

**BERRYVILLE TOWN COUNCIL  
STREETS AND UTILITIES COMMITTEE  
Wednesday, April 4, 2012  
Berryville-Clarke County Government Center  
Town Council Conference Room  
Called Meeting  
10:30 a.m.**

**MINUTES**

**Roll:**

**Town Council:**

Present: Mayor Wilson Kirby, Chair; David Tollett

**Staff:** Keith Dalton, Town Manager; Dave Tyrrell, Director of Public Utilities; Rick Boor, Director of Public Works; Christy Dunkle, Assistant Town Manager/Planner

**Press:** Val Van Meter, Winchester Star

**1. Call to Order** – Mayor Wilson Kirby, Chair  
Mayor Kirby called the meeting to order at 10:30 a.m.

**2. Discussion** – Street Maintenance/Construction Standards  
Ms. Dunkle and Mr. Boor discussed proposed changes to the town's Construction Standards and forms as they relate to assuming street maintenance from VDOT.

**3. Next Meeting**  
The next meeting of the Streets and Utilities Committee meeting was set for May 2, 2012 at 10:30 a.m. The goal of the next meeting is to ready the proposed Construction Standards and forms to take to the Town Council on May 8 to be adopted by June 12.

**4. Adjourn**  
The committee meeting was adjourned at 11:35 a.m.

  
\_\_\_\_\_  
Keith R. Dalton, Town Manager

**MINUTES**  
**BERRYVILLE TOWN COUNCIL**  
**Tuesday, April 10, 2012**  
**Berryville-Clarke County Government Center**  
**Regular Meeting**  
**7:30 p.m.**

**Roll:**

**Town Council:**

Present: Wilson Kirby, Mayor; Harry Lee Arnold, Jr., Recorder; Allen Kitselman; Lawrence Russell, III; David Tollett; Mary Daniel

**Staff:** Keith Dalton, Town Manager; Neal White, Police Chief; Christy Dunkle, Assistant Town Manager/Planner; Desiree Moreland, Assistant Town Manager/Treasurer; Celeste Heath, Town Clerk

**Press:** Val Van Meter, Winchester Star; Mike Dowling, ClarkeDailyNews.com

**1. Public Hearings**

Mayor Kirby opened the following Public Hearings at 7:30 p.m.

**a. Public Hearing- Proposed Tax Rates for 2012**

Listed below are the proposed tax rates for the tax year beginning January 1, 2012, on all real property, including real property and tangible personal property of public service corporations, and on all other tangible personal property, including machinery and tools.

The proposed rates reflect a \$.0805 increase in the machinery and tools tax rates.

A. \$.116 per \$100 assessed valuation on real estate, including real estate of public service corporations;

B. \$1.00 per \$100 assessed valuation on tangible personal property except machinery and tools;

C. \$1.168 per \$100 assessed valuation on tangible machinery and tools.

The proposed machinery and tools tax rates reflect an increase of .0805 cents per \$100 of assessed value. This proposed rate constitutes a 7.4% increase in the machinery and tools rate that was adopted for the year 2011.

The proposed real estate and personal property tax rates have not been increased.

There was no public comment.

**b. Public Hearing- Proposed Increase in Sewer User Rate**

A proposed increase in the sewer user rate from \$14.00 per 1,000 gallons of water used to \$15.50 per 1,000 gallons of water used. Adoption of a rate of \$15.50 per 1,000 gallons of water used would constitute a sewer rate increase of \$1.50 per 1,000 gallons of water used or an increase of 10.7%. The combined water and sewer rate would increase from \$20.57 per 1,000 gallons use to \$22.07 per 1,000 gallons used or an increase of 7.29%.

If approved, this increase would become effective and will apply to the July 30, 2012 billing (usage after June 25, 2012).

The proposed sewer rate increase is the third in four annual increases presented in a business plan to secure financing for the required wastewater treatment plant. No increase in the water user rate is proposed.

There was no public comment.

**c. Public Hearing- Proposed Changes to Schedule of Water and Sewer Fees and Charges**

A proposed amendment to the Town of Berryville Schedule of Water and Sewer Charges to incorporate water and sewer related fees into one fee schedule. Said proposal would also provide for changes/increases to deposits, administrative fees, and inspection fees. Said proposal would add a significant industrial user fee and a water meter testing fee.

There was no public comment.

**d. Public Hearing- Proposed Changes to Planning and Zoning Fees**

A proposed amendment to the Town of Berryville's Planning and Zoning Fees to increase and adjust various fees related to land development. Affected land development activities include (not a complete list): rezoning, ordinance text amendments, site development plans, zoning determination letter, and preliminary subdivision plat.

There was no public comment.

**e. Public Hearing- Repeal and reenactment of Chapter 17 of the Berryville Code - A proposal to repeal and reenact Chapter 17, Water, Sewers and Sewage Disposal, of the Berryville Code.**

As a part of the agreement to secure funding for Berryville's Wastewater Treatment Plant, the Town agreed to adopt a new Sewer Use Ordinance. The new Sewer Use Ordinance is based on a model ordinance provided by the Commonwealth of Virginia. Other changes have been made to incorporate the new ordinance into the existing ordinances' framework and update the section.

There was no public comment.

**f. Public Hearing- Special Use Permit – Home Occupation - 317 First Street Christina Kraybill, Owner, is requesting a Special Use Permit in order to operate a Home Occupation (retail shop) under Section 604.3(g) of the Town of Berryville Zoning Ordinance at her property located at 317 First Street, identified as Tax Map Parcel 14A2-((A))-155 zoned DR-4 Detached Residential-4. SUP-12-01**

Christina Kraybill, Owner, is requesting a Special Use Permit in order to operate a Home Occupation (retail shop) under Section 604.3(g) of the Town of Berryville

Zoning Ordinance at her property located at 317 First Street, identified as Tax Map Parcel 14A2-((A))-155 zoned DR-4 Detached Residential-4. SUP-12-01

There was no public comment. Mayor Kirby recognized the applicant, Christina Kraybill. Ms. Kraybill said that she would like to have the option of staying open 4 days per week during the Christmas season if the Town Council saw fit to approve it.

The Public Hearings were closed at 7:33 p.m.

**2. Call to Order:** Wilson Kirby, Mayor

Mayor Kirby called the regular meeting to order at 7:33 p.m.

**3. Approval of Minutes**

March 13, 2012

Upon motion by Recorder Arnold, seconded by Council member Tollett, the minutes of the March 13, 2012 meeting were unanimously approved.

**4. Citizen's Forum**

Brian McClemens, 333 East Fairfax Street, spoke about Berryville Main Street (BMS). He said that he is optimistic that he can work with BMS and was pleased that a board member reached out to him.

Will Dellinger, President of Berryville Main Street thanked Mr. McClemens for rejoining Berryville Main Street. He then gave the Town Council an overview of the activities that Berryville Main Street is pursuing. He said, as always, the Berryville Main Street Board welcomes input from the Town Council and appreciates their support.

**5. Report of the Mayor**

Mayor Kirby thanked the Town staff for working diligently on the budget so that the Town Council does not have to raise taxes. He said that it is unfortunate that staff has not had a raise in three years but that no jobs have been cut and taxes have not been raised.

Mayor Kirby noted that the Town and Country Garden Club of Berryville is celebrating 60 years of existence. He congratulated the group's founder Mrs. Sarah Burton and the current Chair Lee Perkins.

**6. Planning and Zoning Matters:** Christy Dunkle

**Action Item – Special Use Permit for Home Occupation**

Ms. Dunkle said that the Planning Commission held a public hearing on this matter at their March 27, 2012 meeting and recommended that the Town Council approve the application with restrictions on the hours of operation.

There was a brief discussion of Ms. Kraybill's request to be open for four days per week instead of three.

Upon motion by Recorder Arnold, seconded by Council member Kitselman the Council of the Town of Berryville approved the Special Use Permit for the property located at 317 First Street, identified as Tax Map Parcel number 14A2-((A))-155, zoned DR-4 Detached Residential in order to operate a home occupation (retail shop) with the following conditions:

1. Four days of operation per week with no Sunday hours
2. Hours of operation from 10:00 a.m. to 8:00 p.m.

VOTE:

Recorded Vote:

Ayes:	Wilson Kirby, Mayor Harry Lee Arnold, Jr., Recorder Allen Kitselman Lawrence Russell, III David Tollett Mary Daniel
Nays:	None
Absent:	None
Abstain:	None

Ms. Dunkle reported that the Comprehensive Plan Review process has started and that the BADA met and elected Council member Kitselman as Chair and George Ohrstrom as Vice-Chair. She said that the ARB held a luncheon for Nancy Bishop who is retiring.

#### **7. Report of Town Manager**

The Mayor reminded everybody that Election Day is on May 1 and that although there are three uncontested races, he encouraged everyone to vote.

#### **Action Item – An Ordinance Setting Tax Levies for Tax Year 2012 and Approving PPTRA**

Upon motion by Recorder Arnold, seconded by Council member Kitselman the Council of the Town of Berryville adopted the attached Ordinance Setting Tax Levies.

VOTE:

Recorded Vote:

Ayes:	Wilson Kirby, Mayor Harry Lee Arnold, Jr., Recorder Allen Kitselman Lawrence Russell, III David Tollett Mary Daniel
Nays:	None
Absent:	None
Abstain:	None

TOWN OF BERRYVILLE  
TOWN COUNCIL  
AN ORDINANCE SETTING TAX LEVIES FOR TAX YEAR 2012

Date: April 10, 2012

Motion By: Harry Lee Arnold, Jr.

Second By: Allen Kitselman

BE IT ORDAINED, by the Council of the Town of Berryville, Virginia, that for the tax year 2012 there is hereby levied:

(1) A tax of \$.116 per \$100 assessed valuation on all real estate located within the Town of Berryville, such levy being also applicable to the real estate and tangible personal property of public service corporations;

(2) A tax rate of \$1.00 per \$100 assessed valuation on all taxable, tangible personal property, except machinery and tools, located in the Town of Berryville;

(3) A tax rate of \$1.168 per \$100 assessed valuation on tangible machinery and tools located in the Town of Berryville.

All tax levies shall be due and payable pursuant to the Code of the Town of Berryville, Chapter 16, Article I, Section 16-3.

VOTE:

Recorded Vote:

Ayes:	Wilson Kirby, Mayor Harry Lee Arnold, Jr., Recorder Allen Kitselman Lawrence Russell, III David Tollett Mary Daniel
Nays:	None
Absent:	None
Abstain:	None

SIGNED: Wilson L. Kirby Date: April 10, 2012  
Wilson L. Kirby, Mayor

ATTEST: Harry Lee Arnold, Jr. Date: April 10, 2012  
Harry Lee Arnold, Jr., Recorder

Upon motion by Council member Daniel, seconded by Council member Russell the Council of the Town of Berryville adopted the attached Resolution providing for the implementation of the 2004-2005 changes to the Personal Property Tax Relief Act of 1998 for the tax year 2012.

VOTE:

Recorded Vote:

Ayes:	Wilson Kirby, Mayor Harry Lee Arnold, Jr., Recorder Allen Kitselman Lawrence Russell, III David Tollett Mary Daniel
Nays:	None
Absent:	None
Abstain:	None

**Town of Berryville**

**Resolution  
To Provide for the Implementation of the 2004-2005  
Changes to the Personal Property Tax Relief Act of 1998  
For the Tax Year 2012**

**WHEREAS**, the Personal Property Tax Relief Act of 1998, Va. Code § 58.1-3523 *et seq.* (“PPTRA”), has been substantially modified by the enactment of Chapter 1 of the Acts of Assembly, 2004 Special Session I (Senate Bill 505) and the provisions of Item 503 of Chapter 951 of the 2005 Acts of Assembly, being the 2005 revisions to the 2004-2006 Appropriations Act (“the 2005 Appropriations Act”); and

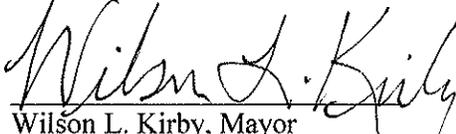
**WHEREAS**, the legislative enactments require the Town to take affirmative steps to provide for the computation and allocation of relief provided pursuant to the PPTRA as revised; and

**WHEREAS**, these legislative enactments provide for the Town of a fixed sum to be used exclusively for the provision of tax relief to owners of qualifying personal use vehicles that are subject to local personal property tax on such vehicles.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Council of the Town of Berryville in accordance with the requirements set forth in Va. Code § 58.1-3524(C) (2) and § 58.1-3912(E), as amended by Chapter 1 of the 2005 Acts of Assembly (2004 Special Session 1) and as set forth in Item 503 of the 2005 Appropriations Act, that any qualifying vehicle having situs within the Town during the tax year which begins on January 1, 2012, shall receive personal property tax relief in the following manner:

1. Personal use vehicles valued at less than \$1,000 will be eligible of 100 percentage of tax relief set by the Town Council during its annual budget deliberations.
2. Personal use vehicles valued between \$1,001 and \$20,000 will be eligible for 70 percentage of tax relief set by the Town Council during its annual budget deliberations.
3. Personal use vehicles valued at \$20,001 or more will be eligible for 70 percentage of tax relief on the first \$20,000 of assessed value set by the Town Council during its annual budget deliberations.
4. All other vehicles which do not meet the definition of “qualifying” (business use vehicles, farm use vehicles, motor homes, etc.) will not be eligible for personal property tax relief under PPTRA.

**PASSED THIS 10<sup>TH</sup> DAY OF APRIL 2012.**

  
Wilson L. Kirby, Mayor

ATTEST:

  
Harry L. Arnold, Jr., Recorder

**Action Item – Adoption of Schedule of Water and Sewer Fees**

Mr. Dalton noted that this new Schedule of Water and Sewer Fees includes an increase in the sewer user fee from \$14.00 to \$15.50. Council member Daniel asked if this is the increase required for the VRA loan. Mayor Kirby said that this increase is in accordance with the business plan submitted to DEQ and VRA as part of the wastewater treatment plant funding.

Upon motion by Council member Tollett, seconded by Council member Kitselman the Council of the Town of Berryville adopted the attached Schedule of Water and Sewer Fees and Charges effective June 25, 2012.

VOTE:

Recorded Vote:

Ayes:	Wilson Kirby, Mayor Harry Lee Arnold, Jr., Recorder Allen Kitselman Lawrence Russell, III David Tollett Mary Daniel
Nays:	None
Absent:	None
Abstain:	None

**TOWN OF BERRYVILLE  
SCHEDULE OF WATER AND SEWER  
FEES AND CHARGES**

Effective June 25, 2012

**I. USER FEES**

A. WATER

\$6.57 per 1,000 gallons of usage

B. SEWER

\$ 15.50 per 1,000 gallons of usage

**II. DEPOSITS AND ADMINISTRATIVE FEES**

A. DEPOSITS

Residential: \$ 150

Business/Commercial (excluding Restaurants and Laundries): \$ 200

Restaurant: \$ 500

Laundry: \$1,500

B. ADMINISTRATIVE FEES

Late Fee: 10% of bill amount

Service Disconnection/Reconnection Fee: \$40

Returned Check/ACH Fee \$25

**III. AVAILABILITY FEES**

A. WATER

Type of Premises

Charge

I. Residential:

Single Family Residential individual 5/8" meter	\$ 5,250 + meter charge
Town House, Duplex individual 5/8" meter	5,250 per unit + meter charge
Multi-Family	4,725 per unit + meter charge

2. Commercial, Industrial, Institutional, & Single Family greater than 5/8" meter:

Water Meter Size (Inches)	Demand Ratio	Avail. Fee	Radio Read Meter Cost
5/8	1.0	\$ 5,250	Meter cost + 30% admin. fee
3/4	1.5	7,825	Meter cost + 30% admin. fee
1.0	2.5	13,125	Meter cost + 30% admin. fee
1.5	4.375	22,970	Meter cost + 30% admin. fee
2.0	8.0	42,000	Meter cost + 30% admin. fee
3.0	16.0	84,000	Meter cost + 30% admin. fee
4.0	25.0	131,250	Meter cost + 30% admin. fee
6.0	50.0	262,500	Meter cost + 30% admin. fee

Greater than 6", Demand Ratio (AWWA M22) multiplied by fee for Demand Ratio 1

Notes:

- (a) Multi-family residences are defined as any master metered group of apartment, town house, condominium or other residential units with each unit containing separate kitchen facilities.
- (b) In cases where a master meter is serving multi-family residences or a combination of multi-family and commercial units, the applicant will pay a fee based on the higher of (a) an amount derived by multiplying the unit charge of \$5,250 for multi-family residence times the total number of residential and commercial units to be served by a single meter, or (b) an amount based on the meter size as specified above.

B. SEWER

Water Meter Size (Inches)	Demand Ratio	Avail. Fee
5/8	1.0	\$ 22,750
3/4	1.5	34,125
1.0	2.5	56,875
1.5	4.375	99,535
2.0	8.0	182,000
3.0	16.0	364,000
4.0	25.0	568,750
6.0	50.0	1,137,500

Greater than 6", Demand Ratio (AWWA M22) multiplied by fee for Demand Ratio 1

**IV. LATERAL or CONNECTION FEES**

**A. WATER**

Meter Size (Inches)	By Others	By Town
5/8	* (b)	cost + 10% (\$500 min.) & b
3/4	* (b)	cost + 10% (\$500 min.) & b
1.0	* (b)	cost + 10% (\$500 min.) & b
1.5	* (b)	(c) & (b)
2.0	* (b)	(c) & (b)
3.0	* (a) & (b)	(a) & (b)
4.0	* (a) & (b)	(a) & (b)
6.0	* (a) & (b)	(a) & (b)
Greater than 6"	* (a) & (b)	(a) & (b)

**B. SEWER**

Lateral Size (Inches)	By Others	By Town
4	*	cost + 10% (\$500 min.)
Greater than 4"	*	N/A (d)

Notes:

(a) = Town of Berryville to furnish and install wet taps to existing mains at cost plus 10%. Contractor to furnish and install lines and vaults.

(b) = Town of Berryville to install meters.

(c) = Town of Berryville to provide 2" service line to property line with 2" ball valve at cost plus 10%. Contractor to furnish and install meter vault and meter setter.

(d) = Installed by contractor if larger than 4" required.

\* = Inspection fee applies, see Section V.

**V. INSPECTIONS**

**A. Sanitary Sewer Camera Service & Storm Sewer Camera Service  
Mains and Laterals Over 4-Inches in Diameter**

Mobilization Fee.....	\$250
Camera Fee.....	\$2.50 per linear foot
<i>4-Inch Laterals</i>	
Laterals Under 50-Feet in Length.....	\$100
Laterals 50-Feet in Length or Greater.....	\$100 plus \$2.50 per linear foot

**B. Inspections**

Approved Inspector or Town Staff.....	\$ 50 per hour
Licensed Professional Engineer.....	cost

Notes:

Cleaning lines will be required prior to camera use and is the responsibility of the applicant.

**VI. SIGNIFICANT INDUSTRIAL USER FEES**

Sewer system discharge permit .....	\$500
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**VII. WATER METER TESTING**

5/8" meter .....	\$40
All other meters .....	\$40 + cost

Notes: Fee is refunded if meter is found to be over registering

**VIII. UNAUTHORIZED USE OF SERVICE**

For unapproved water withdrawals from fire hydrants or any other part of the Town Water System, or when a customer willfully takes steps to reactivate service after service has been disconnected by the town on account of nonpayment of any charge owed to the town and the town is required to take some action to again discontinue service, such as removing the meter, etc., a charge for unauthorized use of service in the amount of two hundred and fifty dollars (\$250) shall be paid. This charge shall be in addition to any other charge for water and sewer utility services owed to the town, as well as any other legal remedies which the town may be able to pursue for unauthorized use of service.

**Action Item – Adoption of Planning and Zoning Fees**

Upon motion by Council member Tollett, seconded by Council member Russell the Council of the Town of Berryville adopted the attached Planning and Zoning Fees, effective July 1, 2012.

VOTE:

Recorded Vote:

Ayes: Wilson Kirby, Mayor  
 Harry Lee Arnold, Jr., Recorder  
 Allen Kitselman  
 Lawrence Russell, III  
 David Tollett  
 Mary Daniel

Nays: None

Absent: None

Abstain: None

PLANNING AND ZONING FEES  
 Effective July 1, 2012

1. ZONING ORDINANCE

REZONING (MAP AMENDMENTS)

Base Fee .....\$4,000  
 Per Acre Fee after the first acre.....\$2,000  
 Consulting services, if required .....Cost

ORDINANCE TEXT AMENDMENT\* .....\$700  
 Consulting services, if required .....Cost

\* Provided that the Berryville Planning Commission or Town Council agree to sponsor the amendment

SPECIAL USE PERMIT

Residential, including home occupations, private swimming pools and  
 tennis courts – when required.....\$250 (plus site plan fees)  
 Commercial/Industrial.....\$2,000 (plus cost of site plan)  
 Consulting services, if required.....Cost

SITE DEVELOPMENT PLANS

Residential (New/Major Revision) .....\$2,000  
 Per dwelling unit .....\$125  
 Commercial/Industrial (New/Major Revision) .....\$4,000  
 Plus Per required parking space .....\$125  
 Minor revision/administrative review .....\$125  
 Consulting services, if required .....Cost

BOARD OF ZONING APPEALS

Variance .....\$500  
 Per request, for two or more at same meeting .....\$225  
 Appeals .....\$500 (if finding for citizen, then fee  
 refunded)  
 Consulting services, if required .....Cost

SIGN PERMITS ..... \$25

**EROSION/SEDIMENT CONTROL PERMITS**

Base Fee .....	\$500
Per Disturbed Acre Fee .....	\$50
Consulting services, if required.....	Cost

**ZONING PERMITS**

Residential Accessory Building .....	\$50
Temporary Family Health Care Structure .....	\$100
Residential Additions (incl. decks, porches, basement remodeling, and swimming pools).....	\$75
Fence Permits.....	\$50
Residential .....	\$200
Commercial/Industrial .....	\$250

ZONING DETERMINATION LETTER.....\$150  
 (Identification of property zoning and permitted uses requiring interpretation of Town regulations)

**2. SUBDIVISION ORDINANCE**

SUBDIVISION PLATS (Minor) .....\$500  
 (Two lots with no public improvements-pursuant to Article IIE)

**PRELIMINARY PLATS (Major)**

Base Fee .....	\$4,000
Per Lot Fee .....	\$50

**FINAL PLATS (Major)**

Base Fee.....	\$1,000
Per Lot .....	\$50
Consulting services, if required .....	Cost

**INDIVIDUAL LOT GRADING PLANS**

Review of Grading Plan Prior to Issuance of Zoning Permit .....	\$150 or at cost, whichever is greater
Review of As-Built Grading Plan .....	\$150 or at cost, whichever is greater
Re-review of Grading Plan .....	\$75 or at cost, whichever is greater
Re-review of As-Built Grading Plan .....	\$75 or at cost, whichever is greater

VACATION OF PLAT .....

.....	\$350
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PLAT REVISIONS/BOUNDARY LINE ADJUSTMENT .....

.....	\$350 (plus \$50 per lot)
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**3. STORMWATER MANAGEMENT ORDINANCE**

**Stormwater Management Plan**

Base Fee .....	\$150
Per Acre Fee (\$850 maximum) .....	\$25
Consulting services, if required .....	Cost

**4. SALE OF PUBLICATIONS**

Zoning, Subdivision, and Stormwater Management Ordinances (single publication) ..	\$30
Comprehensive Plan .....	\$30
Berryville Area Plan .....	\$20
Construction Standards Manual .....	\$10

5. COLLECTION PROCEDURES; EXPENSE REIMBURSEMENTS

Payment of all applicable fees and charges established herein shall be made to the Town Treasurer at the time of submission of application for actions pertaining to zoning and subdivision matters. Fees and expenses for professional consulting services deemed necessary by the Town Council for matters pertaining to zoning, subdivision and land development matters shall be reimbursed to the Town at cost, or as may be determined by separate, written agreement duly adopted and entered by the Town Council and the applicant. If payment is not made in a timely fashion, cost of collections (including attorney's fees) will be charged to the applicant.

**Action Item – Repeal and reenactment of Chapter 17, Water, Sewers and Sewage Disposal, of the Berryville Code**

Upon motion by Recorder Arnold, seconded by Council member Kitselman the Council of the Town of Berryville adopted the attached ordinance (ATT 1) repealing and re-enacting Chapter 17, Water, Sewers and Sewage Disposal, of the Code of the Town of Berryville.

VOTE:

Recorded Vote:

Ayes:

Wilson Kirby, Mayor  
Harry Lee Arnold, Jr., Recorder  
Allen Kitselman  
Lawrence Russell, III  
David Tollett  
Mary Daniel

Nays:

None

Absent:

None

Abstain:

None

AN ORDINANCE REPEALING AND RE-ENACTING  
CHAPTER 17, WATER, SEWERS AND SEWAGE DISPOSAL;

BE IT ORDAINED, by the Council of Town of Berryville, that Chapter 17, Water, Sewers and Sewage Disposal; is repealed and re-enacted as attached.

I HEREBY CERTIFY THAT THE FOREGOING Ordinance was duly adopted by the Council of the Town of Berryville in a meeting assembled on April 10, 2012.

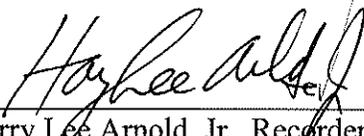
VOTE:

Recorded Vote:

Ayes:	Wilson Kirby, Mayor Harry Lee Arnold, Jr., Recorder Allen Kitselman Lawrence Russell, III David Tollett Mary Daniel
Nays:	None
Absent:	None
Abstain:	None
Absent During Vote:	None

SIGNED   
Wilson Kirby, Mayor

Date: April 10, 2012

ATTEST:   
Harry Lee Arnold, Jr., Recorder

Date: April 10, 2012

## **8. Standing Committee Reports**

### **a) BADA Liaison – Allen Kitselman**

Council member Kitselman said that the BADA has a new member, Kathy Smart. He said that work has begun on the Comprehensive Plan update.

### **b) Budget Finance / CIP – Jay Arnold**

Recorder Arnold thanked Ms. Moreland for the budget report.

### **Set Public Hearing on FY 2013 Budget**

The Town Council set a Public Hearing on the FY 2013 Budget for their May 8, 2012 meeting.

## **Approval of Minutes**

March 14, 2012

Upon motion by Council member Daniel, seconded by Recorder Arnold, the minutes of the March 14, 2012 Budget and Finance Committee meeting were unanimously approved.

### **c) Community Improvements – Allen Kitselman**

Council member Kitselman thanked Mr. Dellinger for his helpful update on Berryville Main Street's activities. He reported that a reception for Nancy Bishop and her pottery work will be held on April 13, the Festival of Yard Sales will take place on April 14, Valley EarthFest is on April 22, the Rich Rau Ride is May 19 and that Bike Virginia is June 22 to 24.

He said that Bike Virginia will be a huge economic benefit to the Town and that Berryville Main Street, the Barns and the Town are working together to make it a successful event. He asked the community to volunteer to help with this event. He said that Berryville Main Street is spearheading the event but it is an opportunity for the whole community to work together.

Council member Kitselman then spoke about his dismay about an article on the Clarke Daily News web site depicting a controversy between the Town of Berryville and the Barns of Rose Hill. He said that there is no contention in the relationship and that the organizations involved are just working out the nuts and bolts of use policies for the Government Center. He said that he hopes that the web site is not just trying to create controversy to get people to read their articles. He said he also has a problem with the web site allowing people to editorialize without signing their names. He said that this policy does not improve the community, it harms the community.

### **d) Planning Commission – Lawrence Russell**

Nothing to add to report.

### **e) Police and Security – Mary Daniel**

The committee will meet again in May.

f) Streets and Utilities – Wilson Kirby

**Approval of Minutes**

March 13, 2012

Upon motion by Council member Tollett, seconded by Mayor Kirby, the minutes of the March 13, 2012 Streets and Utilities Committee meeting were unanimously approved.

April 4, 2012

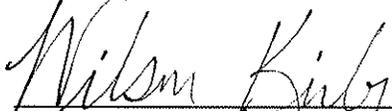
Upon motion by Council member Tollett, seconded by Mayor Kirby, the minutes of the April 4, 2012 Streets and Utilities Committee meeting were unanimously approved.

g) Personnel / Appointments – Jay Arnold

The Committee set a meeting for April 17 at 10 a.m. to discuss board vacancies.

**9. Adjourn**

Upon motion by Council member Russell, seconded by Council member Kitselman and passed, the Council meeting was adjourned at 8:02 p.m.

  
\_\_\_\_\_  
Wilson Kirby, Mayor

  
\_\_\_\_\_  
Harry Lee Arnold, Jr., Recorder

## **Chapter 17 WATER, SEWERS AND SEWAGE DISPOSAL\***

- Art. I. In General, §§ 17-1--17-13  
Art. II. Water Generally, §§ 17-14--17-33  
Art. III. Sewers and Sewage Disposal Generally, §§ 17-34--17-48  
Art. IV. Water and Sewer Service Charges, §§ 17-49--17-58

### **ARTICLE I. IN GENERAL**

#### **Sec. 17-1. Violation of chapter.**

Unless otherwise specifically provided, a violation of any provision of this chapter shall constitute a Class 2 misdemeanor.

**Cross references:** Penalty for Class 2 misdemeanor, § 1-11.

#### **Sec. 17-1.1. Charges, rates and fees referred to in chapter not affected by Code.**

Nothing in this Code or the ordinance adopting this Code shall affect any ordinance prescribing any charge, rate or fee referred to in this chapter and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

#### **Sec. 17-2. Responsibility of superintendent of public works as to water and sewer connections.**

(a) The superintendent of public works shall be responsible for the inspection and proper installation of all connections to the town's water and sewer systems.

(b) No water supplied by the town shall be introduced into any premises, except under the supervision of the superintendent of public works.

(Code 1971, § 17-15; Ord. of 11-10-81, § 2-28)

**Cross references:** Department of public works, § 2-52 et seq.

#### **Sec. 17-3. Damaging, defacing, etc., water or sewer system property.**

(a) No unauthorized person shall break, injure, damage, deface, destroy, uncover, move or tamper or interfere with any water main or service pipe, water meter, public sewer, manhole, fireplug or any other appurtenance, fixture, equipment or structure which is a part of, or is connected to, the town's water system or sewer system.

(b) A violation of this section shall constitute a Class 1 misdemeanor. No penalty imposed for such violation shall prevent the town or any property owner or other person from recovering any damages sustained by reason of such violation, by appropriate civil action or otherwise.

(Code 1971, §§ 17-18, 17-48)

**Cross references:** Penalty for Class 1 misdemeanor, § 1-11; damaging property generally, § 13-22.

#### **Sec. 17-4. Construction specifications and standard details.**

All water and sewer mains, lines, valves, hydrants, manholes, appurtenances and other improvements required for connection to the Town of Berryville's water and sewer systems shall be constructed, installed and/or extended in full compliance with the provisions and requirements of the document entitled "Town of Berryville Construction Standards and Specifications", as such document may be amended from time to time by the council of the

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Town of Berryville, and which document is set forth separately and apart from the Code of The Town of Berryville, but shall be incorporated by reference herein as a duly adopted section of the town council.

(Ord. of 12-12-89)

Secs. 17-5--17-13. Reserved.

## **ARTICLE II. WATER GENERALLY**

### **Sec. 17-14. General powers and duties of superintendent of public works as to water system.**

The superintendent of public works shall have supervision over the water system and all pipes, plugs and other properties in any way connected therewith. He shall keep all parts of the machinery and equipment in connection with the water system in good order and repair. He shall keep a map showing the location of the main pipes and length and size of each of them. When there is an extension of any main pipe, he shall mark on the map the place of the extension, size of pipe used and other related information and shall keep an account of the cost of material and labor used in making such extension. He shall keep a record of all branch pipes, hydrants and other connections with the water system.

(Code 1971, § 17-11)

**Cross references:** Department of public works, § 2-52 et seq.

### **Sec. 17-15. Mandatory water connections; private wells prohibited.**

(a) Every building intended for human habitation or occupancy on premises abutting on a street in which there is a public water line shall have a connection with such water line. If possible, such connection shall be separate for each building. The town manager may waive this requirement for parcels of ten (10) acres or larger in size where such connection is deemed to be a hardship.

(b) The water supply, as provided by the town, shall be neither connected with unsafe water supplies nor cross-connected, through plumbing fixtures, to the drainage system.

(c) Unless otherwise permitted by this section, it shall be unlawful for the owner of any house or other building intended for human habitation or occupancy to occupy or to rent or lease the same for occupancy by any person, or for any person to occupy the same, unless such house or other building is provided with a supply of water meeting the requirements of this section. If any landlord shall fail to supply any such house or other building with such a supply of water, his tenant shall supply the same in conformity with the orders of the health officer and may deduct the cost thereof from any sum due the landlord for rent.

(d) It shall be unlawful for any person to drill, own, keep, use or maintain a private well within the town with the intent to circumvent the requirements of this section. In no instance may a well be drilled on any residentially zoned parcel that is less than ten (10) acres in size.

(Code 1971, §§ 17-1, 17-5; Ord. of 9-11-84; Ord. of 1-9-01)

### **Sec. 17-16. Application for service.**

Whenever any person owning property in the town along the line of any water main shall desire the introduction of water into such premises, he shall make written application therefor to the town manager. Such application shall set forth the name of the applicant, the location of the property into which the water is to be introduced, the purposes for which the water is to be used and the name of the plumber who is to do the work incident to the introduction of water into the premises. Such application shall also contain a provision which, upon acceptance of the application by the town manager and subsequent connection of the service pipe with the main, will obligate the owner of the premises to pay for all water furnished pursuant to such application. The town manager shall not cause water to be furnished at any water connection until the owner of the premises has agreed to pay for all water furnished.

(Code 1971, § 17-13)

**Sec. 17-17. Permission of council required for service outside town.**

No water shall be supplied by the town to any person outside the corporate limits of the town, except upon express permission granted by the council.  
(Code 1971, § 17-14)

**Sec. 17-18. Connection charges.**

For each water connection made to the public water system, there shall be a charge as set by the council for any and all residential, commercial, institutional and industrial connections. The council shall set these charges only after a duly adopted resolution specifying charges for residential connections, involving single-family and multifamily dwellings, commercial, institutional and industrial establishments.  
(Code 1971, § 17-12; Ord. of 7-13-82)

**Sec. 17-19. Installation, inspection, etc., of meters.**

(a) Each meter installed for the measurement of water supplied by the town shall be installed by the town, or its appointed agent, at a location approved by the town or its agent. All meters so installed shall be the property of the town. For each such meter installed there shall be paid to the town, as a meter installation charge, such sum as is prescribed from time to time, by the council, to be collected when the meter is placed in use.

(b) Each meter installed for the measurement of water supplied by the town shall at all times be subject to control and inspection by the town or its agent, and where any meter is located on private property, the town shall have the right to enter upon or on the same at all reasonable hours for the purpose of inspecting, repairing, replacing or removing such meter or to take meter readings.

(Code 1971, §§ 17-37--17-39)

**Sec. 17-20. Property owner or occupant responsible for expense of renewing or repairing meter negligently damaged.**

Any water meter damaged for any cause, directly or indirectly attributable to the negligence of the owner or occupant of the property served by such meter, shall be renewed or repaired at the expense of such owner or occupant.

(Code 1971, § 17-47)

**Sec. 17-21. By whom cutoffs made.**

Water cutoffs shall be made by the superintendent of public works.

(Code 1971, § 17-16)

**Sec. 17-22. Charge for cutoff at request of customer.**

A charge, in such amount as is, from time to time, prescribed by the council, shall be made for having water service to a particular premises turned off at the request of the customer.

(Code 1971, § 17-46)

**Sec. 17-23. Unauthorized use of water.**

No person shall use water from the town's water system without having obtained the right to do so.

(Code 1971, § 17-17)

## **Sec. 17-24. Reserved.**

**Editor's note:** Ord. of 9-13-11(1) repealed former § 17-24 in its entirety which pertained to emergency restrictions and derived from an Ord. of 7-9-91.

## **Sec. 17-25. Drought response ordinance.**

(a) *Drought supply situations.* The Town of Berryville acknowledges that there may be situations where the water supply to the town's water system is reduced by a variety of factors. In recognition of this, the town intends to apply educational, and ultimately enforcement actions, to achieve water conservation measures of varying degrees. This plan should enable appropriate water usage by appropriate water users at reduced consumption levels during these periods as declared by the town council.

(b) *Drought water supply response plan.* The town council adopts by reference the current version of the Northern Shenandoah Valley Regional Commission (NSVRC) Drought Response Plan. The adoption of this plan, or a substitution plan authorized by the town council, is pursuant to, and authorized by, applicable sections of the Virginia Code (as required by 9VAC 25-780-120; and as authorized by Code of Virginia § 15.2-923(ii) - Local Water-Saving Ordinances, and § 15.2-924 - Water Supply Emergency Ordinances).

(c) *Construction site stabilization during drought conditions.* To stabilize construction sites during drought conditions, strict adherence to the Erosion and Sediment Control (ESC) Minimum Standards and the Virginia ESC Handbook, along with frequent site inspection, must be applied. The Virginia Department of Conservation and Recreation Erosion & Sediment Control Technical Bulletin No. 3 recommends the following construction site stabilization methods during drought conditions:

- (1) Preserve established vegetation on construction sites.
- (2) Establish new vegetation to stabilize construction sites while conserving water.
- (3) Stabilize construction sites using non-vegetative methods.
- (4) Research other water conservation resources as identified on the bulletin.

(d) *Decisions/declarations and data sources.*

(1) The town council reserves the right to interpret local water system data, and have sole control over the declaration of a drought/low water supply watch, warning, or emergency. Likewise, the town council reserves the right to reduce, rescind, or eliminate any such declaration. The mayor and town manager may make the following declarations in accordance with provisions of this section.

**WATCH**— When a ten-percent reduction or more in available water supply is observed. Under a watch declaration, the following voluntary measures are sought:

a. Voluntary water conservation.

i. Residents/businesses are asked to review their water usage and be aware of and limit high water use including but not limited to overwatering lawns, washing sidewalks and driveways.

ii. Residents/businesses are asked to only water on even or odd days based on their address. If their address is an even number, water on even numbered days, if their address is an odd number, water on odd numbered days.

**WARNING**— When a reduction or more in available water supply is observed. Under a warning declaration, the following voluntary measures are sought:

a. Voluntary water conservation.

i. Residents/businesses are asked to review their water usage and be aware of and limit high water use.

b. Mandatory water restrictions.

i. Residents shall only water on even or odd days based on their address as specified above.

ii. Where possible, non-vegetative erosion and sediment control methods shall be employed as identified in the Virginia Department of Conservation and Recreation Erosion & Sediment Control Technical Bulletin No. 3. Drought bond is in an amount designated by the community development director.

iii. No car washing or outdoor washing. Commercial carwashes utilizing public water will be permitted to operate if they can demonstrate that at least fifty (50) percent of the water used is recycled during the car washing process. Commercial carwashes where well water is used may operate as usual but shall post signs at the business indicating such water source.

iv. No washing of streets, driveways, parking lots, service station aprons, office buildings, exteriors of homes or apartments or other outdoor surfaces.

v. No operation of any outdoor fountain or other structure making a similar use of water.

vi. No filling of swimming and/or wading pools.

vii. No use of water from fire hydrants for any purpose other than fire suppression or other public emergency.

*EMERGENCY--* When a twenty-percent reduction or more in available water supply is observed. Under an emergency declaration the following are mandatory restrictions

a. Mandatory water restrictions.

i. Public/businesses are required to conserve. Penalties/sanctions are enforceable pursuant to town ordinance for failure to comply with restrictions as listed.

ii. Public notification will be posted of "Mandatory water restrictions in effect."

iii. All mandatory restrictions listed under the warning level shall be enforced.

iv. High water uses (those consistently using more than one thousand (1,000) gal/day) shall have prepared curtailment plans demonstrating how they shall respond to emergency situations and shall implement such.

v. No car washing or outdoor washing. Commercial carwashes will be permitted to operate if they can demonstrate that at least fifty (50) percent of the water used is recycled during the car washing process. Commercial carwashes where well water is used may operate as usual but shall post signs at the business indicating such water source.

vi. No lawn watering. Use of gray water permitted for plants, shrubs and gardens in accordance with Virginia Department of Health and Virginia Department of Environmental Quality standards. Definitions of gray water:

- Relatively clean waste water, such as from kitchen, bathroom (not the toilet), and laundry cycles. This water can be reused or recycled with little or no treatment for landscape irrigation and other non-potable uses.

- Waste water discharged from residential lavatories, bathtubs, showers, clothes washers, and laundry trays.

vii. No "topping off" of swimming pools.

(2) The town council shall choose their local data sources, establish their local trigger points for the varying declarations, and evaluate various information sources prior to enabling or rescinding any noted declaration.

(3) Should the NSVRC Drought Response Plan become unsuitable to the Town of Berryville, the council reserves the right to substitute its own drought/low water supply response plan (as approved by the Commonwealth) in lieu of Section 15-25(b).

(4) Should the water usage reduction measures implemented by the Town, either voluntary or mandatory, prove inadequate, the town council shall have the authority to impose additional measures to achieve the water usage reduction goals.

(e) *Enforcement.*

(1) Violations of this section shall constitute an offense as outlined herein. The Berryville Police Department shall be charged with enforcing this section.

- (2) During a watch declaration:
  - a. Verbal reminder for any noted issues.

- (3) During a warning declaration enforcement for mandatory restrictions:

TABLE INSET:

a.	First offense	Verbal warning
b.	Second offense	Written warning notice
c.	Third offense	Disconnection of service and initiation of legal action

- (4) During an emergency declaration enforcement for mandatory restrictions:

TABLE INSET:

a.	First offense	Written warning notice
b.	Second offense	Disconnection of service
c.	Third offense	Disconnection of service and initiation of legal action

(5) Reconnect fees shall apply to any customer whose service was disconnected under in violation of the emergency declaration.

(6) Flagrant and/or repeat offenders of any declaration may, by decision of the town manager, initiate legal action of this provision.

(f) *Enforcement actions.* Any person who shall violate any of the provisions of this section, or of any of the conservation regulations promulgated by the mayor and town manager pursuant thereto, shall upon conviction thereof, be fined not less than one hundred dollars (\$100.00), nor more than five hundred dollars (\$500.00). Each act or each day's continuation of the violation shall be considered a separate offense. In addition to the foregoing, the town manager may suspend water service to any person continuing to violate the provisions of this section or the regulations promulgated hereunder. If such water service is terminated, the person shall pay a reconnection fee as established by town council before service will be restored.

(g) *Appeal process.*

(1) If a customer wishes to appeal any decision by the town manager, they may present their case before the town council.

(2) If a customer wishes to appeal any decision by the town council, they may present their case before the circuit court.

(h) *Notification.*

(1) The mayor and town manager, upon rendering a decision pursuant to this chapter, may make such decision known to the public by a variety of media sources such as newspaper, local television access channel, written notices, and/or telephone contacts.

(Ord. of 9-13-11(3)

Secs. 17-26--17-33. Reserved.

## **ARTICLE III. SEWERS AND SEWAGE DISPOSAL**

### **Sec. 17-34 GENERAL PROVISIONS**

#### **(a) Purpose**

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

#### **(b) Scope**

(1) The definitions of terms used in this Ordinance are found in Article II. The provisions of this Ordinance shall apply to the discharge of all wastewater to treatment works of the Town of Berryville. This Ordinance provides for use of the Town of Berryville treatment works, regulation of sewer construction, control of the quantity and quality of wastewater discharged, wastewater pretreatment, equitable distribution of costs, assurance that existing customers' capacity will not be preempted, approval of sewer construction plans, issuance of user Permits, minimum sewer connection standards and conditions, and penalties and other procedures in cases of violation of this Ordinance.

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

#### **(c) Administration**

Except as otherwise provided herein, the Director of Public Utilities shall administer, implement, and enforce the provisions of this Ordinance.

#### **(d) Fees and Charges**

(1) All fees and charges payable under the provisions of this Ordinance shall be paid to the Town. Such fees and charges shall be as set forth herein or as established in the latest edition of the Town of Berryville Schedule of Water and Sewer Fees and Charges.

(2) All user fees, penalties and charges collected under this Ordinance (and the treatment works user charge ordinance) shall be used for the sole purpose of constructing, operating or maintaining the treatment works of the Town, or the retirement of debt incurred for same.

(3) All fees and charges payable under the provisions of this Ordinance are due and payable upon the receipt of notice of charges. Unpaid charges shall become delinquent and shall be subject to penalty and interest charges as provided for in the latest edition of the Town of Berryville Schedule of Water and Sewer Fees and Charges.

#### **(e) Inspections**

(1) The Director of Public Utilities or authorized State or Federal officials, bearing the proper credentials and identification, shall be permitted to enter all premises where an effluent source or treatment system is located at any reasonable time for the purposes of inspection, observation, measurement, sampling and/or copying records of the wastewater discharge to ensure that discharge to the treatment works is in accordance with the provisions of this Ordinance.

(2) The Director or authorized representative, bearing proper credentials and identification, shall be permitted to enter all private property through which the Town holds an easement for the purposes of inspection, observation, measurement, sampling, repair, and maintenance of any of the Town's treatment works lying within the easement. All entry, and any subsequent work on the easement, shall be done in final accordance with the terms of the easement pertaining to the private property involved.

(3) While performing any necessary work on private properties referred to in Sections (e) (1) and (2) above, the Director shall observe all safety and occupational rules established by the owner or occupant of the property and applicable to the premises.

(f) Separability

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

(g) Amendments of the Ordinance

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

## **Sec. 17-35 DEFINITIONS**

(a) Specific Definitions

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

"Act" shall mean the Federal Clean Water Act, 33. U.S.C. 1251 et seq.

"Approval Authority" means the Executive Director or Director of the Department of Environmental Quality.

"ASTM" shall mean the American Society for Testing and Materials.

"Authorized Representative of Industrial User" shall mean:

- 1) A principal executive officer of at least the level of vice president, if the industrial user is a corporation; or
- 2) A general partner or proprietor if the industrial user is a partnership or sole proprietorship respectively; or
- 3) A duly authorized representative of the individual designated in #1 or #2, above, if such representative is responsible for the overall operation of the facility from which the discharge to the POTW originates. The authorization must be submitted to the (Manager) prior to or together with any reports to be signed by the authorized representative.

"BOD" (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen used in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees C, expressed in milligrams per liter.

"Building Sewer" shall mean the extension of the lateral (service) line from a building wastewater plumbing facility to the sewer main or manhole of the treatment works.

"Categorical Pretreatment Standard or Categorical Standard" shall mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Sections 307(a) & 307(c) of the Act, which apply to specific categories of industrial users which appear in 40 CFR Chapter I, Subchapter N, Parts 405 - 471.

"Combined Sewer" shall mean a sewer intended to receive both wastewater and storm or surface water.

"Day" shall mean the 24-hour period beginning at 12:01 a.m.

*"Director"* shall mean the Town Director of Public Utilities or an authorized designee.

*"Discharger"* shall mean person or persons, firm, company, industry or other similar sources of wastewater who introduce such into the POTW.

*"Easement"* shall mean an acquired legal right for the specific use of land owned by others.

*"EPA"* shall mean the United States Environmental Protection Agency.

*"Establishment"* shall mean any industrial establishment, mill, factory, tannery, paper or pulp mill, mine, coal mine, colliery, breaker or coal processing operations, quarry, oil refinery, boat, vessel, and each and every other industry or plant or works the operation of which produces industrial wastes or other wastes or which may otherwise alter the physical, chemical or biological properties of any state waters.

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

*"Garbage"* shall mean the solid animal and vegetable wastes resulting from the domestic or commercial handling, storage, dispensing, preparation, cooking, and serving of foods.

*"Ground Water"* shall mean any water beneath the land surface in the zone of saturation.

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

*"Industrial User or Significant Discharger"* means a source of indirect discharge, or a nondomestic discharge to a treatment works.

*"Industrial Wastes"* shall mean liquid or other wastes resulting from any process of industry, manufacture, trade or business, or from the development of any natural resources.

*"Interference"* shall mean an inhibition or disruption of the POTW, its treatment processes or operations, or its sludge processes, which clearly causes, in whole or in part, a violation of any requirement of the POTW's VPDES permit, including those discharges that prevent the use or disposal of sludge by the POTW in accordance with any federal or state laws, regulations, permits or sludge management plans.

*"May"* is permissible; *"Shall"* is mandatory.

*"Municipality"* shall mean a town, district association, authority or other public body created under the law and having jurisdiction over disposal of sewage, industrial, or other wastes.

*"Natural Outlet"* shall mean any outlet into a watercourse, pond, ditch, lake, or any other body of surface or groundwater.

*"New Source"* shall have the same meaning as provided in 40 CFR Part 403.3(k) (1990).

"*VPDES*" shall mean Virginia Pollutant Discharge Elimination System permit program, as administered by the Commonwealth of Virginia.

"*Owner*" shall mean the Commonwealth or any of its political subdivisions, including, but not limited to, sanitation district commissions and authorities, and public or private institutions, corporations, associations, firms or companies organized or existing under the laws of this or any other state or country, or any person or group of persons acting individually or as a group.

"*Pass-Through*" shall mean the discharge of pollutants through a POTW into State waters in quantities or concentrations which are a cause in whole or in part of a violation of any requirement of the POTW's VPDES permit, including an increase in the magnitude or duration of a violation.

"*Person*" shall mean any individual, firm, company, association, society, partnership, corporation, municipality, or other similar organization, agency or group.

"*pH*" shall mean the logarithm of the reciprocal of the hydrogen ion concentration expressed in grams per liter of solution as determined by Standard Methods.

"*Pollutant*" shall mean any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical waste, chemical waste, industrial waste, biological materials, radio active material, heat wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial waste, and certain characteristics of the wastewater (i.e., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, odor).

"*POTW, Publicly Owned Treatment Works*" shall mean any sewage treatment works that is owned by a State or Municipality. Sewers, pipes, or other conveyances are included in this definition only if they convey wastewater to a POTW providing treatment.

"*Pretreatment*" shall mean the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to discharge to the Town of Berryville treatment works.

"*Pretreatment Requirements*" shall mean any substantive or procedural requirement related to pretreatment imposed on an industrial user, other than a pretreatment standard.

"*Pretreatment Standard*" shall mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act, which applies to Industrial users.

"*Properly Shredded Garbages*" shall mean garbage that has been shredded to such a degree that all particles will be carried freely under flow conditions normally prevailing in the treatment works, with no particle greater than ½ inch in any dimension.

"*Residential User (Class 1)*" shall mean all premises used only for human residency and which is connected to the treatment works.

"*Sanitary Wastewater*" shall mean wastewater discharged from the sanitary conveniences of dwellings, office buildings, industrial plants, or institutions.

"*Significant Industrial User*" shall be defined as follows:

- (1) Has a process wastewater\* flow of 25,000 gallons or more per average work day;  
(\*Excludes sanitary, non-contact cooling and boiler blowdown wastewater)
- (2) Contributes a process waste stream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW;
- (3) Is subject to categorical pretreatment standards; or
- (4) Has significant impact, either singularly or in combination with other significant dischargers, on the treatment works or the quality of its effluent.

*"Slug Load"* shall mean any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standard in Article III, Section 17-38 of this Ordinance or any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge.

*"Standard Methods"* shall mean the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, Water Pollution Control Federation and American Water Works Association.

*"State"* shall mean the Commonwealth of Virginia.

*"Storm Sewer"* shall mean a sewer for conveying storm, surface, and other waters, which is not intended to be transported to a treatment works.

*"Surface Water"* shall mean:

- (1) all waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
- (2) all interstate waters, including interstate "wetlands";
- (3) all other waters, such as inter/intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, "wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
  - (i) which are or could be used by interstate or foreign travelers for recreational or other purposes;
  - (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
  - (iii) which are used or could be used for industrial purposes by industries in interstate commerce.
- (4) all impoundments of waters otherwise defined as surface waters under this definition;
- (5) tributaries of waters identified in paragraphs (1) - (7) of this definition;
- (6) the territorial sea; and
- (7) "wetlands" adjacent to waters other than waters that are themselves wetlands, identified in paragraphs (1) - (6) of this definition.

*"Suspended Solids"* shall mean the total suspended matter that either floats on the surface of, or is in suspension in, water or wastewater as determined by Standard Methods.

*"Treatment Facility"* shall mean only those mechanical power-driven devices necessary for the transmission and treatment of pollutants (e.g., pump stations, unit treatment processes).

*"Treatment Works"* shall mean any devices and systems used for the storage, treatment, recycling and/or reclamation of sewage or liquid industrial waste, or other waste necessary to

recycle or reuse water, including intercepting sewers, outfall sewers, sewage collection systems, individual systems, pumping, power and other equipment and their appurtenances, extensions, improvements, remodeling, additions, or alterations, and any works, including land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment, or any other method or system used for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste or industrial waste, including waste in combined sewer water and sanitary sewer systems.

"*Toxics*" shall mean any of the pollutants designated by Federal regulations pursuant to Section 307 (a) (1) of the Act.

"*User*" shall mean a source of wastewater discharge into a POTW.

"*User Permit*" shall mean a document issued by the POTW to the User that permits the connection and/or introduction of wastes into the treatment works under the provisions of this Ordinance.

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

"*WPCF*" shall mean the Water Pollution Control Federation.

(b) General Definitions

Unless the context of usage indicates otherwise, the meaning of terms in this Ordinance and not defined in Section 17-35 above, shall be as defined in the Glossary: Water and Wastewater Control Engineering prepared by Joint Editorial Board of the American Public Health Association, American Society of Civil Engineers, American Water Works Association, and Water Pollution Control Federation, Copyright 1969.

**Sec. 17-36 USE OF TOWN'S TREATMENT WORKS & TREATMENT FACILITY**

(a) Waste Disposal

It shall be unlawful for any person to place, deposit, or permit to be deposited in any condition that may be considered as an unsanitary or unhygienic manner on public or private property within the Town of Berryville, or in any area under the jurisdiction of said Town, any human or animal excrement, garbage, or other objectionable waste.

(b) Wastewater Discharges

It shall be unlawful under State and Federal Law to discharge without a VPDES permit to any natural outlet within the Town of Berryville or in any area under its jurisdiction. Wastewater discharges to the Town's treatment works are not authorized unless permitted by Director in accordance with provisions of this Ordinance.

(c) Wastewater Disposal

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

(d) Connection to Treatment Works Required

The owner of any house, building, or property which is used for commercial, industrial and/or residential purposes, abutting on any street, alley, or rights-of-way in which there is or may be

located a sewer connected to the treatment works of the Town, is required at the owner's expense to install suitable toilet facilities therein, and to connect such facilities directly to the proper sewer in accordance with the provisions of this Ordinance, within 180 days after notice that sewer is available within 250 feet of the property line. This section shall not apply to any person served by a privately constructed, owned, operated, and maintained sewer and treatment facility which discharges directly to a natural outlet in accordance with the provisions of this Ordinance and applicable State and Federal laws.

## **Sec. 17-37 BUILDING SEWERS AND CONNECTIONS**

### **(a) Cost for building sewer installation, connection, maintenance, and repair**

All costs and expenses incident to the installation, connection, maintenance and repair of the building sewer shall be borne by the owner or occupant. The owner/occupant shall indemnify the town from any loss or damage that may directly or indirectly be occasioned by the installation, maintenance and /or repair of the building sewer.

### **(b) Connection Permit**

(1) No person shall uncover, make any connections with, use, alter, or disturb any wastewater sewer or storm sewer without first obtaining a written permit from the Director of Public Works.

(2) There shall be two (2) classes of permits for connections to the Town's Treatment Works & Treatment Facilities.

CLASS I - residential

CLASS II - industrial

In all cases, the owner shall make application for a permit to connect to the Town's treatment works on a form furnished by the Town. The permit application shall be supplemented by wastewater information required to administer this Ordinance. Connection application fees, as identified in the latest edition of the Town of Berryville Schedule of Water and Sewer Fees and Charges, shall be paid at time of application.

(3) Connections to a storm sewer shall be subject to a connection permit and inspection fee. Connection permit and inspection fees, as identified in the latest edition of the Town of Berryville Schedule of Water and Sewer Fees and Charges, shall be paid at time of application. Such connections shall be subject to the provisions of this Ordinance and the approval of the Director.

### **(c) Separate Connections Required**

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

### **(d) Existing Building Sewers**

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

### **(e) Building Sewer Design**

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

(f) Building Sewer Elevation

Whenever practicable, the building sewer shall be brought to a building at an elevation below the basement floor. In buildings in which any building drain is too low to permit gravity flow to the Town's treatment works, wastewater carried by such building drain shall be lifted by an approved means and discharged to a building sewer draining to the Town sewer. The cost of said lifting shall be borne by the property owner. The property owner shall be responsible for maintaining all equipment and improvements required to lift the discharge.

(g) Surface Runoff and Groundwater Drains

(1) No person shall connect roof, foundation, areaway, parking lot, roadway, or other surface runoff or groundwater drains to any sewer which is connected to a treatment works.

(2) Roof, foundation, areaway, parking lot, roadway, or other surface runoff or groundwater drains shall discharge to natural outlets or storm sewers.

(h) Conformance to Applicable Codes

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

(i) Connection Inspection

The applicant for a building sewer or other drainage connection permit shall notify the Director when such sewer or drainage connection is ready for inspection prior to its connection to the Town's treatment works. Such connection inspections and testing as deemed necessary by the Director shall be made by the Director of Public Works or authorized designee.

(j) Excavation Guards and Property Restoration

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

(k) Protection of Capacity for Existing Users

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

## **Sec. 17-38 CONDITIONS TO USE THE TOWN'S TREATMENT WORKS**

(a) Special Uses of Treatment Works

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

(b) Industrial User, General Prohibition Upon

An industrial user shall not introduce any pollutants into the Town's treatment works which will pass through or interfere with the operation or performance of the treatment facilities.

(c) Restricted Discharges

(1) No person shall discharge or cause to be discharged to any of the Town's treatment works any substances, materials, waters, or wastes in such quantities or concentrations which do or are likely to:

(i) Create a fire or explosion hazard including, but not limited to, gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas; waste stream with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using test methods specified in 40 CFR 261.21;

(ii) Cause corrosive damage or hazard to structures, equipment, or personnel of the wastewater facilities, but in no case discharges with the following properties:

- having a pH lower than 6.0 or greater than 10.0

(iii) Cause obstruction to the flow in sewers, or other interference with the operation of treatment facilities due to accumulation of solid or viscous materials;

(iv) Constitute a rate of discharge or substantial deviation from normal rates of discharge, ("slug discharge"), sufficient to cause interference in the operation and performance of the treatment facilities;

(v) Contain heat in amounts which are likely to accelerate the biodegradation of wastes, causing the formation of excessive amounts of hydrogen sulfide in the treatment works or inhibit biological activity in the treatment facilities, but in no case shall the discharge of heat cause the temperature in the Town wastewater sewer to exceed 65 degrees C (150 degrees F) or the temperature of the influent to the treatment facilities to exceed 40 degrees C (104 degrees F);

(vi) Contain more than 100 milligrams per liter of non-biodegradable oils of mineral or petroleum origin;

(vii) Contain floatable oils, fat, or grease;

(viii) Contain noxious gases, vapors or fumes, malodorous gas or substance in quantities that may cause a public nuisance or cause acute human or safety problems;

(ix) Contain radioactive wastes in harmful quantities as defined by applicable State and Federal regulations;

(x) Contain any garbage that has not been properly shredded;

(xi) Contain any odor or color producing substances exceeding concentration limits which may be established by the Director for purposes of meeting the Town's VPDES permit.

(xii) Petroleum oil, non-biodegradeable cutting oil or products of mineral oil origin in amounts that will cause interference or pass through.

(xiii) Any trucked or hauled pollutants except at designated discharge points.

(2) If, in establishing discharge restrictions, discharge limits, or pretreatment standards pursuant to the Article, the Director establishes concentration limits to be met by a user, the Director in lieu of concentration limits, may establish mass limits of comparable stringency for an individual user at the request of such user. Upon approval by the State, such limits should become pretreatment standards.

(d) Categorical Pretreatment Standards

(1) No person shall discharge or cause to be discharged to any treatment works wastewaters containing substances subject to an applicable Categorical Pretreatment Standard promulgated by EPA in excess of the quantity prescribed in such applicable pretreatment standards except as otherwise provided in this section. Compliance with such applicable pretreatment standards shall be within 3 years of the date the standard is promulgated, provided, however, compliance with a categorical pretreatment standard for new sources shall be required upon commencement of discharge to the treatment works.

(2) The Director shall notify any industrial user affected by the provisions of this Section and establish an enforceable compliance schedule for each.

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

(e) Special Agreements

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

(f) Water & Energy Conservation

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

(g) Excessive Discharge

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

(h) Accidental Discharges

(1) Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this Ordinance. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Town for review, and shall be approved by the Town before construction of the facility. No user who commences contribution to the POTW after the effective date of this ordinance shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the Town. Review and approval of such plans and operating procedures shall not relieve the user from the responsibility to modify the user's facility as necessary to meet the requirements of this ordinance. In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.

(2) Within five (5) days following an accidental discharge; the user shall submit to the Director a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the treatment works and treatment facility, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law.

(3) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall insure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

## **Sec. 17-39 INDUSTRIAL DISCHARGERS**

(a) Information Requirements

(1) All industrial dischargers shall file with the Town wastewater information deemed necessary by the Director for determination of compliance with this Ordinance, the Town's

VPDES permit conditions, and State and Federal law. Such information shall be provided by completion of a questionnaire designed and supplied by the Director and by supplements thereto as may be necessary. Information requested in the questionnaire and designated by the discharger as confidential is subject to the conditions of confidentiality as set out in Section 17-39 (a) (3).

(2) Where a person owns, operates or occupies properties designated as an industrial discharger at more than one location, separate information submittals shall be made for each location as may be required by the Director.

(3) Information and data on an Industrial User obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the User specifically requests and is able to demonstrate to the satisfaction of the Town that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the User.

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

Information accepted by the Town as confidential, shall not be transmitted to any governmental agency or to the general public by the Town until and unless a ten-day notification is given to the User.

(b) User Permits

(1) All significant industrial users proposing to connect to or to contribute to the treatment works shall obtain a User Permit before connecting to or contributing to the treatment works. All existing significant industrial users connected to or contributing to the treatment works shall obtain a User Permit within (180) days after the effective date of this Ordinance.

(2) Significant Industrial Users required to obtain a Permit shall complete, and file with the Town, an application in the form prescribed by the Town. Applicants for significant industrial user permits shall pay a fee, as identified in the latest edition of the Town of Berryville Schedule of Water and Sewer Fees and Charges, at time of application. Existing significant industrial users shall apply for a Permit within (30) days after the effective date of this Ordinance, and proposed new significant industrial users shall apply at least (90) days prior to connecting to or contributing to the treatment works. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

- (i) Name, address, and location, (if different from address);
- (ii) SIC number according to the Standards Industrial Classification Manual, Bureau of the Budget, 1987, as amended;
- (iii) Wastewater constituents and characteristics including but not limited to those mentioned in Section 17-38 of this Ordinance as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304 (g) of the Act and contained in 40 CFR, Part 136, as amended;
- (iv) Time and duration of contribution;
- (v) Average daily and peak wastewater flow rates, including daily, monthly and seasonal variations, if any;

- (vi) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by their size, location and elevation;
- (vii) Description of activities, facilities and plant processes on the premises including all materials which are or could be discharged;
- (viii) The nature and concentration of any pollutants in the discharge. A statement identifying the applicable pretreatment standards and requirements, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional O&M and/or additional pretreatment is required for the User to meet applicable Pretreatment Standards;
- (ix) If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the User will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard.

The following conditions shall apply to this schedule:

- (a) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable Pretreatment Standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).
- (b) No increment referred to in paragraph (a) above shall exceed (1) year.
- (c) Not later than 14 days following each date in the schedule and the final date for compliance, the User shall submit a progress report to the Director including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress; the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than 1 year elapse between such progress reports to the Director.
- (x) Each product produced by type, amount, process or processes and rate of production;
- (xi) Type and amount of raw materials processed (average and maximum per day);
- (xii) Number of type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;
- (xiii) Any other information as may be deemed by the Town to be necessary to evaluate the user permit application.

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

(3) Within 9 months of the promulgation of a National Categorical Pretreatment Standard, the User Permit of Users subject to such standards shall be revised to require compliance with such standard if they are more restrictive than the local limits developed by the POTW within the timeframe prescribed by such standard. Where a User, subject to a National Categorical Pretreatment Standard, has not previously submitted an application for a User Permit as required by Section 17-39 (b) (2), the User shall apply for a User Permit within 180 days after the promulgation of the Applicable National Categorical Pretreatment Standard. In addition, the User with an existing User Permit shall submit to the (Manager), within 180 days

after the promulgation of an applicable Federal Categorical Pretreatment Standard, the information required by section 17-39 (b) (2) (viii) and (ix).

(4) Permit Conditions:

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

- (i) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;
- (ii) Limits on the average and maximum wastewater constituents and characteristics;
- (iii) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;
- (iv) Requirements for installation and maintenance of inspection and sampling facilities;
- (v) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;
- (vi) Compliance schedules;
- (vii) Requirements for submission of technical reports or discharge reports (See Section 17-39 (c));
- (viii) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the Town, and affording the Town access thereto;
- (ix) Requirements for notification of the Town for any new introduction of wastewater constituents or any substantial change in volume or character of the wastewater constituents being introduced into the treatment works;
- (x) Requirements for immediate notification of slug discharges;
- (xi) Other conditions as deemed appropriate by the Town to ensure compliance with this ordinance; and
- (xii) Statement of applicable remedies.

(5) User Permits shall be issued for a specified time period, not to exceed five (5) years.

A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the Town during the term of the permit as limitations or requirements as identified in Section 17-39 (b) are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(6) User Permits are issued to a specific user for a specific operation. A User permit shall not be reassigned or transferred or sold by the User to a new owner, new user, different premises, or a new or changed operation without the approval of the Town. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit in the interim prior to the issuance of the respective new permit.

(c) Reporting Requirements for Permittee

(1) Within 90 days following the date for final compliance with applicable Pretreatment Standards or, in the case of a New Source, following commencement of the introduction of wastewater into the wastewater treatment facilities, any User subject to Pretreatment Standards and Requirements shall submit to the Director a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by Pretreatment Standards and Requirements and the average and maximum daily flow for these process units in the User facility which are limited by such Pretreatment Standards or Requirements. The report shall state whether the applicable Pretreatment Standards or Requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to

bring the User into compliance with the applicable Pretreatment Standards or Requirements. In addition, the report shall contain the results of any sampling and analysis of the discharge as specified in paragraph (2) below. This statement shall be signed by an authorized representative of the User, and certified to by a qualified professional.

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

(ii) The Director may impose mass limitations on Users which are using dilution to meet applicable Pretreatment Standards or Requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by subparagraph (1) of this paragraph shall indicate the mass of pollutants regulated by Pretreatment Standards in the effluent of the User. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or Production and mass where requested by the Director, of pollutants contained therein which are limited by the applicable Pretreatment Standards. The frequency of monitoring shall be prescribed in the permit. All analysis shall be performed in accordance with procedures established by EPA pursuant to Section 304 (g) of the Act and contained in 40 CFR, Part 136 and amendments thereto or with any other test procedures approved by EPA. Sampling shall be performed in accordance with the techniques approved by EPA. All samples analyzed by this method should be reported.

(d) Provision for Monitoring

(1) When required by the Director, the owner of any property serviced by a building sewer carrying Class II wastewater discharges shall provide suitable access and such necessary meters and other devices in the building sewer to facilitate observation, sampling, and measurement of the wastewater. Such access shall be in a readily and safely accessible location and shall be provided in accordance with plans approved by the Director. The access shall be provided and maintained at the owner's expense so as to be safe and accessible at reasonable times.

(2) The Director shall consider such factors as the volume and strength of discharge, rate of discharge, quantities of toxic materials in the discharge, treatment facility removal capabilities, and cost effectiveness in determining whether or not access and equipment for monitoring Class II wastewater discharges shall be required.

(3) Where the Director determines access and equipment for monitoring or measuring Class II wastewater discharges is not practicable, reliable, or cost effective, the (Manager) may specify alternative methods of determining the characteristics of the wastewaters discharge which will, in the Director's judgment, provide a reasonably reliable measurement of such characteristics.

(4) Measurements, tests, and analyses of the characteristics of wastewater required by this Ordinance shall conform to 40 CFR, Part 136 and be performed by a qualified laboratory. When such analyses are required of a discharger, the discharger shall make arrangement with any qualified laboratory to perform such analyses.

(5) Fees for any given measurement, test, or analysis of wastewater required by this Ordinance and performed by the Town shall be the same for all classes of dischargers, regardless of the quantity or quality of the discharge and shall reflect only direct cost. Costs of analyses performed by an independent laboratory at the option of discharger shall be borne directly by the discharger.

(e) Costs of Damage

If the drainage or discharge from any establishment causes a deposit, obstruction, or damage to any of the Town's treatment works or treatment facility, the Director shall cause the deposit or obstruction to be promptly removed or cause the damage to be promptly repaired. The cost for such work, including materials, labor, and supervision shall be borne by the person causing such deposit, obstruction, or damage.

## **Sec. 17-40 PRETREATMENT**

(a) Wastewaters with Special Characteristics

(1) While the Director should initially rely upon the Federal Categorical Pretreatment Standards to protect wastewater facilities or receiving waters, if any wastewater which contains substances or possesses characteristics shown to have deleterious effect upon the treatment works or treatment facilities, processes, equipment, or receiving waters, or constitutes a public nuisance or hazard, is discharged or is proposed for discharge to the wastewater sewers, the Director may require any or all of the following:

- (i) Pretreatment by the user or discharger to a condition acceptable for discharge to the treatment works;
- (ii) Control over the quantities and rates of discharge;
- (iii) The development of compliance schedules to meet any applicable pretreatment requirements;
- (iv) The submission of reports necessary to assure compliance with applicable pretreatment requirements;
- (v) Carry out all inspection, surveillance, and monitoring necessary to determine compliance with applicable pretreatment requirements;
- (vi) Obtain remedies for noncompliance by any user. Such remedies may include injunctive relief, the civil penalties specified in Section 17-42 (f) of this Ordinance, or appropriate criminal penalties; or
- (vii) Reject the wastewater if evidence discloses that discharge will create unreasonable hazards or have unreasonable deleterious effects on the treatment works or treatment facilities.

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

(3) Where pretreatment or flow-equalizing facilities are provided or required for any wastewater, they shall be maintained continuously in satisfactory and effective operation at the expense of the owner.

(b) Compliance with Pretreatment Requirements

Persons required to pretreat wastewater in accordance with Section 17-40 (a) above shall provide a statement, reviewed by an authorized representative of the user and certified by such representative indicating whether applicable pretreatment requirements are being met on a consistent basis and, if not, describe the additional operation and maintenance or additional pretreatment required for the user to meet the pretreatment requirements. If additional

pretreatment or operation and maintenance will be required to meet the pretreatment requirements, the user shall submit a plan (including schedules) to the Director as described in Section 17-39 (b) (2) (ix). The plan (including schedules) shall be consistent with applicable conditions of the Town's Permit or other local, State or Federal laws.

(c) Monitoring Requirements

Discharges of wastewater to the Town's treatment works from the facilities of any user shall be monitored in accordance with the provisions of the User's permit.

(d) Effect of Federal Law

In the event that the Federal government promulgates a regulation for a given new or existing user in a specific industrial subcategory that establishes pretreatment standards or establishes that such user is exempt from pretreatment standards, such Federal regulations shall immediately supersede Section 17-40 (a) if they are more stringent.

(e) Certification

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

## **Sec. 17-41 WASTEWATER SERVICE, CHARGES AND INDUSTRIAL COST RECOVERY**

(a) Wastewater Service Charges

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

(b) Industrial Cost Recovery

Users of the Town's treatment works and treatment facilities will also be assessed industrial cost recovery charges as required by law.

(c) Determination of System Use

(1) The use of the Town's treatment works and treatment facilities shall be based upon actual measurement and analysis of each user's wastewater discharge, in accordance with provisions of Section 17-39 (d) to the extent such measurement and analysis is considered by the Director to be feasible and cost-effective.

(2) Where measurement and analysis is considered not feasible, determination of each user's use of the treatment works and treatment facilities shall be based upon the quantity of water used whether purchased from a public water utility or obtained from a private source, or an alternative means as provided by Section (3) below.

(3) The Director, when determining actual use of the Town's treatment works and treatment facilities based on water use, shall consider consumptive, evaporative, or other use of water which results in a significant difference between a discharger's water use and wastewater discharge. Where appropriate, such consumptive water use may be metered to aid in determining actual use of the treatment works and treatment facilities. The meters used to measure such water uses shall be of a type and installed in a manner approved by the Director. (The actual average water use by each residential user (Class I) during the three months of (January, February, and March) shall be used as the measure of each respective residential user's actual use of the sewer system throughout the year.)

## **Sec. 17.42 ENFORCEMENT**

### **(a) Harmful Contributions**

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

Any person notified of a suspension of the wastewater treatment service and/or the User Permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the Town shall take such steps as deemed necessary, including immediate severance of the sewer connection and/or the seeking of legal and equitable relief in the circuit court, to prevent or minimize damage to the wastewater treatment facilities or endangerment to any individuals. The Town shall reinstate the User Permit and/or the wastewater treatment service upon proof of the elimination of the non-complying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the Town within 15 days of the date of occurrence.

### **(b) Revocation of Permit**

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

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

### **(c) Notification of Violation**

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

### **(d) Show Cause Hearing**

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

(2) The Director may conduct the hearing and take the evidence, or may designate any of its members or any officer or employee of the Public Utilities Department to:

- (i) Issue in the name of the Director notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;
- (ii) Take the evidence;

(iii) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Director for action thereon.

(3) At any hearing held pursuant to this ordinance, testimony taken must be under oath and recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the transcript costs.

(4) After the Director has reviewed the evidence, he may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances have been installed and existing treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

(e) Legal Action

If any person discharges sewage, industrial wastes or other wastes into the city's treatment works contrary to the provisions of this Ordinance, applicable Federal or State Pretreatment Requirements, or any order of the Town or if any industrial user refuses access to the Director or his designee for purposes of inspection, the Town Attorney may commence an action for appropriate legal and/or equitable relief in the Circuit Court.

(f) Penalties

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

(2) Each day, or portion thereof, a violation continues shall constitute a separate violation.

(g) Falsifying Information

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

### **Sec. 17-43. Private sewage disposal.**

(a) Where a public sanitary sewer is not available under the provisions of section 17-35(d), the building sewer shall be connected to a private sewage disposal system complying with the provisions of this article.

(b) The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the state and local departments of health. No septic tank or cesspool shall be permitted to discharge to any public sewer, or natural inlet, or abutting public or private property.

(c) The owner shall operate and maintain his private sewage disposal facilities in a safe, sanitary manner, at no expense to the town, and with no nuisance whatsoever to others.

(Ord. of 5-10-88)

### **Sec. 17-44. Special provisions.**

(a) Where water from the town water system is used for manufacturing, farming, horticultural, or poultry operations and such water is not being returned to the public sewer system, the user may install a separate water meter to avoid payment of a sewer usage fee for such operations. Such meters shall be subject to a separate minimum water fee. Costs for installing the meters shall be borne by the user.

(Ord. of 5-10-88)

**Sec. 17-45. Extension of sanitary sewer lines within the town limits.**

(a) Sewer main extensions from existing sewer mains within the town limits shall be made in accordance with the Subdivision Ordinance of the Town of Berryville, or if not covered by such ordinance, may be made by the town subject to the availability of funds and the concurrence of the town council.

(b) When any sewer in any street or other right of way is completed and ready for use, the owner of every abutting lot containing an active building whereon sewer is supplied for any human use shall cause such building to be connected with such sewer main.

(c) No connection shall be made to any sewer lateral except after the written application therefor has been approved by the town manager and the superintendent, and the required permit has been obtained.

(Ord. of 5-10-88)

**Sec. 17-46. Extension of sanitary sewer lines outside the town limits.**

(a) Extension of existing public sewer lines to areas outside the town limits may be made only after special written application by the developers or users and approval by the town council.

(b) The total cost of such extensions shall be paid by the developers and user(s) in addition to the appropriate connection fees. The town shall not be made a party to any such agreements for reimbursement or sharing of costs for the extension. Such agreements shall be solely between the requesting person and any future or present landowners.

(c) Any easements required for extensions under this article shall be obtained, and paid for by the person(s) desiring the extension. Such easements shall be recorded in the name of the Town of Berryville.

(d) All extensions shall immediately become the property of the Town of Berryville upon final inspection by the superintendent and acceptance by the town.

(e) Whenever extension approval is granted, and before a permit is issued, the town shall require the applicant(s) to enter into an agreement thereby agreeing to be governed by the ordinances and laws of the town concerning the sewage works and any special regulations that the town council may, from time to time, adopt and direct.

(Ord. of 5-10-88)

Secs. 17-45--17-48. Reserved.

## **ARTICLE IV. WATER AND SEWER SERVICE CHARGES\***

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**\*State law references:** Authority of town to charge and collect compensation for water and sewer service, Code of Virginia, §§ 15.1-321, 15.1-875. See also, §§ 15.1-175, 15.1-876.

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### **Sec. 17-49. Rates--For water.**

The charges for water furnished by the town shall be based on the amount of water passing through the meter, whether such water is used or wasted, and shall be at such rates as are prescribed, from time to time, by the council.

(Code 1971, §§ 17-34, 17-40)

### **Sec. 17-50. Same--For sewer service.**

Charges for sewer services rendered by the town shall be based upon one hundred (100) percent of the amount of water passing through the water meter to the premises in question, and shall be at such rates as are prescribed, from time to time, by the council.

(Code 1971, § 17-35; Ord. of 6-12-79; Ord. of 8-25-81; Ord. of 8-15-89)

### **Sec. 17-51. Deposit to assure payment.**

To assure payment of charges provided for in this article, any customer who receives water for residential property which he does not own shall be required to make a cash deposit with the town, in such amount as is prescribed, from time to time, by the council. Such deposit may be required of other customers, if deemed necessary by the town manager.

(Ord. of 11-10-81)

### **Sec. 17-52. Estimated charges in case of defective meter.**

If at any time it is found that a meter installed for the measurement of water supplied by the town has been tampered with or for any reason fails to register or shall be found defective in registering since the previous reading, the water consumption for such period shall be estimated from other similar readings and the average taken of such readings for the same period, or from past readings or from a like installation, and the charges provided for in this article shall be based on such estimate.

(Code 1971, § 17-49)

### **Sec. 17-53. Responsibility for payment in case of multiple occupants served by same service line and meter.**

When water is supplied by the town through a single service line on which there is only one meter and such water is used by more than one segregated unit in the building, the owner of the building shall be responsible for the payment of the charges provided for in this article.

(Code 1971, § 17-42)

### **Sec. 17-54. Statements generally.**

All statements for town water and sewer service shall be computed by the treasurer on the basis of the rates prescribed by the council and shall be on a monthly basis. Such statements shall be rendered to the property owner, occupant or user as soon as practicable

after monthly meter readings. Such statements shall be considered the correct assessment, unless a correction is requested of the town manager within ten (10) days after the date of the statement.

(Code 1971, § 17-41)

**Sec. 17-55. Billing when tenants change between periods.**

Water and sewer charges for any billing period in which there has been a change in tenants between the time meters are read for one period and read for the following period shall be billed to the owner of the property.

(Code 1971, § 17-50)

**Sec. 17-56. Complaints as to charges; overassessments.**

Any user of water or of sewer service having a complaint in connection with the assessment of charges under this article shall report the same to the town manager, within ten (10) days after the date of the statement rendered for such charges. The town manager shall investigate such complaint and, if warranted by the facts, shall adjust the assessment. Any user who feels that he is overassessed may have his meter tested by the town, by payment of such fee as is prescribed, from time to time, by the council. If the meter is found to overregister, the fee shall be returned, but if the meter is correct or under registering, the fee shall be retained by the town to cover the cost of the test.

(Code 1971, § 17-44)

**Sec. 17-57. When due and payable.**

Statements for charges due under this article shall be due and payable upon presentation and will be considered delinquent, if not paid within fifteen (15) days from the billing date.

(Code 1971, § 17-43; Ord. of 9-11-79; Ord. of 11-10-81)

**Sec. 17-58. Service charge and discontinuing service for delinquencies.**

If the statement for water and sewer service is not paid within fifteen (15) days of its date, a service charge, in such amount as is prescribed, from time to time, by the council, will be added and service will be discontinued until such statement and service charge shall have been paid in full. Service shall be restored when all statements and service charges have been brought to date and a reconnection fee, in such amount as is prescribed, from time to time, by the council, is paid to the town.

(Ord. of 11-10-81)

**REMAINDER OF 17-38**

(e) Fees for connecting building sewer to public sewer lateral for which application is made shall be in accordance with the then current schedule of charges for connections, as such schedule is adopted by resolution of the town council. Such resolution shall be attached to, and made a part of, this article. Connection fees shall be paid in full prior to such time that any connection shall be effected. Connection fees shall be paid for each separate dwelling unit in all buildings containing two (2) or more such units.

(f) All connections will be charged a user fee as established by resolution of the town council and amended from time to time. Connections made pursuant to section 17-38 shall be charged

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a user fee beginning on the date that the connection is made to the public sewer system and the meter is installed.  
(Ord. of 5-10-88)

**BERRYVILLE TOWN COUNCIL  
PERSONNEL COMMITTEE  
Tuesday, April 17, 2012  
Berryville-Clarke County Government Center  
Town Council Conference Room  
Called Meeting  
10:00 a.m.**

**MINUTES**

**Roll:**

**Town Council:**

Present: Recorder Jay Arnold, Chair; Mayor Wilson Kirby

**Staff:** Keith Dalton, Town Manager

**Press:** None

**1. Call to Order** – Recorder Jay Arnold, Chair  
Mayor Kirby called the meeting to order at 10:03 a.m.

**2. Discussion** – Recommendations for Appointments to Town Boards  
The Committee and Staff discussed appointments to the Planning Commission, Berryville Area Development Authority, Board of Zoning Appeals and the Architectural Review Board. The Committee directed staff to place the re-appointment of Margaret Barthel to the Board of Zoning Appeals and Jim Barb to the Architectural Review Board on the next Town Council Agenda.

The committee then set aside the afternoon of May 14, the morning of May 15 and the afternoon of May 16 to interview citizens for appointment to the Town Boards and Commissions.

**3. Adjourn**  
The committee meeting was adjourned at 11:09 a.m.

  
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Keith R. Dalton, Town Manager