user that has filed a timely application pursuant to subsection (c) below may continue to discharge for the time period specified therein.
 - (2) The Assistant City Manager for Utilities may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this ordinance.
 - (3) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in sections 34-53 and 34-54. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or requirements or with any other requirement of Federal, State and local law.
- (c) *Wastewater discharge permitting; existing connections.* Any user required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this ordinance and who wishes to continue such discharges in the future, shall, within thirty (30) days after said date, apply to the Assistant City Manager for Utilities for a wastewater discharge permit in accordance with this section of this ordinance, and shall not cause or allow discharges to the POTW to continue after ninety (90) days of the effective date of the ordinance from which this chapter derives except in accordance with a wastewater discharge permit issued by the Assistant City Manager for Utilities.
- (d) *Wastewater discharge permitting; new connections.* Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with subsection (e) below, must be filed at least thirty (30) days prior to the date on which any discharge will begin or recommence.
- (e) *Wastewater discharge permit application contents.* All users required to obtain a wastewater discharge permit must submit a permit application. The Assistant City Manager for Utilities may require all users to submit, as part of an application, the following information:
 - (1) All information required by subsections 34-50(a)(2)a. through h. herein;
 - (2) 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;
 - (3) Number and type of employees, hours of operation, and proposed or actual hours of operation;
 - (4) Each product produced by type, amount, process or processes, and rate of production;
 - (5) Type and amount of raw materials processed (average and maximum per day);

- (6) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains and appurtenances by size, location, and elevation, and all points of discharge;
 - (7) Time and duration of discharges; and
 - (8) Any other information as may be deemed necessary by the Assistant City Manager for Utilities to evaluate the wastewater discharge permit application.
- (f) *Application signatories and certification.* All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement: "I certify under penalty of law that this document and all attachments were prepared under my direction and 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."
- (g) *Wastewater discharge permit decisions.* The Assistant City Manager for Utilities will evaluate the data furnished by the user and may require additional information. Within seven (7) days of receipt of a complete wastewater discharge permit application, the Assistant City Manager for Utilities will determine whether or not to issue a wastewater discharge permit. The Assistant City Manager for Utilities may deny any application for a wastewater discharge permit.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-48. - Industrial waste survey requirements.

- (a) All industrial dischargers shall file with the City wastewater information required for determination of compliance with this chapter, the City's VPDES permit conditions and state and federal law. Such information shall be provided by completion of a questionnaire designed and supplied by the City and by supplements thereto as may be necessary.
- (b) Where a person owns, operates, or occupies properties at more than one location, which constitute separate industrial discharges, separate information submittals shall be made for each location as may be required by the City.
- (c) The City shall implement measures to ensure the confidentiality of information provided by an industrial discharger pursuant to this chapter. Upon the written request of the person furnishing a report, permit application, or questionnaire under the provisions of this chapter which might disclose trade secrets or secret processes, such information shall not be made available to the public, except as may be required by State or Federal law. The physical and chemical characteristics of a discharger's wastewater effluent discharged to the City's sewer system shall not be recognized as confidential information or as a trade secret. However, all records relating to compliance with pretreatment standards and all other records or documents required by state or federal law to be subject to public access shall be available to the public.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-49. - Wastewater discharge permit issuance process.

- (a) *Duration.* A wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the Assistant City Manager for Utilities. Each wastewater discharge permit will indicate a specific date upon which it will expire.
- (b) *Contents.* A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Assistant City Manager for Utilities 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, and protect against damage to the POTW.

(1) Wastewater discharge permits must contain:

- a. A statement that indicates wastewater discharge permits duration, which in no event shall exceed five (5) years.
- b. A statement that the wastewater discharge permit is nontransferable without prior notification to the City in accordance with subsection (e) below, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
- c. Effluent limits based on applicable pretreatment standards;
- d. Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law; and
- e. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.

(2) Wastewater discharge permits may contain, but need not be limited to, the following conditions:

- a. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulations and equalization;
- b. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
- c. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;
- d. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
- e. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;
- f. Requirements for installation and maintenance of inspection and sampling facilities and equipment;
- g. A statement that compliance with the wastewater discharge permit 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 wastewater discharge permit; and
- h. Other conditions as deemed appropriate by the Assistant City Manager for Utilities to ensure compliance with this ordinance, and State and Federal laws, rules and regulations.

(c) *Appeals.* The Assistant City Manager for Utilities shall provide public notice of the issuance of a wastewater discharge permit. Any person, including the user, may petition the Assistant City Manager for Utilities to reconsider the terms of a wastewater discharge permit within ten (10) days of notice of its issuance.

- (1) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
- (2) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.

- (3) The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
 - (4) If the Assistant City Manager for Utilities fails to act within ten (10) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.
 - (5) Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the appropriate court, which has jurisdiction.
- (d) *Modification.* The Assistant City Manager for Utilities may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:
- (1) To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;
 - (2) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;
 - (3) A change in the POTW that requires either a temporary or permanent reduction of elimination of the authorized discharge;
 - (4) Information indicating that the permitted discharge poses a threat to the City's POTW, City personnel, or the receiving waters;
 - (5) Violation of any terms or conditions of the wastewater discharge permit;
 - (6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
 - (7) Revisions of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
 - (8) To correct typographical or other errors in the wastewater discharge permit; or
 - (9) To reflect a transfer of the facility ownership or operation to a new owner or operator.
- (e) *Transfer.* Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least thirty (30) days advance notice to the Assistant City Manager for Utilities and the Assistant City Manager for Utilities approves the wastewater discharge permit transfer. The notice to the Assistant City Manager for Utilities must include a written certification by the new owner or operator which:
- (1) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
 - (2) Identifies the specific date on which the transfer is to occur; and
 - (3) Acknowledges full responsibility for complying with the existing wastewater discharge permit.

Failures to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer.

- (f) *Revocation.* The Assistant City Manager for Utilities may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons.
- (1) Failure to notify the Assistant City Manager for Utilities of significant changes to the wastewater prior to the changed discharge;
 - (2) Failure to provide prior notification to the Assistant City Manager for Utilities of changed conditions pursuant to subsection 34-50(e);
 - (3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

- (4) Falsifying self-monitoring reports;
 - (5) Tampering with monitoring equipment;
 - (6) Refusing to allow the Assistant City Manager for Utilities timely access to the facility premises and records;
 - (7) Failure to meet effluent limitations;
 - (8) Failure to pay fines;
 - (9) Failure to pay sewer charges;
 - (10) Failure to meet compliance schedules;
 - (11) Failure to complete a wastewater survey or the wastewater discharge permit applications;
 - (12) Failure to provide advance notice of the transfer of business ownership of a permitted facility;
or
 - (13) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this ordinance. Wastewater discharge permits shall be voided upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.
- (g) *Re-issuance.* A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with subsection 34-47(e) herein, a minimum of ninety (90) days prior to the expiration of the user's existing wastewater discharge permit
- (h) *Regulation of waste received from other jurisdictions.*
- (1) If another municipality, county, town or user located within another municipality, contributes wastewater to the POTW, the Assistant City Manager for Utilities shall enter into an intergovernmental agreement with the contributing municipality, county or town.
 - (2) Prior to entering into an agreement required by subsection (1) above, the Assistant City Manager for Utilities shall request the following information from the contributing government:
 - a. A description of the quality and volume of wastewater discharged to the POTW by the contributing government;
 - b. An inventory of all users located within the contributing government that are discharging to the POTW; and
 - c. Such other information as the Assistant City Manager for Utilities may deem necessary.
 - (3) An intergovernmental agreement, as required by subsection (1) above shall contain the following conditions:
 - a. A requirement for the contributing government to adopt a sewer use ordinance which is at least as stringent as this ordinance with local limits which are at least as stringent as those established by the City. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the City's ordinance or local limits;
 - b. A requirement for the contributing government to submit a revised user inventory on at least an annual basis;
 - c. A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling and enforcement, will be conducted by the contributing government; which of these activities will be conducted by the Assistant City Manager for Utilities and which of these activities will be conducted jointly by the contributing government and the Assistant City Manager for Utilities.

- d. A requirement for the contributing government to provide the Assistant City Manager for Utilities with access to all information that the contributing government obtains as part of its pretreatment activities;
- e. Limits on the nature, quality, and volume of the contributing governments wastewater at the point where it discharges to the POTW;
- f. Requirements for monitoring the contributing governments discharge;
- g. A provision ensuring the Assistant City Manager for Utilities access to the facilities of users located within the contributing governments jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the Assistant City Manager for Utilities; and
- h. A provision specifying remedies available for breach of the items of the intergovernmentals agreement.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-50. - Industrial user reporting requirements.

(a) *Baseline monitoring reports.*

- (1) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a) (4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the Assistant City Manager for Utilities a report which contains the information listed in subsection (2) below. At least ninety (90) days prior to commencement of their discharge new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the Assistant City Manager for Utilities a report which contains the information listed in subsection (2) below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.
- (2) Users described above shall submit the information set forth below.
 - a. *Identifying information.* The name and address of the facility, including the name of the operator and owner.
 - b. *Environmental permits.* A list of any environmental control permits held by or for the facility.
 - c. *Description of operations.* A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram that indicates points of discharge to the POTW from the regulated processes.
 - d. *Flow measurement.* The user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW 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).
 - e. *Measurement of pollutants.*
 - 1. The user shall identify the pretreatment standards applicable to each regulated process.
 - 2. In addition, the user shall submit the results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the Standard or by the Assistant City Manager for Utilities, 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 and shall be analyzed in accordance with procedures set out in paragraph (a) above.

3. Sampling must be performed in accordance with procedures set out in subsection (k) below.
 - f. *Certification.* A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
 - g. *Compliance schedule.* If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M must be used. 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 subsection (b) below.
 - h. *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with subsection 34-47(f) herein.
- (b) *Compliance schedule progress report.* The following conditions shall apply to the compliance schedule required by subsection (a)(2)g. above.
 - (1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
 - (2) No increment referred to above shall exceed nine (9) months;
 - (3) The user shall submit a progress report to the Assistant City Manager for Utilities no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and
 - (4) In no event shall more than nine (9) months elapse between such progress reports to the Assistant City Manager for Utilities.
- (c) *Reports on compliance with categorical pretreatment standard deadline.* 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 POTW, any user subject to such pretreatment standards and requirements shall submit to the Assistant City Manager for Utilities a report containing the information described in subsections (a)(2)d. through f. above. For 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 users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or the measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with subsection 34-47(f) herein.
- (d) *Periodic compliance reports.*
 - (1) Any industrial user subject to a categorical pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the Control Authority during the months of June and December, unless required more frequently in the pretreatment standard or by the Control

Authority or the Assistant City Manager for Utilities, a report indicating the nature and concentration of pollutants in the effluent which are limited by such categorical pretreatment standards. In addition, this report shall include a record of measured or estimated average and maximum daily flows for the reporting period for the discharge reported in subsection 34-50(a)(2)d. except that the Control Authority may require more detailed reporting of flows. At the discretion of the Control Authority and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Control Authority may agree to alter the months during which the above reports are to be submitted. All periodic compliance reports must be signed and certified in accordance with subsection 34-47(f).

- (2) The Control Authority shall require appropriate reporting from those industrial users with discharges that are not subject to categorical pretreatment standards. Significant noncategorical industrial users shall submit to the Control Authority at least once every six (6) months (on dates specified by the Control Authority) a description of the nature, concentration, and flow of the pollutants required to be reported by the Control Authority. These reports shall be based on sampling and analysis performed in the period covered by the report, and performed in accordance with the techniques described in 40CFR Part 136 (1995) and amendments thereto. Where 40 CFR Part 136 (1995) does not contain sampling or analytical techniques for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the POTW or other persons, approved by the EPA.
 - (3) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
 - (4) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the Assistant City Manager for Utilities, using the procedures prescribed in paragraph k below of this section, the results of this monitoring shall be included in the report.
- (e) *Notification of changed conditions.* Each user must notify the Assistant City Manager for Utilities of any planned significant changes to the user's operations or system, which might alter the nature, quality, or volume of its wastewater at least thirty (30) days before the change.
- (1) The Assistant City Manager for Utilities may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under subsection 34-47(e) herein.
 - (2) The Assistant City Manager for Utilities may issue a wastewater discharge permit under subsection 34-47(g) herein or modify an existing wastewater discharge permit under subsection 34-49(d) herein in response to changed conditions or anticipated changed conditions.
 - (3) For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty (20) percent or greater and the discharge of any previously unreported pollutants.
- (f) *Notification of potential problems.*
- (1) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the Assistant City Manager for Utilities of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
 - (2) Within five (5) days following such discharge, the user shall, unless waived by the Assistant City Manager for Utilities, 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 occurrences. Such

notification shall not relieve the user of any expense, loss, damage, or other liability, which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.

- (3) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in subsection (1) above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

(g) *Notification of discharge of hazardous waste.*

- (1) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under subsection 34-50(e) herein. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of subsections 34-50(a), (c), and (d) herein.
 - (2) Dischargers are exempt from the requirements of subsection (1), above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.
 - (3) In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the Assistant City Manager for Utilities, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.
 - (4) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
 - (5) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued hereunder, or any applicable Federal or State law.
- (h) *Reports from unpermitted users.* All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the Assistant City Manager for Utilities as he may require.
- (i) *Notice of violation/repeat sampling and reporting.* If sampling performed by a user indicates a violation, the user must notify the Assistant City Manager for Utilities within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit

the results of the repeat analysis to the Assistant City Manager for Utilities within thirty (30) days after becoming aware of the violation. The user is not required to resample if the Assistant City Manager for Utilities monitors at the user's facility at least once a month, or if the Assistant City Manager for Utilities samples between the user's initial sampling and when the user receives the results of this sampling.

- (j) *Analytical requirements.* All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA. The City and all users of the POTW may use one (1) or more of the following standard methods for the analysis of effluent where they coincide with 40 CFR Part 136:
 - (1) *Standard Methods for the Examination of Water and Wastewater.*(EPA Approved Edition)
 - (2) *American Society for Testing and Materials (ASTM) Annual Book of Standards;* or
 - (3) *Environmental Protection Agency Methods for Chemical Analysis of Water and Wastes.*
- (k) *Sample collection.*
 - (1) Except as indicated in subsection (2), below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is not feasible the Assistant City Manager for Utilities may authorize the use of time proportional sampling or a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.
 - (2) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
- (l) *Timing.* Written reports will be deemed to have been submitted on the date postmarked. For reports, which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.
- (m) *Record keeping.* Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the date's analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user of the City or where the user has been specifically notified of a longer retention period by the Assistant City Manager for Utilities.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-51. - Compliance monitoring.

- (a) *Right of entry; inspection and sampling.* The Assistant City Manager for Utilities shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this ordinance and any wastewater discharge permit or order issued hereunder. Users shall allow the Assistant City Manager for Utilities ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.
 - (1) Where a user has security measures in force, which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security

guards so that, upon presentation of suitable identification, the Assistant City Manager for Utilities will be permitted to enter without delay for the purposes of performing specific responsibilities.

- (2) The Assistant City Manager for Utilities shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.
 - (3) The Assistant City Manager for Utilities may require the 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 by the user at his own expense. All devices used to measure wastewater flow and quality shall be calibrated weekly to ensure their accuracy.
 - (4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the Assistant City Manager for Utilities and shall not be replaced. The costs of clearing such access shall be born by the user.
 - (5) Unreasonable delays in allowing the Assistant City Manager for Utilities access to the user's premises shall be a violation of this ordinance.
- (b) *Search warrants.* If the Assistant City Manager for Utilities has been refused access to a building, structure, or property, or any part thereof and is able to demonstrate probable cause to believe that there may be a violation of this ordinance or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with this ordinance or any permit or order issued hereunder or to protect the overall public health, safety and welfare of the community then the Assistant City Manager for Utilities may seek issuance of a search warrant from the appropriate court.
- (c) *Confidential information.* Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits and monitoring programs and from the Assistant City Manager for Utilities inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests and is able to demonstrate to the satisfaction of the Assistant City Manager for Utilities that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-52. - Publication of users in significant noncompliance.

The Assistant City Manager for Utilities shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the 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) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of wastewater measurements taken during a six-month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;

- (b) Technical review criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
- (c) Any other discharge violation that the Assistant City Manager for Utilities believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;
- (d) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment or has resulted in the direct exercise of its emergency authority to halt or prevent such a discharge;
- (e) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- (f) Failure to provide within thirty (30) days after the due date, any required reports including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (g) Failure to accurately report noncompliance; or
- (h) Any other violation(s) that the Assistant City Manager for Utilities determines will adversely affect the operation or implementation of the local pretreatment program.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-53. - Administrative enforcement remedies.

- (a) *Notification of violation.* When the Assistant City Manager for Utilities finds that a user has violated or continues to violate, any provision of this ordinance a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement the Assistant City Manager for Utilities may serve upon that user a written Notice of Violation. Within five (5) days of the receipt of this notice an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Assistant City Manager for Utilities. Submission of this plan in no way relieves 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 Assistant City Manager for Utilities to take any action, including emergency actions or any other enforcement action without first issuing a Notice of Violation.
- (b) *Consent orders.* The Assistant City Manager for Utilities may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to subsections (a) and (c) of this section.
- (c) *Show cause hearing.* The Assistant City Manager for Utilities may order a user which has violated, or continues to violate, any provision of this ordinance a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, to appear before the Assistant City Manager for Utilities and show cause why the proposed enforcement action should not be taken. Notice shall be served on the 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 the 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 fourteen (14) days prior

to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

- (d) *Compliance orders.* When the Assistant City Manager for Utilities finds that a user has violated, or continues to violate, any provisions of this ordinance a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement the Assistant City Manager for Utilities may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided sewer service may be discontinued unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against or a prerequisite for, taking any other action against the user.
- (e) *Cease and desist orders.* When the Assistant City Manager for Utilities finds that a user has violated or continues to violate any provision of this ordinance a wastewater discharge permit or order issued hereunder or any pretreatment standard or requirement, or that the user's past violations are likely to occur the Assistant City Manager for Utilities may issue an order to the user directing it to cease and desist all such violations and directing the user to:
 - (1) Immediately comply with all requirements; and
 - (2) 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.

Issuance of a cease and desist order shall not be a bar against or a prerequisite for taking any other action against the user.

(f) *Administrative fines.*

- (1) When the Assistant City Manager for Utilities finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Assistant City Manager for Utilities may fine such user in an amount of at least one thousand dollars (\$1,000.00) per day. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.
 - (2) Unpaid charges, fines, and penalties shall, after ninety (90) calendar days, be assessed an additional penalty of two (2) percent of the unpaid balance, and interest shall accrue thereafter at a rate of two (2) percent per month. A lien against the user's property will be sought for unpaid charges, fines, and penalties.
 - (3) Users desiring to dispute such fines must file a written request for the Assistant City Manager for Utilities to reconsider the fine along with full payment of the fine amount within thirty (30) days of being notified of the fine. Where a request has merit, the Assistant City Manager for Utilities may convene a hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The Assistant City Manager for Utilities may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.
 - (4) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.
- (g) *Emergency suspensions.* The Assistant City Manager for Utilities may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary 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. The Assistant City Manager for

Utilities may also immediately suspend a user's discharge, after notice and opportunity to respond that threatens to interfere with the operation of the POTW, or which presents, or may present an endangerment to the environment.

- (1) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order the Assistant City Manager for Utilities may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Assistant City Manager for Utilities may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Assistant City Manager for Utilities that the period of endangerment has passed, unless the termination proceedings in paragraph (h) of this section are initiated against the user.
- (2) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Assistant City Manager for Utilities prior to the date of any show cause or termination hearing under subsections (c) and (h) of this section.

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

- (h) *Termination of discharge.* In addition to the provisions in subsection 34-49(f) herein, any user who violates the following conditions is subject to discharge termination:
- (1) Violation of wastewater discharge permit conditions;
 - (2) Failure to accurately report the wastewater constituents and characteristics of its discharge;
 - (3) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge;
 - (4) Refusal or reasonable access to the user's premises for the purpose of inspection, monitoring or sampling; or
 - (5) Violation of the pretreatment standards. Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under subsection (c) herein why the proposed action should not be taken. Exercise of this option by the Assistant City Manager for Utilities shall not be a bar to, or a prerequisite for, taking any other action against the user.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-54. - Judicial enforcement remedies.

- (a) *Injunctive relief.* When the Assistant City Manager for Utilities finds that a user has violated, or continues to violate any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Assistant City Manager for Utilities may petition the Court through the City's attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this ordinance on activities of the user. The Assistant City Manager for Utilities may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.
- (b) *Civil penalties.*
 - (1) A user who has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder or any other pretreatment standard or requirement

shall be liable to the City for at least one thousand dollars (\$1,000.00) per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

- (2) The Assistant City Manager for Utilities may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses and the cost of any actual damages incurred by the City.
- (3) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.
- (4) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

(c) *Criminal prosecution.*

- (1) A user who willfully violates any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a Class 1 misdemeanor. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.

A user who negligently violates any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall upon conviction, be guilty of a Class 2 misdemeanor. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law. Two (2) or more such violations within two (2) years shall constitute a Class 1 violation.

- (2) A user who willfully introduces any substance into the POTW, which causes personal injury or property damage, shall, upon conviction, be guilty of a Class 1 misdemeanor. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.

A user who negligently introduces any substance into the POTW, which causes personal injury or property damage, shall, upon conviction, be guilty of a Class 2 misdemeanor. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law. Two (2) or more such violations within two (2) years shall constitute a Class 1 misdemeanor.

- (3) A 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 ordinance, wastewater discharge permit, or order issued hereunder or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be guilty of a Class 1 misdemeanor. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.
- (4) A user who fails to submit reports or other data required by this ordinance shall be guilty of a Class 3 misdemeanor. Two (2) such violations within two (2) years shall constitute a Class 2 misdemeanor. Class 1, 2 and 3 misdemeanors are defined in Section 1-11 of this Code.

- (d) *Remedies nonexclusive.* The remedies provided for in this ordinance are not exclusive. The Assistant City Manager for Utilities may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the City's enforcement response plan. However, the Assistant City Manager for Utilities may take other action against any user when the circumstances warrant. Further, the Assistant City Manager for Utilities is empowered to take more than one enforcement action against any noncompliant user.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-55. - Affirmative defenses to discharge violations.

(a) *Upset.*

- (1) For the purposes of this section, "upset," means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, and lack of preventive maintenance or careless or improper operation.
- (2) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subsection (3) below are met.
- (3) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - a. An upset occurred and the user can identify the cause(s) of the upset;
 - b. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
 - c. The user has submitted the following information to the Assistant City Manager for Utilities within twenty-four (24) hours of becoming aware of the upset (if this information is provided orally a written submission must be provided within five (5) days):
 1. A description of the indirect discharge and cause of noncompliance;
 2. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 3. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
 - d. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
 - e. Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
 - f. Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

(b) *Prohibited discharge standards.* A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in subsection 34-11(a) or the specific prohibitions in subsection 34-11(b) if it can prove that it did not know, or have reason to know that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

- (1) 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
- (2) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the City was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

(c) *Bypass.*

- (1) For the purposes of this section,

- a. "Bypass" means the intentional diversion of wastestreams from any portion of a user's treatment facility.
 - b. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities, which causes them to become inoperable, or substantial and permanent loss of natural resources, which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- (2) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it is also for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of subsections (3) and (4) below.
- (3)
 - a. If a user knows in advance of the need for a bypass, it shall submit prior notice to the Assistant City Manager for Utilities at least ten (10) days before the date of the bypass, if possible.
 - b. A user shall submit oral notice to the Assistant City Manager for Utilities of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass.
- (4)
 - a. Bypass is prohibited, and the Assistant City Manager for Utilities may take an enforcement action against a user for a bypass, unless:
 - 1. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - 2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - 3. The user submitted notices as required under subsection (3) above.
 - b. The Assistant City Manager for Utilities may approve an anticipated bypass, after considering its adverse effects, if the Assistant City Manager for utilities determines that it will meet the three (3) conditions listed in subsection (4)a. of this section.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-56. - Miscellaneous provisions.

- (a) *Pretreatment charges and fees.* The City may adopt reasonable fees for reimbursement of costs of setting up and operating the City's pretreatment program, which may include:
 - (1) Fees for wastewater discharge permit applications including the cost of processing such applications;
 - (2) Fees for monitoring, inspection and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports submitted by users;
 - (3) Fees for reviewing and responding to accidental discharge procedures and construction;
 - (4) Fees for filing appeals; and

- (5) Other fees as the City may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this ordinance and are separate from all other fees, fines and penalties chargeable by the City.
- (b) *Severability.* If any court of competent jurisdiction invalidates any provision of this ordinance, the remaining provisions shall not be affected and shall continue in full force and effect.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-57. - Effect of issuance.

Issuance of a discharge permit under this chapter shall not relieve the discharger from complying with all applicable laws, regulations, and chapters promulgated by the City or other Government authority nor shall the issuance of a discharge permit be construed as a representation by the City that the discharge permitted therein complies with such laws, regulations, and chapters. Such permits are issued solely to govern the discharges of wastewater into the City's POTW and the applicable receiving stream and shall not be construed to be agreements or obligations for the benefit of third parties.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-58. - Control structure.

Significant industrial users shall build a control structure in the discharge line from his premises just prior to the entrance of the discharge line into the City wastewater system (or any other location acceptable to the City), suitable for sampling and measuring of his waste. Plans for this structure shall be approved by the City. There shall be ample room in or near such sampling facility to allow accurate sampling and preparation of samples for analyses. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user. Blueprints for such facilities will be made available by the significant industrial users to the City.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-59. - Authority of city to furnish technical advice.

The City is authorized to consult with and furnish technical assistance and advice to industrial user of the City's POTW in order to assist them in devising procedures and constructing equipment to reduce or eliminate from industrial wastes objectionable characteristics or properties which may not otherwise be discharged into the wastewater system under this chapter.

(Ord. No. 2005-05.04, 5-17-05)

Secs. 34-60—34-78. - Reserved.

ARTICLE IV. - FEES

Sec. 34-79. - Sewer use charges.

- (a) Charges for use of the City's POTW shall be set by the Council. Such charges and rates shall be based on wastewater volumes and strength determined by metering, sampling, and laboratory analysis of the discharges into the City's sewerage system as provided in this chapter.
- (b) All persons discharging wastewater into the City's POTW shall be rendered bills for the charges for such service. The bill shall include the proportionate share of:

- (1) All fixed charges, amortization costs, and interest on all facilities required for collecting, pumping, transporting, and treating the wastewater.
 - (2) All variable charges for operation and maintenance costs incurred by the City in collecting, pumping, transporting, and treating the wastewater in its facilities.
- (c) For billing purposes, the volume of waste discharged into the city's sewer system shall normally be based on the metered water consumption of the user as shown in the records of meter reading maintained by the City. Whenever any industrial user purchases all his water from the City and considers that significant quantities of water used in his plant are not returned to the POTW, he may request that the billings be based upon metered wastewater quantities. If approved by the City, such user may then provide and maintain, at the user's own expense a meter acceptable to the City for the measurement of the quantities of wastewater discharged. The meter shall be accessible for inspection by the City at all times and shall be maintained to produce an accurate record of the true quantities of wastewater discharged. Whenever the user obtains any part of his water supply from sources other than the City the quantities of wastewater shall be determined from the metered quantities of wastewater discharged to the City's POTW. Wastewater meters shall be provided and maintained by the owner to produce an accurate record of the true quantities of wastewater discharged to the sewer system. In lieu of wastewater meters the user may use a water meter on his input water line and, when acceptable to the City, this water meter reading shall be used as the volume of wastewater flow for computing charges. All costs of meter installation, calibration and maintenance shall be borne by the user at his own expense. The type of meters shall be acceptable to the City and the meters shall be accessible at all times for inspection by the City. Single-family residence users and businesses and commercial establishments with wastewater discharges less than five hundred (500) gallons per day may be charged a flat monthly charge in lieu of installing metering equipment as required above. Flow rates and charges may be determined by population equivalents or water usage for these users.
- (d) Rates and charges for wastewater services shall be payable as billed. The bills shall be sent through the United States mail or hand delivered notifying all persons of the amount and date due. Failure to receive notice shall not be an excuse for nonpayment of bills. Persons not having paid their bills within the period specified on the bill will be delinquent. After proper notice of delinquency and hearing in accordance with this chapter and City policy, the water or sewer connection serving the premises may be terminated until the bill is paid.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-80. - Sampling fees.

The City shall publish no less frequently than yearly a schedule of water and wastewater analyses fees. These fees shall reflect the cost of personnel, equipment and materials needed to collect and analyze the significant industrial user wastewater samples.

The City shall charge all such users uniformly according to said schedule of fees and shall charge for surcharge monitoring, compliance monitoring, and any additional monitoring requested by such user.

The City shall not perform industrial user routine self-monitoring required under the provisions of an industrial discharge permit.

(Ord. No. 2005-05.04, 5-17-05)

Secs. 34-81—34-93. - Reserved.

ARTICLE V. - PRIVATE WASTEWATER DISPOSAL SYSTEMS

Sec. 34-94. - When required.

Where a public sanitary sewer is not available within three hundred (300) feet of a property line, the building sewer for such premises shall be connected by the owner or occupant to a private wastewater disposal system approved by the State Department of Health.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-95. - Permit to construct; inspection of work.

- (a) Before commencement of construction of a private wastewater disposal system, the owner shall first obtain a permit from the City and have approval of the State Department of Health as required in section 34-94. The application for the City permit shall be made on a form furnished by the City which the applicant shall supplement by any plans, specifications, and other information required by the City. A permit and inspection fee shall be paid to the City at the time the application is filed.
- (b) A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the City and the State Department of Health. The City shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the City when the work is ready for final inspection, and before any underground portions are covered.
- (c) City permits issued for private wastewater disposal systems in the City are issued solely to govern such construction and operation within the City as specified and, being an agreement between the property owner and the City, shall not be construed to benefit any third party.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-96. - Type, capacity, location, etc.

The type, capacities, location, and layout of a private wastewater disposal system shall comply with the recommendations and guidelines of the Department of Health of the Commonwealth of Virginia. No permit shall be issued for any private wastewater disposal system employing subsurface soil absorption facilities where the area of the lot is less than twenty thousand (20,000) square feet.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-97. - Operation and maintenance.

The owner shall operate and maintain private wastewater disposal facilities in a sanitary manner at all times in accordance with City and State criteria, at no expense to the City.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-98. - Septic tanks and cesspools not to discharge into natural outlets.

No septic tank or cesspool shall be permitted to discharge into any natural outlet.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-99. - Connection to public sewer and abandonment of private facilities.

At such time as a public sewer becomes available within three hundred (300) feet of the property line of a property served by a private wastewater disposal system, as provided by section 34-7 and malfunction or failure of the private system occurs, a direct connection shall be made to the public sewer

within sixty (60) days in compliance with this chapter, and any septic tanks, cesspools, and similar private wastewater disposal facilities shall be abandoned, cleaned of sludge, and filled with suitable material.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-100. - Additional requirements.

No provision of this article shall be construed to interfere with any additional requirements that may be imposed by other local, state, or federal laws and regulations.

(Ord. No. 2005-05.04, 5-17-05)

Sec. 34-101. - Effective date.

This chapter shall be in full force and effect immediately following its passage, approval, and publication, as provided by law.

(Ord. No. 2005-05.04, 5-17-05)



DEQ implemented regulations on streamlining the format of existing ordinances so all would be consistent in formatting and language.

Notable changes to existing SUO are indicated below:

- Insertion of table with Local Limits

Parameter	Concentration
Total Arsenic	0.100 ppm
Total Cadmium	0.050 ppm
Total Chromium	1.000 ppm
Total Copper	3.000 ppm
Total Cyanide	0.150 ppm
Total Lead	0.350 ppm
Total Mercury	0.040 ppm
Total Molybdenum	2.000 ppm
	2.000
Total Nickel	2.000 ppm
Total Selenium	0.200 ppm
Total Silver	0.050 ppm
Total Zinc	7.000 ppm

- | From | To |
|---|--|
| • Section and subsection | Sec. |
| • Assistant City Manager for Utilities | Director of Utilities |
| • Significant industrial user | (SIU) |
| • Sludge | biosolids |
| • Additional Virginia & EPA code references | 40 CFR 403.12 and 9VAC25-31-840 |
| • Various abbreviations inserted | DEQ, NOV, EPA |
| • Realignment of Sec. numerations | Sec. 34-118 |
| • Waste discharge pH range change | five (5) six (6.0) S.U. or more then twelve (12.0) S.U. |
| • Insertion of required language and formats from DEQ | |

Council Letter

City of Danville, Virginia



CL-2430

New Business H.

City Council Regular Meeting

Meeting Date: 11/17/2020

Subject: Renewal of Enterprise Zone 57B

From: Kelvin Perry, Project Manager

COUNCIL ACTION

Business Meeting: 11/17/2020

SUMMARY

The Office of Economic Development is requesting a resolution authorizing the City Manager to sign and submit an application to the Virginia Department of Housing and Community Development (DHCD) to grant a five-year extension for Enterprise Zone 57B. The extension will allow the City to continue to encourage and incentivize new capital investment and job creation for businesses that locate within this zone. Businesses and property owners within this designated area would qualify for local or state Enterprise Zone incentives based on job creation, average employee wage rates, and/or capital investment. This year marks the twentieth year that Zone 57B has been designated as an Enterprise Zone. In 2019, the Enterprise Zone legislation was changed to allow zones that were established prior to 2005 to be eligible to request one five-year renewal.

BACKGROUND

Enterprise Zone 57B was established in 2001 and is a joint zone with Pittsylvania County. This zone consists of 1,658 acres including the Kentuck Road corridor, Airside Industrial Park, the Gypsum Road industrial corridor, and a portion of Cane Creek Centre.

All Enterprise Zones designated under this legislation are designated for an initial 10-year period, with the opportunity for two subsequent five-year renewals by the Governor. This year marks the twentieth year that Zone 57B has been designated as an Enterprise Zone. In 2019, the Enterprise Zone legislation was changed to allow zones prior to 2005 to be eligible to request one five year renewal.

RECOMMENDATION

City Staff recommends the approval of a resolution authorizing the City Manager to submit to the Department of Housing and Community Development all the necessary documentation to request a five-year extension to Enterprise Zone 57B.

Attachments

Resolution

EZ Zone 57B

PRESENTED: _____

ADOPTED: _____

RESOLUTION NO. 2020-____.____

A RESOLUTION APPROVING AND AUTHORIZING THE CITY MANAGER TO SUBMIT TO THE VIRGINIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT AN ENTERPRISE ZONE RENEWAL APPLICATION FOR THE CITY'S PORTION OF THE JOINT ENTERPRISE ZONE WITH PITTSYLVANIA COUNTY (ENTERPRISE ZONE #57B).

WHEREAS, the City of Danville, Virginia, desires to RENEW the City of Danville's portion of the joint zone with Pittsylvania County (Enterprise Zone #57B); and

WHEREAS, the Enterprise Zone Program guidelines restrict total amount of available acreages to include no more than seven (7) percent of the jurisdictions land area, which in Danville totals 1,665.52 acres in Zone #57B; and

WHEREAS, the Enterprise Zone program guidelines allow current zones designated prior to 2005 to request one five-year renewal; and

WHEREAS, as at this time City staff is requesting the Council to approve the renewal application to the city's portion of Zone #57B to encourage and incentivize new capital investment and job creation to qualify for local and state incentives for capital improvements and job creation.

NOW THEREFORE, BE IT RESOLVED, by the Council of the City of Danville, Virginia, that the City Manager be, and he is hereby, authorized to submit to the Virginia Department of Housing and Community Development an application to renew the City of Danville's portion of the joint zone with Pittsylvania County (Enterprise Zone #57B); and

BE IT FINALLY RESOLVED, by the Council of the City of Danville, Virginia, that that the City Manager, Kenneth F. Larking, be, and he is hereby,

authorized to submit all information needed to renew the current Enterprise Zone boundaries and to carry out all program administrative reporting requirements.

APPROVED

MAYOR

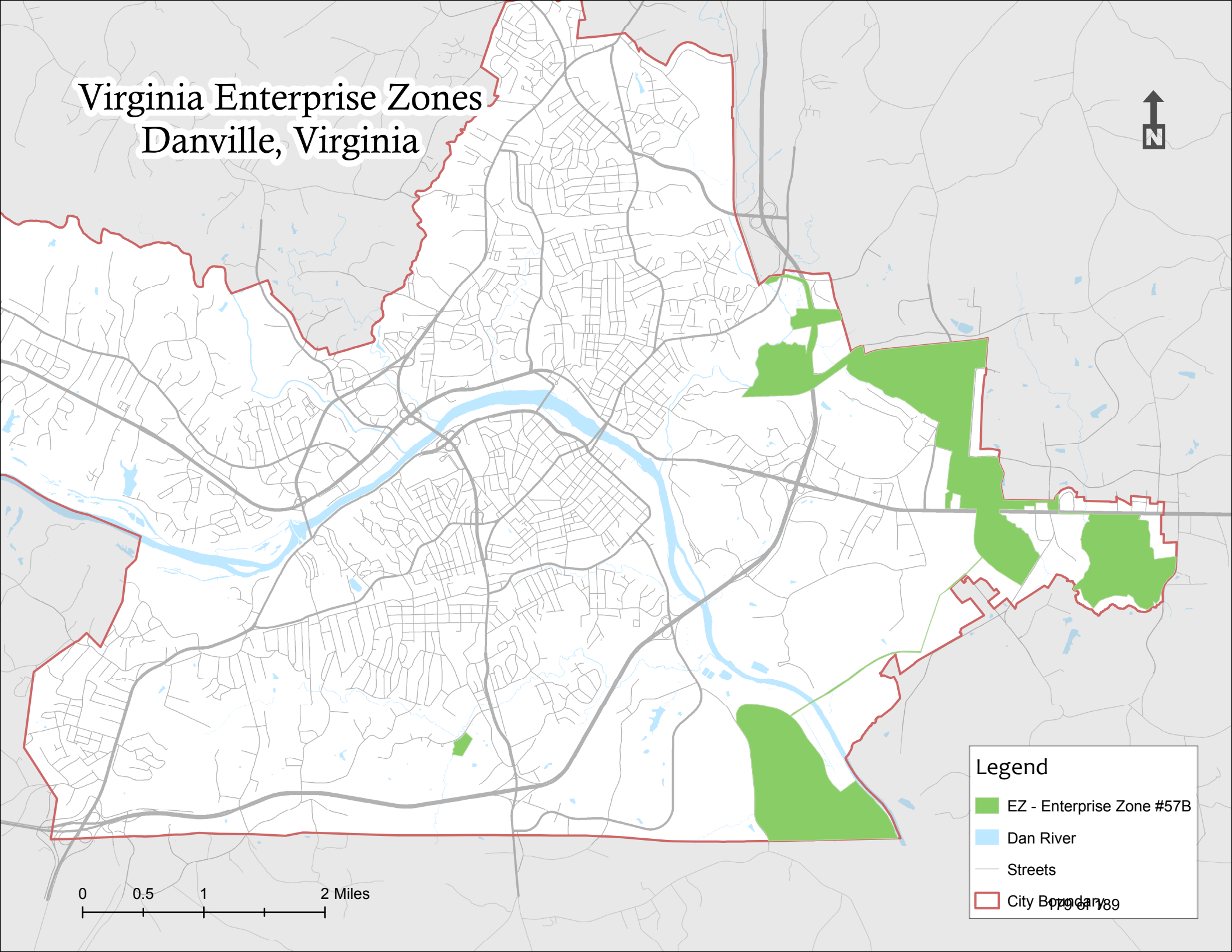
ATTEST:

CLERK

Approved as to Form
and Legal Sufficiency:

CITY ATTORNEY

Virginia Enterprise Zones Danville, Virginia



Legend

-  EZ - Enterprise Zone #57B
-  Dan River
-  Streets
-  City Boundary

1996-1999

Council Letter

City of Danville, Virginia



CL-2450

New Business I.

City Council Regular Meeting

Meeting Date: 11/17/2020

Subject: Consideration of Amendment to the City Manager's Contract

From: Susan M. DeMasi, City Clerk

COUNCIL ACTION

Business Meeting: 11/17/2020

SUMMARY

The City Manager is requesting an amendment to his contract.

The City Manager is requesting Section 11 of his contract be amended to add the following:

C. The City Manager may, at his discretion, transfer the total assets he has accumulated in the North Carolina Local Government Employees' Retirement System. Upon transfer of these assets, MANAGER shall be credited for time of service, on a month for month basis. The City Manager shall also be credited for any accumulated sick leave balance earned from local government employment in North Carolina for the purposes of credit toward service time working for the City of Danville.

The City Manager is also requesting Section 12 of his contract be amended to add the following:

Under Section 12 (B):
Change 4 months to 6 months.

BACKGROUND

Past City Managers have had the option to transfer their retirement assets from previous local government employment into the City of Danville's Employee Retirement System in exchange for credit for time of service. In addition, the previous City Manager's contract included six months of severance pay for termination "without cause." City Manager Ken Larking's contract does not allow for transfer of retirement assets and has a provision for just four months of severance pay for termination "without cause."

Mr. Larking is asking for an amendment to his contract so that these two provisions are substantially similar to the provisions previous city managers had in their contracts.

Attachments

Resolution

PRESENTED: _____

ADOPTED: _____

RESOLUTION NO. 2020-____.____

A RESOLUTION AMENDING SECTION 11 ENTITLED "RETIREMENT" AND AMENDING SECTION 12 (B) ENTITLED "TERMINATION BY THE CITY AND SEVERANCE PAY" OF THE CITY MANAGER'S EMPLOYMENT AGREEMENT.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Danville, Virginia that, Section 11 entitled "Retirement" and amending Section 12 (B) entitled "Termination by the City and Severance Pay" of the City Manager's Employment Agreement is hereby amended as set forth below:

Section 11. Retirement.

A. The City agrees to contribute Three Thousand Dollars (\$3,000) yearly into a retirement plan of his choosing.

B. The City will provide retirement benefits for the City Manager under the City's Employees' Retirement System on the same basis it provides such benefits to other City employees, taking into consideration his service since March 18, 2013 as well as his service subsequent to the execution of this Agreement.

C. The City Manager may, at his discretion, transfer the total assets he has accumulated in the North Carolina Local Government Employees' Retirement System. Upon transfer of these assets, the City Manager shall be credited for time of service, on a month for month basis. The City Manager shall also be credited for any accumulated sick leave balance earned from local government employment in North Carolina for the purposes of credit toward service time working for the City of Danville.

Section 12. Termination by the City and Severance Pay

B. Should a majority of the entire Council (five members) vote to terminate the services of the City Manager "without cause", then within ten (10) business days following such vote, the Council shall cause the City Manager to be paid any accrued and unused annual leave. Within forty-five (45) calendar days following the vote to terminate the City Manager's employment, the Council shall cause the City Manager to be paid a lump sum severance payment equal to ~~four-six~~ (46) months of his base salary as full and complete payment and satisfaction of any claims of the City Manager of whatsoever nature arising out of this Agreement or otherwise. As consideration for such payment, the City Manager shall, prior to receipt thereof, execute and deliver to the City a general release of the City and its Council members and its officers, agents,

and employees for all acts and actions (whether accrued or subsequently accruing) from the beginning of time until the date of release, said release to be prepared by the City Attorney.

APPROVED:

MAYOR

ATTEST:

CLERK

Approved as to
Form and Legal Sufficiency:

CITY ATTORNEY

Council Letter

City of Danville, Virginia



CL-2407

New Business J.

City Council Regular Meeting

Meeting Date: 11/17/2020

Subject: Next Gen 9-1-1

From: David Coffey, Fire Chief

COUNCIL ACTION

First Reading: 11/17/2020

Final Adoption: 12/01/2020

SUMMARY

The City has received notification from the Virginia Department of Emergency Management that the Emergency Services Center has been approved to receive funding from the 2020 Virginia 9-1-1 Services Board in the amount of \$179,560.25 for the implementation of a new phone system, with local funding of \$22,078.10.

BACKGROUND

Funds from the Virginia 9-1-1 Services are given to the Virginia Department of Emergency Management to distribute to localities throughout the Commonwealth, to be used to upgrade their current 9-1-1 phone systems; these upgrades must take place by 2021. The last time the 9-1-1 system was upgraded was in 2016 and is due for another upgrade by 2021. The primary goal of NG 9-1-1 is to ensure calls and information received in one locality can be transferred to any surrounding locality without the call being dropped. The upgrade will take the City from an analog system to an IP digital system that is capable of supporting the growing demands of a mobile society.

RECOMMENDATION

It is recommended that City Council approve the attached Ordinance Amending the Fiscal Year 2021 Budget Appropriation Ordinance by increasing revenue to anticipate the receipt of the grant funds from the Virginia Department of Emergency Management.

Attachments

Ordinance

PRESENTED: _____

ADOPTED: _____

ORDINANCE NO. 2020-____.____

AN ORDINANCE AMENDING THE FISCAL YEAR 2021 BUDGET APPROPRIATION ORDINANCE TO PROVIDE FOR A GRANT FROM THE VIRGINIA DEPARTMENT OF EMERGENCY MANAGEMENT IN AN AMOUNT OF \$179,560.25 AND LOCAL SHARE IN THE AMOUNT OF \$22,078.10 FOR EQUIPMENT AND SERVICE UPGRADES TO THE DANVILLE 9-1-1 EMERGENCY SERVICES COMMUNICATION CENTER FOR A TOTAL APPROPRIATION IN THE AMOUNT OF \$201,640, AND APPROPRIATING SAME.

WHEREAS, the City has been notified by the Virginia Department of Emergency Management that the Danville 9-1-1 Emergency Services Communication Center has been awarded funding; and

WHEREAS, the funding should be used to upgrade the equipment of the Danville 9-1-1 Emergency Services Communication Center in order to meet the Virginia 9-1-1 Services Board listing of minimum requirement equipment for NG9-1-1 Implementation.

NOW THEREFORE, BE IT ORDAINED, by the Council of the City of Danville, Virginia that the Fiscal Year 2021 Budget Appropriation Ordinance be, and is hereby, amended by increasing revenues from the Virginia Department of Emergency Management for equipment and service upgrades and such revenue and appropriation to be as follows:

ANTICIPATED REVENUES

<u>Description</u>	<u>Account No.</u>	<u>Amount</u>
FY 21 VDEM Funding—State Funding	61637000-48230	<u>\$179,560.25</u>

ANTICIPATED EXPENDITURES

<u>Description</u>	<u>Account No.</u>	<u>Amount</u>
FY 21 VDEM GRANT	61637999-50	<u>\$179,560.25</u>

AND BE IT FURTHER ORDAINED, a transfer from Special Grants

Unallocated funds is hereby authorized to cover the local share as follows:

TRANSFER FROM

<u>Description</u>	<u>Account No.</u>	<u>Amount</u>
Special Grants Unallocated	60098000-6999	<u>\$22,078.10</u>

TRANSFER TO

<u>Description</u>	<u>Account No.</u>	<u>Amount</u>
FY 21 VDEM GRANT	61637999-50	<u>\$22,078.10</u>

AND BE IT FURTHER ORDAINED that this appropriation shall be a continuing appropriation and shall carry forward from year to year until expended for the purpose for which appropriated; and

BE IT FINALLY ORDAINED that all other accounts and provisions of the Fiscal Year 2021 Budget Appropriation Ordinance, as amended, not hereby amended, shall continue in full force and effect unless and until hereafter further amended or repealed.

APPROVED:

MAYOR

ATTEST:

CLERK

Approved as to
Form and Legal Sufficiency:

CITY ATTORNEY

Council Letter

City of Danville, Virginia



CL-2455

New Business K.

City Council Regular Meeting

Meeting Date: 11/17/2020

Subject: Certifying Caesars of Virginia LLC as the City's Preferred Casino Operator

From: Ken F. Larking, City Manager

COUNCIL ACTION

Business Meeting: 11/17/2020

SUMMARY

Caesars of Virginia, LLC has been chosen as the preferred gaming operator for the City of Danville, Virginia. Mayor Alonzo L. Jones is now authorized to execute the City's post-referendum Letter of Certification.

BACKGROUND

The statute authorizing casino gaming in Virginia, which was signed into law in March 2020, provides an opportunity for each of the five potential communities within Virginia to approve or disapprove casino gaming within their borders. In anticipation of the vote, the City of Danville, Virginia sought proposals from enterprises with whom the City could negotiate potential agreements for the development and operations of a destination casino. In June 2020, the City of Danville officially selected Caesars Entertainment as their preferred provider. On November 3, 2020, the voters of Danville, Virginia approved the referendum to allow casino gaming.

RECOMMENDATION

It is recommended that Danville City Council authorize Mayor Alonzo L. Jones to execute the City's post-referendum letter of Certification of Caesars Virginia, LLC as the City's preferred casino gaming operator and authorize submission of the letter and other documentation to the Virginia Lottery Department.

Attachments

Resolution

PRESENTED: _____

ADOPTED: _____

RESOLUTION NO. 2020 - _____._____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANVILLE, VIRGINIA, PURSUANT TO VIRGINIA CODE SECTION § 58.1-4109, FORMALLY CERTIFYING CAESARS VIRGINIA, LLC AS THE CITY'S PREFERRED CASINO GAMING OPERATOR AND AUTHORIZING MAYOR ALONZO L. JONES TO SUBMIT THE CITY'S POST-REFERENDUM LETTER OF CERTIFICATION OF CAESARS VIRGINIA, LLC AS THE CITY'S PREFERRED CASINO GAMING OPERATOR TO THE VIRGINIA LOTTERY DEPARTMENT ALONG WITH ANY OTHER RELATED INFORMATION AS MAY BE NEEDED CONSISTENT WITH THIS RESOLUTION.

WHEREAS, the Virginia General Assembly has authorized the operation of a casino in the City of Danville pursuant to the provisions of Title 58.1, Chapter 41 of the Code of Virginia (the "Virginia Casino Gaming Act"); and

WHEREAS, the Council of the City of Danville, Virginia, selected Caesars Virginia, LLC to be the City's preferred casino gaming operator as provided under the Virginia Casino Gaming Act; and

WHEREAS, a majority of those voting in the referendum held on November 3, 2020, pursuant to § 58.1-4123, voted in the affirmative.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Danville, Virginia, that the City does hereby formally Certify Caesars Virginia, LLC to be the City's preferred casino gaming operator as provided under the Virginia Casino Gaming Act; and

BE IT FURTHER RESOLVED by the Council of the City of Danville, Virginia, that Mayor Alonzo L. Jones, is hereby authorized to execute the City's post-referendum letter of certification of Caesars Virginia, LLC as the City's preferred casino gaming operator; and

BE IT FINALLY RESOLVED by the Council of the City of Danville, Virginia it hereby authorizes the submission of the City's post-referendum letter of certification of

Caesars Virginia, LLC as the City's preferred casino gaming operator together with this resolution, and such other information as may be provided or required under the Virginia Casino Gaming Act to the Virginia Lottery Department.

APPROVED:

MAYOR

ATTEST:

CLERK

Approved as to
Form and Legal Sufficiency:

City Attorney