

# Clarke County Board of Supervisors

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**Berryville Voting District**  
**Matthew E. Bass**  
**(540) 955-5175**

**Millwood Voting District**  
**Terri T. Catlett-Vice Chair**  
**(540) 837-2328**

**Russell Voting District**  
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**(540) 955-2144**

**Buckmarsh Voting District**  
**David S. Weiss – Chair**  
**(540) 955-2151**

**White Post Voting District**  
**Bev B. McKay**  
**(540) 837-1331**

**County Administrator**  
**Chris Boies**  
**(540) 955-5175**

To: Board of Supervisors

From: Chris Boies

Re: Chapter 180 Amendments

Date: May 17, 2023

At the May 16<sup>th</sup> meeting, the Board authorized a public hearing on a number of amendments to Chapter 180 of the Code of Clarke County. The amendments are summarized below and in attached documents.

Section 180-2-makes clear outside privies must comply with the Code of Clarke County.

Section 180-21-clarifies service providers can dispose of waste at any treatment facility approved for such disposal, current language states the treatment facility must be located within the county. Clarke County currently has an agreement for disposal at the Route 7 treatment facility which is located outside of the county.

Section 180-23, 24, 25-removes language related to an annual fee which is currently not being charged to residents.

Section 180-34.13-removes the requirement for homeowners completing renovations exceeding \$10,000 to connect to the sewer system if they already aren't connected. An amendment also allows up to twelve months for a new building to be connected to the sewer system which follows existing practices of the Sanitary Authority. The existing language requires a connection within 90 days. No certificate of occupancy for a new structure would be issued until the sewer connection is made under the requirements of the statewide building code.

Section 180-34.26-changes requested by Inboden, see attached memo.

Section 180-34.27(a)(6)&(7)-changes requested by Inboden, see attached memo.

Section 180-34.27(c)-codifies the testing requirements for oils, fats, and grease by requiring testing to occur twice a year. A failed test would result in the issuance of a Notice of Violation and a \$500 fine. The Sanitary Authority would then conduct a series of unannounced tests, at the customer's expense, until the Sanitary Authority is satisfied the problems have been corrected. Any subsequent failures within a twelve month period will result in a \$1,000 fine for each failed test. Three failed tests within any three month period would result in the suspension of service and would require a corrective action plan to be developed

by the customer and implemented after review by the Sanitary Authority. Currently these situations are handled through the Sanitary Authority's Rules and Regulations.

Section 180-34.34-change requested by Inboden, see attached memo.

Section 180-34.46-adds shutting off water service as one option for the Sanitary Authority when suspending wastewater treatment service.

Article IX-creates a new sewer service area using similar language as the Waterloo Commercial Area Exclusive Service Area (see Article V). This language provides Frederick Water authority to provide service in the area of Double Tollgate identified in the County Comprehensive Plan. This service area is consistent with the attached agreement the County previously signed with Frederick Water to provide service to this area of Clarke County.



Mary Meredith  
Administrative Assistant  
Clarke County Sanitary Authority  
(540) 955-5185  
[ccsa@clarkecounty.gov](mailto:ccsa@clarkecounty.gov)

**RE: Revisions to County Code Article VIII – Clarke County Sanitary Sewer Use**

Ms. Meredith,

Inboden Environmental Services, Inc. (IES) has been requested to evaluate the language of the County Code Article VIII – Clarke County Sanitary Sewer Use in efforts to further define the characterization of polar fats, oil and grease (FOG) and non-polar petroleum and mineral products. To this end we recommend the following:

Revisions to Clarke County Code:

180-34.26. General Prohibition

Reads: “No user shall introduce any pollutants into the county Treatment Works which will pass through or interfere with the operation or performance of the Treatment Facilities.”

Change to: “No user shall introduce any pollutants into the county sanitary collection system and Treatment Works which will pass through the Treatment Facilities or interfere with the operation or performance of the sanitary collection system or Treatment Facilities.”

180-34.24. Restricted Discharges

a.6 Reads: “Contain more than 100 milligrams per liter of non-biodegradable oils of mineral or petroleum origin;”

Change to: “Contain more than 100 milligrams per liter of non-biodegradable and non-polar oils of mineral or petroleum origin as analyzed by the approved EPA 1664A method or ASTM International Method D7066-04;”

a.7 Reads: “Contain floatable oils, fat, or grease;”

Change to: “Contain polar floatable oils, fat, or grease of animal or vegetable origin that interfere with sanitary collection systems or Treatment Facilities, and contain more than 100 milligrams per liter of oil and grease as analyzed by an approved method in 40 CFR Part 136 for Total Recoverable Oil and Grease;”



180-34.34. User Permits

b.3 Reads: "Wastewater constituents and characteristics including but not limited to those mentioned in Article V, Section 3 of this Ordinance as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304 (g) of the Act and contained in 40 CFR, Part 136, as amended;"

Change to: "Wastewater constituents and characteristics including but not limited to those mentioned in Article V, Section 3 of this Ordinance as determined by an accredited analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304 (g) of the Act and contained in 40 CFR, Part 136, as amended;"

Best regards,

Mark Inboden, GM

A handwritten signature in blue ink, appearing to read "Mark Inboden", is written over a light blue horizontal line.

Inboden Environmental Services, Inc.

**WATER & SEWER SERVICES AGREEMENT BETWEEN  
CLARKE COUNTY AND FREDERICK COUNTY SANITATION AUTHORITY**

This WATER AND SEWER SERVICES AGREEMENT (“**Agreement**”) is entered into, by and between CLARKE COUNTY, VIRGINIA, a body politic and corporate and political subdivision of the Commonwealth of Virginia (the “**County**”), and the FREDERICK COUNTY SANITATION AUTHORITY, also a public body politic and corporate and political subdivision of the Commonwealth of Virginia (the “**Authority**”), which was incorporated by Frederick County pursuant to the Virginia Water and Waste Authorities Act, Virginia Code § 15.2-5100, et seq., as amended (“**VWWAA**”).

**RECITALS**

WHEREAS, the County presently provides public water and sewer services to some of the residents and businesses of the County through the Clarke County Sanitary Authority, which was incorporated by the Clarke County Board of Supervisors pursuant to the terms of the VWWAA on January 13, 1969;

WHEREAS, the Authority presently provides public water and sewer services throughout much of Frederick County, a locality adjoining Clarke County on the west, within the areas authorized by the Frederick County Board of Supervisors, which incorporated the Authority on August 1, 1967 pursuant to the terms of the VWWAA;

WHEREAS, since its incorporation, the Authority has accumulated sufficient infrastructure, resources and expertise to meet the growing demand of its customers in Frederick County and beyond;

WHEREAS, the Authority presently operates a water system, as defined in the VWWAA, by which it provides treated, potable water to its customers (the “**Water System**”), and also operates a sewer system and sewage disposal system, as defined in the VWWAA, that accepts, transports, treats and disposes of sewage generated by its customers (the “**Sewer System**”), all of whom are presently located in Frederick County;

WHEREAS both the Water System and the Sewer System presently serve residences and businesses in Frederick County near the Frederick County and Clarke County border;

WHEREAS, the Frederick County Board of Supervisors, on October 27, 2021, by Resolution Number 030-21, authorized the Authority to extend the service of the Water System and/or Sewer System beyond the boundaries of Frederick County to meet the needs of residents and businesses in neighboring localities;

WHEREAS, the County desires to make the Authority’s services available to those within the area(s) of the County designated by the Board of Supervisors, and the Authority is willing to provide its services within those areas of the County to the extent practicable;

WHEREAS, the County has authorized the County Administrator to reach agreement with the Authority on the terms under which the Authority may extend its operations within the County, which terms are set forth below;

WHEREAS, the Authority's Board of Directors on April 19, 2022, and the County's Board of Supervisors on April 19, 2022, approved the terms of this Water and Sewer Services Agreement, and directed their representatives to proceed with all deliberate speed to the execution of this Agreement; and,

WHEREAS, the County and the Authority (collectively, the "Parties") are committed to working cooperatively to enable the Authority to provide public water and sewer services within the County, including by taking all such acts and entering into all such other and further agreements within their powers as may be reasonable, necessary and appropriate to carry out the provisions and purposes of this Agreement.

#### WITNESSETH

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the County and the Authority resolve, covenant and agree as follows:

1. The above recitals are hereby incorporated into this Agreement and thereby made a part hereof and binding on the Parties hereto.

#### CLARKE COUNTY SEWER AND WATER SERVICE AREA

2. The County shall take all reasonable, necessary and appropriate legislative actions within its power, whether by motion, resolution or ordinance, and otherwise in accordance with law, including by making any reasonable, necessary and appropriate addition, amendment or deletion to or from the Code of Clarke County, Virginia ("The Clarke County Code"), the Clarke County Comprehensive Plan and appropriate Implementing Plans, to:

a. Fully and perpetually authorize the Authority to take all actions within its powers that it deems necessary and appropriate to provide public water and sewer service within the boundaries of the Clarke County SWSA, as hereinafter defined;

b. Specifically identify, pursuant to Virginia Code § 15.2-2232, those portions of the County wherein the Authority may extend public water and/or sewer services (the "Clarke County SWSA"), which is expected to include, as an initial matter, at least the vicinity depicted on the attached **Exhibit A, which will be further defined and finalized by the Board of Supervisors following a Comprehensive Plan process and thereafter deemed incorporated herein;**

c. Specifically provide, including in the Clarke County Zoning and Subdivision Ordinance, Clarke County Code c. 200, that the availability of public water or sewer service from the Authority within the Clarke County SWSA is conditioned upon the customer's

design, construction and installation of all water and sewer service conduits, pipes and lines, whether mains or laterals, force mains, standpipes, hydrants, meters, valves and equipment, and pump stations and other facilities in connection therewith (the "Distribution Facilities") deemed necessary and appropriate by the Authority to provide the requested services, with such Distribution Facilities to be constructed and installed to the Authority's then-prevailing Water and Sewer Standards and Specifications.

d. Specifically provide, including in the Clarke County Subdivision of Land Ordinance, Clarke County Code c. 200, that the Authority's approval of subdivision design plans and plats within the Clarke County SWSA is a precondition for extension of public water or sewer service from the Authority to the property or properties that are the subject of the subdivision application.

e. Specifically provide that notwithstanding any provision of The Clarke County Code, including Chapters 143, 180, and 200, the Clarke County Comprehensive Plan, or any Implementing Plan, any and all Distribution Facilities used or to be used by the Authority as part of a water system or a sewer system, to serve a sewage disposal system as defined in the VWWAA, within the County shall be permitted to be constructed, installed, maintained, repaired, replaced and operated by right in all zoning districts within the boundaries of the Clarke County SWSA.

f. Specifically acknowledge that the facilities of the Authority within the County hereinafter made part of a water system, sewer system, as defined by the VWWAA, shall be deemed to be substantially in accord with the Comprehensive Plan.

3. The County shall not take any legislative, executive, administrative or other action to hinder, impair or impede the Authority's facilities or operations, whether located or conducted within or without the Clarke County SWSA, and whether such facilities or operations are employed to provide public water or sewer services to properties within the Clarke County SWSA or elsewhere.

a. Nothing in this Agreement shall be read to permit the Authority to provide water or sewer services to properties within the boundaries of the County that are outside the Clarke County SWSA, as the same may be amended.

b. In no case may the County, without authorization from Frederick Water, amend the Clarke County SWSA to remove properties previously included therein, whether or not services have been extended to the properties in question, nor amend the Clarke County SWSA, nor take any other action, to compel the Authority to discontinue provision of public water or sewer services to a property that is within the Clarke County SWSA or was within the Clarke County SWSA prior to said amendment.

4. The Authority shall be required to obtain all approvals other than required only by The Clarke County Code prior to commencing construction of infrastructure, including any and all approvals required by Virginia Code § 15.2-2126, *et seq.*, and Virginia Code § 15.2-2149, *et seq.*, and shall in all cases obtain the prior approval of the Clarke County Board of Supervisors

prior to commencing construction of any water or sewer treatment plant or water tower within the County.

### **WATER & SEWER INFRASTRUCTURE**

5. The Authority shall, in perpetuity, take all necessary, appropriate and reasonable actions within its power to enable and facilitate the extension of the Water System and Sewer System to provide public water and sewer service to properties within the Clarke County SWSA, as the same may be amended, including all such actions to enable and facilitate the design, construction, and connection of a water system, sewer system, and sewage disposal system, as those terms are defined in the VWWAA, within the County to provide public water and sewer service to properties within the Clarke County SWSA, as the same may be amended. Such actions by the Authority may be the subject of further agreements between the Parties, between the Parties and other persons, as defined in Virginia Code § 1-230, or between the Authority and other persons, as defined in Virginia Code § 1-230.

a. The Parties understand and agree that, prior to its being connected to the Water System or Sewer System or its otherwise being employed in providing public water and sewer service to properties within the Clarke County SWSA, all infrastructure, improvements, and other property must meet the Authority's then-prevailing Water and Sewer Standards and Specifications, and that the Authority may impose other terms and conditions, including payment of connection fees, prior to a property's connection to the Water System or Sewer System or employment of any infrastructure, improvements, or other property in providing public water and sewer service to properties within the Clarke County SWSA, as the same may be amended.

b. The Parties understand and agree that, prior to its connection to the Water System or Sewer System or other employment in providing public water and sewer service to properties within the Clarke County SWSA, all infrastructure, improvements, and other property, including pipelines, pumps, pump stations, and treatment plants and any other improvements or property that are to be used as part of a water system, sewer system, or sewage disposal system, as defined by VWWAA, to facilitate the provision and/or receipt of water and/or sewer service from the Authority must be conveyed to the Authority on terms it deems acceptable, in its discretion, which may include the fee simple dedication of any and all easements it deems necessary to enable operation, maintenance, repair and/or replacement of said infrastructure, improvements or property.

c. All such infrastructure, improvements, and other property referenced in this Section shall become and remain the sole and permanent property of the Authority.

d. The Parties further understand and agree that nothing in this Agreement shall require or prohibit either the County or the Authority to pay, reimburse, cover, finance or otherwise bear, either initially or ultimately, all or any part of the design, construction, or connection costs of said infrastructure, improvements or other property.

6. The County shall, in perpetuity, take all necessary, appropriate and reasonable actions within its power, including conveying or leasing any and all real or personal property owned by the County, extending financing or funding, or taking any other action within its power,



to enable and facilitate the design, construction, connection, operation, maintenance, repair and/or replacement of said infrastructure, improvements or other property employed or to be employed in providing and/or receiving water and/or sewer service from the Authority within the Clarke County SWSA. Such actions by the County may be the subject of further agreements between the Parties, between the Parties and other persons, as defined in Virginia Code § 1-230, or between the County and other persons, as defined in Virginia Code § 1-230.

a. However, nothing in this Agreement shall bind the County to convey, sell, lease or otherwise transfer any particular property, contract any particular debt, appropriate any specific money, impose any tax, fee or other charge, or exercise the power of eminent domain as to any particular property, nor shall it exempt the County from following any and all laws and procedures applicable to such acts.

### **WATER AND SEWER SERVICE PROVISION**

7. The Authority shall, in perpetuity, take all necessary, appropriate and reasonable actions in its power to operate any and all infrastructure, improvements, and real and personal property owned or hereafter acquired by the Authority to provide public water and sewer service to properties within the Clarke County SWSA, and otherwise take any and all other necessary, appropriate and reasonable actions in its power to provide public water and sewer service to properties within the Clarke County SWSA, on the same terms as said services are provided to other customers of the Authority.

a. Nothing in this Agreement shall obligate the Authority to accept any connection to the Water System or Sewer System from the Clarke County SWSA that, at the time of the proposed connection, create a substantial risk of overburdening the capacity of the Water System or Sewer System, as determined by the Authority in its sole discretion.

b. Nothing in this Agreement shall obligate the Authority or the Frederick-Winchester Service Authority ("FWSA") to undertake capital improvements to increase its present water or sewer treatment capacity, which capacity shall be determined by the Authority in its sole discretion.

c. Nothing in this Agreement shall be construed or deemed to require the Authority to reserve any capacity within the Water System or Sewer System for properties within the Clarke County SWSA, or to decline any proposed connection by a customer outside the Clarke County SWSA to ensure that there is adequate capacity to provide water or sewer service to properties within the Clarke County SWSA.

d. Nothing in this Agreement shall be construed or deemed to restrict the grounds on which the Authority may decline or cease to provide water and/or sewer service to a property within any of its authorized service areas, including the Clarke County SWSA.

8. The Authority shall, in perpetuity, take such necessary, appropriate and reasonable actions within its power to maintain, repair, refurbish and replace, any and all infrastructure, improvements, and other property used in the provision of public water or sewer service to

properties within the Clarke County SWSA to ensure the continued availability and efficiency of those services to existing customers within the Clarke County SWSA.

9. Unless the Authority declines a proposed connection to the Water System or Sewer System properly sought by a property in the Clarke County SWSA, the County shall not provide, or permit another locality, political subdivision, or public or private utility to provide, water or sewer service to that property within the Clarke County SWSA.

a. In no case shall the County provide, or permit another locality, political subdivision, or public or private utility to provide, water or sewer services to any property within the Clarke County SWSA that has not received from the Authority a declination of its proper application to connect to the Water System or Sewer System.

b. Nothing in this Agreement shall limit the right, power, duty or discretion of the County to provide, or obligate the County to prohibit any other locality, political subdivision, or public or private utility from providing, water or sewer service to any property in the County that is outside the Clarke County SWSA.

#### **RATES, FEES AND CHARGES FOR WATER & SEWER SERVICE**

10. The Authority shall be free to fix, charge and collect fair and reasonable rates, fees, rents and charges, including connection fees, within the Clarke County SWSA, to the full extent of its authority under the VWWAA and other applicable law, as the same may be amended.

a. The Parties understand and agree that the Authority has full and sufficient authority to enforce the satisfaction of all rates, fees, rents and charges, including connection fees, imposed by the Authority, as provided by the VWWAA and other applicable law as the same may be amended.

b. The County shall, on written request by the Authority, collect amounts due on properly recorded utility liens in favor of the Authority in the same manner as unpaid real estate taxes due to the County.

c. The County shall, in perpetuity, take all necessary, appropriate and reasonable actions in its power to cooperate with the Authority to enforce the satisfaction of all rates, fees, rents and charges, including connection fees, imposed by the Authority for service provided to properties in the Clarke County SWSA, as provided by the VWWAA and other applicable law as the same may be amended.

d. Nothing in this Agreement shall limit the Authority's right, power, duty or discretion to fix, charge and collect fair and reasonable rates, fees, rents or charges, including connection fees, within the Clarke County SWSA, or to limit its right, power, duty or discretion to enforce satisfaction of the same.

11. The Authority shall impose such rates, fees, rents and charges, including connection fees, within the Clarke County SWSA, on the same terms as they are imposed on other users of the Water System and Sewer System outside of the Clarke County SWSA.

a. Nothing in this Agreement shall limit the Authority's right, power, duty or discretion to impose rates, fees, rents or charges, including collection fees, on some or all customers within the Clarke County SWSA that are in addition to those imposed on other users of the Water System and Sewer System outside the Clarke County SWSA if the same is determined by the Authority, in its discretion, to be necessary and appropriate to cover the costs of infrastructure, services or other costs that uniquely result or derive from, serve and/or benefit customers in the Clarke County SWSA.

b. Nothing in this Agreement shall confer on the County any right, power, duty, or discretion to determine, any interest in, or any legal responsibility for, the rates, fees, rents or charges, including connection fees, imposed by the Authority, whether in the Clarke County SWSA or elsewhere in the Water System or Sewer System.

#### MISCELLANEOUS

12. Nothing in this Agreement shall be construed, and no performance hereunder shall be deemed, to create a partnership or joint venture between the Parties or to make either the Authority or the County employees or agents of the other or of both of them.

13. Neither of the Parties may assign, directly or indirectly, all or part of its rights or obligations under this Agreement without the prior written consent of the other party.

14. To the extent required to carry out the purposes of this Agreement or to preserve any portion thereof challenged as invalid or unenforceable, the use of the conjunctive shall be deemed to include the disjunctive and vice versa, the masculine to include the feminine and vice versa, and the singular to include the plural and vice versa. The term "including" shall be read as illustrative, not exhaustive, and so shall be interpreted to mean "including but not limited to" that which was stated.

15. This Agreement, including the exhibits hereto, once fully executed by the designated representatives of each Party and approved by each of the Parties' respective Boards, sets forth the full, final, and entire agreement and understanding of the Parties with respect to the issues addressed herein, superseding all prior representations, understandings, and agreements not expressly incorporated herein. Any terms and conditions not expressly set forth in this Agreement are not a part of this Agreement or the understanding or undertakings of the Parties hereto. Any representations, warranties, promises, or conditions, whether written or oral, not specifically incorporated herein, shall not be binding on the County or the Authority.

16. This Agreement may not be modified, changed, supplemented or terminated, nor may any obligations hereunder be waived, except by written instrument agreed to by the Parties and signed by both of their duly authorized agents.

17. Failure by either of the Parties to insist upon or enforce any of its rights hereto shall not constitute a waiver thereof.

18. This Agreement, once fully executed by the designated representatives of each Party and approved by each of the Parties' respective Boards, is binding upon and shall inure to the benefit of each of the Parties and their representatives, agents, officers, employees, predecessors and successors in interest, successors in title, assigns, privies, and anyone acting on their behalf.

19. This Agreement is for the sole benefit of the Parties hereto and their respective successors and nothing herein, express or implied, is intended to or shall confer upon any other entity or person, as defined by Virginia Code § 1-230, any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

20. This Agreement shall be governed by and construed under the laws of the Commonwealth of Virginia, without regard to its conflict or choice of law rules.

21. This Agreement shall be effective upon the date of its full execution, which execution shall occur only after final approval of this Agreement by the Clarke County Board of Supervisors and by the Authority's Board of Directors. Each of the Parties hereto shall have its designated representative sign this Agreement to indicate that it has been approved by its respective Board. Such signature shall constitute a warrant and representation by the signer of full and express authority to sign on behalf of and to bind the designating Party. Each of the Parties shall also have its counsel sign this Agreement to indicate that it has been approved as to form.

22. This Agreement may be executed in two (2) counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document. Signatures transmitted by facsimile or other digital means shall be deemed original signatures.

23. Both of the Parties were represented by counsel who contributed to the drafting of this Agreement and approved the same as to form. The Agreement shall not be construed against either Party in the event of a dispute over the interpretation, construction or application of any of its terms.

24. The Parties agree to cooperate with each other in every respect in carrying out the intent and effectuating the purposes of this Agreement, including negotiating, executing and delivering any and all such notices, instruments, certificates, agreements, exhibits, schedules, resolutions, addendums, and other documents in connection with, in furtherance of, or to carry out or further consummate the extension and provision of services contemplated by this Agreement.

25. This Agreement shall survive the Closing and the execution, delivery and recording of any and all of the instruments in connection with, in furtherance of, or to carry out or further consummate the intent and effectuating the purposes of this Agreement, including those called for, entered into or delivered pursuant to this Agreement.

26. Whenever notices are to be given under the terms of this Agreement, and except as otherwise specifically provided by law, such notices shall be deemed to have been given and be effective on the date said notice is (1) sent by electronic mail and also (2)(i) hand delivered by personal delivery, or (ii) received (or refused) by registered or certified mail (return receipt requested, first-class postage prepaid), in any case addressed to the parties as follows:

If to the County to: Clarke County, Virginia  
Berryville-Clarke County Government Center  
101 Chalmers Ct., 2d Floor  
Attention: County Administrator  
E-mail: CBoies@clarkecounty.gov

If to the Authority to: Frederick County Sanitation Authority  
By mail: P.O. Box 1877  
Winchester, VA 22604-8377  
Attention: Executive Director  
E-mail: ELawrence@Frederickwater.com

Or by hand: Wellington H. Jones Administration Building  
315 Tasker Rd  
Stephens City, VA 22655

With a required copy to: Whiteford, Taylor & Preston L.L.P.  
(which shall not constitute 1021 East Cary Street, Suite 1700  
notice) Richmond, VA 23219  
Attention: Dale G. Mullen, Esq.  
E-mail: DMullen@wtplaw.com

or in each case to such other address or addressee as any party hereto may from time to time designate to the other party hereto by notice given pursuant to this Section.

[SEE ATTACHED SIGNATURE PAGES]

Approved as to form:

FREDERICK COUNTY SANITATION  
AUTHORITY

By: Michael H. Brady

By: [Signature]

Name: Michael H. Brady  
*Counsel for the Authority*

Name: ERIC LAWRENCE

Title: EXECUTIVE DIRECTOR

COMMONWEALTH OF VIRGINIA

COUNTY OF FREDERICK, to-wit:

I, Angela Mason, a notary public in and for the Commonwealth and County aforesaid, do certify that the foregoing instrument was acknowledged before me this 21<sup>st</sup> day of April, 2022, by Eric Lawrence, whose name is signed to the foregoing instrument dated April 21, 2022, has acknowledged the same before me as Executive Director for Frederick County Sanitation Authority, a Virginia body politic and corporate, on behalf of such entity.

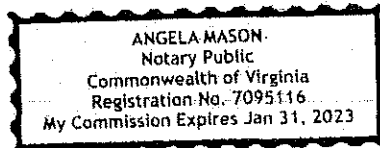
GIVEN under my hand this 21<sup>st</sup> day of April, 2022.

Angela Mason  
Notary Public

My Commission Expires: Jan 31, 2023

Notarial Registration No.: 7095116

[SEAL]



Approved as to form:

CLARKE COUNTY, VIRGINIA

By: [Signature]  
Name: Robert T. Mitchell, Jr.  
Counsel for Clarke County

By: [Signature]  
Name: David S Weiss  
Title: Chairman

COMMONWEALTH OF VIRGINIA

CLARKE COUNTY, to-wit:

I, Catherine Dietz Marsten, a notary public in and for the Commonwealth and County aforesaid, do certify that the foregoing instrument was acknowledged before me this 28<sup>th</sup> day of April, 2022, by David S. Weiss, whose name is signed to the foregoing instrument dated April 28, 2022, has acknowledged the same before me as Chairman, Board of Supervisors for Clarke County, Virginia, a Virginia body politic and corporate, on behalf of such entity.

GIVEN under my hand this 28 day of April, 2022.

[Signature]  
Notary Public

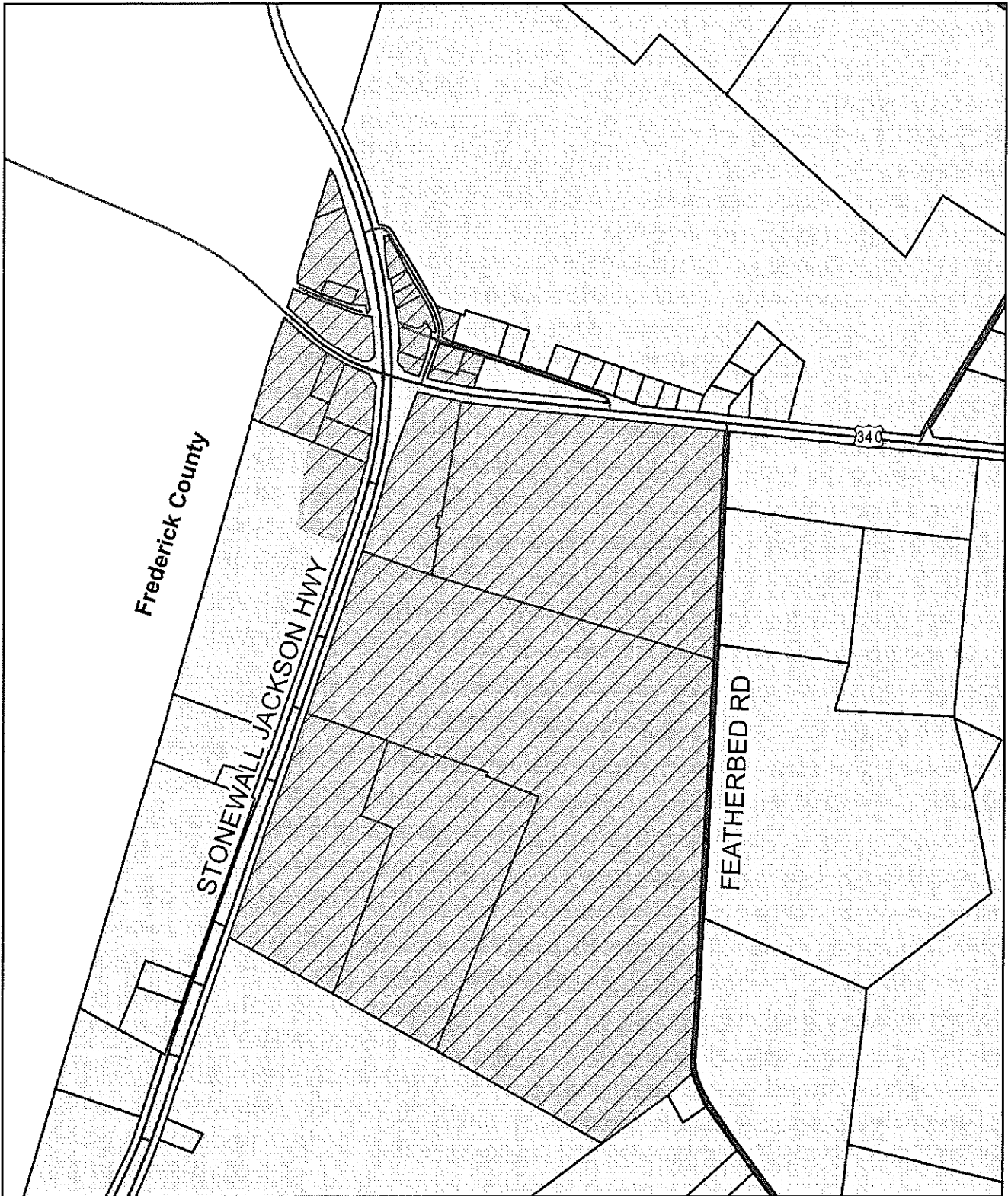
My Commission Expires: 12/31/2022

Notarial Registration No.: 7794054

CATHERINE DIETZ MARSTEN  
NOTARY PUBLIC  
Commonwealth of Virginia  
Reg. #7794054  
My Commission Expires December 31, 2022




[SEAL]

# Exhibit A, Proposed Service Area (DRAFT)



0 0.125 0.25 Miles



-  Proposed Service Area
-  Parcels
-  Roads



# Chapter 180 Water And Wastewater

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## **Chapter 180 Water and Wastewater**

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[HISTORY: Adopted by the Board of Supervisors of Clarke County as indicated in article histories. Amendments noted where applicable.]

### **General References**

Chapter 34 Sanitary Authority

Chapter 124 Nuisances

Chapter 143 Septic Systems

Chapter 161 Subdivision Of Land

### **Code of Virginia References**

§ 15.2-5100. et seq. - Virginia Water and Waste Authorities Act.

## Article I Sewage Disposal

[Adopted 01-19-1988 as Secs. 12-31 through 12-34 of the 1987 Code]

### *§ 180-1. Prohibited arrangement for disposal of human excrement.*

No person shall construct, maintain or permit on any premises owned by him or in his charge any arrangement for the disposal of human excrement which may endanger a source of food or drinking water or which allows flies to have access to the human excrement or drainage from which escapes onto the surface of the ground on his or adjoining property or which, in the opinion of the Health Officer, gives rise to a nuisance.

### *§ 180-2. Sanitary disposal devices required.*

Every house used as a human habitation, every warehouse, every public building and every other place where human beings congregate or are employed in the county shall be provided by the owner thereof with a sanitary toilet, privy or other sanitary device for the disposal of human excrement. If any outside privy is used, it must be built and maintained in accordance with the specifications and requirements of the State Board of Health and the Code of Clarke County.

### *§ 180-3. Approved sewage disposal methods required.*

All homes and other places in which flush toilets are installed shall be provided by the owners with methods of sewage disposal approved by the Health Officer or his representative.

### *§ 180-4. Deposition of human excrement.*

No person shall deposit any human excrement upon the surface of the ground or in any place where it may endanger a source of food or drinking water or be accessible to flies or animals.

The term "Human Excrement" does not include "biosolids", as defined by the Virginia Department of Health, which are a treated human waste product.

## Amendments Chapter 180-Article I

2000-01-25

§ 180-4. Deposition of human excrement: add the term "Human Excrement" does not include "biosolids", as defined by the Virginia Department of Health, which are a treated human waste product.

§ 180-5. Subsurface conventional septic tank and soil treatment area systems required; alternative systems: Change from Board of Supervisors to Board of Well & Septic Appeals

2010-06-15

Chapter 180, Water and Wastewater, so as to delete Section 180-5 Subsurface conventional septic tank and soil treatment area systems, required; alternative systems; CC-10-04

## Article II Sinkholes

[Adopted 01-19-1988 as § 12-66 through 12-72 of the 1987 Code]

### § 180-6. Definitions.

When used in this article, the following terms have the meanings given to them:

<b>OWNER OF LAND or LANDOWNER</b>	Any person who holds title to or is in possession of any land lying within the county, whether as owner, lessee or otherwise.
<b>PERSON</b>	Any natural person, any state, municipality or other political subdivision or other public agency or instrumentality, any public or private corporation, any partnership, firm, association or other organization, any receiver, trustee, assignee, agent or other legal representative of any of the foregoing and any other entity.
<b>POLLUTANTS</b>	Anything which, when introduced into water, alters the chemical, physical, biological or radiological properties of water.
<b>SINKHOLE</b>	Any depression in the surface of the ground, with or without collapse of adjacent rock, which provides a means through which surface water can enter the ground and thereby come into contact with subsurface water. Sinkholes are divided into Class 1 sinkholes and Class 2 sinkholes. <ul style="list-style-type: none"><li>A. Class 1 sinkhole. Any sinkhole which presents a significant subsurface water pollution hazard if, due to the drainage pattern of the land surrounding the sinkhole or the nature of the substances or objects in the sinkhole, the sinkhole may permit the entry of pollutants into subsurface water.</li><li>B. Class 2 sinkhole. Any sinkhole which is not a Class 1 sinkhole for reasons pertaining to the sinkhole</li></ul>

	characteristics for transporting pollutants into the subsurface.
<b>SUBSTANCES AND OBJECTS</b>	All substances and objects, whether or not manmade and whether in liquid, solid or gaseous form.
<b>SUBSURFACE WATER</b>	Any water below the surface of the ground, including but not limited to water in the saturated and unsaturated zones.

*§ 180-7. Intent.*

The county relies on a clean supply of subsurface water to foster and protect human health and welfare. Clean water resources are essential for the economic and social development of the county. The karst geomorphology of the county creates high contamination potential for subsurface water associated with pollutants in or around sinkholes. Therefore, it is declared to be the policy of the county to protect human health and the public welfare by establishing land use controls to abate and mitigate the subsurface water pollution potential by prohibiting the movement of pollutants to the subsurface water through sinkholes.

*§ 180-8. Administration.*

The office of the county Planning Administrator and the county Health Department shall have the duty and responsibility to implement and enforce the provisions of this article.

*§ 180-9. Placing substances and objects in sinkholes.*

No person shall place or cause to be placed any substances or objects other than those approved by the county in any sinkhole.

*§ 180-10. Class 1 sinkholes.*

A. The county shall take the steps necessary to identify Class 1 sinkholes located in the county and prescribe corrective and protective measures deemed reasonable and necessary to minimize and, if possible, eliminate the entry of pollutants into subsurface water through such sinkhole. Such corrective and protective measures include, but are not limited to:

- (1) Buffer zones covered with grass or other appropriate vegetation.
- (2) Installation of diversion methods or structures.
- (3) Installation of concrete or plastic liners.
- (4) Termination of the activity which creates the pollution hazard.



- (5) Removal of substances and objects from the sinkhole.
- B. Before prescribing corrective and protective measures with respect to a particular Class 1 sinkhole, the county shall meet with landowners involved and discuss with them the reasons the sinkhole presents a significant subsurface water pollution hazard and the need for corrective and protective measures to minimize and, if possible, eliminate the entry of pollutants into subsurface water through the sinkhole.
  - C. In prescribing corrective and protective measures, the county shall consider all relevant factors, including but not limited to the expense of implementing such measures and the effect which implementing will have upon the use by the landowner(s) of their land; provided, however, that economic hardship alone shall not prevent the prescription of corrective and protective measures. The corrective and protective measures prescribed, together with the date by which such measures must be completed, shall be set forth in writing and sent to the landowner(s) involved by return receipt mail.
  - D. The owner of land upon which a Class 1 sinkhole is located shall take the corrective and protective measures prescribed by the county.
  - E. The owner of land over, through or under which pollutants travel to a Class 1 sinkhole which is located on another landowner's land shall take the corrective and protective measures prescribed by the county.

*§ 180-11. Civil enforcement.*

- A. Any person may submit to the county a verbal or written complaint alleging a violation of this article or the existence of a Class 1 sinkhole with respect to which corrective and protective measures have not been prescribed.
- B. Upon receipt of a complaint, the county shall proceed pursuant to § 180-10A, B and C.
- C. Based upon a determination that there is a violation of this article, the county shall notify the violator by mail of the violation. The notice shall include:
  - (1) A statement of the violation.
  - (2) With respect to a violation of § 180-9, a statement that the county may remove from the sinkhole involved the offending substances and objects and that the violator will be obligated to the county for the reasonable cost of such removal.
  - (3) With respect to a violation of § 180-10D, a statement that the county may take the already prescribed corrective and protective measures and the violator will be obligated to the county for the reasonable cost of such action.
- D. If after taking the above steps and after a period of 30 days following the mailing of the notice of the violation the county, in good faith, determines that the violator is unwilling

to take the corrective actions prescribed, the county shall again notify the violator by mail of the violation.

- E. With respect to a violation of § 180-9, 10 days after the mailing of the second notice, the county may remove from the sinkhole involved the offending substances and objects and bill the violator for the reasonable cost of such action.
- F. With respect to a violation of § 180-10D or E, 10 days after the mailing of the second notice of violation, the county may take the already prescribed corrective and protective measures it deems necessary to minimize and, if possible, eliminate the entry of pollutants into subsurface water through the sinkhole and bill the violator for the reasonable cost of such action.

*§ 180-12. Criminal enforcement.*

In lieu of proceeding under § 180-11, a person who is alleged to have violated § 180-9 may be prosecuted for the commission of a misdemeanor.

## Article III Cross-Connection and Backflow Prevention

[Adopted 04-18-1994]

### § 180-13. Definitions.

The following terms, whenever used or referred to in this article, shall have the respective meanings set forth below, unless the context clearly requires a contrary meaning or any such term is expressly defined to the contrary elsewhere in this article:

<b>AUTHORITY</b>	-- The Clarke County Sanitary Authority.
<b>BACKFLOW</b>	-- The flow of water or other liquids, mixtures or substances into the distributing pipes of a potable supply of water from any source other than its intended source.
<b>CROSS-CONNECTION</b>	-- Any physical connection between a potable water supply and any waste pipe, soil pipe, sewer drain or any unapproved source or system. Cross-connection includes any potable water supply outlet, which is submerged or can be submerged in wastewater and any other source of contamination.
<b>HEALTH HAZARD</b>	-- Any conditions, devices or practices in the water supply system and its operation, which create or, in the judgment of the Authority, may create a danger to the health and well-being of the water consumer.
<b>PLUMBING FIXTURE</b>	-- Installed receptacles, devices or appliances supplied with water or that receive or discharge liquids or liquid-borne wastes.
<b>POLLUTION</b>	-- The presence of any foreign substance (organic, inorganic, radiological or biological) in the water that tends to degrade its quality so as to constitute a hazard or impair the usefulness of the water.
<b>WATER, NONPOTABLE</b>	-- Water that is not safe for human consumption or that is of questionable potability.
<b>WATER, POTABLE</b>	-- Water free from impurities in amounts sufficient to cause disease or harmful physiological effects. Its bacteriological and chemical quality shall conform to the requirements of the Virginia Waterworks

Regulations of the State Department of Health and the requirements of the county Department of Utilities.

**WATER SYSTEM**

-- All structures, appliances and equipment owned and operated by the county and/or the Authority and used to collect, store, transport, purify and treat water for drinking or domestic use and the distribution of water to the public.

*§ 180-14. Pollution prevention measures required.*

Every building, premises or structure in the county shall be constructed, equipped and maintained in such a manner as to prevent the possibility of pollution of the county water supply by cross-connection or backflow of liquids.

*§ 180-15. Cross-connections prohibited.*

- A. The county potable water supply system shall be designed, installed and maintained in such a manner as to prevent contamination from non-potable liquids, solids or gases being introduced into the potable water supply through cross-connections or any other piping connections to the system.
- B. Cross-connections between the county potable water system and other systems or equipment containing water or other substances of unknown or questionable safety are prohibited except when and where, as approved by the Authority, suitable protective devices such as the reduced pressure zone backflow preventer or equal are installed, tested and maintained to ensure proper operation on a continuing basis.

*§ 180-16. Backflow and back-siphonage prohibited.*

The county potable water system shall be protected against backflow and back-siphonage by installing and maintaining at all fixtures, equipment and outlets where backflow or back-siphonage may occur a suitable backflow preventer as approved by the Authority.

*§ 180-17. Inspections by Authority; right of entry.*

- A. The Authority or its designated agent shall inspect all properties served by the water system where cross-connection with the water system is deemed possible. The frequency of these inspections shall be established by the Authority.
- B. The Authority or its designated agent shall have the right to enter, at any reasonable time, properties served by the water system for the purpose of inspecting for cross-

connection or backflow problems caused by improper installation, repair or maintenance, faulty equipment or other causes. Upon request, the owner or occupants of the property served by the water system shall furnish to the inspector pertinent information regarding the piping system on such property. Refusal to provide such information or refusal of access when required shall constitute a violation of this article.

*§ 180-18. Compliance with applicable rules and regulations.*

Any cross-connection or backflow prevention device or system shall be designed, installed and maintained in such a manner as to be in compliance with the Cross-Connection Control Manual, United States Environmental Protection Agency, Office of Water Programs, Water Supply Division, 1973; plumbing standards as set forth in the Virginia Uniform Statewide Building Code § 36-97 et seq. Code of Virginia; § 6.00 of the Virginia Waterworks Regulations entitled "Cross-Connection and Backflow Prevention Control in Waterworks"; and the Clarke County Cross-Connection and Backflow Prevention Control Regulations, copies of which are on file in the county office.

*§ 180-19. Notice of violation; protection of waterworks.*

- A. The Authority shall notify the owner or authorized agent of the owner of the building or premises in which there is found a violation of this article of such violation. The Authority shall set a reasonable time for the owner to have the violation removed or corrected. Upon failure of the owner to have the defect corrected by the end of the specified time interval, the Authority may, if in its judgment an imminent health hazard exists, cause the water service to the building or premises to be terminated or deny service to such premises.
- B. If it is found that the backflow prevention device has been removed or bypassed or if a cross-connection exists or if the pressure in the waterworks is lowered below 10 psi gauge, the Authority shall take positive action to ensure that the waterworks is adequately protected at all times.

*§ 180-20. Violations and penalties.*

The owner or authorized agent of the owner responsible for the maintenance of the plumbing systems in the building who knowingly permits a violation to remain uncorrected after the expiration of time set by the Authority shall be punished as provided in Chapter 1, General Provisions, Article I, for each violation. Each day of failure to comply with the requirements of this article, after the specified time set by the Authority, shall constitute a separate violation.

## Article IV Wastewater Disposal System Maintenance

[Adopted 06-20-1995]

### § 180-21. Pumping out of primary treatment tanks.

All primary treatment tanks, including septic tanks, cesspools, and dry wells, shall be pumped out for maintenance purposes (serviced) once every seven years. Such pumping shall be performed by a Health Department approved service provider (pumper/hauler) ~~under contract with the county who shall be authorized to dispose of the pumped wastes~~ and disposed at a treatment facility ~~within the county~~ that is approved for such disposal.

### § 180-22. Scheduling of service; notification; receipts.

Maintenance pumping and hauling shall be in accord with a schedule prepared by the county by which all systems shall be serviced on a repeating cycle of once every seven years. System owners shall be notified in advance of when their system is scheduled for servicing. System owners and the county shall be provided with receipts by the service provider for all maintenance services performed.

### § 180-23. Fees Reserved.

- ~~A. Owners of real estate served by on-site wastewater disposal systems or owners of real estate who hold a permit for the construction of an on-site wastewater disposal system shall be charged an annual fee for such system owned or permitted.~~
- ~~B. The fee shall be set by the Board of Supervisors, after taking the matter to public hearing, and shall be due and payable to the Treasurer of the county on or before September 30 of each tax year. The fee shall be established to not exceed the cost of constructing, operating and maintaining a treatment facility for the disposal of pumped wastes, the cost of pumping and hauling wastes from private on-site wastewater disposal systems and the cost of administering the waste disposal system maintenance program.~~
- ~~C. Additional fees may be collected by the pumper/hauler at the time of servicing a wastewater disposal system if a serviceable system is larger than conventional size or if exploratory excavation is needed to locate an unmarked system.~~

### § 180-24. Exemptions.

- A. Wastewater disposal systems installed prior to 1965 and other systems that are not recorded with the Health Department are exempt from the requirements in § 180-21 if damage to the system would occur as a result of system maintenance.
- ~~B. Owners of unserviceable systems shall not be exempt from the fee provided for in § 180-23, except that such owners will be credited by an amount equal to the increment of the~~

~~fee attributable to the cost of pumping and hauling until such time that the system is made serviceable through an upgrade or replacement. System owners must apply for the credit with appropriate documentation of eligibility.~~

*§ 180-25. Additional servicing beyond requirement* Reserved.

~~Owners who elect to have their systems pumped more often than once every seven years will be subject to a separate fee paid directly to a service provider approved by the county.~~

*§ 180-26. Failure to comply; performance of work by county; costs.*

- A. If the County Administrator or the official designated by him determines the owner of an on-site wastewater disposal system has failed to comply with the requirements of Article IV, he shall notify the owner of such address listed in the real estate tax records. Such notice shall also notify the owner that he is required to correct the violation as applicable.
- B. If the violation is not corrected within 30 days of receipt of such notice, the County Administrator or his designee may correct the violation using county forces or a private contractor. The cost of such correction, together with an administrative handling charge of \$150, shall be billed to the owner, and if not paid within 30 days, the cost of correction and handling charge shall be added to and collected in the same manner as the real estate tax on such property. In addition, the County Administrator or his designee shall certify to the Clerk of the Circuit Court of the county that the cost and charge is unpaid and the Clerk shall record such unpaid cost and charge in the judgment lien docket book.

## Article V Waterloo Commercial Area Exclusive Service Area

[Added 2000-09-19]

### *§ 180-27. Waterloo Commercial Area*

The contiguous properties, containing, in the aggregate, 49.1 acres, more or less, located at or near the intersection of U. S. Route 340 and U. S. Route 50 at Waterloo, and which are zoned Highway Commercial (HC) as of August 22, 2000, are hereby designated the “Waterloo Commercial Area” for purposes of this chapter.

### *§ 180-28. Waterloo Commercial Area Sewage Collection System*

Sewage collection lines and facilities to be constructed between the Town of Boyce and the Waterloo Commercial Area, and in the Waterloo Commercial Area, for the transport of sewage to the Boyce Wastewater Treatment Plant, are hereby designated the “Waterloo Commercial Area Sewage Collection System” for purposes of this chapter.

### *§ 180-29. Exclusive Service Area*

The Waterloo Commercial Area is hereby designated the exclusive service area for the Waterloo Commercial Area Sewage Collection System, and no property outside of the Waterloo Commercial Area shall be served by the Waterloo Commercial Area Sewage Collection System.

## Amendments Chapter 180-Article V

2000-09-19

Add § 180-27. Waterloo Commercial Area; § 180-28. Waterloo Commercial Area Sewage Collection System; § 180-29. Exclusive Service Area



## Article VI Boyce Exclusive Service Area

[Added 2000-10-17]

### *§ 180-30. Exclusive Service Area*

[Amended 2002-05-21]

The properties located within the Town limits of the Town of Boyce, together with the properties comprising the Waterloo Commercial Area and the Millwood Sewer Exclusive Service Area, are hereby designated as the exclusive service area for the sewage collection lines and facilities located within the limits of the Town of Boyce for the transport of sewage to the Boyce Wastewater Treatment Plan, and no property outside of the limits of the Town of Boyce, the Waterloo Commercial Area, and the Millwood Sewer Exclusive Service Area shall be served by the sewage collection lines and facilities located within the limits of the Town of Boyce.

## Amendments Chapter 180 – Article VI

2000-10-17

Add § 180-30. Exclusive Service Area Town of Boyce

2002-05-21

Amend § 180-30.

## Article VII Millwood Exclusive Service Area

[Added 2002-05-21]

### *§ 180-31. Millwood Exclusive Service Area*

The contiguous properties located in or near the village of Millwood and which were identified on January 1, 2002, by the following Clarke County Tax Parcel identification are hereby designated the "Millwood Sewer Exclusive Service Area" for purposes of this chapter: (1) Block 29-A, parcels 16 and 17A and (2) Block 30A-A, parcels 1-34, 41-62, 64-76, 78-86, 88-92, 24A, 41A, 44A, 43A, 46A, 70A, and 92A.

### *§ 180-32. Millwood Sewer Exclusive Service Area Sewage Collection System*

Sewage collection lines and facilities to be constructed between the Town of Boyce and the Millwood Sewer Exclusive Service Area, and the Millwood Sewer Exclusive Service Area, for the transport of sewage to the Boyce Wastewater Treatment Plant, are hereby designated the "Millwood Sewer Exclusive Service Area Sewage Collection System" for the purposes of this chapter.

### *§ 180-33. Exclusive Service Area*

The Millwood Sewer Exclusive Service Area is hereby designated the exclusive service area for the Millwood Sewer Exclusive Service Area Sewage Collection System, and no property outside of the Millwood Sewer Exclusive Service Area shall be served by the Millwood Sewer Exclusive Service Area Sewage Collection System.

## Amendments Chapter 180-Article VII

2002-05-21

Add Article VII § 180-31. Millwood Exclusive Service Area, § 180-32. Millwood Sewer Exclusive Service Area Sewage Collection System, § 180-33. Exclusive Service Area

## Article VIII - Clarke County Sanitary Sewer Use

[Added 2004-07-20]

### A. General Provisions

#### *§ 180-34. Clarke County Sanitary Authority Sewer Use*

##### *§ 180-34.1. Purpose*

The purpose of this Ordinance is to provide for the beneficial public use of the Clarke County Treatment Works through regulation of sewer construction, sewer use, and wastewater discharges; to provide for equitable distribution of the costs of the Treatment Works; and to provide procedures for complying with the requirements contained herein.

##### *§ 180-34.2. Scope*

- a) The definitions of terms used in this Ordinance are found in Article II. The provisions of this Ordinance shall apply to the discharge of all wastewater to Treatment Works. This Ordinance provides for use of the county's Treatment Works, regulation of sewer construction, control of the quantity and quality of wastewater discharged, wastewater pretreatment, equitable distribution of costs, assurance that existing customers' capacity will not be preempted, approval of sewer construction plans, issuance of user Permits, minimum sewer connection standards and conditions, and penalties and other procedures in cases of violation of this Ordinance.
- b) This Ordinance shall apply to the Waterloo, Boyce, and Millwood Exclusive Sewer Service Areas as identified in Clarke County Code Chapter 180 Articles V, VI, & VII, or any other subsequently identified exclusive sewer service area, and referred to hereafter as the exclusive sewer service areas.

##### *§ 180-34.3. Administration*

Except as otherwise provided herein, the Clarke County Sanitary Authority Sanitation Engineer of the Treatment Works shall administer, implement, and enforce the provisions of this Ordinance.

##### *§ 180-34.4. Fees and Charges*

- a) All fees and charges payable under the provisions of this Ordinance shall be paid to the Clarke County Sanitary Authority. Such fees and charges shall be as set forth herein or as established in the latest edition of the Clarke County Sanitary Authority Schedule of Fees.

- b) All user fees, penalties and charges collected under this Ordinance and the Clarke County Sanitary Authority user charge fee schedule shall be used for the sole purpose of constructing, operating or maintaining the treatment works of the Clarke County Sanitary Authority, or the retirement of debt incurred for same.
- c) All fees and charges payable under the provisions of this Ordinance are due and payable upon the receipt of notice of charges. Unpaid charges shall become delinquent and shall be subject to penalty and interest charges as provided for in the latest edition of the Clarke County Sanitary Authority Schedule of Fees

#### *§ 180-34.5. Inspections*

- (a) The CCSA Sanitation Engineer, operator or authorized local, state or federal officials, bearing the proper credentials and identification, shall be permitted to enter all premises where an effluent source or treatment system is located at any reasonable time for the purposes of inspection, observation, measurement, sampling and/or copying records of the wastewater discharge to ensure that discharge to the treatment works is in accordance with the provisions of this Ordinance.
- (b) The CCSA Sanitation Engineer, bearing proper credentials and identification, shall be permitted to enter all private property through which the Town of Boyce or The County of Clarke holds an easement for the purposes of inspection, observation, measurement, sampling, repair, and maintenance of any of the Clarke County Sanitary Authority Treatment Works lying within the easement. All entry, and any subsequent work on the easement, shall be done in final accordance with the terms of the easement pertaining to the private property involved.
- (c) While performing any necessary work on private properties referred to in Sections 5(a) and (b) above, CCSA Sanitation Engineer, shall observe all safety and occupational rules established by the owner or occupant of the property and applicable to the premises.

#### *§ 180-34.6. Vandalism*

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is a part of the Clarke County Treatment Works. Any person who violates this section shall be guilty of a misdemeanor and, upon conviction, is punishable by a fine in an amount not to exceed One Thousand Dollars (\$1,000.00).

#### *§ 180-34.7. Severability*

If any provision of these regulations, or the application of any provision of these regulations to any person or circumstances, is held invalid, the application of such provision to other persons or circumstances, and the remainder of the regulations, shall not be

affected thereby.

### *§ 180-34.8. Amendments of the Ordinance*

Public notice shall be given in accordance with applicable provisions of the county charter, other county ordinances, State and Federal law, prior to adoption of any amendments of this Ordinance.

## **B. Definitions**

### *§ 180-34.9. Specific Definitions*

Unless the context of usage indicates otherwise, the meaning of specific terms in this Ordinance shall be as follows:

"Act"	shall mean the Federal Clean Water Act, 33. U.S.C. 1251 et seq.
"Approval Authority"	means the Executive Director or Director of the Department of Environmental Quality.
"ASTM"	shall mean the American Society for Testing and Materials.
"Authorized Representative of Industrial User"	shall mean: <ol style="list-style-type: none"><li>1) A principal executive officer of at least the level of vice president, if the industrial user is a corporation; or</li><li>2) A general partner or proprietor if the industrial user is a partnership or sole proprietorship respectively; or</li><li>3) A duly authorized representative of the individual designated in #1 or #2, above, if such representative is responsible for the overall operation of the facility from which the discharge to the POTW originates. The authorization must be submitted to the Manager/licensed operator prior to or together with any reports to be signed by the authorized representative.</li></ol>
"BOD" (denoting Biochemical Oxygen Demand)	shall mean the quantity of oxygen used in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees C, expressed in milligrams per liter.
"Building Sewer"	shall mean the extension from a building wastewater plumbing facility to the treatment works.

"CCSA Sanitation Engineer"	shall mean the administrator of the Clarke County Treatment Works.
"Categorical Pretreatment Standard or Categorical Standard"	shall mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Sections 307(a) & 307(c) of the Act, which apply to specific categories of industrial users which appear in 40 CFR Chapter I, Subchapter N, Parts 405 - 471.
"Combined Sewer"	shall mean a sewer intended to receive both wastewater and storm or surface water.
"Day"	shall mean the 24-hour period beginning at 12:01 a.m.
"Discharger"	shall mean person or persons, firm, company, industry or other similar sources of wastewater who introduce such into the POTW.
"Easement"	shall mean an acquired legal right for the specific use of land owned by others.
"EPA"	shall mean the United States Environmental Protection Agency.
"Establishment"	shall mean any industrial establishment, mill, factory, tannery, paper or pulp mill, mine, coal mine, colliery, breaker or coal processing operations, quarry, oil refinery, boat, vessel, and each and every other industry or plant or works the operation of which produces industrial wastes or other wastes or which may otherwise alter the physical, chemical or biological properties of any state waters.
"Existing Source"	shall mean any source of discharge, the construction or operation of which commenced prior to the publication of proposed categorical pretreatment standards which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.
"Garbage"	shall mean the solid animal and vegetable wastes resulting from the domestic or commercial handling, storage, dispensing, preparation, cooking, and serving of foods.
"Ground Water"	shall mean any water beneath the land surface in the zone of saturation.
"Indirect Discharge"	shall mean the introduction of (non-domestic) pollutants into the POTW from any non-domestic source regulated under Section 307(b) (c) or (d) of the Act.

“Industrial User or Significant Discharger”	means a source of indirect discharge, or a non-domestic discharge to a treatment works.
"Industrial Wastes"	shall mean liquid or other wastes resulting from any process of industry, manufacture, trade or business, or from the development of any natural resources.
“Interference”	shall mean an inhibition or disruption of the POTW, its treatment processes or operation, or its sludge processes, which clearly causes, in whole or part, a violation of any requirement of the POTW’s VPDES permit, including those discharges that prevent the use or disposal of sludge by the POTW in accordance with any federal or state laws, regulations, permits or sludge management plans.
“Manager”	shall mean the CCSA Sanitation Engineer of the Clarke County Wastewater System(s) or designee authorized by the CCSA.
"May"	is permissible;
"Shall"	is mandatory.
"Municipality"	shall mean a city, county, town, district association, authority or other public body created under the law and having jurisdiction over disposal of sewage, industrial, or other wastes.
"Natural Outlet"	shall mean any outlet into a watercourse, pond, ditch, lake, or any other body of surface or groundwater.
“New Source”	shall have the same meaning as provided in 40 CFR Part 403.3(k) (1990).
“VPDES"	shall mean Virginia Pollutant Discharge Elimination System permit program, as administered by the Commonwealth of Virginia.
"Owner"	shall mean the Commonwealth or any of its political subdivisions, including, but not limited to, sanitation district commissions and authorities, and public or private institutions, corporations, associations, firms or companies organized or existing under the laws of this or any other state or country, or any person or group of persons acting individually or as a group.
“Pass-Through”	shall mean the discharge of pollutants through a POTW into State waters in quantities or concentrations which are a cause in whole or in part of a violation of any requirement of the POTW’s VPDES

	<p>permit, including an increase in the magnitude or duration of a violation.</p>
<p>“Person”</p>	<p>shall mean any individual, firm, company, association, society, partnership, corporation, municipality, or other similar organization, agency or group.</p>
<p>"pH"</p>	<p>shall mean the logarithm of the reciprocal of the hydrogen ion concentration expressed in grams per liter of solution as determined by Standard Methods.</p>
<p>“Pollutant”</p>	<p>shall mean any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical waste, chemical waste, industrial waste, biological materials, radioactive material, heat wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial waste, and certain characteristics of the wastewater (i.e., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, odor).</p>
<p>"POTW, Publicly Owned Treatment Works"</p>	<p>shall mean any sewage treatment works that is owned by a State or Municipality. Sewers, pipes, or other conveyances are included in this definition only if they convey wastewater to a POTW providing treatment.</p>
<p>"Pretreatment"</p>	<p>shall mean the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to discharge to the Clarke County Treatment Works.</p>
<p>“Pretreatment Requirements”</p>	<p>shall mean any substantive or procedural requirement related to pretreatment imposed on an industrial user, other than a pretreatment standard.</p>
<p>"Pretreatment Standard"</p>	<p>shall mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act, which applies to Industrial users.</p>
<p>"Properly Shredded Garbage"</p>	<p>shall mean garbage that has been shredded to such a degree that all particles will be carried freely under flow conditions normally prevailing in the treatment works, with no particle greater than 1/2 inch in any dimension.</p>
<p>"Residential User (Class 1)"</p>	<p>shall mean all premises used only for human residency and which is connected to the treatment works.</p>



“Sanitary Wastewater”	shall mean wastewater discharged from the sanitary conveniences of dwellings, office buildings, industrial plants, or institutions.
"Significant Industrial User"	shall be defined as follows: EITHER: <ul style="list-style-type: none"> <li>a) Has a process wastewater* flow of 25,000 gallons or more per average work day; (*Excludes sanitary, non-contact cooling and boiler blowdown wastewater)</li> <li>b) Contributes a process waste stream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW;</li> <li>c) Is subject to categorical pretreatment standards; or</li> <li>d) Has significant impact, either singularly or in combination with other significant dischargers, on the treatment works or the quality of its effluent.</li> </ul>
“Slug Load”	shall mean any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standard in Section 8 of this Ordinance or any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge.
"Standard Methods"	shall mean the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, Water Pollution Control Federation and American Water Works Association.
“State”	shall mean the Commonwealth of Virginia.
"Storm Sewer"	shall mean a sewer for conveying storm, surface, and other waters, which is not intended to be transported to a treatment works.
"Surface Water"	shall mean: <ul style="list-style-type: none"> <li>i. all waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;</li> <li>ii. all interstate waters, including interstate "wetlands";</li> <li>iii. all other waters, such as inter/intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, "wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters: <ul style="list-style-type: none"> <li>(1) which are or could be used by interstate or foreign travelers for recreational or other purposes;</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>(2) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or</li> <li>(3) which are used or could be used for industrial purposes by industries in interstate commerce.</li> </ul>
	<ul style="list-style-type: none"> <li>iv. all impoundments of waters otherwise defined as surface waters under this definition;</li> <li>v. tributaries of waters identified in paragraphs (1) - (iv) of this definition;</li> <li>vi. the territorial sea; and</li> <li>vii. wetlands" adjacent to waters other than waters that are themselves wetlands, identified in paragraphs (i) - (vi) of this definition.</li> </ul>
"Suspended Solids"	shall mean the total suspended matter that either floats on the surface of, or is in suspension in, water or wastewater as determined by Standard Methods.
"Treatment Facility"	shall mean only those mechanical power-driven devices necessary for the transmission and treatment of pollutants (e.g., pump stations, unit treatment processes).
"Treatment Works"	shall mean any devices and systems used for the storage, treatment, recycling and/or reclamation of sewage or liquid industrial waste, or other waste necessary to recycle or reuse water, including intercepting sewers, outfall sewers, sewage collection systems, individual systems, pumping, power and other equipment and their appurtenances, extensions, improvements, remodeling, additions, or alterations, and any works, including land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment, or any other method or system used for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste or industrial waste, including waste in combined sewer water and sanitary sewer systems.
"Toxics"	shall mean any of the pollutants designated by Federal regulations pursuant to Section 307 (a) (1) of the Act.
"User"	shall mean a source of wastewater discharge into a POTW.
"User Permit"	shall mean a document issued by the POTW to the User that permits the connection and/or introduction of wastes into the treatment works under the provisions of this Ordinance.

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

"WPCF" shall mean the Water Pollution Control Federation.

### *§ 180-34.10. General Definitions*

Unless the context of usage indicates otherwise, the meaning of terms in this Ordinance and not defined in Section 1 above, shall be as defined in the Glossary: Water and Wastewater Control Engineering prepared by Joint Editorial Board of the American Public Health Association, American Society of Civil Engineers, American Water Works Association, and Water Pollution Control Federation, Copyright 1969.

## C. Use of Clarke County Treatment Works & Treatment Facility

### *§ 180-34.11. Wastewater Discharges*

It is unlawful under State and Federal Law to discharge sewage without a VPDES permit to any natural outlet within the exclusive sewer service areas or in any area under the jurisdiction of the CCSA. Wastewater discharges to the Clarke County Treatment Works are not authorized unless permitted by the CCSA Sanitation Engineer in accordance with provisions of this Ordinance.

### *§ 180-34.12. Wastewater Disposal*

Except as provided in this Ordinance, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.

### *§ 180-34.13. Connection to Treatment Works Required*

The owner of any new ~~construction or renovation (exceeding \$10,000)~~ of an existing house, building, or property which is used for commercial, industrial and/or residential purposes, which is located within the exclusive sewer service areas is required at the owner's expense to install suitable toilet facilities therein, and to connect such facilities directly to the proper sewer in accordance with the provisions of this Ordinance, within ~~90 days~~ twelve (12) months after notice that sewer service is available. This section shall not apply to any existing house, building, or property, which is used for commercial, industrial and/or residential purposes

that is ~~not being renovated, and that is~~ served by a functioning on-site sewage disposal system.

#### D. Building Sewers and Connections

##### *§ 180-34.14. Connection Permit*

- A. No person shall uncover, make any connections with, use, alter, or disturb any wastewater sewer or storm sewer without first obtaining a written permit from the CCSA Sanitation Engineer or authorized local official.
- B. There shall be two (2) classes of permits for connections to the Clarke County Treatment Works & Treatment Facilities.

CLASS I - residential

CLASS II – commercial/industrial

- C. In all cases, the owner shall make application for a permit to connect to the county's treatment works on a form furnished by the CCSA. The permit application shall be supplemented by wastewater information required to administer this Ordinance. A permit and inspection fee of (See CCSA Schedule of Fees) for a Class I, or (See CCSA Schedule of Fees) for a Class II connection permit shall be paid to the CCSA at the time the application is filed.

##### *§ 180-34.15. Connection Costs*

The costs and expenses incidental to the building sewer installation and connection to the Clarke County Treatment Works shall be borne by the owner. The owner shall indemnify the county from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

##### *§ 180-34.16. Separate Connections Required*

A separate and independent building sewer shall be provided for every building except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard, or driveway. When this occurs, the building sewer serving the front building may be extended to the rear building and the whole considered as one building sewer. The county assumes no obligation or responsibility for damage caused by or resulting from any single building sewer, which serves two buildings.

##### *§ 180-34.17. Existing Building Sewers*

Existing building sewers may be used for connection of new buildings only when they are found, on examination and testing by the CCSA Sanitation Engineer to meet the requirements of this Ordinance.

#### *§ 180-34.18. Building Sewer Design*

The size, slope, alignment, construction materials, trench excavation and backfill methods, pipe placement, jointing and testing methods used in the construction and installation of a building sewer shall conform to the building and plumbing code or other applicable requirements of Clarke County. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF shall apply.

#### *§ 180-34.19. Building Sewer Elevation*

Whenever practicable, the building sewer shall be brought to a building at an elevation below the basement floor. In buildings in which any building drain is too low to permit gravity flow to the county's treatment works, wastewater carried by such building drain shall be lifted by an approved means and discharged to a building sewer draining to the county's sewer.

#### *§ 180-34.20. 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 CCSA Sanitation Engineer. The connection of such drains shall conform to codes specified in Section 8 (a) or as specified by the manager as a condition of approval of such connection.
- (b) Except as provided in Section 7 (a) above, roof, foundation, areaway, parking lot, roadway, or other surface runoff or groundwater drains shall discharge to natural outlets or storm sewers.

#### *§ 180-34.21. Conformance to Applicable Codes*

The connection of a building sewer into the Treatment Works shall conform to the requirements of the building and plumbing code or other applicable requirements of the County of Clarke, or the procedures set forth in appropriate specifications of the Commonwealth of Virginia Sewerage Regulations, Uniform Building Code of Virginia, and American Society of Testing Materials. The connections shall be made gas-tight and water-tight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved in writing by the CCSA Sanitation Engineer before installation.

#### *§ 180-34.22. Connection Inspection*

The applicant for a building sewer or other drainage connection permit shall notify the CCSA Sanitation Engineer when such sewer or drainage connection is ready for inspection prior to its connection to the county Treatment Works. Such connection inspections and testing as deemed necessary by the CCSA Sanitation Engineer shall be made by the CCSA Sanitation Engineer, or authorized local official.

*§ 180-34.23. Excavation Guards and Property Restoration*

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

*§ 180-34.24. Protection of Capacity for Existing Users*

The CCSA Sanitation Engineer shall not issue a permit for any class of connection to the county Treatment Works unless there is sufficient capacity, not legally committed to other users, in the Treatment Works and Treatment Facilities to convey and adequately treat the quantity of wastewater which the requested connection will add to the Treatment Works or Treatment Facility. The CCSA Sanitation Engineer may permit such a connection if there are legally binding commitments to provide the needed capacity.

**E. Conditions to Use the Clarke County Treatment Works**

*§ 180-34.25. Special Uses of Treatment Works*

All discharges of storm water, surface water, groundwater, roof runoff, subsurface drainage, or other waters not intended to be treated in the Treatment Facility shall be made to storm sewers or natural outlets designed for such discharges, except as authorized under Article IV, Section 7. Any connection, drain, or arrangement which will permit any such waters to enter any other sewer shall be deemed to be a violation of this section and this ordinance.

*§ 180-34.26. General Prohibition*

No user shall introduce any pollutants into the county sanitary collection system and Treatment Works which will pass through the Treatment Facilities or interfere with the operation or performance of the sanitary collection system or Treatment Facilities.

*§ 180-34.27. Restricted Discharges*

(a) No person shall discharge or cause to be discharged to any of the county Treatment Works any substances, materials, waters, or wastes in such quantities or concentrations which do or are likely to:

- 1) Create a fire or explosion hazard including, but not limited to, gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas; waste stream with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using test methods specified in 40 CFR 261.21;
- 2) Cause corrosive damage or hazard to structures, equipment, or personnel of the wastewater facilities, but in no case discharges with the following properties:
  - i. having a pH lower than 5.0 or greater than 11.0
- 3) Cause obstruction to the flow in sewers, or other interference with the operation of treatment facilities due to accumulation of solid or viscous materials;
- 4) Constitute a rate of discharge or substantial deviation from normal rates of discharge, ("slug discharge"), sufficient to cause interference in the operation and performance of the treatment facilities;
- 5) Contain heat in amounts which are likely to accelerate the biodegradation of wastes, causing the formation of excessive amounts of hydrogen sulfide in the treatment works or inhibit biological activity in the treatment facilities, but in no case shall the discharge of heat cause the temperature in the Clarke County wastewater sewer to exceed 65 degrees C (150 degrees F) or the temperature of the influent to the Treatment Facilities to exceed 40 degrees C (104 degrees F) unless the facilities can accommodate such heat and the County of Clarke has obtained prior approval from the approval authority;
- 6) Contain more than 100 milligrams per liter of non-biodegradable oils of mineral or petroleum origin as analyzed by the approved EPA 1664A method or ASTM International Method D7066-04;
- 7) Contain polar floatable oils, fat, or grease of animal or vegetable origin that interfere with sanitary collection systems or Treatment Facilities, and contain more than 100 milligrams per liter of oil and grease as analyzed by an approved method in 40 CFR Part 136 for Total Recoverable Oil and Grease;
- 8) Contain noxious gases, vapors or fumes, malodorous gas or substance in quantities that may cause a public nuisance or cause acute human or safety problems;
- 9) Contain radioactive wastes in harmful quantities as defined by applicable State and Federal regulations;

- 10) Contain any garbage that has not been properly shredded;
- 11) Contain any odor or color producing substances exceeding concentration limits which may be established by the CCSA Sanitation Engineer for purposes of meeting the Clarke County VPDES permit.
- 12) Petroleum oil, non-biodegradable cutting oil or products of mineral oil origin in amounts that will cause interference or pass through.
- 13) Any trucked or hauled pollutants except at designated discharge points.
- 14) ~~14)~~ No person shall discharge pollutants that exceed what the plant is designed to accept including but not limited to BOD's in excess of 250 mg/l.

(b) If, in establishing discharge restrictions, discharge limits, or pretreatment standards pursuant to the Article, the CCSA Sanitation Engineer establishes concentration limits to be met by a user, the CCSA Sanitation Engineer in lieu of concentration limits, may establish mass limits of comparable stringency for an individual user at the request of such user. Upon approval by the State, such limits should become pretreatment standards, be consistently applied to all users, and be based on sewage influent levels established in the Treatment Facility permit.

~~(b)~~ (c) The CCSA Sanitation Engineer shall, at the cost of the customer, test restaurants and other commercial entities in the business of preparing food for others at least twice a year for compliance with Sections 180-34.27(a)(6) and 180-34.27(a)(7). A failed test shall result in the issuance of a Notification of Violation in accordance with Section 180-34.48 and a \$500 fine. Subsequent test failures within a twelve month period will result in a \$1,000 fine for each failed test. In the event of a failed test, the CCSA Sanitation Engineer shall perform a series of unannounced tests, at the cost of the customer, until the CCSA Sanitation Engineer is satisfied corrections have been made and discharges are within the allowable limits set in Sections 180-34.27(a)(6) and 180-34.27(a)(7). Three failed tests within any three month period will result in an immediate suspension of wastewater treatment service as allowed in Section 180-34.46. In the event of a suspension of wastewater treatment service, the customer at their cost shall submit a corrective plan developed and stamped by a professional engineer. The corrective plan must be approved by the CCSA Sanitation Engineer, installed by the owner and inspected by the CCSA Sanitation Engineer before service will be restored.

#### *§ 180-34.28. Categorical Pretreatment Standards*

- (a) No person shall discharge or cause to be discharged to any treatment works wastewaters containing substances subject to an applicable Categorical Pretreatment Standard promulgated by EPA in excess of the quantity prescribed in such applicable pretreatment standards except as otherwise provided in this section. Compliance with such applicable pretreatment standards shall be within 3 years of the date the standard



is promulgated, provided, however, compliance with a categorical pretreatment standard for new sources shall be required upon commencement of discharge to the treatment works.

- (b) All persons subject to an applicable Categorical Pretreatment Standard shall comply with the provisions of this section and establish an enforceable compliance schedule for each.
- (c) No person shall discharge trucked or piped hazardous wastes to the Clarke County Treatment Works.

#### *§ 180-34.29. Special Agreements*

Nothing in this article shall be construed as preventing any agreement or arrangement between the CCSA and any user of the Treatment Works and Treatment Facility whereby wastewater of unusual strength or character (only in terms of BOD and/or Suspended Solids) is accepted into the system and specially treated subject to additional payments or user charges as may be applicable.

#### *§ 180-34.30. Water & Energy Conservation*

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

#### *§ 180-34.31. Excessive Discharge*

No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the Federal Categorical Pretreatment Standards, or in any other pollutant-specific limitation developed by the County of Clarke or State.

#### *§ 180-34.32. Accidental Discharges*

- (a) Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this Ordinance. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the CCSA for review, and shall be approved by the

CCSA before construction of the facility. No user who commences contribution to the POTW after the effective date of this ordinance shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the CCSA. Review and approval of such plans and operating procedures shall not relieve the user from the responsibility to modify the user's facility as necessary to meet the requirements of this ordinance. In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.

- (b) Within five (5) days following an accidental discharge; the user shall submit to the CCSA Sanitation Engineer a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the treatment works and treatment facility, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law.
- (c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall insure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

## F. Industrial Dischargers

### *§ 180-34.33. Information Requirements*

- a) All industrial dischargers shall file with the CCSA wastewater information deemed necessary by the CCSA Sanitation Engineer for determination of compliance with this Ordinance, the Clarke County VPDES permit conditions, and State and Federal law. Such information shall be provided by completion of a questionnaire designed and supplied by the CCSA Sanitation Engineer and by supplements thereto as may be necessary. Information requested in the questionnaire and designated by the discharger as confidential is subject to the conditions of confidentiality as set out in Section 1 (c) of this article.
- b) Where a person owns, operates or occupies properties designated as an industrial discharger at more than one location, separate information submittals shall be made for each location as may be required by the CCSA Sanitation Engineer.
- c) Information and data on an Industrial User obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be

available to the public or other governmental agency without restriction unless the User specifically requests and is able to demonstrate to the satisfaction of the CCSA that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the User.

- d) When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this Ordinance, The Virginia Pollutant Discharge Elimination System (VPDES) Permit, State Disposal System permit and/or the Pretreatment Programs, provided, however, that such portions of a report shall be available for use by the State or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information. Information accepted by the CCSA as confidential, shall not be transmitted to any governmental agency or to the general public by the CCSA until and unless a ten-day notification is given to the User.

#### *§ 180-34.34. User Permits*

- a) All significant industrial users proposing to connect to or to contribute to the treatment works shall obtain a User Permit before connecting to or contributing to the treatment works. All existing significant industrial users connected to or contributing to the treatment works shall obtain a User Permit within (180) days after the effective date of this Ordinance.
- b) Significant Industrial Users required to obtain a Permit shall complete, and file with the CCSA, an application in the form prescribed by the CCSA, and accompanied by a fee of (See Fee Schedule). Existing significant industrial users shall apply for a Permit within (30) days after the effective date of this Ordinance, and proposed new significant industrial users shall apply at least (90) days prior to connecting to or contributing to the treatment works. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:
- 1) Name, address, and location, (if different from address);
  - 2) SIC number according to the Standards Industrial Classification Manual, Bureau of the Budget, 1987, as amended;
  - 3) Wastewater constituents and characteristics including but not limited to those mentioned in Article V, Section 3 of this Ordinance as determined by an accredited ~~reliable~~ analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304 (g) of the Act and contained in 40 CFR, Part 136, as amended;

- 4) Time and duration of contribution;
- 5) Average daily and peak wastewater flow rates, including daily, monthly and seasonal variations, if any;
- 6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by their size, location and elevation;
- 7) Description of activities, facilities and plant processes on the premises including all materials which are or could be discharged;
- 8) The nature and concentration of any pollutants in the discharge. A statement identifying the applicable pretreatment standards and requirements, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional O&M and/or additional pretreatment is required for the User to meet applicable Influent Treatment Standards;
- 9) If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the User will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard.

The following conditions shall apply to this schedule:

- i. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable Pretreatment Standards (e.g. hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).
- ii. No increment referred to in paragraph (i) shall exceed 9 months.
- iii. Not later than 14 days following each date in the schedule and the final date for compliance, the User shall submit a progress report to the CCSA Sanitation Engineer including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress; the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than 1

year elapse between such progress reports to the CCSA Sanitation Engineer.

- 10) Each product produced by type, amount, process or processes and rate of production;
- 11) Type and amount of raw materials processed (average and maximum per day);
- 12) Number of types of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;
- 13) Any other information as may be deemed by the CCSA to be necessary to evaluate the user permit application.

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

- c) Within 9 months of the promulgation of a National Categorical Pretreatment Standard, the User Permit of Users subject to such standards shall be revised to require compliance with such standard if they are more restrictive than the local limits developed by the POTW within the timeframe prescribed by such standard. Where a User, subject to a National Categorical Pretreatment Standard, has not previously submitted an application for a User Permit as required by Section 2 (b), the User shall apply for a User Permit within 180 days after the promulgation of the Applicable National Categorical Pretreatment Standard. In addition, the User with an existing User Permit shall submit to the CCSA Sanitation Engineer, within 180 days after the promulgation of an applicable Federal Categorical Pretreatment Standard, the information required by paragraph (8) and (9) of Section 2b) of this Article.

- d) Permit Conditions:

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

- 1) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;
- 2) Limits on the average and maximum wastewater constituents and characteristics (Permits must contain this item);
- 3) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization. (Permits must contain this item);

- 4) Requirements for installation and maintenance of inspection and sampling facilities;
  - 5) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;
  - 6) Compliance schedules;
  - 7) Requirements for submission of technical reports or discharge reports - See Section 3 of this Article **(Permits must contain this item)**;
  - 8) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the CCSA, and affording the CCSA access thereto; (Permits must contain this item);
  - 9) Requirements for notification of the CCSA for any new introduction of wastewater constituents or any substantial change in volume or character of the wastewater constituents being introduced into the treatment works (Permits must contain this item);
  - 10) Requirements for immediate notification of slug discharges **(Permits must contain this item)**;
  - 11) Other conditions as deemed appropriate by the CCSA to ensure compliance with this ordinance.
  - 12) Statement of applicable remedies.
- e) User Permits shall be issued for a specified time period, not to exceed five (5) (optional) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the (county) during the term of the permit as limitations or requirements as identified in Section 2 are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.
- f) User Permits are issued to a specific user for a specific operation. A User permit shall not be reassigned or transferred or sold by the User to a new owner, new user, different premises, or a new or changed operation without the approval of the CCSA. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit in the interim prior to the issuance of the respective new permit.

*§ 180-34.35. Reporting Requirements for Permittee*

- A. Within 90 days following the date for final compliance with applicable Pretreatment Standards or, in the case of a New Source, following commencement of the introduction of wastewater into the wastewater treatment facilities, any User subject to Pretreatment Standards and Requirements shall submit to the Manager a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by Pretreatment Standards and Requirements and the average and maximum daily flow for these process units in the User facility which are limited by such Pretreatment Standards or Requirements.

The report shall state whether the applicable Pretreatment Standards or Requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the User into compliance with the applicable Pretreatment Standards or Requirements. In addition, the report shall contain the results of any sampling and analysis of the discharge as specified in Article VI Section 3 (b) (2) below. This statement shall be signed by an authorized representative of the User, and certified to by a qualified professional.

- B. (1) Any User subject to a Pretreatment Standard, after the compliance date of such Pretreatment Standard, or, in the case of such Pretreatment Standard or in the case of a New Source, after commencement of the discharge into the treatment works, shall submit to the CCSA Sanitation Engineer during the months of June and December, unless required more frequently in the Pretreatment Standard or by the CCSA Sanitation Engineer, a report indicating the nature and concentration, of pollutants in the effluent which are limited by such Pretreatment Standards. In addition, this report shall include a record of all daily flows, which during the reporting period exceeded the average daily flow reported. At the discretion of the CCSA Sanitation Engineer and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the CCSA Sanitation Engineer may agree to alter the months during which the above reports are to be submitted.

**(Comment:** Where 40 CFR, Part 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with sampling and analytical procedures approved by EPA and/or DEQ.)

#### *§ 180-34.36. Provision for Monitoring*

- A. When required by the CCSA Sanitation Engineer, the owner of any property serviced by a building sewer carrying Class II wastewater discharges shall provide suitable access and such necessary meters and other devices in the building sewer to facilitate observation, sampling, and measurement of the wastewater. Such access shall be in a readily and safely accessible location and shall be provided in accordance with plans

approved by the CCSA Sanitation Engineer. The access shall be provided and maintained at the owner's expense so as to be safe and accessible at reasonable times.

- B. The CCSA Sanitation Engineer shall consider such factors as the volume and strength of discharge, rate of discharge, quantities of toxic materials in the discharge, treatment facility removal capabilities, and cost effectiveness in determining whether or not access and equipment for monitoring Class II wastewater discharges shall be required.
- C. Where the CCSA Sanitation Engineer determines access and equipment for monitoring or measuring Class II wastewater discharges is not practicable, reliable, or cost effective, the CCSA Sanitation Engineer may specify alternative methods of determining the characteristics of the wastewaters discharge which will, in the CCSA Sanitation Engineer's judgment, provide a reasonably reliable measurement of such characteristics.
- D. Measurements, tests, and analyses of the characteristics of wastewater required by this Ordinance shall conform to 40 CFR, Part 136 and be performed by an EPA certified laboratory. When such analyses are required of a discharger, the discharger may, in lieu of using the Treatment Facility laboratory, make arrangement with any EPA certified laboratory, to perform such analyses.
- E. Fees for any given measurement, test, or analysis of wastewater required by this Ordinance and performed by the Treatment Facility shall be the same for all classes of dischargers, regardless of the quantity or quality of the discharge and shall reflect only direct cost. Costs of analyses performed by an independent laboratory at the option of discharger shall be borne directly by the discharger.

#### *§ 180-34.37. Costs of Damage*

If the drainage or discharge from any establishment causes a deposit, obstruction, or damage to any of the Clarke County Treatment Works or Treatment Facility, the CCSA Sanitation Engineer shall cause the deposit or obstruction to be promptly removed or cause the damage to be promptly repaired. The cost for such work, including materials, labor, and supervision shall be borne by the discharger or permittee causing such deposit, obstruction, or damage.

#### G. Pretreatment

##### *§ 180-34.38. Wastewaters with Special Characteristics*

- (a) While the CCSA Sanitation Engineer should initially rely upon the Federal Categorical Pretreatment Standards to protect wastewater facilities or receiving waters, if any wastewater which contains substances or possesses characteristics shown to have



deleterious effect upon the treatment works or treatment facilities, processes, equipment, or receiving waters, or constitutes a public nuisance or hazard, is discharged or is proposed for discharge to the wastewater sewers, the CCSA Sanitation Engineer may require any or all of the following:

- a. Pretreatment by the user or discharger to a condition acceptable for discharge to the treatment works;
  - b. Control over the quantities and rates of discharge;
  - c. The development of compliance schedules to meet any
- (b) applicable pretreatment requirements;
- a. The submission of reports necessary to assure compliance with applicable pretreatment requirements;
  - b. Carry out all inspection, surveillance, and monitoring necessary to determine compliance with applicable pretreatment requirements;
  - c. Obtain remedies for noncompliance by any user. Such remedies may include injunctive relief, the civil penalties specified in Article IX of this Ordinance, or appropriate criminal penalties; or
  - d. Reject the wastewater if evidence discloses that discharge will create unreasonable hazards or have unreasonable deleterious effects on the treatment works or treatment facilities.
- (c) When considering the above alternatives, the CCSA Sanitation Engineer shall assure that conditions of the County of Clarke's permit are met. The CCSA Sanitation Engineer shall also take into consideration cost effectiveness, the economic impact of the alternatives, and the willful noncompliance of the discharger. If the CCSA Sanitation Engineer allows the pretreatment the installation of the necessary facilities shall be subject to review. The CCSA Sanitation Engineer shall review and recommend any appropriate changes to the program, within (30) days of submittal.
- (d) Where pretreatment or flow-equalizing facilities are provided or required for any wastewater, they shall be maintained continuously in satisfactory and effective operation at the expense of the owner.

#### *§ 180-34.39. Compliance with Pretreatment Requirements*

Persons required to pretreat wastewater in accordance with Section 1 above shall provide a statement, reviewed by an authorized representative of the user and certified by such representative indicating whether applicable pretreatment requirements are being met on

a consistent basis and, if not, describe the additional operation and maintenance or additional pretreatment required for the user to meet the pretreatment requirements. If additional pretreatment or operation and maintenance will be required to meet the pretreatment requirements, the user shall submit a plan (including schedules) to the CCSA Sanitation Engineer as described in Article VI, Section 2 (b) (9). The plan (including schedules) shall be consistent with applicable conditions of the county's Permit or other local, State or Federal laws.

#### *§ 180-34.40. Monitoring Requirements*

Discharges of wastewater to the Clarke County Treatment Works from the facilities of any user shall be monitored in accordance with the provisions of the User's permit.

#### *§ 180-34.41. Effect of Federal Law*

In the event that the Federal government promulgates a regulation for a given new or existing user in a specific industrial subcategory that establishes pretreatment standards or establishes that such user is exempt from pretreatment standards, such Federal regulations shall immediately supersede Section I (a) of this article if they are more stringent.

#### *§ 180-34.42. Certification*

All reports and permit applications must be signed by the industrial user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis and if not, whether additional O&M and/or additional pretreatment is required to meet the pretreatment standards and requirements.

### H. Wastewater Service, Charges and Industrial Cost Recovery

#### *§ 180-34.43. Wastewater Service Charges*

Charges and fees for the use of the public Treatment Works and Treatment Facility shall be based upon the actual use of such system, or contractual obligations for a level of use in excess of current actual use. Property value may be used to collect the amount due as permitted by law.

#### *§ 180-34.44. Industrial Cost Recovery*

Users of the Clarke County Treatment Works and Treatment Facilities will also be assessed industrial cost recovery charges as required by law.

### *§ 180-34.45. Determination of System Use*

- (a) The use of the Clarke County Treatment Works and Treatment Facilities shall be based upon actual measurement and analysis of each user's wastewater discharge, in accordance with provisions of Article VI, Section 4 to the extent such measurement and analysis is considered by the CCSA Sanitation Engineer to be feasible and cost-effective.
- (b) Where measurement and analysis is considered not feasible, determination of each user's use of the Treatment Works and Treatment Facilities shall be based upon the quantity of water used whether purchased from a public water utility or obtained from a private source, or an alternative means as provided by Section (c) below.
- (c) The CCSA Sanitation Engineer, when determining actual use of the Clarke County Treatment Works and Treatment Facilities based on water use, shall consider consumptive, evaporative, or other use of water which results in a significant difference between a discharger's water use and wastewater discharge. Where appropriate, such consumptive water use may be metered to aid in determining actual use of the treatment works and treatment facilities. The meters used to measure such water uses shall be of a type and installed in a manner approved by the CCSA Sanitation Engineer.
- (d) The actual average water use by each residential user (Class I) during the three months of (January, February, and March) shall be used as the measure of each respective residential user's actual use of the sewer system throughout the year.)

## I. Enforcement

### *§ 180-34.46. Harmful Contributions*

The CCSA may suspend the wastewater treatment service and/or a User Permit when such suspension is necessary, in the opinion of the CCSA, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of humans, to the environment, causes interference to the treatment facilities or causes Clarke County to violate any condition of its VPDES Permit.

Any person notified of a suspension of the wastewater treatment service and/or the User Permit shall immediately stop or eliminate the contribution.

In the event of a failure of the person to comply voluntarily with the suspension order, the CCSA shall take such steps as deemed necessary, including immediate shutting off of water service or severance of the sewer connection and/or the seeking of legal and equitable

relief in the circuit court, to prevent or minimize damage to the wastewater treatment facilities or endangerment to any individuals.

The CCSA shall reinstate the User Permit and/or the wastewater treatment service upon proof of the elimination of the non-complying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the CCSA within 15 days of the date of occurrence.

#### *§ 180-34.47. Revocation of Permit*

Any user who violates the following conditions of this Ordinance, or applicable State and Federal regulations, is subject to having his permit revoked in accordance with the procedures of Article VI of this Ordinance for:

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

#### *§ 180-34.48. Notification of Violation*

Whenever the CCSA finds that any User has violated or is violating this Ordinance, User Permit, or any prohibition or limitation of requirements contained herein, the CCSA may serve upon such person a written notice stating the nature of the violation. Within 30 days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the CCSA by the user.

#### *§ 180-34.49. Show Cause Hearing*

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

- 1) Issue in the name of the CCSA Sanitation Engineer notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;
  - 2) Take the evidence;
  - 3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the CCSA Sanitation Engineer for action thereon.
- (c) At any hearing held pursuant to this ordinance, testimony taken must be under oath and recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the transcript costs.
- (d) After the CCSA Sanitation Engineer has reviewed the evidence, he may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances have been installed and existing treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

#### *§ 180-34.50. Legal Action*

If any person does anything contrary to the provisions of this Ordinance, applicable Federal or State Pretreatment Requirements, or any order of the County of Clarke or if any commercial user refuses access to the CCSA Sanitation Engineer or his designee for purposes of inspection, Clarke County may commence an action for appropriate legal and/or equitable relief in the Circuit Court.

#### *§ 180-34.51. Penalties*

The CCSA Sanitation Engineer shall have the authority to assess on any user who is found to have violated an Order of the CCSA or who failed to comply with any provision of this Ordinance and the orders, rules, regulations and permits issued hereunder a penalty of \$1,000.00 per day per violation. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense.

#### *§ 180-34.52. Falsifying Information*

Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this Ordinance, or User Permit, or who falsifies any monitoring device or method required under this ordinance, shall upon conviction, be guilty of a Class I misdemeanor and be subject to the penalties as prescribed by the Code of Virginia.

## J. Water Conservation / Drought Response

### *§ 180-34.53. Purpose*

The purpose of this Article is to provide for the voluntary and mandatory restriction on the nonessential use of ground water during declared water shortages or water emergencies.

### *§ 180-34.54. Scope*

This Article shall apply to all Clarke County residents and businesses which are served by well water. This Article shall not apply to those residents and businesses which are supplied by a public water supply system by the Town of Berryville or the Clarke County Sanitary Authority.

### *§ 180-34.55. Drought Response Plan*

The Board of Supervisors (Board) shall adopt by resolution the Regional Drought Response and Contingency Plan as stated in the Regional Water Supply Plan.

### *§ 180-34.56. Drought Indicators*

The indicators used to indicate drought severity shall be precipitation, streamflow, and groundwater levels. When at least two indicators exceed the threshold for drought stage determination, as set forth in Regional Drought Response and Contingency Plan as stated in the Regional Water Supply Plan, the Board may declare a specific drought stage.

### *§ 180-34.57. Drought Stages*

The drought stages shall be:

- Drought Watch,
- Drought Warning, and
- Drought Emergency,

as determined by the Board pursuant to the Regional Drought Response and Contingency Plan as stated in the Regional Water Supply Plan.

### *§ 180-34.58. Declaration*

Upon the Board finding that a drought stage exists, the Board may issue a declaration of a drought stage.

The County Administrator, upon the declaration of a drought stage by the Commonwealth of Virginia, may issue a declaration of a drought stage to be in effect until the next regular Board meeting.

*§ 180-34.59. Drought Stage Response*

Upon declaration by the Board or the County Administrator of a Drought Watch or Drought Warning, voluntary conservation measures will be requested of residents and businesses as set forth in the Regional Drought Response and Contingency Plan as stated in the Regional Water Supply Plan.

Upon declaration of a Drought Emergency, mandatory restrictions shall apply as set forth in the Regional Drought Response and Contingency Plan as stated in the Regional Water Supply Plan.

*§ 180-34.60. Waiver of Restrictions*

Upon prior written request by an individual, business, or other water user, the Board of Supervisors, or its designee, may permit less than full compliance with any drought restrictions if good cause can be shown, including evidence that the applicant is affected in a substantial manner not common to other businesses or persons generally.

No waiver shall be granted by the Board or its designee unless the Board or its designee determines that the public health, safety, and welfare will not be adversely affected by the waiver. All waivers granted by the Board or its designee shall be reported at the Board's next regular or special meeting.

*§ 180-34.61. Penalties.*

Any person who shall violate any of the provisions of this Article shall, upon conviction thereof, be fined not less than one hundred dollars (\$100.00), nor more than five hundred dollars (\$500.00). Each act or each day's continuation of the violation shall be considered a separate offense.

*Amendments Chapter 180-Article VIII*

2008-05-20

§ 180-34.53 thru § 180-34.61. Water Conservation / Drought Response CC-08-01

2011-09-27

§ 180-34.53 thru § 180-34.61. Water Conservation / Drought Response change title and add reference to the Regional Drought Response and Contingency Plan rather than the local Drought Plan CC-11-04

## Article IX - Double Tollgate Sewer Exclusive Service Area

### § 180-35. Double Tollgate Sewer Exclusive Service Area

The properties or portions of properties identified as the Double Tollgate Plan Area (Sub-Areas A, B, and C) in the 2022 Double Tollgate Area Plan adopted by the Board of Supervisors on January 17, 2023 are hereby designated the “Double Tollgate Sewer Exclusive Service Area” for the purposes of this chapter.

### § 180-36. Double Tollgate Sewer Exclusive Area Sewage Collection System

Sewage collection lines and facilities to be constructed in Clarke County to serve the Double Tollgate Sewer Exclusive Service Area for transport to a treatment facility in Frederick County are hereby designated the “Double Tollgate Sewer Exclusive Area Sewage Collection System” for the purposes of this chapter.

### § 180-37. Exclusive Sewer Area

The Double Tollgate Sewer Exclusive Service Area is hereby designated the exclusive service area for the Double Tollgate Sewer Exclusive Service Area Collection System, and no property outside of the Double Tollgate Sewer Exclusive Service Area shall be served by the Double Tollgate Sewer Exclusive Service Area Sewage Collection System. The Frederick County Sanitation Authority shall be permitted to construct, install, maintain, repair, replace, and operate a water system and sewer system within the Double Tollgate Sewer Exclusive Area by right.