

# **Russell County, Virginia**

## **Sewer Use Ordinance**

**Enacted by Russell County Board of Supervisors**

**August 4, 2014**

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## SEWER USE ORDINANCE

**SECTION 1 – GENERAL PROVISIONS****A. Purpose and Policy**

This ordinance sets forth uniform requirements for users of the Publicly Owned Treatment Works (POTW) for the County of Russell (hereinafter "County") and enables the County to comply with all applicable State and Federal laws including the Clean Water Act (33 United States Code Section 1251 et seq.), the General Pretreatment Regulations (40 CFR Part 403), and the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation (9 VAC 25-31-10 et seq., Part VII). The objectives of this ordinance are:

1. To prevent the introduction of pollutants into the POTW that will interfere with the operation of the POTW;
2. To prevent the introduction of pollutants into the POTW which will pass through the POTW, inadequately treated, into receiving waters or otherwise be incompatible with the POTW;
3. To ensure that the quality of the wastewater treatment plant sludge is maintained at a level which allows its use and disposal in compliance with applicable statutes and regulations;
4. To protect both POTW personnel who may be affected by wastewater and sludge from the POTW;
5. To promote reuse and recycling of industrial wastewater and sludge from the POTW;
6. To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the POTW; and
7. To enable County to comply with the VPDES permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the POTW is subject.

This ordinance shall apply to all users of the POTW. The ordinance authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance and enforcement activities; establishes administrative review procedures; requires industrial user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

**B. Administration**

Except as otherwise provided herein, the Public Service Authority (PSA) shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the PSA may be delegated by the PSA to other County personnel.

**C. Abbreviation**

### C. Abbreviation

The following abbreviations, when used in this ordinance, shall have the designated meanings:

- BOD - Biochemical Oxygen Demand
- CFR - Code of Federal Regulations
- COD - Chemical Oxygen Demand
- EPA - U.S. Environmental Protection Agency
- gpd - Gallons Per Day
- mg/l - Milligrams per liter
- VPDES - Virginia Pollutant Discharge Elimination System
- O&M - Operation and Maintenance
- POTW - Publicly Owned Treatment Works
- RCRA - Resource Conservation and Recovery Act
- SIC - Standard Industrial Classifications
- SWDA - Solid Waste Disposal Act (42 U.S.C. Section 6901, et seq.)
- TSS - Total Suspended Solids
- USC - United States Code

### D. Definitions

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated.

1. Act or "the Act". The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.
2. Approval Authority. The Department of Environmental Quality of the Commonwealth of Virginia.
3. Authorized Representative of the User.
  - a. If the user is a corporation, the president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person so designated in writing by the board of directors of such corporation who performs similar policy or decision making functions for the corporation;
  - b. If the user is a partnership, or sole proprietorship: a general partner or proprietor, respectively;
  - c. If the user is a Federal, State, or local governmental facility; a director or highest official appointed or designated by the agency to oversee the operation and performance of the activities of the government facility, or their designee;

- d. The individuals described in paragraphs 1-3, above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to County.
4. Biochemical Oxygen Demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at 20° centigrade, usually expressed as a concentration (mg/l).
5. Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. Section 1317) which apply to a specific category of industrial users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.
6. County. The County of Russell, Virginia.
7. Color. The optical density at the visual wave length of maximum absorption, relative to distilled water. One hundred percent (100%) transmittance is equivalent to zero (0.0) optical density.
8. Composite Sample. The sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.
9. Control Authority. County of Russell, Virginia.
10. Environmental Protection Agency or EPA. The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director or other duly authorized official of said agency.
11. Existing Source. Any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.
12. Grab Sample. A sample which is taken from a waste stream without regard to the flow in the waste stream and over a period of time, not to exceed fifteen (15) minutes.
13. Indirect Discharge or Discharge. The introduction of pollutants into the POTW from any non-domestic source regulated under Section 307(b), (c) or (d) of the Act.
14. Industrial User or User. A source of indirect discharge.
15. Instantaneous Maximum Allowable Discharge Limit. The maximum concentration (or loading) of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.

16. Interference. A discharge which alone or in conjunction with a discharge or discharges from other sources: 1) inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and 2) therefore is a cause of a violation of the POTW's VPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: Section 405 or the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.
17. Medical Waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.
18. New Source.
- a. Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
    - (1) The building, structure, facility or installation is constructed at a site at which no other source is located; or
    - (2) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
    - (3) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
  - b. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of Section a.(2) or (3) above but otherwise alters, replaces, or adds to existing process or production equipment.
  - c. Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
    - (1) Begun, or caused to begin as part of a continuous onsite construction program

- (a) Any placement, assembly, or installation of facilities or equipment; or
  - (b) Significant site preparation work, including clearing, excavation, or removal of existing buildings, structures, or facilities, which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
- (2) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.
- 19. Noncontact Cooling Water. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.
- 20. Pass Through. A discharge which exits the POTW into water of the U.S. in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the VPDES permit, including an increase in the magnitude or duration of a violation.
- 21. Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.
- 22. pH. A measure of the acidity or alkalinity of a solution, expressed in standard units.
- 23. Pollutant. Any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical waste, chemical waste, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, municipal, agricultural, and industrial wastes, and certain characteristics of wastewater (i.e., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).
- 24. Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.
- 25. Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.
- 26. Pretreatment Standards or Standards. Pretreatment standards shall mean prohibitive discharge standards, categorical pretreatment standards, and local limits.

27. Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 2.1 of this ordinance.
28. Publicly Owned Treatment Works or POTW. A "treatment works" as defined by Section 212 of the Act (33 U.S.C. Section 1292), which is owned by the State or municipality. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature, and any conveyances which convey wastewater to a treatment plant. The term also means the municipal entity having jurisdiction over the users and responsibility for the operation and maintenance of the treatment works.
29. Septic Tank Waste. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.
30. Sewage. Human excrement and gray water (household showers, dishwashing operations, etc).
31. Significant Industrial User.
  - a. A user subject to categorical pretreatment standards; or
  - b. A user that:
    - (1) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, non-contact cooling, and boiler blow down wastewater);
    - (2) Contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
    - (3) Is designated as such by the County on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.
  - c. Upon a finding that a user meeting the criteria in Subsection b has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, County may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 9 VAC 25-31-800, determine that such user should not be considered a significant industrial user.
32. Slug Load. Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in Section 2.A of this ordinance, or any discharge of a nonroutine, episodic nature, including but not limited to, an accidental spill or a noncustomary batch discharge.

33. Standard Industrial Classification (SIC) Code. A classification pursuant to the Standard Industrial Classification Manual issued by the U. S. Office of Management and Budget, 1987.
34. Storm Water. Any flow occurring during or following any form of natural precipitation, and resulting therefrom, including snowmelt.
35. Superintendent. The person designated by County to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this ordinance, or a duly authorized representative.
36. Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.
37. Toxic Pollutant. One of the 126 pollutants, or combination of those pollutants, listed as toxic in regulations promulgated by the EPA under the provision of Section 307 (33 U.S.C. Section 1317) of the Act.
38. Treatment Plant Effluent. Any discharge of pollutants from the POTW into waters of the State.
39. Wastewater. Liquid and water-carried industrial wastes, and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.
40. Wastewater Treatment Plant or Treatment Plant. That portion of the POTW designed to provide treatment of sewage and industrial waste.

Shall is mandatory; may is permissive or discretionary. The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.

## SECTION 2 – GENERAL SEWER USE REQUIREMENTS

### A. Prohibited Discharge Standards

#### 1. General Prohibitions

No industrial user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other National, State, or local pretreatment standards or requirement.

#### 2. Specific Prohibitions

No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater.

- a. Pollutants which create a fire or explosive hazard in the municipal wastewater collection and POTW, including, but not limited to, waste streams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21;
- b. Wastewater having a pH less than 5.0 or more than 10.0, or otherwise causing corrosive structural damage to the POTW or equipment;
- c. Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference, [but in no case solids greater than 3 inches in any dimension];
- d. Pollutants, including oxygen demanding pollutants (BOD, etc), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;
- e. Wastewater having a temperature greater than 180°F, or that which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C);
- f. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
- g. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
- h. Trucked or hauled pollutants, except at discharge points designated by the County in accordance with Section 3.D of this ordinance;
- i. Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance, a hazard to life, or to prevent entry into the sewers for maintenance and repair;
- j. Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent thereby violating the VPDES permit;
- k. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations;
- l. Storm water, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, de-ionized water, non-contact cooling water, and unpolluted industrial wastewater, unless specifically authorized by County;
- m. Sludges, screenings, or other residues from the pretreatment of industrial wastes;
- n. Medical wastes, except as specifically authorized by County in a wastewater discharge permit;

- o. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
- p. Detergents, surface active agents, or other substances which may cause excessive foaming in the POTW;
- q. Fats, oils or greases of animal or vegetable origin in concentrations greater than 200mg/l;
- r. Wastewater causing two readings on an explosion hazard meter at the point of discharge into the POTW, or any point in the POTW, of more than eight percent (8%) or any single reading over one percent (1%) of the Lower Explosive Limit of the meter.

Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

All floor drains located in process or materials storage areas must discharge to the user's pretreatment facility before connecting to the POTW.

B. National Categorical Pretreatment Standards

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

- A. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, County shall impose equivalent concentration or mass limits in accordance with 9 VAC 25-31-780.
- B. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, County shall impose an alternate limit using the combined waste stream formula in 9 VAC 25-31-780.
- C. A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 9 VAC 25-31-850, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.
- D. A user may obtain a net gross adjustment to a categorical standard in accordance with 9 VAC 25-31-870.

C. Commonwealth Pretreatment Standards

Commonwealth of Virginia requirements and limitations on pretreatment discharges shall apply in any case where they are more stringent than the Federal requirements and limitations or those in this ordinance.

D. Local Limits

The following pollutant limits are to be established in the individual sewer discharge permit to protect against pass through and interference. No user shall discharge wastewater containing an excess amount of the following pollutants. "Excess" shall be defined on an individual basis in the user's sewer use agreement. Additional pollutants may also apply and this will be evaluated on a case-by-case basis.

<u>pollutant</u>	<u>pollutant</u>	<u>pollutant</u>
arsenic	cyanide	selenium
benzene	chromium	silver
beryllium	lead	total phenols
BOD <sub>5</sub>	mercury	TSS
cadmium	molybdenum	zinc
color	nickel	
copper	oil & grease	

County may apply local limits through issuance of Industrial User Permits as provided in Section 5 of the Ordinance. County may apply local limits based on EPA Categorical Pretreatment Standards, State Water Quality Standards or Criteria, treatment plant process inhibitions, or sludge disposal standards, as necessary to comply with the general prohibitions against pass-through, interference, and sludge contamination in 40 CFR Part 403 and 9 VAC 25-31-10 et seq., Part VII.

E. County of Russell Right of Revision

County reserves the right to establish, by regulation or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW.

F. Dilution

No industrial user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. County may impose mass limitations on industrial users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

**SECTION 3 – PRETREATMENT OF WASTEWATER**A. Pretreatment Facilities

Industrial users shall provide wastewater treatment as necessary to comply with this ordinance and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in Section 2.A above within the time limitations specified by the EPA, the State, or County, whichever is

more stringent. Any facilities necessary for compliance shall be provided, operated and maintained at the user's expense. Detailed plans describing the pretreatment facilities and operating procedures shall be submitted for County review, and shall be acceptable to County before construction of the facilities. The review of such plans and operating procedures will in no way relieve the user from responsibility of modifying the facilities as necessary to produce a discharge acceptable to County under the provisions of this ordinance.

B. Additional Pretreatment Measures

1. Whenever deemed necessary, County may require industrial users into restrict their discharge during peak flow periods, designate that certain wastewater be discharged only to specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the industrial user's compliance with the requirements of this ordinance.
2. County may require any person discharging into the POTW to install and maintain, on their own property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.
3. Grease, oil and sand interceptors shall be provided when, in the opinion of County, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by County and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at his expense.
4. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

C. Accidental Discharge/Slug Control Plans

At least once every two (2) years, County shall evaluate whether each user needs an accidental discharge/slug control plan. County may require any user to develop, submit for approval, and implement such a plan. Alternatively, County may develop such a plan for any user. An accidental discharge/slug control plan shall address, at a minimum, the following:

1. Description of discharge practices, including non-routine batch discharges;
2. Description of stored chemicals;
3. Procedures for immediately notifying the POTW of any accidental or slug discharge. As required by Section 6.F of this ordinance, such notification shall be given for any discharge which would violate any of the prohibited discharges in Section 2.A of this ordinance; and
4. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas,

handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of contaminant structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency purposes.

D. Hauled Wastewater

1. Septic tank waste may be introduced into the POTW only at locations designated by County and at such times as are established by the County. Such waste shall not violate Section 2 of this ordinance or any other requirements established by County. County may require septic tank waste haulers to obtain wastewater discharge permits.
2. County shall require haulers of industrial waste to obtain wastewater discharge permits through the County and DEQ. County may require generators of hauled industrial waste to obtain wastewater discharge permits. County also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this ordinance.
3. Industrial waste haulers may discharge loads at locations designated by County. No load may be discharged without prior consent of County. County may collect samples of each hauled load to ensure compliance with applicable standards. County may require industrial waste hauler to provide a waste analysis of any load prior to discharge.
4. Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.
5. The County reserves the right to refuse acceptance of any hauled waste at the POTW.

E. Vandalism

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, tamper with or prevent access to any structure, appurtenance or equipment, or other part of the POTW. Any person found in violation of this requirement shall be subject to the sanctions set out in Section 10-12 of this ordinance.

#### **SECTION 4 – WASTEWATER DISCHARGE PERMIT APPLICATION**

A. Wastewater Analysis

When required by County a user must submit information on the nature and characteristics of its wastewater by completing a wastewater survey within 14 days of the request. The PSA is authorized to prepare a form for this purpose and may periodically require industrial users to update this information.

Failure to complete this survey shall be reasonable grounds for terminating service to the user and shall be considered a violation of the ordinance.

B. Wastewater Discharge Permit Requirement

1. No user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the County, except that a user that has filed a timely application pursuant to Section 4.C of this ordinance may continue to discharge for the time period specified therein.
2. County may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this ordinance.
3. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in Sections 10 thru 12 of this ordinance. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or requirements or with any other requirements of Federal, State, and local law.

C. Wastewater Discharge Permitting Existing Connections

Any user required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this ordinance and who wishes to continue such discharges in the future, shall, within 30 days after said date, apply to County for a wastewater discharge permit in accordance with Section 4.F of this ordinance, and shall not cause or allow discharges to the POTW to continue after 30 days of the effective date of this ordinance except in accordance with a wastewater discharge permit issued by County.

D. Wastewater Discharge Permitting New Connections

Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging industrial waste into the POTW must obtain a wastewater discharge permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with Section 4.F of this ordinance, must be filed at least 60 days prior to the date upon which any discharge will begin or recommence.

E. Wastewater Discharge Permitting Extra-jurisdictional Industrial Users

1. Any existing significant industrial user located beyond the County service boundary shall submit a wastewater discharge permit application, in accordance with Section 4.F below, within 60 days of the effective date of this ordinance. New significant industrial users located beyond the County service boundary shall submit such applications to County 60 days prior to any proposed discharge into the POTW.
2. Alternately, County may enter into an agreement with the neighboring jurisdiction in which the significant industrial user is located to provide for the implementation and enforcement of pretreatment program requirements against said industrial user.

F. Wastewater Discharge Permit Application Contents

All users required to obtain a wastewater discharge permit must submit a permit application. County may require all users to submit as part of an application the following information:

1. All information required by Section 6.A.2 of this ordinance;
2. Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
3. Number and type of employees, hours of operation, and proposed or actual hours of operation of the POTW;
4. Each product produced by type, amount, process or processes, and rate of production;
5. Type and amount of raw materials processed (average and maximum per day);
6. The site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;
7. Time and duration of discharges; and
8. Any other information as may be deemed necessary by County to evaluate the wastewater discharge permit application.

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

G. Application Signatories and Certification

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

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

H. Wastewater Discharge Permit Decisions

County will evaluate the data furnished by the user and may require additional information. Within 45 days of receipt of a complete wastewater discharge permit application, County will determine whether or not to issue a wastewater discharge permit. County may deny any application for a wastewater discharge permit.

**SECTION 5 - WASTEWATER DISCHARGE PERMIT ISSUANCE PROCESS****A. Wastewater Discharge Permit Duration**

A wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of County. Each wastewater discharge permit will indicate a specific date upon which it will expire.

**B. Wastewater Discharge Permit Contents**

A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by County to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

**1. Wastewater discharge permits must contain:**

- a. A statement that indicates wastewater discharge permit duration, which in no event shall exceed 5 years;
- b. A statement that the wastewater discharge permit is nontransferable without prior notification to and approval from County, in accordance with Section 5.E of this ordinance, and provision, for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
- c. Effluent limits based on applicable pretreatment standards;
- d. Self monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law; and
- e. Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.

**2. Wastewater discharge permits may contain, but need not be limited to, the following conditions:**

- a. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
- b. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

- c. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;
- d. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
- e. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;
- f. Requirements for installation and maintenance of inspection and sampling facilities and equipment;
- g. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and
- h. Other conditions as deemed appropriate by County to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

C. Wastewater Discharge Permit Appeals

County shall provide public notice of the issuance of a wastewater discharge permit. Any person, including the user, may petition County to reconsider the terms of a wastewater discharge permit within 30 days of its issuance.

1. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
2. In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
3. The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
4. If County fails to act within 45 days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit, shall be considered final administrative action for purposes of judicial review.
5. Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the Circuit Court for Russell County within appropriate Statute of Limitations.

D. Wastewater Discharge Permit Modification

County may modify a wastewater discharge permit for good cause including, but not limited to, the following reasons:

1. To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;
2. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;
3. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
4. Information indicating that the permitted discharge poses a threat to County's POTW, County personnel, or the receiving waters;
5. Violation of any terms or conditions of the wastewater discharge permit;
6. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
7. Revision of or a grant of variance from categorical pretreatment standards pursuant to 9 VAC 25-31-850;
8. To correct typographical or other errors in the wastewater discharge permit;
9. To reflect a transfer of the facility ownership or operation to a new owner or operator.

The filing of a request by the permittee for a wastewater discharge permit modification does not stay any wastewater discharge permit condition.

E. Wastewater Discharge Permit Transfer

Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least 60 days advance notice to County and County approves the wastewater discharge permit transfer. The notice to County must include a written certification by the new owner or operator which:

1. States that the new owner or operator has no immediate intent to change the facility's operations and processes;
2. Identifies the specific date on which the transfer is to occur; and
3. Acknowledges full responsibility for complying with the existing wastewater discharge permit.

Failure to provide advance notice of a transfer to County renders the wastewater discharge permit void as of the date of facility transfer.

F. Wastewater Discharge Permit Revocation

County may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

1. Failure to notify County of significant changes to the wastewater prior to the changed discharge;
2. Failure to provide prior notification to County of changed condition pursuant to Section 6.E of this ordinance;
3. Misrepresentation or failure to fully disclose all relevant facts in the waste water discharge permit application;
4. Falsifying self-monitoring reports;
5. Tampering with monitoring equipment;
6. Refusing to allow County timely access to the facility premises and records;
7. Failure to meet effluent limitations;
8. Failure to pay fines;
9. Failure to pay sewer charges;
10. Failure to meet compliance schedules;
11. Failure to complete a wastewater survey or the wastewater discharge permit application;
12. Failure to provide advance notice of the transfer of a permitted facility; or
13. Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or the ordinance.

Wastewater discharge permits shall be voided upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

G. Wastewater Discharge Permit Re-issuance

A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Section 4.F of this ordinance, a minimum of 60 days prior to the expiration of the user's existing wastewater discharge permit.

H. Regulation of Waste Received from Other Jurisdictions

1. If another municipality, or user located within another municipality, contributes wastewater to the POTW, County may enter into an inter-municipal agreement with the contributing municipality to receive the wastewater.
2. Prior to entering into an agreement required by paragraph A, above, County shall request the following information from the contributing municipality;
  - a. A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;
  - b. An inventory of all users located within the contributing municipality that are discharging to the POTW; and
  - c. Such other information as County may deem necessary.
  - d. An inter-municipal agreement, as required by paragraph A, above, shall contain the following conditions:
    - (1) A requirement for the contributing municipality to adopt a sewer use regulation which is at least as stringent as this ordinance and local limits which are at least as stringent as those set out in Section 2.D of this ordinance. The requirements shall specify that such regulation and limits must be revised as necessary to reflect changes made to County ordinance or local limits;
    - (2) A requirement for the contributing municipality to submit a revised user inventory on at least an annual basis;
    - (3) A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by County; and which of these activities will be conducted jointly by the contributing municipality and County;
    - (4) A requirement for the contributing municipality to provide County with access to all information that the contributing municipality obtains as part of its pretreatment activities;
    - (5) Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;
    - (6) Requirements for monitoring the contributing municipality's discharge;
    - (7) A provision ensuring County has access to the facilities of users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by County; and

- (8) A provision specifying remedies available for breach of the terms of the intermunicipal agreement.

## SECTION 6 – REPORTING REQUIREMENTS

### A. Baseline Monitoring Reports

1. Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 9 VAC 25-31-780, whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to County a report which contains the information listed in paragraph B, below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to County a report which contains the information listed in paragraph B, below. A new source shall also be required to report the method of pretreatment it intends to use to meet applicable categorical standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants to be discharged.
2. Users described above shall submit the information set forth below:
  - a. Identifying Information. The name and address of the facility including the name of the operator and owner.
  - b. Environmental permits. A list of any environmental control permits held by or for the facility.
  - c. Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
  - d. Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 9 VAC 25-31-780.
  - e. Measurement of Pollutants.
    - (1) The categorical pretreatment standards applicable to each regulated process.
    - (2) The results of sampling and analysis identifying the nature and concentration and/or mass, where required by the standard or by County of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum and long term average concentrations, or mass, where required, shall be reported. The sample

shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 6.K of this ordinance.

- (3) Sampling must be performed in accordance with procedures set out in Section 6.K of this ordinance.

- f. Certification. A statement reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O & M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
- g. Compliance Schedule. If additional pretreatment and/or O & M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O & M. The completion date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in Section 6.B of this ordinance.
- h. Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with Section 4.G of this ordinance.

B. Compliance Schedule Progress Report

The following conditions shall apply to the schedule required by 6.A.2.g. of this ordinance.

- 1. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing primary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- 2. No increment referred to above shall exceed nine (9) months;
- 3. The user shall submit a progress report to County no later than 14 days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and
- 4. In no event shall more than nine (9) months elapse between such progress reports to County.

C. Report in Compliance with Categorical Pretreatment Standard Deadline

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to County a report containing the information described in Section 6.A.2.(d-f) of this ordinance. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 9 VAC 25-31-780, this report shall contain a reasonable measure of the user's long term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 4.G of this ordinance.

D. Periodic Compliance Reports

1. All significant industrial users shall, at a frequency determined by County but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with Section 4.G. of this ordinance.
2. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
3. If a user subject to the reporting requirement in this Section monitors any pollutant more frequently than required by County, using the procedures prescribed in Section 6.K of this ordinance, the results of this monitoring shall be included in this report.
4. County may sample and analyze user discharges in lieu of requiring the users to conduct sampling and analysis. County will charge the user an appropriate fee for such analysis. This sampling and analysis shall be mutually agreed between County and the user.

E. Report of Changed Conditions

Each user must notify County of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least 45 days before the change.

1. County may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 4.F of this ordinance.
2. County may issue a wastewater discharge permit under Section 4.H of this ordinance or modify an existing wastewater discharge permit under Section 5.D of this ordinance in response to changed conditions or anticipated changed conditions.

3. For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty-five percent (25%) or greater, and the discharge of any previously unreported pollutants.

F. New or Increased Discharges

All industrial users shall promptly notify the POTW in advance of any new or increased discharge. The County may deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, to the POTW by industrial users where such contributions do not meet applicable Pretreatment Standards and Regulations or where such contributions would cause the POTW to violate its VPDES permit.

G. Reports of Potential Problems

1. In the case of any discharge including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify County of the incident. This notification shall include the location of discharge, type of waste, concentration and volume, if known, and corrective actions taken by the industrial user.
2. Within five (5) days following such discharge, the user shall, unless waived by County, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties or other liability which may be imposed pursuant to this ordinance.
3. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph A, above. Employers shall ensure that all employees, who may cause such discharge to occur, are advised of the emergency notification procedure.

H. Reports from Un-permitted Users

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to County as County may require.

I. Notice of Violation/Repeat Sampling and Reporting

If sampling performed by a user indicates a violation, the user must notify County within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to County within 30 days after becoming aware of the violation. The user is not required to resample if the POTW monitoring at the user's facility at least once a month, or if the POTW samples between the user's initial sampling and when the user receives the results of this sampling.

J. Notification of the Discharge of Hazardous Waste

1. Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be hazardous waste under 40 CFR 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the industrial user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month, and an estimation of the mass constituents in the waste stream expected to be discharged during the following twelve (12) months. All notifications must be taken place no later than 180 days after the discharge commences. Any notification under this paragraph needs to be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under Section 6.E of this ordinance. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of Section 6.A, 6.C and 6.D of this ordinance.
2. Discharges are exempt from the requirements of paragraph (A), of this section, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.
3. In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.
4. In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has been determined to be economically practical.
5. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable Federal or State law.

K. Analytical Requirements

All pollutants analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the EPA.

L. Sample Collections

1. Except as indicated in Section 2, below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, County may authorize the use of time proportional sampling or a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.
2. Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides and volatile organic chemicals must be obtained using grab collection techniques.

M. Timing

Written reports will be deemed to have been submitted in the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the U. S. Postal Service, the date of receipt of the report shall govern.

N. Record Keeping

Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or County or where the user has been specifically notified of a longer retention period by County.

## SECTION 7 – COMPLIANCE MONITORING

A. Right of Entry: Inspection and Sampling

County shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this ordinance and any wastewater discharge permit or order issued hereunder. Users shall allow County ready access to all parts of the premises for the purpose of inspection, sampling, records examination and copying, and the performance of any additional duties.

1. Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements

with its security guards so that, upon presentation of suitable identification, personnel from County, Commonwealth of Virginia and the U.S. Environmental Protection Agency shall be permitted to enter without delay for the purposes of performing specific responsibilities.

2. County, the Commonwealth of Virginia, and the U.S. Environmental Protection Agency shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.
3. County may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated twice yearly to ensure their accuracy.
4. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of County and shall not be replaced. The costs of clearing such access shall be borne by the user.
5. Unreasonable delays in allowing County access to the user's premises shall be on violation of this ordinance.

#### B. Search Warrants

If County has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance or that there is a need to inspect and/or sample County designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then County may seek issuance of a search warrant from the Circuit Court of Russell County.

### SECTION 8 - CONFIDENTIAL INFORMATION

#### A. General

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from County's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of County that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data.

When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might dissolve the trade secrets of secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the VPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and

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

## **SECTION 9 – PUBLICATION OF INDUSTRIAL USERS IN SIGNIFICANT NONCOMPLIANCE**

### **A. Publications**

County may publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the users which, during the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall mean:

1. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken during a 6-month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;
2. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three (33%) or more of wastewater measurements taken for each pollutant parameter during a 6-month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
3. Any other discharge violation that County believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;
4. Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in County’s exercise of its emergency authority to halt or prevent such a discharge;
5. Failure to provide within 90 days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
6. Failure to provide within 30 days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standards and deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
7. Failure to accurately report noncompliance; or
8. Any other violation(s) which County determines will adversely affect the operation or implementation of the local pretreatment program.

**SECTION 10 – ADMINISTRATIVE ENFORCEMENT REMEDIES****A. Notification of Violation**

When County finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, County may serve upon said user a written Notice of Violation. Within 15 days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to County. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of County to take any action, including emergency actions or any other enforcement action, without first issuing a Notice Of Violation.

**B. Consent Orders**

County may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period also specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 10.D and 10.E of this ordinance and shall be judicially enforceable.

**C. Show Cause Hearing**

County may order a user which has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before County and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least 15 days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

**D. Compliance Orders**

When County finds that a user has violated, or continues to violate any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, County may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

E. Cease and Desist Orders

When County finds that a user has violated, or continues to violate any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, County may issue an order to the user directing it to cease and desist all such violations and directing the user to:

1. Immediately comply with all requirements; and
2. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

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

F. Administrative Fines

1. When County finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard requirement, County may fine such user in an amount not to exceed the maximum fine allowed under Virginia Law. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation.
2. Unpaid charges, fines, and penalties shall, after 30 calendar days, be assessed an additional penalty of 15% percent of the unpaid balance, and interest shall accrue thereafter at a rate of 1% per month. A lien against the user's property will be sought for unpaid charges, fines, and penalties.
3. Users desiring to dispute such fines must file a written request for County to reconsider the fine amount within 14 days of being notified of the fine. Where a request has merit, County shall convene a hearing on the matter, typically at a regularly scheduled Board meeting. In the event the user's appeal is successful, the payment together with any interest accruing thereto, shall be returned to the user. County may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.
4. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

G. Emergency Suspensions

County may immediately suspend a user's discharge after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. County may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to

interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

1. Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, County may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. County may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of County that the period of endangerment has passed unless the termination proceedings in Section 10.H of this ordinance are initiated against the user.

2. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to County prior to the date of any show cause or termination hearing under Sections 10.C or 10.H of this ordinance.

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

#### H. Termination of Discharge

In addition to the provisions in Section 5.F of this ordinance, any user who violates the following conditions is subject to discharge termination.

1. Violation of wastewater discharge permit conditions;
2. Failure to accurately report the wastewater constituents and characteristics of its discharge;
3. Failure to report significant changes operations or wastewater volume, constituents, and characteristics prior to discharge;
4. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or
5. Violation of the pretreatment standards in Section 2 of this ordinance.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 10.C of this ordinance why the proposed action should not be taken.

Exercise of this option by County shall not be a bar to, or a prerequisite for, taking any other action against the user.

**SECTION 11 – JUDICIAL ENFORCEMENT REMEDIES****A. Injunctive Relief**

1. When County finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, County may petition the Circuit Court of Russell County through the County's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this ordinance on activities of the user.

2. County may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

**B. Civil Penalties**

1. A user who has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to County for a civil penalty of the maximum allowed under State law but not less than \$1,000, per violation per day. In the case of a monthly or other long term average discharge limit, penalties shall accrue for each day during the period of the violation.

2. County may recover reasonable attorney's fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by County.

3. In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

4. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

**C. Criminal Prosecution**

1. A user who willfully or negligently violates any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than the maximum fine allowed under State law, per violation per day, or imprisonment for not more than the maximum allowed under State law, or both.

2. A user who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a felony and be subject to a penalty of at least the maximum fine allowable under State law or imprisonment for not more than the maximum allowed under State law, or both. This penalty shall be enforced in addition to any other cause of action for personal injury or property damage available under State law.

3. A user who knowingly makes any false statement, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this ordinance, wastewater discharge permit or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than the maximum fine allowed under State law, per violation per day, or imprisonment for not more than the maximum allowed under State law, or both.

D. Remedies Nonexclusive

The remedies provided for in this ordinance are not exclusive. County may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with County enforcement response plan. However, County may take other action against any user when the circumstances warrant. Further, County is empowered to take more than one enforcement action against any noncompliant user.

## SECTION 12 – SUPPLEMENTAL ENFORCEMENT ACTION

A. Performance Bonds

County, at its discretion, may decline to reissue a wastewater discharge permit to any user which has failed to comply with the provisions of this ordinance, a previous wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless such user first files a satisfactory bond, payable to County in a sum not to exceed a value determined by County to be necessary to achieve consistent compliance.

B. Liability Insurance

County, at its discretion, may decline to reissue a wastewater discharge permit to any user who has failed to comply with any provision of this ordinance, a previous wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless the user first submits proof, in the form of a Certificate of Insurance, that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

C. Water Supply Severance

Whenever a user has violated or continues to violate any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement,

County, at its discretion, may sever municipal drinking water service to the user. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

D. Informant Rewards

County, at its discretion, may authorize the Superintendent to offer up to \$1,000 for information leading to the discovery of noncompliance by a user. In the event that the information provided results in a civil penalty (or an administrative fine) levied against the user, County may disperse such payment to the informant. County, at its discretion, may use the amount recovered from noncompliant user by fine or penalty to pay informant reward. County employees, or contractors engaged specifically in compliance activity, are not eligible for reward.

### SECTION 13 – AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

A. Upset

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

2. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (C) are met.

3. A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

a. An upset occurred and the user can identify the cause(s) of the upset;

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

c. The user has submitted the following information to County within 24 hours of becoming aware of the upset [if this information is provided orally, a written submission must be provided within five (5) days]:

(1) A description of the indirect discharge and cause of noncompliance;

(2) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

(3) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

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

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

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

B. Prohibited Discharge Standards

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Section 2.A.1. of this ordinance or the specific prohibitions in Section 2.A.2.a. through Section 2.A.2.s. of this ordinance if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

1. A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or
2. No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when County was regularly in compliance with the VPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

C. Bypass

1. Definitions

a. "Bypass" means the intentional diversion of waste streams from any portion of a user's treatment

b. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

2. A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. Such bypasses are not subject to the provision of paragraph 3 and 4 of this section.

3. If a user knows in advance of the need for a bypass, it shall submit prior notice to County, at least ten days before the date of the bypass, if possible.

4. A user shall submit oral notice to County of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time it becomes aware of the bypass. A

written submission shall also be provided within 5 days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. County may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

5. Bypass is prohibited, and County may take enforcement action against a user for a bypass, unless;

a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

b. There was no feasible alternative to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

c. The user submitted notices as required under paragraph 3 of this section.

6. County may approve an anticipated bypass, after considering its adverse effects, if County determines that it will meet the three conditions listed in paragraph 4.a of this section.

## **SECTION 14 – WASTEWATER TREATMENTS RATES**

### **A. Rates Established by County**

County will establish a fee structure for operation of its sanitary sewer system. The fee structure will include rates for use of the sanitary sewer system, including fees for discharge, connection to the system, reconnection to the system, disconnection due to failure to make payment, and any other fees as may become necessary for the County to operate the sanitary sewer system.

County Supervisors shall approve all sanitary sewer system rates prior to such rates becoming effective. Changes to rates shall be made in accordance with Virginia law.

### **B. Classification of Sanitary Sewer Users**

County will establish a classification structure for users of its sanitary sewer system. The classification system will be used to determine which category a user may belong to for purposes of charging the appropriate fees. The classifications shall be as follows:

1. Residential. A residential user shall be defined as a single dwelling which is inhabited and is not used for any business purpose. Residential users shall also include churches or other similar places of worship.

2. Commercial. A commercial user shall be defined as one which is engaged in commercial business activity and which holds a business license in the County.

3. Light Industrial. A light industrial user shall be defined as one which produces or manufactures goods for wholesale to commercial businesses. A light industrial user shall have no significant process wastewater discharge or any sanitary sewer discharge that may be required to be pretreated under Section 3 of this ordinance.

4. Heavy Industrial. A heavy industrial user shall be defined as one which produces or manufactures goods for wholesale to commercial businesses and which discharges either process wastewater or wastewater in volume exceeding 25,000 gallons per day. Whenever possible, the process wastewater shall be kept separate from domestic wastewater.

a. At its discretion, County may require heavy industrial users to participate in its Industrial Pretreatment Program and pre-treat wastewater in accordance with Section 3 of this ordinance. A separate permit, application, and agreement may be required.

5. Institutional. An institutional user shall include any institution operate by federal, state, or local governing body (i.e. school, prison) or any institution of higher learning.

## SECTION 15 – MISCELLANEOUS PROVISIONS

### A. Pretreatment Charges and Fees

County may adopt reasonable fees for reimbursement of costs of establishing and operating the Pretreatment Program which may include:

1. Fees for wastewater discharge permit applications including the cost of processing such applications;
2. Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports submitted by users;
3. Fees for reviewing and responding to accidental discharge procedures and construction;
4. Fees for filing appeals; and
5. Other fees as County may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this ordinance and are separate from all other fees, fines and penalties chargeable by County.

### B. Severability

If any provision of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

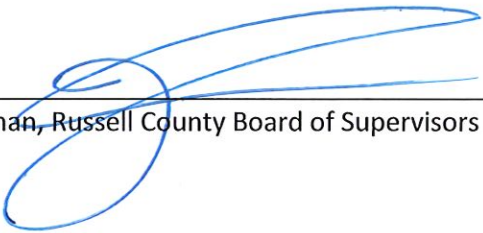
**SECTION 16 – EFFECTIVE DATE**

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

INTRODUCED	7 <sup>th</sup> day of July, 2014
PUBLIC HEARING	4 <sup>th</sup> day of August, 2014
ADOPTED ON	4 <sup>th</sup> day of August, 2014

AYES:	<u>6</u>
NAYS:	<u>0</u>
ABSENT:	<u>1</u>
ABSTAINED:	<u>0</u>

APPROVED and ADOPTED this 4th day of August, 2014.

  
\_\_\_\_\_  
Chairman, Russell County Board of Supervisors

ATTEST: \_\_\_\_\_

  
Clerk