

**Title 13**  
**PUBLIC SERVICES**

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## **Chapter 13.04**

### **WATER SERVICE SYSTEM**

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#### **Article I. General Administration and Enforcement**

##### **13.04.010 Administrative duties of director, department of public works.**

The Director, Department of Public Works shall oversee the operations, maintenance and capital improvements to the water production, treatment, storage and distribution system(s). He shall insure compliance with the Town's water conservation plan. (Amended during 1996 codification; prior code § 110-1)

##### **13.04.020 Collection and billing duties of finance department.**

A. The finance office shall maintain a data base of all residential, commercial and industrial properties receiving water and sewer service from the Town; and shall oversee that all properties receiving water service shall be metered and that the water meter for each property shall be read at least once each quarter; and, based upon the water consumption of each property, shall bill and collect water and sewer charges from the property owner for each property receiving water and sewer service; and shall insure that the water and sewer billing minimally reflect the date of the billing, the billing period, total water consumption in gallons for the previous quarter and current charges for both water and sewer; and, in the event that any property owner has not paid the charge(s) in full within thirty (30) days from the date of the billing, the Finance Department, unless otherwise provided under this chapter, shall give at least ten (10) days notice in writing to the property owner that water service to the subject property shall be disconnected until such time as all outstanding charges are paid in full to the Town.

B. The Finance Department shall submit a report on or about the tenth (10<sup>th</sup>) business day of each month to the Mayor and Commissioners indicating the status of the water and sewer enterprise funds, including such information on hand, operating and capital expenditures, accounts payable and receivable, and investments during the preceding period.

##### **13.04.030 Receipts for payments.**

The finance department, at the time of demanding and receiving any water rents, shall deliver to the person paying the same a receipt therefor. (Amended during 1996 codification; prior code § 110-4)

##### **13.04.040 Water rent payments.**

A. The owner of any property receiving water and/or sewer service from the Town shall pay for water and/or sewer service on a quarterly basis at the rate(s) established by the town when due and upon demand by the Town. It shall be the presumption that the owner of any property receiving water and/or sewer service from the Town shall have received notice of charges due and demanded by the Town when mailed by the Town to the owner at the last known address of record maintained by the Town for the property owner. It is the property owner's responsibility to notify the Town in writing of any change of address.

B. The Finance Department shall collect and credit all payments of water and sewer charges to the applicable property owner's account. Any payment made within sixty (60) days of the date of the billing shall not accrue interest or penalty. Any balance thereafter shall accrue interest at the rate of 1.5% per month or portion thereof, while in arrears, or at such interest rate or penalty otherwise lawfully established by a resolution of the Board of Commissioners.

C. In the event that the Town has not received full payment of the water and sewer, as provided

under this chapter, the Town shall:

1. Disconnect or otherwise curtail water service to any property where the owner has failed to pay its water and sewer billing as set forth under this chapter; and/or
2. In the event that the Town, due to any error, omission or oversight on the part of the Town, fails to properly determine and maintain appropriate information regarding a property owner's water usage and/or fails to issue a timely water and sewer billing to a property owner, the Town may provide for a payment plan and agreement where the property owner shall pay all water and sewer charges due and demanded by the Town under conditions set forth therein. The payment plan and agreement shall minimally specify:
  - a. the name and address of the property owner and the address of the subject property;
  - b. the amount due by the property owner and the period in which the debt was incurred;
  - c. an amortization schedule or description of payment in which monthly payments against the principal and interest shall be required;
  - d. a statement that interest shall accrue after sixty (60) days from the date of the water/sewer billing and the interest rate;
  - e. that default by the property owner shall result in the curtailment of water service to the subject property and/or that the Town may seek civil action against the property owner to collect the remaining balance and/or other costs lawful;
  - f. that the term of the payment plan and agreement may not exceed a period of six (6) months; and
  - g. unless otherwise provided by law, the property owner shall pay the entire balance and interest due under the agreement upon the sale and/or transfer of title to the subject property.

#### **13.04.050 Delinquent water renters.**

The Finance Department shall maintain a date base inclusive of all property owners receiving water and sewer service from the Town who have an outstanding balance due in excess of thirty (30) days from the date of the initial billing for any billing period. Such information shall be maintained for the purpose of providing the required notice to applicable property owners regarding the termination of water service and/or other action as set forth under this chapter.

A. Property owners subject to termination of water service shall be notified by the Finance Department by written notice sent by first class mail to the property owner's last known address of record. Additionally, the occupant of any property rented, leased or otherwise in the lawful possession of any person will be notified by delivering to and placing a written notice upon the applicable property that the water shall be termination at a specified date for nonpayment of the water and sewer bill. Unless otherwise provided under this chapter, a minimum of ten (10) business days' notice shall be provided to the property owner prior to termination of the water service to the subject property.

B. The Finance Department shall charge and collect a fee established by a resolution of the Mayor and Commissioners from the property owner when water service is terminated for nonpayment of the water and sewer bill prior to water service being restored. (Ordinance 5-2018, effective 5/22/2018)

#### **13.04.060 Payment and adjustment of rents.**

A. All rents billed on or before the first day of the billing quarter in each year shall be considered in

arrears if not paid in full by the thirtieth (30<sup>th</sup>) of the billing month. All rents billed following the first day of the billing quarter shall be considered in arrears if not paid within thirty (30) days of the billing date.

B. All persons who shall have contracted for the use of water and may desire to discontinue such use shall give written notice to the finance office. The finance office shall thereafter cause the water service to the subject property to be disconnected. No person shall turn on the water leading to the subject property without the direct authority of the Town. The owner of any property which has had its water service terminated by the Town shall pay any outstanding balance for water and sewer service, along with any other fee(s) provided under this Chapter prior to resumption of water service to the subject property.

C. In the event that a property owner shall provide written notice to the Town that the subject property does not have the number of fixtures and/or units as stated in the records of the Town, the Finance Department shall cause an investigation in which an accurate number of fixtures or units can be determined and verified by the Town. The Finance Department thereafter shall correct the Town's records and make such adjustments to the property owner's account(s) based on this verification.

D. Where water is carried or conveyed from one property to another property having no separate water service lateral connecting with the water system, each property so supplied shall be charged the prevailing water rates for all water consumed, and shall be subject to the minimum water and sewer billing.

E. No deductions will be allowed from the prevailing rates due to any fixtures not in use unless such fixtures are disconnected by the property owner in a manner satisfactory to the Town. The Finance Department shall cause an investigation to determine whether such fixtures have been properly disconnected and shall make such adjustments in the account of any such property owner as may be necessary to conform to the provisions of this chapter. No provisions shall be made by the Town for any property and/or unit vacancies of less than ninety (90) days.

F. When a property owner's water and/or sewer rent is in excess of three hundred percent (300%) of the average billing for the previous four billing quarters, and the property owner has not through its own negligence and/or deliberate act caused the excessive use of water, the Finance Department may adjust said bill an amount corresponding to an average water/sewer billing amount determined for the previous four (4) consecutive billing quarters.

**G. Water Service Disconnection or Reconnection**

1. No person shall disconnect water service to any property without prior notice to and/or authorization by the Finance Department, unless an emergency, in such case notice shall be made as soon as possible thereafter. Such notice(s) shall be in writing and provide the name of the property owner, the address of the subject property, the date the water/sewer is to be (was) disconnected and the reason for such action.

2. The Finance Office shall charge and collect twenty-five dollars (\$25.00), or other fee lawfully provided by a resolution of the Mayor and Commissioners, from a property owner for prevailing water service to be disconnected or reconnected.

3. **Acting Without Prior Authorization.**

- a. There shall be a charge of twenty-five dollars (\$25.00) to any plumber, contractor or any other person who connects or disconnects water service without prior authorization from the Finance Department.

- b. Licensed plumbers, plumbing contractors, property owners and other persons acting on behalf of the property owner may temporarily disconnect water service to the

owner's property during an emergency. In such an event that water service is temporarily disconnected to the owner's property, notice shall be given by the property owner or other person authorized to act on behalf of the property owner to the Finance Department as set forth in this Chapter during Town business hours, said notification shall be made by the next following town business day.

c. The Town shall not suffer liability for the disruption or disconnection of water service to any property caused by any persons not authorized or otherwise directed by the Town to disconnect any water service. The provisions set forth under this section shall not convey or imply any authority to any plumber, plumbing contractor or other person(s) by the Town to disrupt or disconnect any water service.

H. The Town shall charge a fee of twenty-five dollars (\$25.00) to any property owner or representative of any property owner who submits a check or other instrument to the Town in payment of its water and/or sewer rent in the event that said check is returned by the bank for insufficient funds or if for any other reason the check is not honored.

## **Article II. Water Service Connections.**

### **13.04.070 Applications for service.**

Every person who may desire to contract for a supply of water within the town shall make written application to the Building Official, upon forms prepared by the Town, setting forth a description of the property and the improvements thereon to be supplied with water and the purpose for which the water is to be used, the name and address of the applicant and that the applicant will abide by and observe all ordinances, resolutions and regulations passed by the Board of Commissioners relating to the water system, the manner and mode of using water and the payment of the price charged for the use of water. Every such applicant shall also state in the application that he is the owner of the premises to be supplied with water, and no water shall be furnished to any applicant other than the owner of the premises. (Amended during 1996 codification; prior code § 110-7)

### **13.04.080 Connection of water mains - Performance of work**

Any person permitted to establish connection to the Town's water main in any street or public way, not exceeding a diameter of three-fourths of an inch, and the laying of the service pipe from the distribution main in the street or public way to a point six inches inside the street line abutting on the property to be serviced, shall be done by the Town at the expense of the property owner. In the event the connection and service pipes are of larger diameter than three-fourths of an inch, then the property owner shall be required to pay the actual construction costs. The Town shall install stopcock six inches inside the curb and connect the service pipe to be laid by the property owner with the service main at the stopcock at the curb. No person other than the Director, Department of Public Works, shall make any such connection. No service main whether laid by the Town or by the property owner, shall have a diameter of less than three-fourths of an inch. (Amended during 1996 codification; prior code § 110-8)

### **13.04.090 Major Facilities Charges; Credit for Water and/or Wastewater Connections and Waiver of Major Facilities Charges; Use of Major Facilities Funds; Front-foot Assessment Charges**

A. Major Facilities Charges.

There shall be a Major Facilities charge of Fifteen Thousand Dollars (\$15,000.00) per Major Facilities equivalent unit for a person to connect to the Town's water distribution system and wastewater collection system, unless as otherwise provided under Subsection B of this Section. This charge shall be calculated and paid in the following method:

1. FOR NEW CONSTRUCTION: Twenty-five percent (25%) of the Major Facilities charge shall be paid at the time the building permit is issued by the Town's Building Official for all construction within the corporate limits and seventy-five percent (75%) of the Major Facilities charges shall be paid when the Certificate of Occupancy is issued.
2. FOR EXISTING CONSTRUCTION: One hundred percent (100%) of the Major Facilities charges shall be paid at the time of the application for connection to the Town's water distribution system and/or wastewater collection system.
3. Any approved connections outside the corporate limits shall pay Fifteen Thousand Dollars (\$15,000.00) per Major Facilities equivalent unit at the time the application is received by the Town. A Major Facilities charge of Five Thousand Dollars (\$5,000.00) shall apply for connections to the Town's water distribution system and a charge of Ten Thousand Dollars (\$10,000.00) shall apply for connections to the Town's wastewater collection system.
4. Major Facilities charges for commercial, industrial, and other non-residential building applicants shall be computed on a per-fixture basis with each fixture having a value placed on it as provided in the standard adopted by a resolution of the Mayor and Commissioners. The estimated water consumption may also be used in computing commercial, industrial, and other non-residential building costs. A minimum of twenty (20) fixture units shall be assessed on all commercial, industrial, and other non-residential building applications, unless otherwise provided under the adopted standard.
5. A Major Facilities charge of Five Thousand Dollars (\$5,000.00) shall be charged for connection to the Town's water distribution system and Ten Thousand Dollars (\$10,000.00) shall be charged for connection to the Town's wastewater collection system for individual connections.

**B. Credit for Water and/or Wastewater Service Connections; Waiver of Major Facilities Charges.**

1. The owner of improved real property that is connected to the Town's water distribution system and/or wastewater collection system may be granted a Major Facilities connection credit equivalent to the existing connection(s) when; (a) the existing building is removed and a new building is constructed on the same building lot; or (b) the size, use, type, or function of the existing building is materially altered.
2. Credit granted under § 13.04.090 B (1) shall be provided in an amount not to exceed the prevailing Major Facilities charge(s) for water and/or wastewater, as set forth under § 13.04.090 A, and extended for a period not to exceed five (5) years from the date water and/or wastewater service is disconnected from the owner's property.
3. Major Facilities Charges applicable to residential construction, specifically dwellings, within the town shall be waived for the period September 1, 2017, through and expiring on August 31, 2019. Notwithstanding the expiration set forth in this subsection, the waiver may be extended by the Building Official for any building construction initiated during the waiver period and actively under construction.

**C. Use of Major Facilities Funds.**

1. Unless as otherwise provided by law or by accounting procedures implemented by the Town, money collected as Major Facilities charges shall be accounted for in a Special

Revenue Fund and subsequently shall be used to pay for : a) capital improvements to the water and/or wastewater system(s); b) capital equipment used to operate and/or maintain the water and/or wastewater systems; c) the acquisition of land and/or easements relating to capital improvements to the water and/or wastewater systems; and/or d) debt service resulting from the aforesaid. The term “capital equipment” shall be construed under this section to mean fixed or mobile equipment, the cost of which meets or exceeds Ten Thousand Dollars (\$10,000.00).

2. Notwithstanding the provisions of Paragraph B., 1., of this section, the Town shall require the owner of a property connecting to the Town’s water distribution system and/or wastewater collection system to pay for all costs relating to the study, design, construction, construction management, acquisition of land and/or easements, and implementation of capital improvements to the water and/or wastewater systems necessary to service the owner’s property.

**D. Front-foot assessment charges.**

Unless otherwise provided under this section, a person connecting to the Town’s water distribution system and/or wastewater collection system shall pay front-foot assessment charges at a minimum rate of One Hundred Dollars (\$100.00) per front foot. Individual connections shall be charged at a minimum of Fifty Dollars (\$50.00) per front foot for water and a minimum rate of Fifty Dollars (\$50.00) per front foot for wastewater. Notwithstanding the provisions of this section, the Town may charge a person connecting to the Town’s water distribution system and/or wastewater collection system an amount equivalent to the proportional cost of constructing the water distribution system and/or wastewater collection system to which a person is connecting. This charge shall be calculated and paid in the following manner:

1. The Building Official shall determine the front-foot assessment charge for a parcel by multiplying the length of the parcel frontage on the Town’s right-of-way, or upon other property or right-of way, where a water distribution main and/or a wastewater collection main is located, by the front-foot assessment rate or the actual cost per foot to install the water distribution main and/or wastewater collection main.

2. FOR NEW CONSTRUCTION: A person who has applied for connection to the Town’s water distribution system and/or wastewater collection system shall pay twenty-five percent (25%) of the applicable front-foot assessment charges at the time a building permit is issued by the Town’s Building Official and seventy-five percent (75%) shall be paid upon the issuance of the Certificate of Occupancy.

3. FOR EXISTING CONSTRUCTION: A person who has applied for connection to the Town’s water distribution system and/or wastewater collection system shall pay one hundred percent (100%) of the applicable front-foot assessment charges at the time of the application.

4. Money collected as front-foot assessment charges shall be accounted for in the Major Facilities (Special Revenue) Fund. (Amended by Ordinance 7-2017, effective 8/22/2017)

5. A waiver of front-foot assessment charges shall apply to non-commercial dwellings, including new construction and existing dwellings, and shall expire on August 31, 2019, consistent with the waiver provided under Paragraph B., 3, of §13.04.090. (Amended by Ordinance 7-2018, effective 6/26/18)

**13.04.100 Extension of water mains and placement of fire hydrants for developer-consumers.**

A. The developer shall pay for the entire construction cost of the approved onsite water distribution



system and fire hydrants.

B. The developer shall pay for the entire cost of all off-site water distribution mains and related facilities approved by the Town to service the development. (Amended during 1996 codification; prior code § 110-10)

**13.04.110 Extension of water mains in areas already built up.**

A. The actual cost for water main facilities is specially assessed on the property upon the linear foot cost of construction. Corner lots are charged on the lot frontage only.

B. Engineering and administrative expenses for utility projects are not charged in front-foot costs for private homes but are charged against the general utility funds of the Town. (Amended during 1996 codification; prior code § 110-11)

**Article III. Meters.**

**13.04.120 When required.**

A. The Town shall purchase and install water meters on the property of such consumers of water supplied by the Town. The Town shall require that all water meters exceeding one inch be purchased and installed by the property owner in accordance with the Town's approved standards and specifications.

B. Each new and replaced water installation or connection shall be furnished with a water meter by the Town, and the property owner shall be required to pay the installation fee and the water rate established by the Town.

C. Every water connection with the Town water system outside the town shall be equipped with a water meter furnished by the Town, except as provided in § 13.04.120 (A), and the property owner shall pay the installation fee and the water rate established by the Town for out-of-town water consumers.

D. Separate and independent water laterals, stopcocks and meters shall be required for every residential, commercial, and industrial property owner.

E. The water service meter installation fees are as follows:

<u>Size of Meter</u>	<u>Fee</u>
5/8"	\$135.00
1"	\$210.00

**13.04.130 Metered premises to pay meter rates.**

In the event the Board of Commissioners shall deem it expedient and proper to discontinue furnishing water to any property owner at a flat rate, the town shall furnish and install a water service meter, except as provided in § 13.04.120, A., and the property owner shall pay the water meter installation fee established under § 13.04.120 (E.) In the event that a water meter service shall require a meter exceeding one (1) inch, the Town shall require the property owner to install a water service meter approved by the Town, and the property owner shall bear the cost of the meter and its proper installation, and shall pay for measured water at the water rate established by the Board of Commissioners.

**13.04.140 Use of meters to determine quantity of water used.**

The Board of Commissioners shall require that all property owners receiving water from the Town

shall have a water meter approved by the Town as to its type and location to determine the quantity of water used by the property owner.

#### **13.04.150 Control and supervision of meters repairs.**

In all cases where meters are used, they shall be furnished and connected by the Town and shall be property of and under the control and supervision of the Town and at all times accessible to the Town, its employees, agents or representatives. In the event any meter shall become defective or fail to register, the property owner shall be charged at the average daily consumption as determined by the Town, until a meter can be repaired and replaced.

A. The Director, Finance Department, shall be responsible for all meter readings and may utilize the resources deemed appropriate by the Board of Commissioners to fulfill this responsibility.

B. The Director, Finance Department, shall be responsible for all water meter repair, replacement and accuracy testing, and may utilize the resources deemed appropriate by the Board of Commissioners to fulfill this responsibility.

C. No meter will be installed without a work order from the Finance Department. When a meter is installed, the serial number, meter register number, make of meter and time and date of installation shall be accounted for by the Finance Department. Meters, yokes or risers shall not be installed by a plumber or contractor without the approval of the Building Official's office.

D. All meters shall be read at least once a year regardless of the type of meter. Inside and outside readings will both be taken at this time to determine if remote and meter readings are the same and also to determine if repair or replacement of the meter is necessary. In the event that the water meter and remote recording device are not the same, the measurement of the water meter, unless determined otherwise through accuracy testing by the Town, shall prevail in any dispute.

E. All water meters and remote recording devices shall be accessible to the Town, its employees, agents and representatives for purpose of reading and repairing water meters and/or remote recording devices placed in service by the Town. The owners of the property where water meters are located in crawl spaces and/or other confined areas shall provide reasonable improvements and conditions as determined by the Town to allow access by the Town, its employees, agents and representatives. No more than two water meters shall be installed in any one crawl space or confined space. The crawl space or other confined space shall be free of any obstructions and/or hazardous condition as determined by the Town that would impede, and/or present an unsafe or hazardous condition to any person reading or repairing any water meter and/or remote recording device. This subsection shall also pertain to any additions to an existing structure that would make the meter and/or remote recording device inaccessible.

F. No repair or replacement of a water meter or remote recording device shall be made without a work order from the Finance Department.

#### **13.04.160 Tampering or interfering with meters.**

A. No person shall interfere with the Town, its employees, agents or representatives while installing, connecting, reading, repairing, examining or removing any meter and/or remote recording device, or tamper with, alter the reading of, deface, injure, destroy or disconnect any meter, and/or remote recording device or any connection thereto, or use water otherwise than through a meter when a meter is installed on the premises, and the water supplied to any property owner who, by himself or through an agent, shall have committed any of the unlawful acts set forth in this section shall be subject to termination of water service without notice.

B. The provisions of the preceding subsection shall not be constructed to exempt any person who may have been fined for a violation thereof, or who may be charged with a violation thereof, from an action for damages on account of such violation brought by the Town.

C. It shall be the property owner's responsibility to pay the cost of any necessary repairs or replacement of a meter which has been tampered with as set forth in subsection A of this section.

D. Any person violating § 13.04.160, A., convicted thereof, shall be guilty of a misdemeanor and shall be punished as provided in the Charter, § C14-1., A.

#### **13.04.170 Duty of town employees while installing meters.**

Whenever meters are being installed, it shall be the duty of the Town, its employees, agents or representatives to either meter all pipes supplying water to the premises or disconnect and cut off from the water system all pipes on which meters are not installed.

### **Article IV. Contracts for Service Outside Town Limits.**

#### **13.04.180 Service by contract only - Mandatory provisions.**

A. Water service shall not be available to any property outside the municipal limits except by contract with the Town.

B. The Board of Commissioners may consider applications for water service outside the municipal limits and may grant permits to owners of property lying beyond the municipal limits who will stipulate by contract with the Town that they will pay to the Town the prevailing town tax rate on the property to be provided with water service by the Town. (Prior code § 110-18)

#### **13.04.190 Rates outside town.**

All consumers of water outside the town who receive water from the municipal water system shall pay for such water at a rate double that for users within the town. (Prior code § 110-19)

### **Article V. Materials and Maintenance.**

#### **13.04.200 Use of stopcocks with branch pipes.**

Any person who may be supplied with water by means of a branch connected with a private pipe shall have a sufficient stopcock affixed to such branch as near as possible to the private pipe so as to stop the flow of water through the branch when necessary without interrupting the supply to the other persons having a right to use the pipe with which such connection may be formed. Every person who may be supplied with water from a private pipe having a branch connected therewith shall also have a sufficient stopcock affixed to the private pipe above such branch for the purpose aforesaid. (Prior code § 110-20)

#### **13.04.210 Inspections and repairs to prevent waste of water.**

The Building Official and/or acting in conjunction with the Director, Department of Public works, is authorized and empowered, upon reasonable notice and in compliance with all applicable provisions of law, to enter and inspect the premises of any consumer of water for the purpose of ascertaining the number and character of all service connections on such premises and the condition thereof, and for the purpose of investigating whether there is any unnecessary waste of water. In case any unnecessary waste of water shall be found to result from want of repair in the pipes or other fixtures, the owner or occupier of such premises shall be notified to have the necessary repairs made

forthwith, and upon his neglect or refusal to do so it shall be the duty of the Director, Department of Public Works, to shut off the water from such premises. No person shall turn on such water before the necessary repairs have been made. (Amended during 1996 codification: prior code § 110-21)

#### **13.04.220 Use of private common pipes.**

In all cases where several consumers receive a supply of water from branch pipes, hydrants or fixtures uniting with a private common pipe inside the curb, each consumer shall keep such common pipe in repair, and in case of waste therefrom, shall be severally liable to all fines and penalties. Whenever a private pipe inside the curb which supplies water to several separate consumers through branch pipes or fixtures shall become defective so that it cannot be repaired, the owners of any such premises shall not be permitted or allowed to relay a new joint of common pipe to supply any such consumers, but each of the owners of the premises so supplied with water shall be required to make application for and lay a new service pipe leading from the stopcock at the curb to each premises so supplied with water. Only one property shall be supplied with water through one service pipe. Whenever it shall be necessary to repair or renew a private pipe within any street, the same shall be done by the Town. (Prior code § 110-22)

#### **13.04.230 Laying of private pipes.**

All water laterals shall be laid at a minimum depth of forty-two (42) inches below finished grade. Every person laying such private pipe shall be liable for the expense which may be incurred in laying such private pipe at the required depth. (Amended during 1996 codification; prior code § 110-23)

#### **13.04.240 Renewal of mains upon paving of streets.**

A. After the initial connection from the Town's main has been made and through time and deterioration, the service lines have to be replaced as determined by the Director, Department of Public Works, the Town will replace the water lateral from main to the property line at the Town's expense. Tax exempt properties, excluding churches, shall pay one hundred (100) percent of the replacement cost as determined by the Director, Department of Public Works.

B. In the event of a water leak and/or other defect attributed to the property owner's service lateral, the property owner shall be responsible for all costs associated with the excavation and repair of said lateral. (Amended during 1996 codification: prior code § 110-24)

### **Article VI. Water Use Curtailment.**

#### **13.04.250 Authority of Mayor to order curtailment.**

A. The Mayor shall be authorized and empowered to suspend, curtail, regulate, prohibit and/or implement the enforcement of mandatory water conservation measures affecting the use of town water when conditions exist that threaten the public health, safety and welfare. Such conditions shall include drought, contamination or potential contamination of the public water system, catastrophic failure of the public water system, security risks associated with the public water system and such other conditions or circumstances that the Mayor determines may adversely affect the public health, safety and welfare with respect to the use of town water.

B. Upon the Mayor's determination that the use of Town water shall be suspended, curtailed, regulated, prohibited and/or conserved, the Mayor shall issue a declaration specifically describing the uses of town water that shall be suspended, curtailed, regulated, prohibited and/or subject to conservation. Such declaration shall be published in a newspaper of general circulation within the

town and the affected community, and shall describe the usages of water affected by the declaration, the date of effect of the declaration and its date of expiration.

C. Following the publication of a declaration and its effective date, as set forth under paragraph B of this section, a person shall not use town water for purposes described in the declaration for which water has been suspended, curtailed, regulated, prohibited and/or conserved.

D. A violation of this section shall be an infraction and a person violating this section shall be subject to the penalties as provided under the Charter, Article XIV., C14-1., B.

E. The Town, in addition to any civil penalty as set forth under Paragraph D of this section, may suspend water service to any property where a violation of this section occurs. In such event, the Town shall provide written notice to the property owner that a violation of this section has occurred on the property and that Town water service shall be suspended to the property on the date specified in this notice. (Amended by Ord. 1-2002; effective: 3/26/02)

#### **13.04.260 Use of Town fire hydrants.**

A. A person shall not open, tamper with, or otherwise use a fire hydrant owned by the Town and/or a fire hydrant connected to the Town's water system, unless otherwise provided under this section. The terms 'use' shall mean to withdraw water from a fire hydrant or other type of connection intended for fire suppression activities.

B. The Town may grant written permission to a person for the use of a fire hydrant upon application and payment of fees for a permit. Such permit shall require that a fire hydrant designated for use by a person under said permit shall be equipped with an approved backflow prevention device, a water meter and such other fixtures or devices required by the Town. A fee of one hundred dollars (\$100.00) shall be paid by the applicant, at the time of application, for a permit under this section.

C. The Singerly Fire Company, its successors, or any assisting fire company, shall be authorized to connect to a fire hydrant owned by the Town and/or a fire hydrant connected to the Town's water system for the purpose of fire suppression and/or other emergency activities. In the event of such connection, the Singerly Fire Company, its successors, or any assisting fire company, shall notify the Town in accordance with procedures established by the Town. (Amended by Ord. 2-2002; effective: 3/26/02)

#### **13.04.270 Prohibited acts generally.**

A person shall not willfully damage, disconnect, destroy, and/or impair the proper function of any pipe, connection, fire hydrant, pump station, water tower, standpipe, reservoir or other part of the Town's water system. (Amended by Ord. 2-2002; effective: 3/26/02)

#### **13.04.280 Unlawful connections to water system.**

A person shall not willfully connect to and/or withdraw water from any town water system pipe, connection, fire hydrant, pump station, storage tower, standpipe, reservoir, fire hydrant, fixture or other part of the Town's water system without first establishing a water account with the Town or receiving a permit to do so from the Town. (Amended by Ord. 2-2002; effective: 3/26/02)

#### **13.04.290 Water and sewer rates.**

A. The Town shall bill water accounts on a quarterly basis and shall use water meters to determine the amount of water used by each residential, commercial, industrial or other property and/or portion thereof served by The town water and sewer systems.

B. Water and sewer rates established.

1. The following base water and sewer rates shall be charged:

Water Rate <b>In-Town</b> Minimum (9,000 Gallons/Qtr)	Sewer Rate <b>In-Town</b> Minimum (9,000 Gallons/Qtr)	Water Rate <b>Out-of-Town</b> Minimum (9,000 Gallons/Qtr)	Sewer Rate <b>Out-Of-Town</b> Minimum (9,000 Gallons/Qtr)
<b>\$37.44</b>	<b>\$67.23</b>	<b>\$74.88</b>	<b>\$134.46</b>
Rate Exceeding In-Town (Minimum/ 1,000 Gal.) 9001 gallons up to 30,000 gallons	Rate Exceeding In-Town (Minimum/ 1,000 Gal.) 9001 gallons up to 30,000 gallons	Rate Exceeding Out-of-Town (Minimum/ 1,000 Gal.) 9001 gallons up to 30,000 gallons	Rate Exceeding Out-of-Town (Minimum/ 1,000 Gal.) 9001 gallons up to 30,000 gallons
<b>\$4.16</b>	<b>\$7.47</b>	<b>\$8.32</b>	<b>\$14.94</b>
From 30,001 gallons to 100,000 gallons	From 30,001 gallons to 100,000 gallons	From 30,001 gallons to 100,000 gallons	From 30,001 gallons to 100,000 gallons
<b>\$ 4.90</b>	<b>\$8.81</b>	<b>\$9.80</b>	<b>\$17.62</b>
From 100,001 gallons up to 200,000 gallons	From 100,001 gallons up to 200,000 gallons	From 100,001 gallons up to 200,000 gallons	From 100,001 gallons up to 200,000 gallons
<b>\$5.15</b>	<b>\$9.25</b>	<b>\$10.30</b>	<b>\$18.50</b>
From 200,001 gallons and greater,	From 200,001 gallons and greater,	From 200,001 gallons and greater,	From 200,001 gallons and greater,
a 5% additional incremental rate adjustment per 100,000 gallons, up to a maximum rate of	a 5% additional incremental rate adjustment per 100,000 gallons, up to a maximum rate of	a 5% additional incremental rate adjustment per 100,000 gallons, up to a maximum rate of	a 5% additional incremental rate adjustment per 100,000 gallons, up to a maximum rate of
<b>\$15.21</b>	<b>\$27.29</b>	<b>\$30.42</b>	<b>\$54.58</b>

(Amended by Ordinance 6-2017 Effective 6/27/2017)

2. The base water and sewer rate for consumers outside the municipal limits of the town shall be double the town rate.

C. Water meters required; minimum quarterly charge; sewer charge.

1. A residential, commercial, industrial or other property that receives water from the Town shall have a water meter installed thereon to measure all water consumed in any manner upon the property and/or portion thereof; including any water service connection dedicated exclusively for fire suppression and/or related purposes the Town may require additional water meters for each

dwelling unit of a multi-dwelling unit building, for each rental space on a commercial property, or upon other property, as determined by the Town, to measure water consumption by the respective property.

2. The owner of property receiving water from the Town shall pay not less than the minimum quarterly charge for water and sewer service provided to the property or for each portion thereof where water meters are installed.

3. The charge for sewer service shall be determined on water usage.

D. Unless otherwise provided in the Code, or unless granted by the Mayor and Commissioners, a property owner receiving water and/or sewer service from the Town shall pay for all water and/or sewer service provided to the owner's property.

E. A property receiving water and/or sewer service from the Town that is not located within the corporate limits of the Town shall be charged double the water and sewer rates. (Ordinance 8-2012, effective 10/25/2012) (Prior amendment by Ordinance 5-2011. Effective 12/27/2011)

#### **13.04.300 Violation – Penalty**

A violation of §13.04.260, §13.04.270 and/or §13.04.280 shall be deemed a misdemeanor offense and a person, upon conviction by a Court of competent jurisdiction, shall be subject to a fine not to exceed \$1,000.00 or imprisonment not to exceed six (6) months, or both such fine and imprisonment. Each day such violation continues shall constitute a separate offense. (Amended by Ordinance 2-2002, effective 3/26/2002)

## **Chapter 13.08 SEWER SERVICE SYSTEM**

### **Sections:**

#### **Article I. General Provisions**

- 13.08.010 Definitions.**
- 13.08.020 Connection, openings or alterations-Permit required.**
- 13.08.030 Water pollution prohibited.**
- 13.08.040 Connection to public sewer required when.**
- 13.08.050 Privies and cesspools restricted.**
- 13.08.060 Sanitary maintenance of privies and cesspools.**
- 13.08.070 Damaging or destroying sewage works equipment.**
- 13.08.080 Notice of violations.**
- 13.08.090 Violation - Penalty**
- 13.08.100 Liability for damages.**

#### **Article II. Building Sewers and Connection**

- 13.08.110 Permits-Applications.**
- 13.08.120 Permit and inspection fees.**
- 13.08.130 Installation, connection and replacement costs-Indemnification of town.**
- 13.08.140 Separate sewers for each building-Exception.**
- 13.08.150 Use of old sewers for new buildings.**
- 13.08.160 Construction requirements for sewer pipes and joints.**
- 13.08.170 Size and slope of sewers.**
- 13.08.180 Sewer elevation, location and grade.**
- 13.08.190 When pumps required.**
- 13.08.200 Excavation requirements-Pipe laying and backfill.**
- 13.08.210 Safeguards and barricades-Restoration.**
- 13.08.220 Joint and connection requirements.**
- 13.08.230 Connecting building sewer to public sewer.**
- 13.08.240 Inspections and supervision of connections by building official.**

#### **Article III. Use of Public Sewers**

- 13.08.250 Sewer rents-Establishment and collection-Regulations on file.**
- 13.08.260 Prohibited uses of sanitary sewers.**
- 13.08.270 Discharge of stormwaters, industrial cooling waters and unpolluted drainage.**
- 13.08.280 Prohibited waters and wastes.**
- 13.08.290 Grease, oil and sand interceptors -When required, location and specifications.**
- 13.08.300 Maintenance of interceptors.**
- 13.08.310 Preliminary treatment facilities-When required.**
- 13.08.320 Approval of plans of treatment facilities.**
- 13.08.330 Maintenance of facilities by owner.**
- 13.08.340 Control manholes on property producing industrial wastes.**
- 13.08.350 Standards for measurements, tests and analyses.**
- 13.08.360 Special arrangements for industrial concerns.**



## **Article IV. Private Sewage Disposal**

**13.08.370 When authorized.**

**13.08.380 Permit required-Application-Fee.**

**13.08.390 Effective date of permit-Inspections-Notice to building official.**

**13.08.400 Compliance with state health requirements.**

**13.08.410 Other restrictions on issuance of permit-Prohibited use of sewers.**

**13.08.420 Sanitary operation and maintenance.**

**13.08.430 Duty to connect to public sewer where available.**

**13.08.440 Additional state health requirements.**

**\*Editor's Note: For sewer rates, see Section 13.04.290.**

## **Article I. General Provisions**

**13.08.010 Definitions.**

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

*"Biochemical oxygen demand (BOD)"* means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at twenty (20) degrees centigrade, expressed in parts per million by weight.

*"Building drain"* means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipe inside the walls of the building and conveys it to the building sewer beginning three feet outside the inner face of the building wall.

*"Building sewer"* means the extension from the building drain to the public sewer or other place of disposal.

*"Combine sewer"* means a sewer receiving both surface runoff and sewage.

*"Garbage"* means solid wastes from the preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

*"Industrial wastes"* means the liquid wastes from industrial processes as distinct from sanitary sewage.

*"Natural outlet"* means any outlet into a watercourse, pond, ditch, lake or other body or surface or ground water.

*"pH"* means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

*"Properly shredded garbage"* means the wastes from the preparation, cooking and dispensing of food that have been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.

*"Public sewer"* means a sewer in which all owners of abutting properties have equal rights and which is controlled by public authority.

*"Sanitary sewer"* means a sewer which carries sewage and to which storm, surface and ground waters are not intentionally admitted.

*"Sewage"* means a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface and storm waters as may be present.

*“Sewage treatment plant”* means any arrangement of devices and structures used for treating sewage.

*“Sewage works”* means all facilities for collecting, pumping, treating and disposing of sewage.

*“Sewer”* means a pipe or conduit for carrying sewage.

*“Storm sewer”* or *“storm drain”* means a sewer which carries storm and surface waters and drainage, but excludes sewage and polluted industrial wastes.

*“Suspended solids”* means solids that either float on the surface of or are in suspension in water, sewage or other liquids and which are removable by laboratory filtering.

*“Watercourse”* means a channel in which a flow of water occurs, either continuously or intermittently. (Amended during 1996 codification; prior code § 90-1)

#### **13.04.020 Connections, openings or alternations - Permit required.**

No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Building Official. (Amended during 1996 codification; prior code § 90-2)

#### **13.08.030 Water pollution prohibited.**

It is unlawful to discharge to any natural outlet within the town or in any area under the jurisdiction of the Town and any sanitary sewage, industrial wastes or other polluted waters except where suitable treatment has been provided in accordance with the provisions of this chapter. (Prior code § 90-3)

#### **13.08.040 Connection to public sewer required when.**

The owner of any house, building or other property used for human occupancy, employment, recreation or other purpose, situated within the town and abutting on any street, alley or right-of-way in which there is located a public sanitary sewer of the Town, is required, at his expense to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter within ninety (90) days after the date of official notice to do so, provided that such public sewer is within five hundred (500) feet of the property line. (Amended during 1996 codification; prior code § 90-4)

#### **13.08.050 Privies and cesspools restricted.**

Except as otherwise provided in this chapter, it is unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage. (Amended during 1996 codifications; prior code § 90-5)

#### **13.08.060 Sanitary maintenance of privies and cesspools.**

Privies, cesspools and septic tanks not prohibited by this chapter shall be maintained by the owners thereof in a sanitary condition satisfactory to the Secretary of Health and Mental Hygiene and shall be emptied and cleaned by such means and in such manner as prescribed by the Secretary in accord with the provisions of the Annotated Code of Maryland, Health-General Article, Section 20-303. (Amended during 1996 codification; prior code § 90-6)

#### **13.08.070 Damaging or destroying sewage works equipment.**

No person shall maliciously, negligently or without authority break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the wastewater

treatment facilities and/or the wastewater collection system. (Amended during 1996 codification; prior code § 90-7)

**13.08.080 Notice of violations.**

Any person found to be violating any provision of this chapter, except Section 13.08.070, shall be served by the Town with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations. (Prior code § 90-8)

**13.08.090 Violation - Penalty.**

Any person who shall continue any violation beyond the time limit provided for in the written notice provided in Section 13.08.080, or who violates the provision of Section 13.08.070, shall, upon conviction thereof, be guilty of a misdemeanor and shall be punished as provided in the Charter, Section C14-1A. (Prior code § 90-9)

**13.08.100 Liability for damages.**

Any person violating any provisions of this chapter shall become liable to the Town for any expense, loss or damage occasioned the Town by reason of such violation. (Prior code § 90-10)

**Article II. Building Sewers and Connections**

**13.08.110 Permits - Applications.**

The Town shall require a permit to be issued to the owner of any property within the town for the construction and/or replacement of any sanitary sewer collection system serving the property. The owner or his agent shall make application for the permit on a form furnished by the Town. The application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Building Official. All applications for permits shall be filed in the office of the Building Official. (Amended during 1996 codification; prior code § 90-11)

**13.08.120 Permit and inspection fees.**

Permit and inspection fees shall be established by the resolution of the Mayor and Commissioners. (Amended during 1996 codification; prior code § 90-12)

**13.08.130 Installation, connection and replacement costs - Indemnification of town.**

A. All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the Town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

B. After the initial connection from the Town main has been made and through time and deterioration the service lines have to be replaced as determined by the Building Official, the Town will replace the sewer lateral from the main to the property line at the Town's expense. Tax exempt properties, excluding churches, shall pay one hundred (100%) percent of the replacement cost as determined by the Building Official.

C. It shall be the property owner's responsibility to pay all costs for excavation if it is determined by the Building Official that the lateral is functioning properly from the main to the property line. (Amended during 1996 codification; prior code § 90-13)

**13.08.140 Separate sewers for each building - Exception.**

A separate and independent building sewer shall be provided for every commercial and dwelling unit; except that 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, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer. (Prior code § 90-14)

**13.08.150 Use of old sewers for new buildings.**

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Building Official, to meet all requirements of this chapter. (Amended during 1996 codification; prior code § 90-15)

**13.08.160 Construction requirements for sewer pipes and joints.**

The building sewer shall comply with all applicable COMAR regulations. (Amended during 1996 codification; prior code § 90-16)

**13.08.170 Size and slope of sewers.**

The size and slope of the building sewer shall be subject to the approval of the Building Official, but in no event shall the diameter be less than four inches. The slope of such four-inch pipe shall be not less than one-eighth inch per foot. (Amended during 1996 codification; prior code § 90-17)

**13.08.180 Sewer elevation, location and grade.**

A. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to or within three feet of any bearing wall, which might thereby be weakened. The depth shall be sufficient to afford protection from frost. The building sewer shall be laid at uniform grade and in straight alignment insofar as possible. Changes in directions shall be made only with properly curved pipe and fittings.

B. It shall be the responsibility of the owner or developer to install a wastewater clean out on the property line for any type of new construction. When a replacement lateral is warranted, a wastewater clean out shall be installed by the owner on the property line. (Amended during 1996 codification; prior code § 90-18)

**13.08.190 When pumps required.**

In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharge to the building sewer. (Prior code § 90-19)

**13.08.200 Excavation requirements - Pipe laying and backfill.**

All excavations required for the installation of a building sewer shall be open trenchwork, unless otherwise approved by the Building Official. Pipe laying and backfill shall be performed in accordance with specifications approved by the Building Official, except that no backfill shall be placed until the work has been inspected. (Amended during 1996 codification; prior code § 90-20)

**13.08.210 Safeguards and barricades - Restoration.**

All excavations for building sewer installations shall be adequately guarded with barricades and lights so as to protect the public from hazard. Traffic controls installed on State Highway Administration owned and maintained streets must conform to State Highway Administration standards and specifications. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Building Official. (Amended during 1996 codification; prior code § 90-21)

**13.08.220 Joint and connection requirements.**

All joints and connection requirements shall be made gastight and watertight in compliance with the applicable COMAR regulations. (Amended during 1996; prior code § 90-22)

**13.08.230 Connecting building sewer to public sewer.**

The connection of the building sewer into the public sewer shall be made at the Y-branch if such branch is available at a suitable location. If the public sewer is twelve (12) inches in diameter or less and no properly located Y-branch is available, the owner shall at his expense install a Y-branch or other town-approved method in the public sewer at the location specified by the Building Official. Where the public sewer is greater than twelve (12) inches in diameter and no properly located Y-branch is available, a Y- or T-saddle shall be used for connection into the public sewer to receive the building sewer, with entry in the downstream direction at an angle of about forty-five (45) degrees. A forty-five (45) degree ell may be used to make such connection, with the spigot end cut so as not to extend past the inner surface of the public sewer. The invert of the building sewer at the point of connection shall be at the same or at a higher elevation than the invert of the public sewer. A smooth, neat joint shall be made, and the connection made secure and watertight by encasement in concrete. Special fittings may be used for the connection only when approved by the Building Official. (Amended during 1996 codification; prior code § 90-23)

**13.08.240 Inspections and supervision of connections by building official.**

The applicant for the building sewer permit shall notify the Building Official when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Building Official. (Amended during 1996 codification; prior code § 90-24)

**Article III. Use of Public Sewers**

**13.08.250 Sewer rents - Establishment and collection - Regulations on file.**

Sewer rents may be charged and collected in the same general manner as water rents. The Board of Commissioners may by resolution adopt regulations, not inconsistent with this chapter, which establish the rates, terms and conditions of sewer rents, and such regulations shall become effective when placed on file in the Town office for inspection by the public during all regular business hours, and the Board of Commissioners may give such additional notice to the public, by newspaper publication or by posting at the Town Hall, as the Board may consider appropriate. (Amended during 1996 codification; prior code § 90-25)

**13.08.260 Prohibited uses of sanitary sewers.**

No person shall discharge or cause to be discharged any stormwater, surface water, ground water, roof runoff, subsurface drainage, cooling water or unpolluted industrial process waters to any

sanitary sewer. (Prior code § 90-26)

**13.08.270 Discharge of stormwaters, industrial cooling waters and unpolluted drainage.**

Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers or to a natural outlet approved by the Town's engineer. Industrial cooling water or unpolluted process waters may be discharged, upon approval of the Town's engineer, to a storm sewer, combined sewer or natural outlet. (Amended during 1996 codification; prior code § 90-27)

**13.08.280 Prohibited waters and wastes.**

Except as otherwise provided in this article, no person shall discharge or cause to be discharged any of the following-described waters or wastes to any public sewer:

- A. Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees Fahrenheit;
- B. Any water or waste which may contain more than one hundred (100) parts per million, by weight, of fat, oil or grease;
- C. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas;
- D. Any garbage that has not been properly shredded;
- E. Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure or any other solid or viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works;
- F. Any waters or wastes having a pH lower than five and one-half or higher than nine or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works;
- G. Any water or wastes containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals or create any hazard in the receiving waters of the sewage treatment plant;
- H. Any waters or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant;
- I. Any noxious or malodorous gas or substance capable of creating a public nuisance. (Prior code § 90-28)

**13.08.290 Grease, oil and sand interceptors - When required, location and specifications.**

- A. Grease, oil and sand interceptors shall be provided when, in the opinion of the Building Official, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts or any flammable wastes, sand and other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units.
- B. All interceptors shall be of a type and capacity approved by the Building Official and shall be located as to be readily and easily accessible for cleaning and inspection.
- C. Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight. (Amended during 1996 codification; prior code § 90-29)

**13.08.300 Maintenance of interceptors.**

Where installed, all grease, oil and sand interceptors shall be maintained by the owner, at his

expense, in continuously efficient operation at all times. (Prior code § 90-30)

**13.08.310 Preliminary treatment facilities - When required.**

The admission into the public sewers of any waters or wastes having a five-day biochemical oxygen demand greater than three hundred (300) parts per million by weight, or containing any quantity of substances having the characteristics described in Section 13.08.280, or having an average daily flow greater than two percent of the average daily sewage flow of the town, shall be subject to the review and recommendation of the Town's wastewater treatment facilities contractor. Where necessary in the opinion of the town's wastewater treatment facilities contractor, the owner shall provide, at his expense, such preliminary treatments may be necessary to reduce the biochemical oxygen demand to three hundred (300) parts per million and the suspended solids to three hundred fifty (350) parts per million by weight, or reduce objectionable characteristics or constituents to within the maximum limits provided for in Section 13.08.280, or control the quantities and rates of discharge of such waters or wastes. (Amended during 1996 codification; prior code § 90-31)

**13.08.320 Approval of plans of treatment facilities.**

Plans, specifications and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Town and Maryland Department of the Environment, and no construction of such facilities shall be commenced until their approvals are obtained in writing. (Amended during 1996 codification; prior code § 90-32)

**13.08.330 Maintenance of facilities by owner.**

Where preliminary treatment facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense. (Prior code § 90-33)

**13.08.340 Control manholes on property producing industrial wastes.**

When required by the Town, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the Building Official. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times. (Amended during 1996 codification; prior code § 90-34)

**13.08.350 Standards for measurements, tests and analyses.**

A. All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in Sections 13.08.280 and 13.08.310 shall be determined in accordance with Standard Methods for the Examination of Water and Sewage and shall be determined at the control manhole provided for in Section 13.08.340 or upon suitable samples taken at such control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.

B. At least one copy of Standard Methods for the Examination of Water and Sewage shall be maintained on file in the office of the wastewater treatment facility, where it shall be available to the public for inspection and use during all regular business hours. (Amended during 1996 codification;

prior code § 90-35)

**13.08.360 Special arrangements for industrial concerns.**

No statement contained in this article shall be construed as preventing any special agreement between the Town and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the Town for treatment, subject to payment therefor by the industrial concern. (Prior code § 90-36)

**Article IV. Private Sewage Disposal**

**13.08.370 When authorized.**

Where a public sanitary sewer is not available under the provisions of Section 13.08.040, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this article. (Amended during 1996 codification; prior code § 90-37)

**13.08.380 Permit required – Application -- Fee.**

Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit issued by the Building Official. The application for such permit shall be made on a form furnished by the Town, which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the Building Official. A permit and inspection fee as determined by resolution of the Board of Commissioners shall be paid to the Finance Office at the time the application is filed. Applications shall be filed in the office of the Building Official. (Amended during 1996 codification; prior code § 90-38)

**13.08.390 Effective date of permit – Inspections - Notice to building official.**

A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Building Official. He shall be allowed to inspect the work at any stage of construction, and in any event the applicant for the permit shall notify the Building Official when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within forty-eight (48) hours of the receipt of notice by the Building Official. (Amended during 1996 codification; prior code § 90-39)

**13.08.400 Compliance with state health requirements.**

The type, capacity, location and layout of a private sewage disposal system shall comply with all recommendations of the Maryland Department of the Environment. (Amended during 1996 codification; prior code § 90-40)

**13.08.410 Other restrictions on issuance of permit - Prohibited use of sewers.**

No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than ten thousand (10,000) square feet. No septic tank or cesspool shall be permitted to discharge to any public sewer or natural outlet. (Amended during 1996 codification; prior code § 90-41)

**13.08.420 Sanitary operation and maintenance.**

The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all



times, at no expense to the Town. (Prior code § 90-42)

**13.08.430 Duty to connect to public sewer where available.**

At such times as a public sewer becomes available to a property served by a private sewage disposal system, as provided in Section 13.08.040, a direct connection shall be made to the public sewer in compliance with this chapter, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material. (Prior code § 90-43)

**13.08.440 Additional state health requirements.**

The provisions of this article shall not be construed to interfere with any additional requirements that may be imposed by the Maryland Department of the Environment. (Amended during 1996 codification; prior code § 90-44)

**Chapter 13.12**  
**PRETREATMENT OF INDUSTRIAL WASTE**

**Sections:**

- 13.12.010 Purpose and policy.**
- 13.12.020 Abbreviations.**
- 13.12.030 Definitions.**
- 13.12.040 Prohibited discharge standards.**
- 13.12.050 Pretreatment and federal categorical pretreatment standards.**
- 13.12.060 Dilution.**
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- 13.12.330 Final corrective orders.**
- 13.12.340 Injunctive relief.**
- 13.12.350 Civil penalties.**
- 13.12.360 Criminal penalties.**
- 13.12.370 Annually published list of significant violators.**
- 13.12.380 Recovery of costs incurred.**

### **13.12.010 Purpose and policy.**

The purpose of this chapter is to:

- A. Establish uniform requirements for direct and indirect contributors into the wastewater collection and treatment systems owned and operated by the Town of Elkton to comply with all applicable state and federal laws and the general pretreatment regulations (40 CFR 403);
- B. Prevent the introduction of pollutants into the municipality's wastewater system which will:
  - 1. Interfere with the operation of the system,
  - 2. Contaminate the sludge,
  - 3. Pass through the system, inadequately treated, into receiving waters or the atmosphere, or
  - 4. Be otherwise incompatible with the system;
- C. Improve the opportunity to recycle and reclaim wastewaters and sludges from the system;
- D. Provide for equitable distribution of the cost of the municipal wastewater system. (Prior code § 90-45(A))

### **13.12.020 Abbreviations.**

As used in this Chapter, the following abbreviations shall have the designated meanings:

"BO"	Biochemical oxygen demand
"CF"	Code of Federal Regulations
"CO"	Chemical oxygen demand
"EP"	Environmental Protection Agency
"l"	Liter
"m"	Milligrams
"mg/l"	Milligrams per liter
"NPDES"	National Pollutant Discharge Elimination System
"POTW"	Publicly owned treatment works
"SIC"	Standard Industrial Classification
"SWDA"	Solid Waste Disposal Act, 42 U.S.C. (Section 6901 et seq.)
"TSS"	Total suspended solids
"U.S.C."	United States Code

(Prior code § 90-45(B))

### **13.12.030 Definitions.**

Unless the context specifically indicates otherwise, the following terms and phrases used in this Chapter shall have the following meanings.

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

"Approved POTW pretreatment program" means a program administered by a publicly owned treatment works (POTW) that complies with national pretreatment standards and that has received approval from the EPA regional administrator or the Maryland Department of the Environment.

"Authorized representative of industrial user" means:

- 1. In the case of a corporation, a principal executive officer of at least the level of vice president;
- 2. In the case of a partnership or proprietorship, a general partner or proprietor;
- 3. A duly authorized representative of the individual designated in subsections (1) and (2) of this definition if:

- a. The authorization is made in writing by the individual described in subsections (1) and (2) of this definition,
  - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates, such as the position of plant manager, operator of a well or well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company, and
  - c. The written authorization is submitted to the control authority;
4. If an authorization under subsection (3) of this definition is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of subsection (3) of this definition must be submitted to the control authority prior to or together with any reports to be signed by an authorized representative.
- “Bypass”* means the intentional diversion of waste streams from any portion of an industrial user’s treatment facility.
- “Control authority”* means the Town of Elkton or its duly authorized agent.
- “Domestic wastewater”* means the liquid wastes originating from private residences and containing those pollutants and pollutant concentrations that are normally associated with household activities. See the definition of *“non-domestic wastewater.”*
- “Industrial user”* means a person who is engaged in manufacturing or commerce, or a member of any class of significant producers of pollutants identified under rules or regulations adopted by the state or EPA, or any other user as determined by the Town of Elkton.
- “Interference”* means a discharge which alone or in conjunction with a discharge or discharges from other sources both: (1) inhabits or disrupts the Elkton wastewater treatment facility, its treatment processes or operations, or its sludge processes, use or disposal; and (2) therefore is a cause of a violation of any requirement of the Town of Elkton’s NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State of Maryland or Town of Elkton regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State of Maryland regulations contained in a State of Maryland sludge management plan prepared pursuant to Subtitle D of the SWDA,) the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.
- “National Categorical Pretreatment Standard”* means any regulation containing pollutant discharge limits which applies to a specific category of industrial users promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. Section 1347).
- “National pretreatment standards”, “pretreatment standards,” or “standards”* means prohibited discharge standards, categorical pretreatment standards and local limits.
- “New source”* means:
- 1. Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed

pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

- a. The building, structure, facility or installation is constructed at a site at which no other source is located, or
  - b. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source, or
  - c. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered;
2. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of subsections (1)(b) or (1)(c) of this section but otherwise alters, replaces or adds to existing process or production equipment;
3. Construction of a new source as defined under this definition has commenced if the owner operator has:
- a. Begun or caused to begin as part of a continuous on-site construction program: (i) any placement, assembly or installation of facilities or equipment; or (ii) significant site preparation work including clearing, excavation or removal of existing buildings, structures or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment, or
  - b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation with a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this definition.

*“Nondomestic wastewater”* means the liquid wastes originating from establishments engaged in some form of business, commercial or industrial activity. See the definition of *“domestic wastewater.”*

*“NPDES or state discharge permit”* means a permit issued pursuant to Section 402 of the Federal Water Pollution Control Act (33 U.S.C. Section 1342) or Title 9, Sections 9-323 and 9-324 of the Environment Article of the Annotated Code of Maryland.

*“Pass-through”* means a discharge which exits the POTW into the waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW’s NPDES permit, including an increase in the magnitude or duration of a violation.

*“Person”* means any individual, partnership, firm, company, corporation, association, joint-stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine and the singular shall include the plural where indicated by the context.

*“pH”* means the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions, expressed in grams per liter of solution.

*“Pollutant”* means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity or odor.)

*“POTW”* means the Town of Elkton’s wastewater treatment facilities and collection system.

*“Pretreatment”* means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

*“Pretreatment requirements”* means any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

*“Prohibited discharge standards or prohibited discharges”* means absolute prohibitions against the discharge of certain substances as specified in this chapter.

*“Publicly owned treatment works (POTW)”* means any devices or any systems used in the storage, treatment, recycling and reclamation of municipal sewage and industrial waste, as defined by Section 212 of the Act. The systems include sewers, pipes and equipment used to convey wastewater to the treatment facility. The term also includes the agency or person authorized to operate such facilities in accordance with the county plan approved in accordance with the Environment, Article, Title 9, Subtitle 5, of the Annotated Code of Maryland.

*“Severe property damage”* means substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable or substantial or permanent loss of natural resources. “Severe property damage” does not mean economic loss caused by delays in production.

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

*“Significant industrial user”* means:

1. A user subject to categorical pretreatment standards; or
2. A user that:
  - a. Discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the POTW (excluding sanitary, non-contact cooling and boiler blowdown wastewater),
  - b. Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant, or
  - c. Is designated as such by the Town of Elkton on the basis that it has a reasonable potential for adversely affecting the POTW’s operation or for violating any pretreatment standard or requirements;
3. Upon a finding that a user meeting the criteria in subsection (2) of this definition has no reasonable potential for adversely affecting the POTW’s operation or for violating any pretreatment standard or requirement, the Town of Elkton may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant

industrial user.

*“Slug”* means any discharge of significant quantities of water, sewage or industrial waste which in concentration of any given constituent or quantities of flow could cause interference of the treatment works, pass through the POTW, endanger sewer worker safety, contaminate the sludge, or cause a violation of any permit issued to the POTW.

*“Suspended solid”* means the total suspended matter that floats on the surface of or is suspended in water, wastewater or other liquids and which is removable by laboratory filtering.

*“Toxic pollutant”* means any pollutant or combination of pollutants listed as “toxic” in regulations promulgated by the EPA under Section 307(a) of the Federal Water Pollution Control Act or other federal statutes or in regulations promulgated by the Maryland Office of Environmental Programs under state law.

*“User”* means any person who contributes, causes or permits the contribution of wastewater into the Town of Elkton POTW.

*“Wastewater”* means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities and institutions, whether treated or untreated.

*“Waters of the State”* means and includes:

1. Both surface and underground waters within the boundaries of this state subject to its jurisdiction, including that part of the Atlantic Ocean within the boundaries of the state, the Chesapeake Bay and its tributaries and all ponds, lakes, rivers, streams, public ditches, tax ditches and public drainage systems within this state, other than those designed and used to collect, convey or dispose of sanitary sewage.
2. The floodplain of free-flowing waters determined by the Department of Natural Resources on the basis of one-hundred (100) year flood frequency. (Amended during 1996 codification; prior code § 90-45(C))

### **13.12.040 Prohibited discharge standards.**

A. General Prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass-through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state or local pretreatment standards or requirements.

B. Specific Prohibitions. No user shall introduce or cause to be introduced any of the following substances, pollutants and/or wastewater to the Elkton wastewater treatment facility and/or collection system:

1. Wastewater having a pH less than 5.0 or greater than 9.0 or having any other corrosive property capable of causing damage or hazardous to structures, equipment or personnel of the POTW;
2. Fats, wax, grease or oils of petroleum origin, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two (32) degrees Fahrenheit and one hundred forty (140) degrees Fahrenheit;
3. Pollutants which create fire or explosion hazard in the POTW, including but not limited to wastestreams with a closed-cup flash point of less than one hundred forty (140) degrees Fahrenheit using the test methods specified in 40 CFR 261.21, or pollutants which cause the

effluent to exceed ten percent of the lower explosive limit (LEL) at any point with the POTW;

4. Any heat sufficient to raise the temperature of the influent to the Elkton wastewater treatment facility and/or collection system above one hundred four (104) degrees Fahrenheit;
5. Any slug load, release rate of pollutants, concentration of pollutants, including oxygen-demanding pollutants, which may cause interference to the POTW;
6. Non-biodegradable cutting oil or products of mineral oil origin in amounts that will cause interference or pass-through;
7. Garbage that has not been ground by house-hold-type or other suitable garbage grinders;
8. Ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure or any other solids or viscous substances capable of causing obstructions or other interferences with the proper operation of the sewer system;
9. Toxic or poisonous substances in sufficient quantity to injure or interfere with any wastewater treatment process, to constitute hazards to humans or animals, to pass through the POTW or to create any hazard in waters which receive treated effluent from the sewer system treatment plant;
10. Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
11. Pollutants which may cause a public nuisance, cause hazard to life or prevent entry into the sewers for maintenance and repair;
12. Solids of such character and quantity that special and unusual attention is required for their handling;
13. Pollutants which may affect the treatment plant's effluent and cause violation of the NPDES permit requirements;
14. Pollutants which would cause the treatment plant to be in noncompliance with sludge use, recycle or disposal criteria pursuant to guidelines or regulations developed under Section 405 of the Federal Act, the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act or other regulations or criteria for sludge management and disposal as required by the state;
15. Wastewater containing color which is not removed in the treatment processes;
16. Medical or infectious wastes that could impact the POTW;
17. Radioactive waste or isotopes;
18. Trucked or hauled pollutants, except at discharge points designated by the POTW;
19. Wastewater having effluent characteristics in excess of the following;

Parameter	Daily Maximum (mg/l)
Total cadmium	0.29
Total chromium	0.60
Total copper	1.50
Total cyanide	0.70
Total lead	0.64
Total mercury	0.003
Total nickel	8.8
Total silver	0.20



Total zinc	2.83
Total arsenic	3.92
Total phosphorous	10.00
BOD, 5-day	800.00
Total suspended solids	800.00

C. Surcharges. Any user discharging wastewater with concentrations of five-day BOD exceeding two hundred forty (240) mg/l and/or total suspended solids exceeding two hundred ten (210) mg/l shall be surcharged according to the following schedules:

1. Level 1. Any BOD exceeding two hundred forty (240) mg/l and/or TSS exceeding two hundred ten (210) mg/l as a quarterly average, but not exceeding five hundred (500) mg/l shall be surcharged at twenty-two cents (\$.22) per pound based on the formula below;
2. Level 2. Any BOD and/or TSS exceeding five hundred (500) mg/l as a quarterly average, but not exceeding eight hundred (800) mg/l shall be surcharged at thirty-three cents (\$.33) per pound based on the formula below;
3. Level 3. Any BOD and/or TSS discharge exceeding eight hundred (800) mg/l is prohibited, and shall be subject to any applicable enforcement actions. In addition, any BOD and/or TSS exceeding eight hundred (800) mg/l as a quarterly average shall be surcharged at forty-four cents (\$.44) per pound based on the formula below.

#### **Surcharge Formula**

Quarterly average (mg/l) - 240 (BOD) or 210 (TSS) (mg/l)  
x total quarterly flow (mg)  
x [8.34 (lbs./gal.)]  
x (\$/lb.) (from Level 1, 2, or 3)  
= \$ surcharge for the quarter  
(Prior code § 90-45 (D))

#### **13.12.050 Pretreatment and federal categorical pretreatment standards.**

A. Industrial users shall provide necessary wastewater treatment as required to comply with this chapter, the national categorical pretreatment standards found at 40 CFR, Chapter 1, Subchapter N, Parts 405-471, as amended, hereby incorporated in this chapter, and the State of Maryland pretreatment standards and requirements found in COMAR, Title 16, as amended, hereby incorporated into this chapter.

B. Any facilities required to pretreat wastewater shall be provided, operated and maintained at the industrial user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Town of Elkton for review and shall be approved by the Town of Elkton before construction of the facility. The review and approval of plans and operating procedures does not relieve the industrial user from complying with the provisions of this chapter and permit conditions. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and approved by the Town of Elkton prior to the industrial user's initiation of the changes. (Prior code 90-45 (E))

#### **13.12.060 Dilution.**

No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a

partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Town may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate. (Amended during 1996 codification: prior code § 90-45 (F))

#### **13.12.070 Spill prevention plans.**

A. Industrial users shall provide protection from accidental discharge of materials which may interfere with the POTW by developing spill prevention plans. Facilities necessary to implement these plans shall be provided and maintained at the owner's or industrial user's expense. Spill prevention plans, including the facilities and the operating procedures, shall be approved by the Town of Elkton before construction of the facility.

B. Industrial users that store hazardous substances shall not contribute to the POTW after the effective date of the ordinance codified in this chapter unless a spill prevention plan has been approved by the Town of Elkton. Approval of such plans shall not relieve the industrial user from complying with all other laws and regulations governing the use, storage and transportation of hazardous substances. (Prior code § 90-45 (G))

#### **13.12.080 Notifications.**

##### **A. Notification of Violation - Automatic Re-sampling.**

1. If sampling performed by an industrial user indicates a violation, the user must notify the control authority within twenty-four (24) hours of becoming aware of the violation. The notification shall minimally include:

- a. The location of the discharge;
- b. The type of waste, including concentration and volume;
- c. Any corrective actions taken by the user.

2. Within five days following such discharge, a user shall submit a written report describing the cause of the discharge and the measures that will be taken by the user to prevent similar future discharges.

3. Such notification shall not relieve the user of any expense, loss, damage or other liability resulting from the discharge, nor shall such notification relieve the user of any fines, civil penalties or other liability which may be imposed under this chapter or other applicable state or federal law.

4. The user also must repeat the sampling and analysis and submit the results of the repeat analysis to the control authority within thirty (30) days after becoming aware of the violation. The industrial user is not required to sample if:

- a. The Town will perform sampling at the industrial user's location at least once a month; or
- b. The Town will perform sampling at the industrial user's location between the time when the industrial user performs its initial sampling and the time when the industrial user receives the results of this sampling.

B. Notice of Potential Problems, Including Slug Loading. All categorical and non-categorical users must notify the POTW immediately of all discharges that could cause problems, including any slug loading.

C. Upset Provision and Notification.

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

2. An upset can be used as an affirmative defense to an action brought for noncompliance with categorical pretreatment standards, provided that the industrial user meets certain conditions. An industrial user who wishes to establish the affirmative defense of upset must demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence, that:

a. An upset occurred and the industrial user can identify the cause or causes.

b. The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures.

c. The industrial user has submitted the following information to the POTW and control authority within twenty-four (24) hours of becoming aware of the upset (if this information is provided orally, a written submission must follow within five days) a description of the indirect discharge and cause of noncompliance; the period of noncompliance, including exact dates and times, or if not corrected, the anticipated time the noncompliance is expected to continue; and steps being taken or planned to reduce, eliminate and prevent recurrence of the noncompliance.

d. In any enforcement proceeding the industrial user seeking to establish the occurrence of an upset shall have the burden of proof.

e. Industrial users will have the opportunity for judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

f. The industrial user shall control production or all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

#### D. Bypass Provision and Notification.

1. Allowable Bypass. An industrial user may allow any bypass to occur that does not cause violations of pretreatment standards or requirements. A bypass must be for essential maintenance to assure efficient operation. These bypasses are not subject to the notice and prohibition clauses discussed below.

2. Notice of Bypass. If an industrial user knows in advance of the need for a bypass, it must submit prior notice to the control authority, if possible at least ten days in advance of the bypass. An industrial user must submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the control authority within twenty-four (24) hours from the time that industrial user becomes aware of the bypass. A written submission shall also be provided within five days of the time the industrial user becomes aware of the bypass. A written submission must contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent reoccurrence of the bypass. The control authority may waive the written report on

a case-by-case basis if the oral report has been received within twenty-four (24) hours.

**3. Prohibition of Bypass.**

a. Bypass is prohibited, and the control authority may take enforcement action against an industrial user for a bypass, unless:

- i. Bypass was unavoidable to prevent loss of life, personal injury or severe property damage;
- ii. There were no feasible alternatives to the bypass. This condition is not satisfied if adequate backup equipment should have been installed in order to prevent a bypass; and
- iii. The industrial user submitted notices as described above.

b. The Town may approve an anticipated bypass, after considering its adverse effects, if it determines that the user has met the three conditions listed above under subsection (D)(3)(a) of this section.

E. Substantial Changes in Discharge. All industrial users shall promptly notify the POTW in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes for which the industrial user has submitted initial notification under 40 CFR 403.12(p). The Town may deny or condition new or increased contributions of pollutants to the POTW. (Amended during 1996 codification; prior code § 90-45(H))

**13.12.090 Employee training.**

The industrial user shall permanently post a notice in a prominent place advising all employees whom to call in the event of a dangerous discharge for which notification is required. Employers shall advise all employees who may cause or be injured by such discharge of the emergency notification procedure. (Prior code § 90-45(I))

**13.12.100 Records.**

A. Users shall retain and make available upon request of authorized representatives of the POTW, the State or the EPA all records required to be collected by the user pursuant to this chapter, information collected in accordance with any permit, order, or compliance schedule issued under this chapter; or any other information required to be collected by the control authority, the state, or EPA.

B. These records shall remain available for a period of at least three years after their collection.

C. This period shall be extended during any litigation concerning compliance with this chapter or permit conditions. (Amended during 1996 codification; prior code § 90-45(J))

**13.12.110 Analytical requirements.**

All analyses, including sampling techniques, submitted in support of any application, report, evidence or required by any permit or order shall be performed in accordance with 40 CFR 136 and amendments thereto. Where 40 CFR 146 does not contain sampling or analytical techniques for the pollutant in question, or where the administrator (as defined in 40 CFR 136) determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the POTW or other persons, approved by the administrator. (Prior code § 90-45(K))

**13.12.120 Confidential information.**

A. Information and data about a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public unless the user specifically requests and is able to demonstrate to the satisfaction of the Town of Elkton that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user.

B. 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 except upon written request by the State or EPA for use related to this chapter. Confidential portions of a report shall be available for use by the State or EPA in judicial review or enforcement proceedings involving the persons furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information. Information accepted by the POTW as confidential shall not be disclosed unless the user is given a ten-day notification. (Prior code § 90-45(L))

**13.12.130 Right of entry.**

Representatives of the Town of Elkton, the State and EPA, upon showing proper identification, shall have the right to enter and inspect the premises of any user who may be subject to the requirements of this chapter. Industrial users shall allow authorized representatives of the POTW, State and EPA access at all reasonable times to all premises for the purpose of inspecting, sampling, examining records or copying records in the performance of their duties. Authorized representatives of the POTW, State and EPA shall have the right to place on the user's property such devices as are necessary to conduct sampling and monitoring. Where a user has security or safety measures in force which would require clearance, training or wearing of special protective gear, the user shall make necessary arrangements, at its own expense, to enable authorized representatives of the Town of Elkton, State and EPA to enter and inspect the premises as guaranteed by this section. (Amended during 1996 codification; prior code § 90-45(M))

**13.12.140 Signature requirements for industrial users.**

All reports must include the certification statement located in Section 13.12.170C. In addition, the reports must be signed by a duly authorized representative of the industrial user, as defined in Section 13.12.030 of this chapter. (Prior code § 90-45(N))

**13.12.150 Authority to require compliance schedules.**

If additional pretreatment or operation and maintenance will be required for an industrial user to comply with any provisions of this chapter or a state or federal pretreatment standard or requirement, the town may require the industrial user to submit for approval a schedule specifying the shortest time frame for the industry to achieve compliance. This schedule will contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of the additional pretreatment to bring the industrial user into compliance. (Prior code § 90-45(O))

**13.12.160 Authority to require the submission of reports.**

Upon the request of the Town, any discharger of industrial wastes into the POTW may be required to submit plans, reports, questionnaires, notices or analytical data to evaluate waste discharge characteristics and to ensure compliance with this chapter. These may include baseline monitoring

reports, compliance reports, periodic self-monitoring reports, compliance schedule progress reports, violation reports and notice of slug loadings, upset or bypass, or any applicable report required by 40 CFR 403.12. (Amended during 1996 codification; prior code § 90-45(P))

#### **13.12.170 Periodic compliance reports.**

A. All significant industrial users shall submit to the POTW a minimum of semiannual reports (on dates specified by the POTW) indicating the flow, nature and concentration of pollutants in the discharge by such standards. The specific standards or POTW itself may require these reports to be filed more frequently. In addition, the POTW may require other users to submit periodic reports.

B. The reports must be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report. The report must contain data that is representative of conditions occurring during the reporting period. The control authority will state the frequency of monitoring necessary to assess and assure compliance by industrial users with applicable pretreatment standards and requirements.

C. Certification Statement. All significant industrial users are required to submit the following certification statement, signed by the authorized representative of the industrial user, with every periodic compliance report (PCR).

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.  
(Added during 1996 codification)

#### **13.12.180 Monitoring.**

A. Users shall provide and maintain in safe and proper condition, at their own expense, facilities to allow the authorized representatives of the POTW, EPA or the state to inspect, sample or measure flows from wastewater subject to this chapter.

B. There shall be ample room in or near such facilities to allow accurate sampling and preparation of samples for analysis.

C. If locating such facilities on a user's property would be impractical, the user may apply to the POTW for right-of-way or for permission to construct on public property.

D. If an industrial user monitors any pollutant more frequently than required by the control authority, using the procedures in accordance with 40 CFR 136 and amendments thereto, the results of this monitoring must be included in the periodic compliance report.

E. The Town may require the installation of monitoring equipment by an industrial user for the purposes of determining compliance with all applicable pretreatment regulations or requirements.

F. Industrial users are required to submit all monitoring data to the POTW. (Added during 1996 codification)

#### **13.12.190 Permit required.**

A. After one hundred eighty (180) days from the effective date of the ordinance codified in this

chapter, it shall be unlawful for a user subject to National Categorical Pretreatment Standards or another significant industrial user or any other user directed to apply for a permit by the Town of Elkton to discharge wastewater into the POTW except in accordance with the terms and conditions of a wastewater contribution permit.

B. The following industrial users are required to apply for a wastewater contribution permit:

1. Any user whose discharge would be in violation of Section 13.12.040 if he had no permit;
2. Any significant industrial user;
3. Any user subject to a National Categorical Pretreatment Standard;
4. Any user required by state pretreatment requirements to obtain a permit.

C. Existing users required to obtain a permit of this subsection must apply for a wastewater contribution permit with ninety (90) days of the effective date of the ordinance codified in this chapter.

D. New sources required to obtain a permit by this subsection must apply for and receive a wastewater contribution permit prior to discharging pollutants into the POTW.

E. Any user not required to obtain a permit for existing discharges must apply for and receive a wastewater contribution permit prior to changing the user's discharge in such a manner that the resulting discharge would require a permit. A "new source" is considered any source, the construction of which is commenced after the publication of proposed regulations (Section 307(c), 33 U.S.C. Section 1347) prescribing a categorical pretreatment standard which will be applicable to such source. (Prior code § 90-46(A), 90-47(A))

### **13.12.200 Permit application.**

Users required to apply for a wastewater contribution permit shall complete and file with the Town of Elkton an application in the form prescribed by the POTW and accompanied by a fee which will be set by resolution of the Mayor and Commissioners of the Town of Elkton. In support of the application, the user shall submit, in units and terms appropriate for evaluations, the following information:

- A. The name, address and location, if different from the address;
- B. The SIC number according to the Standard Industrial Classification Manual, issued by the Executive Office of the President, Office of Management and Budget, 1972;
- C. Wastewater constituents and characteristics, including but not limited to those mentioned in Section 13.12.040;
- D. The time and duration of contribution;
- E. The average daily and thirty (30) minute wastewater flow rates, including daily, monthly and seasonal variations, if any;
- F. Site plans, floor plans, mechanical and plumbing plans, along with details to show all sewers, sewer connections and appurtenances by the size, location and elevation;
- G. A description of activities, facilities and plant processes on the premises, including all materials which are or could be discharged;
- H. The nature and concentration of any pollutants in the discharge which are limited by any National Categorical Pretreatment Standard or pretreatment requirement, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance and additional pretreatment is required;
- I. The shortest schedule by which the user will provide additional pretreatment or operation and maintenance, if required to meet pretreatment standards. The completion date in this schedule shall

not be later than the compliance date established for the applicable pretreatment standard. In no case shall the reporting intervals in the schedule exceed nine months;

J. Each product by type, amount, process or processes and rate of production;

K. The type and amount of raw materials processed (average and maximum per day);

L. The number and type of employees, as well as the hours of operation of the plant and the proposed or actual hours of operation of the pretreatment system;

M. Any other information deemed by the POTW to be necessary to evaluate the permit application. (Prior code § 90-46(B))

### **13.12.210 Permit contents.**

A. Permits shall contain the following:

1. Effective and expiration dates;
2. State of non-transferability as specified in Section 13.12.250;
3. Effluent limitations based on applicable general pretreatment standards, categorical pretreatment standards, local limits and/or state and local law;
4. Self-monitoring, sampling, reporting, notification and record keeping requirements, including an identification of the pollutants to be monitored, sampling location, sampling frequency and sample type, based on the applicable general pretreatment standards, categorical pretreatment standards, local limits and/or state and local law;
5. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the compliance date beyond applicable federal deadlines.

B. Permits may contain the following:

1. Requirements to pay fees for the wastewater to be discharged to the POTW;
2. Effluent limitations on the average and maximum wastewater constituents and characteristics;
3. Limitations on the average and maximum rate and time of discharge or requirements for flow regulations and equalization;
4. Requirements for installation and maintenance of inspection and sampling facilities;
5. Requirements and specifications for monitoring programs, including sampling locations, frequency of sampling, numbers, types and standards for tests and reporting schedule;
6. Compliance schedules;
7. Requirements for submission of technical reports or discharge reports. These reports include any reporting requirements contained in national categorical standard or pretreatment requirement;
8. Requirements for collection/retaining and providing access to plant records relating to the user's discharge;
9. Requirements for notification of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater treatment system;
10. Requirements for notification of spills;
11. Other conditions as deemed appropriate by the Town of Elkton to ensure compliance with this Chapter. (Prior code § 90-47(B))

### **13.12.220 Basis for effluent limitations.**



A. Effluent limitations shall be based upon the more stringent of the following:

1. National Categorical Pretreatment Standards;
2. State pretreatment requirements; or
3. Local limitations calculated by mass balance or other valid scientific method necessary to protect the POTW from materials described in Section 13.12.040.

B. No provision contained in this chapter shall be deemed to prevent any special agreement or arrangement between the Town and any person whereby wastewater of unusual strength or characteristic may be accepted by the Town for treatment which will not violate or cause the Town and/or the user to violate federal or state pretreatment or discharge standards and which will not be harmful to the system. Also, federal pretreatment requirements or standards and National Categorical Pretreatment Standards cannot be waived. (Prior code § 90-47(C))

#### **13.12.230 Permit duration.**

Permits shall be issued for a specific time period not to exceed five years. The user shall apply for permit re-issuance at least one hundred eighty (180) days prior to the expiration of the user's existing permit. (Prior code § 90-47(E))

#### **13.12.240 Permit modifications.**

A. Within sixty (60) days after the effective date of a pretreatment standard for a subcategory under which an industrial user may be included or such shorter time as specified within the standard or requirement, the wastewater contribution permit of users subject to such standards shall be revised to require compliance with such standard.

B. A user must reapply for a permit whenever the mass loading of pollutants contained in the permitted discharge exceeds the average daily quantity applied for by greater than ten percent.

C. A user may reapply for a wastewater contribution permit whenever the user believes that some of the permit requirements no longer apply. (Prior code § 90-47(F))

#### **13.12.250 Permit transfer.**

Wastewater contribution permits are issued to a specific user or a specific process or operation. A wastewater contribution permit shall not be reassigned or transferred or sold to a new owner, new user, different premises or a new or changed operation. (Prior code § 90-47(G))

#### **13.12.260 Permit appeal.**

If an industrial user wishes to appeal or challenge any conditions imposed in a wastewater discharge permit, a petition shall be filed to the control authority for modification or reissuance within thirty (30) days of receipt of the permit. Failure to petition for reconsideration of the permit within the allotted time is deemed a waiver by the permittee of this right to challenge the terms of this permit. (Prior code § 90-47(I))

#### **13.12.270 Fees and charges.**

A. Fees and charges shall be as follows:

1. Annual reimbursement of costs for setting up and operating the pretreatment program. This includes sampling, monitoring, inspections, surveillance, permits and permit applications. The fees listed below are based on the average quantity of process wastewater discharged per quarter.

- a. Three hundred dollars (\$300.00) for discharging fewer than one hundred thousand and one (100,001) gallons per quarter,
- b. Four hundred dollars (\$400.00) for discharging one hundred thousand and one (100,001) to two hundred thousand (200,000) gallons per quarter,
- c. Five hundred dollars (\$500.00) for discharging more than two hundred thousand and one (200,001) gallons per quarter;

NOTE: Fees are due July 1st of each year to the Town of Elkton.

2. Reviewing accidental discharge procedures and construction work affecting the pretreatment program: one hundred dollars (\$100.00) per accidental discharge or construction review;
3. Violation of permit reporting requirements: up to five hundred dollars (\$500.00) per day after due date of reports;
4. Reviewing and processing appeals: fifty dollars (\$50.00) due upon filing an appeal;
5. Surcharges for BOD and/or total suspended solids for exceeding the local limits: see Section 13.12.040C.

B. The Town may adopt other fees and charges deemed necessary to carry out the requirements contained in this chapter.

C. These fees relate solely to the matters covered by this chapter and are separate from all other fees chargeable by the Town of Elkton. (Prior code § 90-48)

#### **13.12.280 Suspension or cutoff of service for harmful contributions.**

A. The POTW may suspend the wastewater treatment service or a wastewater contribution permit or cut off the sewer connection when such suspension or cutoff is necessary, in the opinion of the POTW, in order to stop an actual or threatened discharge which:

1. Presents or may present an imminent or substantial endangerment to the health or welfare of persons;
2. Presents or may present an imminent or substantial endangerment to the environment;
3. May cause or actually causes interferences to the POTW; or
4. Causes the POTW to violate any condition of its NPDES or state discharge permit.

B. The POTW may reinstate the wastewater contribution permit or the wastewater treatment service upon proof of the elimination of the noncomplying discharge.

C. In the event of a suspension or cutoff under this section, within fifteen (15) days the user shall submit a written report describing the event that caused the suspension and the measures taken to prevent any recurrence. (Prior code § 90-49(A))

#### **13.12.290 Revocation of permit.**

The POTW may revoke any wastewater contribution permit if the POTW finds that:

- A. A user has falsified information or records submitted or retained in accordance with this chapter;
- B. A user has violated the conditions of a wastewater contribution permit;
- C. A user has refused the right of entry guaranteed by Section 13.12.130 of this chapter;
- D. A user has failed to reapply for a permit or request a required permit modification; or
- E. A user has discharged into the POTW in violation of this chapter. (Prior code § 90-49 (B))

#### **13.12.300 Complaints.**

A. Issuance. The Town of Elkton may issue a written complaint if there are reasonable grounds to

believe that the person whom the complaint is directed has violated:

1. This chapter;
2. Any rule or regulation adopted under this chapter; or
3. Any order or permit issued under this chapter.

B. Contents. A complaint issued under this section shall:

1. Specify the provision that allegedly has been violated;
2. State the alleged facts that constitute the violation. (Prior code § 90-49(C))

### **13.12.310 Issuance of notice of order.**

A. In General. After or concurrently with service of a complaint under this chapter, the Town of Elkton may:

1. Issue an order that requires the person to whom the order is directed to take corrective action within a time set in the order;
2. Send a written notice that requires the person to whom the notice is directed to file a written report about the alleged violation; or
3. Send a written notice that requires the person to whom the notice is directed to:
  - a. Appear at a hearing at a time and place scheduled in order to answer the charges in the complaint, or
  - b. File a written report and also appear at a hearing at a time and place set to answer the charges in the complaint.

B. Effective Date of Order. Any order issued under this chapter is effective immediately, according to its term, when it is served. (Prior code § 90-49(D))

### **13.12.320 Hearings.**

A. Hearing on Order. Within ten days after being served with an order, the person served may request a hearing by writing to the Mayor and Commissioners of the Town of Elkton.

B. Subpoenas and Witnesses.

1. In connection with any hearing under this chapter, the Mayor and Commissioners of the Town of Elkton may:
  - a. Subpoena any person or evidence;
  - b. Order a witness to give evidence.
2. A subpoenaed witness shall receive the same fees and mileage reimbursement as if the hearing were part of a civil action. (Prior code § 90-49(E))

### **13.12.330 Final corrective orders.**

A. Orders

1. Unless the person served with an order makes a timely request for a hearing, the order is a final order.
2. If the person served with an order under this chapter makes a timely request for a hearing, the order becomes a final corrective order when the Mayor and Commissioners of the Town of Elkton render its decision following the hearing.

B. Other Action Permitted. This section does not prevent the Mayor and Commissioners of the Town of Elkton or the Attorney General from taking action against a violator before the expiration of the time limitations or schedules in the order. (Prior code § 90-49(F))

#### **13.12.340 Injunctive relief.**

A. In General. The Mayor and Commissioners of the Town of Elkton may bring an action for an injunction against any person who violates any provision of this chapter or any rules, regulations, order or permit adopted or issued under this chapter.

B. Findings. In any action for an injunction under this section, any findings of the Mayor and Commissioners of the Town of Elkton, after a hearing, is prima facie evidence of each fact that the Mayor and Commissioners of the Town of Elkton determines.

C. Grounds. On a showing that any person is violating or is about to violate this chapter or any rule, regulation, order or permit adopted or issued by the Mayor and Commissioners of the Town of Elkton, the court shall grant an injunction without requiring a showing of a lack of an adequate remedy at law.

D. Emergency. If an emergency arises due to imminent danger to the public health or welfare or imminent danger to the environment, the Mayor and Commissioners of the Town of Elkton may sue for an immediate injunction to stop any pollution or other activity that is causing the danger. (Prior code § 90-49(G))

#### **13.12.350 Civil penalties.**

In addition to being subject to an injunctive action under this chapter, a person who violates any provision of this chapter or of any rule, regulation, order or permit adopted or issued under this chapter is liable to a civil penalty not exceeding one hundred dollars (\$100.00), to be collected in a civil action. Each day that a violation occurs is a separate violation under this section. (Prior code § 90-49(H))

#### **13.12.360 Criminal penalties.**

A. Violating Ordinances, Rules, Regulations, Orders or Permits.

1. A person who violates any provisions of or fails to perform any duty imposed by this chapter or who violates any provision of or fails to perform any duty imposed by a rule, regulation, order or permit adopted or issued under this chapter is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding five hundred dollars (\$500.00) or imprisonment not exceeding ninety (90) days, or both.

2. In addition to any criminal penalties imposed on a person convicted under this section, the person may be enjoined from continuing the violations.

3. Each day on which a violation occurs is a separate violation under this chapter.

B. False Statements in Required Documents. A person is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding five hundred (\$500.00) or imprisonment not exceeding ninety (90) days, or both, if the person:

1. Knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained under this chapter or any rule or regulation, order or permit adopted or issued under this chapter; or

2. Falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required to be maintained under this chapter or any rule, regulation, order or permit adopted or issued under this chapter. (Prior code § 90-40(I))

#### **13.12.370 Annually published list of significant violators.**

The POTW shall publish annually in the largest daily newspaper published in the municipality in

which the POTW is located a list of industrial users which at any time in the previous twelve (12) months were in significant noncompliance with applicable pretreatment requirements. For the purpose of this section, an industrial user is in 'significant noncompliance' if its violation meets one or more of the following criteria:

A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of all of the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;

B. Technical review criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC equals 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);

C. Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the control authority determines has caused, alone or in combination with other discharges, interference or pass-through, including endangering the health of POTW personnel or the general public;

D. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under 40 CFR 403(f)(1)(vi)(B) to halt or prevent such a discharge.

E. Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction or attaining final compliance;

F. Failure to provide, within thirty (30) days after the due date, required reports such as baseline monitoring reports, ninety-day compliance reports, periodic self-monitoring reports and reports on compliance with compliance schedules;

G. Failure to accurately report noncompliance;

H. Any other violation or group of violations which the POTW determines will adversely affect the operation or implementation of the local pretreatment program. (Prior code § 90-49(J))

**TITLE 13**  
**CHAPTER 13.16**  
**STORMWATER MANAGEMENT**

**Sections:**

**13.16.010 Purpose and Authority**  
**13.16.020 Grandfathering**  
**13.16.030 Definitions**  
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**13.16.260 Severability**  
**13.16.270 Penalties**  
**13.16.280 Effective Date**

**13.16.010 Purpose and Authority**

A. The purpose of this chapter is to protect, maintain and enhance the public health, safety, and general welfare by establishing minimum requirements and procedures that control the adverse impacts associated with increased stormwater runoff. The goal is to manage stormwater by using environmental site design (ESD) to the maximum extent practicable (MEP) to maintain after development as nearly as possible, the predevelopment runoff characteristics, and to reduce stream channel erosion, pollution, siltation and sedimentation, and local flooding, and use appropriate structural best management practices (BMPs) only when necessary. This will restore, enhance, and maintain the chemical, physical, and biological integrity of streams, minimize damage to public and private property, and reduce the impacts of land development.

B. The provisions of this chapter, pursuant to the Environment Article, Title 4, Subtitle 2, Annotated

Code of Maryland, 2009 replacement volume, are adopted under the authority of the Code of the Town of Elkton and shall apply to all development occurring within the incorporated area of the Town of Elkton. The application of this chapter and provisions expressed herein shall be the minimum stormwater management requirements and shall not be deemed a limitation or repeal of any other powers granted by the State statute. The Town of Elkton shall be responsible for the coordination and enforcement of the provisions of this chapter. This chapter applies to all new and redevelopment projects that have not received final approval for erosion and sediment control and stormwater management plans by May 4, 2010.

C. The 2000 Maryland Stormwater Design Manual, Volumes I & II (Maryland Department of the Environment, April 2000), and all subsequent revisions, is incorporated by reference by the Town of Elkton and shall serve as the official guide for stormwater management principles, methods, and practices.

D. USDA Natural Resources Conservation Service Maryland Conservation Practice Standard Pond Code 378 (January 2000).

### **13.16.020 Definitions**

For the purpose of this chapter, the following definitions describe the meaning of the terms in this chapter:

A. “Administration” means the Maryland Department of the Environment (MDE) Water Management Administration (WMA).

B. “Adverse impact” means any deleterious effect on waters or wetlands, including their quality, quantity, surface area, species composition, aesthetics or usefulness for human or natural uses which are or may potentially be harmful or injurious to human health, welfare, safety or property, including outdoor recreation.

C. “Agricultural land management practices” means those methods and procedures used in the cultivation of land in order to further crop and livestock production and conservation of related soil and water resources.

D. “Applicant” means any person, firm, or governmental agency who executes the necessary forms to procure official approval of a project or a permit to carry out construction of a project.

E. “Approving Agency” means the entity responsible for the review and approval of stormwater management plans.

F. “Aquifer” means a porous water-bearing geologic formation generally restricted to materials capable of yielding an appreciable supply of water.

G. “Best management practice (BMP)” means a structural device or nonstructural practice designed to temporarily store or treat stormwater runoff in order to mitigate flooding, reduce pollution, and provide other amenities.

H. “Channel protection storage volume ( $Cp_v$ )” means the volume used to design structural management practices to control stream channel erosion. Methods for calculating the channel protection storage volume are specified in the 2000 Maryland Stormwater Design Manual.

I. “Clearing” means the removal of trees and brush from the land but shall not include the ordinary mowing of grass.

J. “Concept Plan” means the first of three required plan approvals that includes the information necessary to allow an initial evaluation of a proposed project.

K. “Design Manual” means the 2000 Maryland Stormwater Design Manual, and all subsequent revisions, that serves as the official guide for stormwater management principles, methods, and

practices.

L. “Detention structure” means a permanent structure for the temporary storage of runoff which is designed so as not to create a permanent pool of water.

M. “Develop land” means to change the runoff characteristics of a parcel of land in conjunction with residential, commercial, industrial, or institutional construction or alteration.

N. “Direct discharge” means the concentrated release of stormwater to tidal waters or vegetated tidal wetlands from new development or redevelopment projects in the Critical Area.

O. “Drainage area” means that area contributing runoff to a single point measured in a horizontal place, which is enclosed by a ridge line.

P. “Easement” means a grant or reservation by the owner of land for the use of such land by others for a specific purpose or purposes, and which must be included in the conveyance of land affected by such easement.

Q. “Environmental site design (ESD)” means using small-scale stormwater management practices, nonstructural techniques, and better site planning to mimic natural hydrologic runoff characteristics and minimize the impact of the land development on water resources. Methods for designing ESD practices are specified in the Design Manual.

R. “Exemption” means those land development activities that are not subject to the stormwater management requirements contained in this Section.

S. “Extended detention” means a stormwater design feature that provides gradual release of a volume of water in order to increase settling of pollutants and protect downstream channels from frequent storm events. Methods for designing extended detention BMPs are specified in the Design Manual.

T. “Extreme flood volume ( $Q_f$ )” means the storage volume required to control those infrequent but large storm events in which overbank flows reach or exceed the boundaries of the 100-year floodplain.

U. “Final stormwater management plan” means the last of the three required plan approvals that includes the information necessary to allow approvals and permits to be issued by the approving agency.

V. “Flow attenuation” means prolonging the flow time of runoff to reduce the peak discharge.

W. “Grading” means any act by which soil is cleared, stripped, stockpiled, excavated, scarified, filled, or any combination thereof.

X. “Impervious area” means any surface that does not allow stormwater to infiltrate into the ground.

Y. “In-fill development” means a vacant lot or parcel in a developed area.

Z. “Infiltration” means the passage or movement of water into the soil surface.

AA. “Maximum extent practicable (MEP)” means designing stormwater management systems so that all reasonable opportunities for using ESD planning techniques and treatment practices are exhausted and only where absolutely necessary, a structural BMP is implemented.

BB. “Off-site stormwater management” means the design and construction of a facility necessary to control stormwater from more than one development.

CC. “On-site stormwater management” means the design and construction of systems necessary to control stormwater within immediate development.

DD. “Overbank flood protection volume ( $Q_p$ )” means the volume controlled by structural practices to prevent an increase in the frequency of out-of-bank flooding generated by development. Methods for calculating the overbank flood protection volume are specified in the Design Manual.

EE. “Person” means the federal government, the State, any county, municipal corporation, or other political subdivision of the State, or any of their units, or an individual receive, trustee, guardian,



executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation, or any other entity.

FF. “Planning techniques” means a combination of strategies employed early in project design to reduce the impact from development and to incorporate natural features into a stormwater management plan.

GG. “Preliminary site development plan” means the second of three required plan approvals that includes the information necessary to allow a detailed evaluation of a proposed project.

HH. “Recharge volume ( $Re_v$ )” means that portion of the water quality volume used to maintain groundwater recharge rates at development sites. Methods for calculating the recharge volume are specified in the Design Manual.

II. “Redevelopment” means any construction, alteration, or improvement performed on sites where existing land use is commercial, industrial, institutional, or multifamily residential and existing site impervious area exceeds 40 percent.

JJ. “Retention structure” means a permanent structure that provides for the storage of runoff by means of a permanent pool of water.

KK. “Retrofitting” means the implementation of ESD practices, the construction of a structural BMP, or the modification of an existing structural BMP in a previously development area to improve water quality over current conditions.

LL. “Sediment” means soils or other surficial materials transported or deposited by the action of wind, water, ice, or gravity as a product of erosion.

MM. “Site” means any tract, lot, or parcel of land, or combination of tracts, lots, parcels of land that are in one ownership, or are contiguous and in diverse ownership, where development is to be performed as part of a unit, subdivision, or project.

NN. “Stabilization” means the prevention of soil movement by any various vegetative and/or structural means.

OO. “Stormwater” means water that originates from a precipitation event.

PP. “Stormwater management system” means natural areas, ESD practices, stormwater management measures, and any other structure through which stormwater flows, infiltrates, or discharges from a site.

QQ. “Stripping” means any activity that removes the vegetative surface cover including tree removal, clearing, grubbing, and storage or removal of topsoil.

RR. “Town” means the Town of Elkton.

SS. “Variance” means the modification of the minimum stormwater management requirements for specific circumstances such that strict adherence to the requirements would result in unnecessary hardship and not fulfill the intent of this chapter.

TT. “Waiver” means the reduction of stormwater management requirements by the Town for a specific development on a case-by-case review basis.

UU. “Watercourse” means any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine or wash, in and including any adjacent area that is subject to inundation from overflow or flood water.

VV. “Water quality volume ( $WQ_v$ )” means the volume needed to capture and treat 90 percent of the average annual rainfall events at a development site. Methods for calculating the water quality volume are specified in the Design Manual.

WW. “Watershed” means the total drainage area contributing runoff to a single point.

### **13.16.030 Grandfathering**

A. In this chapter, the following terms have the meanings indicated:

1. Administrative Waiver

- a. "Administrative Waiver" means a decision by the Town pursuant to this chapter to allow the construction of a development to be governed by the stormwater management ordinance in effect as of May 4, 2009 in the local jurisdiction where the project will be located.
- b. "Administrative waiver" is distinct from a waiver granted pursuant to §13.16.060 of this chapter.

2. Approval

- a. "Approval" means a documented action by the Town following a review to determine and acknowledge the sufficiency of submitted material to meet the requirements of a specified stage in a local development review process.
- b. "Approval" does not mean an acknowledgement by the Town that submitted material has been received for review.

3. Final project approval.

- a. "Final project approval" means approval of the final stormwater management plan and erosion and sediment control plan required to construct a project's stormwater management facilities.
- b. "Final project approval" also includes securing bonding or financing for final development plans if either is required as a prerequisite for approval.

4. "Preliminary project approval" means an approval as part of a local preliminary development or planning review process for stormwater management that includes, at a minimum:

- a. The number of planned dwelling units or lots;
- b. The proposed project density;
- c. The proposed size and location of all land uses for the project;
- d. A plan that identifies:
  - i. The proposed drainage patterns;
  - ii. The location of all points of discharge from the site; and
  - iii. The type, location, and size of all stormwater management measures based on site-specific stormwater management requirement computations; and
- e. Any other information required by the Town including, but not limited to:
  - i. The proposed alignment, location, and construction type and standard for all roads, access ways, and areas of vehicular traffic;
  - ii. A demonstration that the methods by which the development will be supplied with water and wastewater service are adequate; and
  - iii. The size, type, and general location of all proposed wastewater and water system infrastructure.

B. The Town may grant an administrative waiver to a development that received a preliminary project approval prior to May 4, 2010. Administrative waivers expire according to §13.16.030(C.) of this chapter.

C. Expiration of Administrative Waivers

1. An administrative waiver shall expire on:

- a. May 4, 2013, if the development does not receive final project approval prior to that date; or
  - b. May 4, 2017, if the development receives final project approval prior to May 4, 2013.
2. All construction authorized pursuant to an administrative waiver must be completed by May 4, 2017.

#### **13.16.040 Scope**

No person shall develop any land for residential, commercial, industrial, or institutional uses without providing stormwater management measures that control or manage runoff from such developments, except as provided within this section. Stormwater management measures must be designed consistent with the Design Manual and constructed according to an approved plan for new development or redevelopment.

#### **13.16.050 Exemptions**

The following development activities are exempt from the provisions of this chapter and the requirements of providing stormwater management:

- A. Agricultural land management practices;
- B. Additions or modifications to existing single family detached residential structures if they comply with §13.16.050(C.) of this chapter;
- C. Any developments that do not disturb over 5,000 square feet of land area; and
- D. Land development activities that the Administration determines will be regulated under specific State laws, which provide for managing stormwater runoff.

#### **13.16.060 Waivers**

A. Except as provided in §13.16.060 (B.) and (D.) of this Chapter, the Mayor and Commissioners shall grant stormwater management quantitative control waivers only to those projects within areas where watershed management plans have been developed consistent with §13.16.060(F.). Written requests for quantitative stormwater management waivers shall be submitted that contain sufficient descriptions, drawings, and any other information that is necessary to demonstrate that ESD has been implemented to the MEP. A separate written waiver request shall be required in accordance with the provisions of this section if there are subsequent additions, extensions, or modifications to a development receiving a waiver.

B. Except as provided in §13.16.060(D.) of this chapter, if watershed management plans consistent with §13.16.060(F.) have not been developed, stormwater management quantitative control waivers may be granted to the following projects provided that it has been demonstrated that ESD has been implemented to the MEP:

1. That have direct discharges to tidally influenced receiving waters; or
2. That are in-fill development located in a Priority Funding Area where the economic feasibility of the project is tied to the planned density, and where implementation of the 2009 regulatory requirements would result in a loss of the planned development density provided that:
  - a. Public water and sewer and stormwater conveyance exist;
  - b. The quantitative waiver is applied to the project for the impervious cover that previously existed on the site only;

- c. ESD to the MEP is used to meet the full water quality treatment requirements for the entire development; and
  - d. ESD to the MEP is used to provide full quantity control for all new impervious surfaces; or
- 3. When the approving agency determines that circumstances exist that prevent the reasonable implementation of quantity control practices.
- C. Stormwater management qualitative control waivers apply only to:
  - 1. In-fill development projects where ESD has been implemented to the MEP and it has been demonstrated that other BMPs are not feasible;
  - 2. Redevelopment projects if the requirements of §13.16.070 of this chapter are satisfied.
  - 3. Site where the approving agency determines that circumstances exist that prevent the reasonable implementation of ESD to the MEP.
- D. Stormwater management quantitative and qualitative control waivers may be granted for phased development projects if a system designed to meet the 2000 regulatory requirements for multiple phases has been constructed by May 4, 2010. If the 2009 regulatory requirements cannot be met for future phases constructed after May 4, 2010, all reasonable efforts to incorporate ESD in future phases must be demonstrated.
- E. Waivers shall only be granted when it has been demonstrated that ESD has been implemented to the MEP and must:
  - 1. Be on a case-by-case basis;
  - 2. Consider the cumulative effects of the Town waiver policy; and
  - 3. Reasonably ensure the development will not adversely impact stream quality which includes downstream properties.
- F. If the Town has established an overall watershed management plan for a specific watershed, then the Town may develop quantitative waiver and redevelopment provisions that differ from §13.16.060(B.) and §13.16.070 of this chapter.
- G. A watershed management plan developed for the purpose of implementing different stormwater management policies for waivers and redevelopment shall:
  - 1. Include detailed hydrologic and hydraulic analyses to determine hydrograph timing;
  - 2. Evaluate both quantity and quality management and opportunities for ESD implementation;
  - 3. Include a cumulative impact assessment of current and proposed watershed development;
  - 4. Identify existing flooding and receiving stream channel conditions;
  - 6. Specify where on-site or off-site quantitative and qualitative stormwater management practices are to be implemented;
  - 7. Be consistent with the General Performance Standards for Stormwater Management in Maryland found in the Design Manual; and
  - 8. Be approved by the Administration.

### **13.16.070 Redevelopment**

- A. Stormwater management plans are required by the Town for all redevelopment, unless otherwise specified by watershed management plans developed according to §13.16.060(F.). Stormwater management measures must be consistent with the Design Manual.
- B. All redevelopment designs shall:
  - 1. Reduce impervious area within the limit of disturbance (LOD) by at least 50 percent

according to the Design Manual; or

2. Implement ESD to the MEP to provide water quality treatment for at least 50 percent of the existing impervious area within the LOD; or

3. Use a combination of §13.16.070(B.)(1) and (2) of this chapter for at least 50 percent of the existing site impervious area.

C. Alternative stormwater management measures may be used to meet the requirements in §13.16.070(B.) if the owner/developer satisfactorily demonstrates to the Town that impervious area reduction has been maximized and ESD has been implemented to the MEP. Alternative stormwater management measures include, but are not limited to:

1. An on-site structural BMP;

2. An off-site structural BMP to provide water quality treatment for an area equal to or greater than 50 percent of the existing impervious area; or

3. A combination of impervious area reduction, ESD implementation, and an on-site or off-site structural BMP for an area equal to or greater than 50 percent of the existing site impervious area within the LOD.

D. The determination of what alternatives will be available may be made by the Town at the appropriate point in the development review process. The Town shall consider the prioritization of alternatives in §13.16.070(C.) of this chapter after it has been determined that it is not practicable to meet the 2009 regulatory requirements using ESD. In deciding what alternatives may be required, the Town may consider factors including, but not limited to:

1. Whether the project is in an area targeted for development incentives such as a Priority Funding Area, a designated Transit Oriented Development area, or a designated Base Realignment and Closure Revitalization and Incentive Zone;

2. Whether the project is necessary to accommodate growth consistent with comprehensive plans; or

3. Whether bonding and financing have already been secured based on an approved development plan.

E. The Mayor and Commissioners may consider separate policies for providing water quality treatment for redevelopment projects if the owner/developer demonstrates with the approval of the Town's engineer that the requirements of §13.16.070(A.) and (B.) of this chapter cannot be met. The following alternative redevelopment policies shall be considered:

1. Retrofitting an existing off-site stormwater management system within the watershed of the proposed redevelopment to provide water quality treatment for an area equal to or greater than 40% of the existing and 100% of new impervious area.

2. If the owner/developer demonstrates with the approval of the Town's engineer that the requirements of §13.16.070(A.) and (B.) of this chapter cannot be met, a fee in lieu of \$2.25 per square foot for 40% of existing and 100% of new impervious area.

3. Funds collected as fees in lieu under this subsection shall be specified to be used only to fund the analysis, design, construction and/or maintenance of stormwater management facilities and/or stream restoration projects within the town; and shall not exceed the cost of constructing an effective on-site stormwater management facility.

4. Design criteria based on watershed management plans developed according to §13.16.060(F.).

F. Stormwater management shall be addressed according to the new development requirements in the Design Manual for any net increase in impervious area.

### **13.16.080 Variance**

The Mayor and Commissioners may grant a written variance from any requirement of §13.16.090, Stormwater Management Criteria, if there are exceptional circumstances applicable to the site such that strict adherence will result in unnecessary hardship and not fulfill the intent of this chapter. A written request for variance shall be provided to the Mayor and Commissioners and shall state the specific variances sought and reasons for their granting. The Mayor and Commissioners shall not grant a variance unless and until sufficient justification is provided by the person developing land that the implementation of ESD to the MEP has been investigated thoroughly.

### **13.16.090 Minimum Control Requirements.**

A. The minimum control requirements established in this section and the Design Manual are as follows:

1. The Town shall require that the planning techniques, nonstructural practices, and design methods specified in the Design Manual be used to implement ESD to the MEP. The use of ESD planning techniques and treatment practices must be exhausted before any structural BMP is implemented. Stormwater management plans for development projects subject to this chapter shall be designed using ESD sizing criteria, recharge volume, water quality volume, and channel protection storage volume criteria according to the Design Manual. The MEP standard is met when channel stability is maintained, predevelopment groundwater recharge is replicated, nonpoint source pollution is minimized, and structural stormwater management practices are used only if determined to be absolutely necessary.
2. Control of the 2-year and 10-year frequency storm event is required according to the Design Manual and all subsequent revisions if the Town determines that additional stormwater management is necessary because historical flooding problems exist and downstream floodplain development and conveyance system design cannot be controlled.
3. The Town may require more than the minimum control requirements specified in this chapter if hydrologic or topographic conditions warrant or if flooding, stream channel erosion, or water quality problems exist downstream from a proposed project.

B. Alternate minimum control requirements may be adopted subject to Administration approval. The Administration shall require a demonstration that alternative requirements will implement ESD to the MEP and control flood damages, accelerated stream erosion, water quality, and sedimentation. Comprehensive watershed studies may also be required.

C. Stormwater management and development plans where applicable, shall be consistent with adopted and approved watershed management plans or flood management plans as approved by the Maryland Department of the Environment in accordance with the Flood Hazard Management Act of 1976.

### **13.16.100 Stormwater Management Measures**

A. The ESD planning techniques and practices and structural stormwater management measures established in this Ordinance and the Design Manual shall be used, either alone or in combination in a stormwater management plan. A developer shall demonstrate that ESD has been implemented to the MEP before the use of a structural BMP is considered in developing the stormwater management plan.

**B. ESD Planning Techniques and Practices:**

1. The following planning techniques shall be applied according to the Design Manual to satisfy the applicable minimum control requirements established in §13.16.090(A.) of this chapter:

- a. Preserving and protecting natural resources;
- b. Conserving natural drainage patterns;
- c. Minimizing impervious area;
- d. Reducing runoff volume;
- e. Using ESD practices to maintain 100 percent of the annual predevelopment groundwater recharge volume;
- f. Using green roofs, permeable pavement, reinforced turf, and other alternative surfaces;
- g. Limiting soil disturbance, mass grading, and compaction;
- h. Clustering development; and
- i. Any practices approved by the Administration.

2. The following ESD treatment practices shall be designed according to the Design Manual to satisfy the applicable minimum control requirements established in §13.16.090(A.) of this chapter:

- a. Disconnection of rooftop runoff;
- b. Disconnection of non-rooftop runoff;
- c. Sheetflow to conservation areas;
- d. Rainwater harvesting;
- e. Submerged gravel wetlands;
- f. Landscape infiltration;
- g. Infiltration berms;
- h. Dry wells;
- i. Micro-bioretenention;
- j. Rain gardens;
- k. Swales;
- l. Enhanced filters; and
- m. Any practices approved by the Administration.

3. The use of ESD planning techniques and treatment practices specified in this section shall not conflict with existing State law or local ordinances, regulations, or policies. The Town shall modify planning and zoning ordinances and public works codes to eliminate any impediments to implementing ESD to the MEP according to the Design Manual.

**C. Structural Stormwater Management Measures.**

1. The following structural stormwater management practices shall be designed according to the Design Manual to satisfy the applicable minimum control requirements established in §13.16.090(A.) of this chapter:

- a. Stormwater management ponds;
- b. Stormwater management wetlands;
- c. Stormwater management infiltration;
- d. Stormwater management filtering systems; and
- e. Stormwater management open channel systems.

2. The performance criteria specified in the Design Manual with regard to general feasibility,

conveyance, pretreatment, treatment and geometry, environment and landscaping, and maintenance shall be considered when selecting structural stormwater management practices.

3. Structural stormwater management practices shall be selected to accommodate the unique hydrologic or geologic regions of the State.

D. ESD planning techniques and treatment practices and structural stormwater management measures used to satisfy the minimum requirements in §13.16.090(A.) of this chapter must be recorded in the land records of the Town and remain unaltered by subsequent property owners. Prior approval from the Town shall be obtained before any stormwater management practice is altered.

E. Alternative ESD planning techniques and treatment practices and structural stormwater measures may be used for new development runoff control if they meet the performance criteria established in the Design Manual and all subsequent revisions and are approved by the Administration. Practices used for redevelopment projects shall be approved by the Town.

F. For the purposes of modifying the minimum control requirements or design criteria, the owner/developer shall submit to the Town an analysis of the impacts of stormwater flows downstream in the watershed. The analysis shall include hydrologic and hydraulic calculations necessary to determine the impact of hydrograph timing modifications of the proposed development upon a dam, highway, structure, or natural point of restricted streamflow. The point of investigation is to be established with the concurrence of the Town, downstream of the first downstream tributary whose drainage area equals or exceeds the contributing area to the project or stormwater management facility.

#### **13.16.110 Specific Design Criteria**

A. The basic design criteria, methodologies, and construction specifications, subject to the approval of the Town and the Administration, shall be those of the Design Manual.

B. The Town shall require permanent safety fencing surrounding all retention and detention facilities in accordance with the standards and specifications developed and approved by the Town.

C. Infiltration systems shall be designed in accordance with standards and specifications that are developed or approved by the Administration and shall meet the following requirements:

1. Infiltration systems greater than three feet deep shall be located at least ten feet from basement walls;
2. Infiltration systems designed to handle runoff from commercial or industrial impervious parking area shall be a minimum of one hundred (100) feet from any water supply well.

#### **13.16.120 Review and Approval of Stormwater Management Plans**

A. For any proposed development, the owner/developer shall submit phased stormwater management plans to the Town for review and approval. At a minimum, plans shall be submitted for the concept, preliminary site development, and final stormwater management construction phases of project design. Each plan submittal shall include the minimum content specified in §13.16.130 of this chapter and meet the requirements of the Design Manual and §13.16.090; §13.16.100; and §13.16.110 of this chapter.

B. The Town shall perform a comprehensive review of the stormwater management plans for each phase of site design. Coordinated comments will be provided for each plan phase that reflect input from all appropriate agencies including, but not limited to the soil conservation district and the departments of planning, zoning, and public works. All comments from the Town and other



appropriate agencies shall be addressed and approval received at each phase of project design before subsequent submissions.

### **13.16.130 Contents and Submission of Stormwater Management Plans**

A. Concept Plan. The owner/developer shall submit a concept plan that provides sufficient information for an initial assessment of the proposed project and whether stormwater management can be provided according to §13.16.100 of this chapter and the Design Manual. Plans submitted for concept approval shall include, but are not limited to:

1. A map at a scale specified by the Town showing site location, existing natural features, water and other sensitive resources as defined by critical area in the Town of Elkton Zoning Ordinance, topography, and natural drainage patterns;
2. The anticipated location of all proposed impervious areas, buildings, roadways, parking, sidewalks, utilities, and other site improvements;
3. The location of the proposed limit of disturbance, erodible soils, steep slopes, and areas to be protected during construction;
4. Preliminary estimates of stormwater management requirements, the selection and location of ESD practices to be used, and the location of all points of discharge from the site;
5. A narrative that supports the concept design and describes how ESD will be implemented to the MEP; and
6. Any other information required by the approving agency.

B. Preliminary Site Development Plan. Following concept plan approval by the Town, the owner/developer shall submit preliminary site development plans that reflect comments received during the previous review phase. Plans submitted for site development approval shall be of sufficient detail to allow site development to be reviewed and include but not be limited to:

1. All information provided during the concept plan review phase;
2. Final site layout, exact impervious area locations and acreages, proposed topography, delineated drainage areas at all points of discharge from the site, and stormwater volume computations for ESD practices and quantity control structures;
3. A proposed erosion and sediment control plan that contains the construction sequence, any phasing necessary to limit earth disturbances and impacts to natural resources and an overlay plan showing the types and locations of ESD and erosion and sediment control practices to be used;
4. A narrative that supports the site development design, describes how ESD will be used to meet the minimum control requirements, and justifies any proposed structural stormwater management measure;
5. Geotechnical investigations including soil maps, borings, site specific recommendations, and any additional information necessary for the final stormwater management design;
6. Drainage area maps depicting predevelopment and post development runoff flow path segmentation and land use;
7. Hydrologic computations of the applicable ESD and unified sizing criteria according to the Design Manual for all points of discharge from the site;
8. Hydraulic and structural computations for all ESD practices and structural stormwater management measures to be used;
9. A narrative that supports the final stormwater management design; and
10. Any other information required by the Town.

C. Final Stormwater Management Plan. Following preliminary site development approval by the Town, the owner/developer shall submit final erosion and sediment control and stormwater management plans that reflect the comments received during the previous review phase. Plans submitted for final approval shall be of sufficient detail to allow all approvals and permits to be issued according to the following:

1. Final erosion and sediment control plans shall be submitted according to COMAR 26.17.01.05; and
2. Final stormwater management plans shall be submitted for approval in the form of construction drawings and be accompanied by a report that includes sufficient information to evaluate the effectiveness of the proposed runoff control design.

D. Construction drawings submitted for final stormwater management plan approval shall include, but are not limited to:

1. A vicinity map;
2. Existing and proposed topography and proposed drainage areas, including areas necessary to determine downstream analysis for proposed stormwater management facilities;
3. Any proposed improvements including location of buildings or other structures, impervious surfaces, storm drainage facilities, and all grading;
4. The location of existing and proposed structures and utilities;
5. Any easements and rights-of-way;
6. The delineation, if applicable, of the 100-year floodplain and any on-site wetlands;
7. Structural and construction details including representative cross sections for all components of the proposed drainage system or systems, and stormwater management facilities;
8. All necessary construction specifications;
9. A sequence of construction;
10. Data for total site area, disturbed area, new impervious area, and total impervious area;
11. A table showing the ESD and unified sizing criteria volumes required in the Design Manual;
12. A table of materials to be used for stormwater management facility planting;
13. All soil boring logs and locations;
14. An inspection and maintenance schedule;
15. Certification by the owner/developer that all stormwater management construction will be done according to this plan;
16. An as-built certification signature block to be executed after project completion; and
17. Any other information required by the Town.

E. If a stormwater management plan involves direction of some or all runoff off of the site, it is the responsibility of the developer to obtain from adjacent property owners any easements or other necessary property interests concerning flowage of water. Approval of a stormwater management plan does not create or affect any right to direct runoff onto adjacent property without that property owner's permission.

F. Final approval on stormwater management plans will expire two (2) years after the date final approval is given by the Town.

#### **13.16.140 Preparation of Stormwater Management Plans**

A. The design of stormwater management plans shall be prepared by any individual whose qualifications are acceptable to the Town. The Town may require that the design be prepared by either a professional engineer, professional land surveyor, or landscape architect licensed in the State, as necessary to protect the public or the environment.

B. If a stormwater BMP requires either a dam safety permit from MDE or small pond approval from the soil conservation district, the Town shall require that the design be prepared by a professional engineer licensed in the State.

#### **13.16.150 Permit Requirement**

A grading or building permit may not be issued for any parcel or lot unless final erosion and sediment control and stormwater management plans have been approved by the Town as meeting all the requirements of the Design Manual and this Ordinance. Where appropriate, a building permit may not be issued without:

A. Recorded easements for the stormwater management facility and easements to provide adequate access for inspection and maintenance from a public right-of-way;

B. A recorded stormwater management maintenance agreement as described in §13.16.180 of this chapter; and

C. A performance bond as described in §13.16.190 of this chapter.

#### **13.16.160 Permit Fee**

Non-refundable permit fees will be collected at each phase of stormwater management plan submittal. Permit fees will provide for the cost of plan review, administration, and management of the permitting process, and inspection of all projects subject to this chapter. A permit fee schedule shall be established by resolution by the Mayor and Commissioners based upon the relative complexity of the project and may be amended from time to time.

#### **13.16.170 Permit Suspension and Revocation**

Any grading or building permit issued by the Town may be suspended or revoked after written notice is given to the permittee for any of the following reasons:

A. Any violation(s) of the conditions of the stormwater management plan approval;

B. Changes in site runoff characteristics upon which an approval or waiver was granted;

C. Construction is not in accordance with the approved plan;

D. Noncompliance with correction notice(s) or stop work order(s) issued for the construction of any stormwater management practice; and

E. An immediate danger exists in a downstream area in the opinion of the Town.

#### **13.16.180 Permit Conditions**

In granting an approval for any phase of site development, the Town may impose such conditions that may be deemed necessary to ensure compliance with the provisions of this chapter and the preservation of public health and safety.

#### **13.16.190 Performance Bond**

The Town shall require from the developer a surety or cash bond, irrevocable letter of credit, or other means of security acceptable to the Town prior to the issuance of any building and/or grading permit for the construction of a development requiring stormwater management. The amount of the security

shall not be less than the total estimated construction cost of all stormwater management facilities. The bond required in this section shall include provisions relative to forfeiture for failure to complete work specified in the approved stormwater management plan, compliance with all of the provisions of this chapter, and other applicable laws and regulations, and any time limitations. The bond shall not be fully released without a final inspection of the completed work by the Town, submission of "as-built" plans, and certification of completion by the Town that all stormwater management facilities comply with the approved plan and the provisions of this chapter. A procedure may be used to release parts of the bond held by the Town after various stages of construction have been completed and accepted by the Town. The procedures used for partially releasing performance bonds must be specified by the Town in writing prior to stormwater management plan approval.

#### **13.16.200 Inspection Schedule and Reports**

A. The developer shall notify the Town at least 48 hours before commencing any work in conjunction with site development, the stormwater management plan, and upon completion of the project.

B. Regular inspections shall be made and documented for each ESD planning technique and practice at the stages of construction specified in the Design Manual by the Town, its authorized representative, or certified by a professional engineer licensed in the State of Maryland. At a minimum, all ESD and other nonstructural practices shall be inspected upon completion of final grading, the establishment of permanent stabilization, and before issuance of use and occupancy approval.

C. Written inspection reports shall include:

1. The date and location of the inspection;
2. Whether construction was in compliance with the approved stormwater management plan;
3. Any variations from the approved construction specifications; and
3. Any violations that exist.

D. The owner/developer and on-site personnel shall be notified in writing when violations are observed. Written notification shall describe the nature of the violation and the required corrective action.

E. No work shall proceed on the next phase of development until the Town inspects and approves the work previously completed and furnishes the developer with the results of the inspection reports as soon as possible after completion of each required inspection.

#### **13.16.210 Inspection Requirements During Construction**

A. At a minimum, regular inspections shall be made and documented at the following specified stages of construction:

1. For ponds:
  - a. Upon completion of excavation to sub-foundation and when required, installation of structural supports or reinforcement for structures, including but not limited to:
    - i. Core trenches for structural embankments;
    - ii. Inlet and outlet structures, anti-seep collars or diaphragms, and watertight connectors on pipes; and
    - iii. Trenches for enclosed storm drainage facilities;
  - b. During placement of structural fill, concrete, and installation of piping and catch basins;

- c. During backfill of foundations and trenches;
  - d. During embankment construction; and
  - e. Upon completion of final grading and establishment of permanent stabilization.
- 2. Wetlands – at the stages specified for pond construction in §13.16.210 (A.)(1) of this chapter, during and after wetland reservoir area planting, and during the second growing season to verify a vegetation survival rate of at least 50 percent.
- 3. For infiltration trenches:
  - a. During excavation to subgrade;
  - b. During placement and backfill of under drain systems and observation wells;
  - c. During placement of geotextiles and all filter media;
  - d. During construction of appurtenant conveyance systems such as diversion structures, pre-filters and filters, inlets, outlets, and flow distribution structures; and
  - e. Upon completion of final grading and establishment of permanent stabilization.
- 4. For infiltration basins – at the stages specified for pond construction in §13.16.210 (A.)(1) of this chapter and during placement and backfill of under drain systems.
- 5. For filtering systems:
  - a. During excavation to subgrade;
  - b. During placement and backfill of under drain systems;
  - c. During placement of geotextiles and all filter media;
  - d. During construction of appurtenant conveyance systems such as flow diversion structures, pre-filters and filters, inlets, outlets, orifices, and flow distribution structures; and
  - e. Upon completion of final grading and establishment of permanent stabilization.
- 6. For open channel systems:
  - a. During excavation to subgrade;
  - b. During placement and backfill of under drain systems for dry swales;
  - c. During installation of diaphragms, check dams, or weirs; and
  - d. Upon completion of final grading and establishment of permanent stabilization.
- B. The Town may, for enforcement purposes, use any one or a combination of the following actions:
  - 1. A notice of violation shall be issued specifying the need for corrective action if stormwater management plan noncompliance is identified;
  - 2. A stop work order shall be issued for the site by the Town if a violation persists;
  - 3. Bonds or securities shall be withheld or the case may be referred for legal action if reasonable efforts to correct the violation have not been undertaken; or
  - 4. In addition to any other sanctions, a civil action or criminal prosecution may be brought against any person in violation of the Stormwater Management Subtitle, the Design Manual, or this chapter.
- C. Any step in the enforcement process may be taken at any time, depending on the severity of the violation.
- D. Once construction is complete, "as-built" plan certification shall be submitted by either a professional engineer or professional land surveyor licensed in the State of Maryland to ensure that ESD planning techniques, treatment practices, and structural stormwater management measures and conveyance systems comply with the specifications contained in the approved plans. At a minimum, "as-built" certification shall include a set of drawings comparing the approved stormwater management plan with what was constructed. The Town may require additional information.

E. The Town shall submit notice of construction completion to the Administration on a form supplied by the Administration for each structural stormwater management practice within 45 days of construction completion. The type, number, total drainage area, and total impervious area treated by all ESD techniques and practices shall be reported to the Administration on a site by site basis. If BMPs requiring SCD approval are constructed, notice of construction completion shall also be submitted to the appropriate SCD.

### **13.16.220 Maintenance Inspection**

A. The Town shall ensure that preventative maintenance is performed by inspecting all ESD treatment systems and structural stormwater management measures. Inspection shall occur during the first year of operation and at least once every 3 years thereafter. In addition, a maintenance agreement between the owner and the Town shall be executed for privately-owned ESD treatment systems and structural stormwater management measures as described in §13.16.230 of this chapter.

B. Inspection reports shall be maintained by the Town for all ESD treatment systems and structural stormwater management measures.

C. Inspection reports for ESD treatment systems and structural stormwater management measures shall include the following:

1. The date of inspection;
2. Name of inspector;
3. An assessment of the quality of the stormwater management system related to ESD treatment practice efficiency and the control of runoff to the MEP;
4. The condition of:
  - a. Vegetation or filter media;
  - b. Fences or other safety devices;
  - c. Spillways, valves, or other control structures;
  - d. Embankments, slopes, and safety benches;
  - e. Reservoir or treatment areas;
  - f. Inlet and outlet channels or structures;
  - g. Underground drainage;
  - h. Sediment and debris accumulation in storage and forebay areas;
  - i. Any nonstructural practices to the extent practicable; and
  - j. Any other item that could affect the proper function of the stormwater management system.
5. Description of needed maintenance.

D. Upon notifying an owner of the inspection results, the owner shall have 30 days, or other time frame mutually agreed to between the Town and the owner, to correct the deficiencies discovered. The Town shall conduct a subsequent inspection to ensure completion of the repairs.

E. If repairs are not properly undertaken and completed, enforcement procedures following §13.16.220(C.) of this chapter shall be followed by the Town.

F. If, after an inspection by the Town, the condition of a stormwater management facility is determined to present an immediate danger to public health or safety because of an unsafe condition, improper construction, or poor maintenance, the Town shall take such action as may be necessary to protect the public and make the facility safe. Any cost incurred by the Town shall be assessed against the owner(s), as provided in §13.16.230 (C.) of this chapter.

#### **13.16.230 Maintenance Agreement**

A. Prior to the issuance of any building permit for which stormwater management is required, the Town shall require the applicant or owner to execute an inspection and maintenance agreement binding on all subsequent owners of land served by a private stormwater management facility. Such agreement shall provide for access to the facility at reasonable times for regular inspections by the Town or its authorized representative to ensure that the facility is maintained in proper working condition to meet design standards.

B. The agreement shall be recorded by the applicant or owner in the land records of the Town.

C. The agreement shall also provide that, if after notice by the Town to correct a violation requiring maintenance work, satisfactory corrections are not made by the owner(s) within a reasonable period of time (30 days maximum), the Town may perform all necessary work to place the facility in proper working condition. The owner(s) of the facility shall be assessed the cost of the work and any penalties. This may be accomplished by placing a lien on the property, which may be placed on the tax bill and collected as ordinary taxes by the Town.

#### **13.16.240 Maintenance Responsibility**

A. The owner of a property that contains private stormwater management facilities installed pursuant to this chapter, or any other person or agent in control of such property, shall maintain in good condition and promptly repair and restore all ESD practices, grade surfaces, walls, drains, dams and structures, vegetation, erosion and sediment control measures, and other protective devices in perpetuity. Such repairs or restoration and maintenance shall be in accordance with previously approved or newly submitted plans. All documentation relating to the repair shall be sent to the Town of Elkton Public Works Department.

B. A maintenance schedule shall be developed for the life of any structural stormwater management facility or system of ESD practices and shall state the maintenance to be completed, the time period for completion, and the responsible party what will perform the maintenance. This maintenance schedule shall be printed on the approved stormwater management plan.

C. It is the responsibility of the property owner to keep a maintenance log for the life of the facility which includes “as-builts.”

#### **13.16.250 Appeals**

Any person aggrieved by the action of the Town, with respect to the enforcement of this chapter, as the result of the disapproval of the properly filed application for a permit, issuance of a written notice of violation, or an alleged failure to properly enforce this chapter in regard to the specific application, shall have the right to appeal the action to the Circuit Court for Cecil County.

#### **13.16.260 Severability**

If any portion of this chapter is held invalid or unconstitutional by a court of competent jurisdiction, such portion shall not affect the validity of the remaining portions of this chapter. It is the intent of the Board of Commissioners that this chapter shall stand, even if a section, subsection, sentence, clause, phrase, or portion may be found invalid.

#### **13.16.270 Penalties**

A. Any person convicted of violating the provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than One Thousand

Dollars (\$1,000.00) or imprisonment not exceeding six (6) months or both such fine and imprisonment for each violation with costs imposed in the discretion of the court. Each day that a violation continues shall be a separate offense.

B. In addition, the Town may institute injunctive, mandamus or other appropriate action or proceedings of law to correct violations of this chapter. Any court of competent jurisdiction shall have the right to issue temporary or permanent restraining orders, injunctions or mandamus, or other appropriate forms of relief.

**13.16.280 Effective Date**

Be it further enacted that this chapter should take effect twenty (20) days from the date it becomes adopted. (Ordinance 6-2010, effective 7/27/2010) (Prior changes (part) Chapter 13.16-Ordinance 1-2001, effective 7/31/2001)



## **CHAPTER 13.18 STORMWATER DRAINAGE SYSTEMS**

### **Sections:**

**13.18.010 Purpose and Intent**

**13.18.020 Definitions**

**13.18.030 Applicability**

**13.18.040 Responsibility for Administration**

**13.18.050 Compatibility with Other Regulations**

**13.18.060 Limitations on Liability**

**13.18.070 Discharge and Connection Prohibitions**

**13.18.080 Watercourse Protection**

**13.18.090 Industrial and Construction Activity Discharges**

**13.18.100 Compliance Monitoring**

**13.18.110 Notification of Spills**

**13.18.120 Violation - Penalty**

### **13.18.010 Purpose and Intent**

The purpose of this Chapter is to provide for the health, safety, and general welfare of the citizens of the Town by the regulation of non-stormwater discharges to the stormwater drainage systems in the town and to the maximum extent feasible as required by federal and state law. This Chapter establishes methods for controlling the introduction of pollutants into the municipal separate stormwater drainage systems (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this Chapter are:

- A. To regulate the contribution of pollutants to the MS4 by stormwater discharges by any user.
- B. To prohibit illicit connections and discharges to the MS4.
- C. To establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this Chapter.

### **13.18.020 Definitions**

For the purpose of this Chapter, the following terms shall have the meanings set forth below:

#### **A. Best Management Practices (BMPs)**

The schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater drainage systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

#### **B. Clean Water Act**

The Federal Water Pollution Control Act (33 U.S.C. §1251, et seq.) ("*Clean Water Act*") and any subsequent amendments thereto.

#### **C. Construction Activity**

Activities subject to NPDES construction permits. These include construction projects resulting in

land disturbance of one acre or more. Such activities include, but are not limited to, clearing and grubbing, grading, excavating, and demolition.

**D. Department of Public Works (“Department” or “Department of Public Works”)**

Employees or designees of the Town of Elkton’s Department of Public Works designated to enforce this Chapter.

**E. Hazardous Materials**

Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

**F. Illegal Discharge**

Any direct or indirect non-stormwater discharge to the stormwater drainage systems, except as exempted in § 13.18.070 of this Chapter.

**G. Illicit Connections**

An illicit connection is defined as either of the following:

1. Any drain or conveyance, whether on the surface or subsurface, that allows an illegal discharge to enter the stormwater drainage system, including, but not limited to, any conveyances that allow any non-stormwater discharge, including, but not necessarily limited to, sewage, process wastewater, and wash water, to enter the stormwater drainage systems and any connections to the stormwater drainage systems from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted or approved by the Town; or
2. Any drain or conveyance connected from a commercial or industrial land use to the stormwater drainage systems that have not been documented in plans, maps, or equivalent records and/or approved by the Town.

**H. Industrial Activity**

Activities subject to NPDES industrial stormwater permits as defined in 40 CFR 122.26(b) (14).

**I. Municipal Separate Storm Sewer System (MS4)**

The system of conveyances, including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, and other stormwater drainage systems owned and operated by the Town and designed or used for collecting or conveying stormwater and that is not used for collecting or conveying sewage.

**J. National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit**

A permit issued by the Environmental Protection Agency (EPA) or by a State, under authority delegated pursuant to 33 U.S. C. § 1342(b), that authorizes the discharge of pollutants to waters of the State, whether the permit is applicable to an individual, group or general area.

**K. Non-Stormwater Discharge**

Any discharge to the stormwater drainage system that is not composed entirely of stormwater.

**L. Person**

Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner’s agent.

**M. Pollutant**

Anything that causes or contributes to pollution. Pollutants may include, but are not limited to, paints, varnishes, and solvents, petroleum hydrocarbons, automotive fluids, cooking grease, detergents (biodegradable or otherwise), nonhazardous liquid and solid wastes, yard wastes, refuse,

rubbish, garbage, litter, or other discarded or abandoned objects and accumulations that may cause or contribute to pollution, floatables, pesticides, herbicides, and fertilizers, hazardous substances and wastes, sewage, fecal coliform and pathogens, dissolved and particulate metals, animal wastes, wastes and residues that result from constructing a building or structure, and noxious or offensive matter of any kind.

**N. Premises**

Any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking areas.

**O. Stormwater Drainage System**

Publicly owned facilities by which stormwater is collected and/or conveyed, including, but not limited to, any roads with stormwater drainage systems, municipal streets, gutters, curbs, inlets, piped stormwater drains, pumping facilities, retention and detention basins, ponds, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

**P. Stormwater**

Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

**Q. Wastewater**

Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

**R. Watercourse**

A specific body or channel of water which is part of the waters of the State.

**S. Waters of the State**

1. Both surface and underground waters within the boundaries of the State of Maryland subject to its jurisdiction, including part of the Atlantic Ocean within the boundaries of the State, the Chesapeake Bay and its tributaries, ponds, lakes, rivers, streams, tidal and non-tidal wetlands, public ditches, tax ditches, and public drainage systems within the State, other than those designed and used to collect, convey, or dispose of sanitary sewage.
2. The floodplain of free-flowing waters determined by the Department of Natural Resources on the basis of the *one-hundred-year* flood frequency.

**13.18.030 Applicability**

This Chapter shall apply to all water entering the stormwater drainage system generated on any developed and/or undeveloped lands.

**13.18.040 Responsibility for Administration**

The Department of Public Works shall administer, implement, and enforce the provisions of this Chapter. Any powers granted or duties imposed upon the Department may be delegated in writing by the Director of the Department, or his/her duly authorized agent, to persons or entities acting on behalf of the Department.

**13.18.050 Compatibility with Other Regulations**

This Chapter is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this Chapter are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this Chapter imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for

human health or the environment shall control.

### **13.18.060 Limitations on Liability**

The standards set forth herein and promulgated pursuant to this Chapter are minimum standards, therefore this Chapter does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.

### **13.18.070 Discharge and Connection Prohibitions**

#### **A. Prohibition of illegal discharges.**

1. No person shall discharge by any form or means, or cause or allow others under their control to discharge by any form or means, any pollutants or water containing any pollutants, *other than stormwater*, into the Town's stormwater drainage systems or watercourses that cause or contribute to a violation of applicable water quality standards.
2. The commencement, conduct or continuance of any illegal discharge to the stormwater drainage system is prohibited except as described as follows:
  - a. The following discharges are exempt from discharge prohibitions established by this Chapter:
    - i. Water line flushing, landscape irrigation, diverted stream flows, rising groundwaters, uncontaminated groundwater infiltration, uncontaminated pumped groundwater, discharges from potable water sources, foundation drains, air-conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, and *dechlorinated* swimming pool discharges.
    - ii. Discharges or flow from firefighting and other discharges specified in writing by the Department of Public Works as being necessary to protect public health and safety.
    - iii. Discharges associated with dye testing; however, this activity requires a verbal notification to the Department of Public Works prior to the time of the test.
  - b. The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the United States Environmental Protection Agency (EPA), provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the stormwater drainage system.
3. If any discharge contained within the above exemptions causes an adverse impact, as determined by the Department of Public Works, then the discharge shall not be ~~considered~~ exempt from this Chapter.

#### **B. Prohibition of illicit connections.**

1. The construction, use, maintenance or continued existence of illicit connections to the stormwater drainage system is prohibited.
2. This prohibition expressly includes, without limitation, illicit connections made in the

past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

3. A person is considered to be in violation of this Chapter if the person connects a line conveying sewage to the MS4 or allows such a connection to continue.

4. Improper connections in violation of this Chapter must be disconnected and redirected, if necessary, to an approved on-site wastewater management system or the sanitary sewer system upon approval of the Department of Public Works.

5. Any drain or conveyance that has not been documented in plans, maps, or equivalent, and which may be connected to the stormwater drainage system, shall be located by the owner or occupant of that property upon receipt of written notice from the Department of Public Works requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as a stormwater drain, sanitary sewer or other, and that the outfall location or point of connection to the stormwater drainage system, sanitary sewer system, or other discharge point be identified. Results of these investigations are to be documented and provided to the Department of Public Works.

#### **13.18.080 Watercourse Protection**

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a water course so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

#### **13.18.090 Industrial and Construction Activity Discharges**

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Department of Public Works prior to the allowing of discharges to the MS4.

#### **13.18.100 Compliance Monitoring**

**A. Right of entry; inspection and sampling.** The Department of Public Works shall be permitted to enter and inspect facilities subject to regulation under this Chapter as often as may be necessary to determine compliance with this Chapter, subject to the following: Prior to entering the property the Department of Public Works shall provide notice and obtain written permission from the property owner.

1. If a property owner has security measures in force which require proper identification and clearance before permitting entry into its premises, the property owner shall make the necessary arrangements to allow access to representatives of the Department of Public Works.

2. Facility operators shall allow the Department of Public Works ready access to all areas of the premises for the purpose of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater and the performance of any additional duties as defined by State and Federal law.

3. The Department of Public Works shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the Department of Public Works to conduct monitoring and/or sampling of the facility's stormwater discharge.
4. The Department of Public Works has the right to require the property owner to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the property owner at the property owner's expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
5. Any temporary or permanent obstruction that prohibits safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the property owner at the written or oral request of the Department of Public Works and shall not be replaced. The costs of clearing such access shall be borne by the property owner.
6. Unreasonable delays in allowing the Department of Public Works access to a permitted facility are a violation of a stormwater discharge permit and of this Chapter. A person who is the property owner or operator of a facility with an NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the Department of Public Works reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this Chapter.

#### **B. Refusal by Owner to Provide Access for Inspection**

It is a violation of this Chapter for a property owner or facility operator to refuse entry by the Department of Public Works to access any part of the premises from which stormwater is discharged or there is substantial belief and/or evidence of a stormwater and/or illicit discharge from the premises and there is a need by the Department of Public Works to inspect for an illicit discharge and to take a sample of a discharge.

#### **13.18.110 Notification of Spills**

A. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected release of materials which result or may result in illegal discharges or pollutants discharging into stormwater, the stormwater drainage system, or waters of the State, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, said person shall notify the Department of Public Works in person, by phone, by facsimile or by email no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Department of Public Works within three (3) business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also prepare and retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years and shall be available to the Department of Public Works upon request.

B. Failure to provide notification of a release as provided above is a violation of this Chapter.

#### **13.18.120 Violation – Penalty**

**A violation of this Chapter shall be a misdemeanor and a person convicted thereof before a Judge of the District Court shall be subject to a fine not to exceed One Thousand Dollars (\$1,000.00) or imprisonment not to exceed Ninety (90) days, or both such fine and imprisonment.**

END OF SECTION

**DATE OF EFFECT**

**THIS ORDINANCE** shall be effective on the 21<sup>st</sup> day of May, 2019.

Mayor and Commissioners  
of the Town of Elkton

Mayor Robert J. Alt  
Commissioner Jean A. Broomell  
Commissioner Charles H. Givens, Sr.  
Commissioner Robert M. Massimiano  
Commissioner Earl M. Piner, Sr.