

**BOARD OF SUPERVISORS  
COUNTY OF NEW KENT  
VIRGINIA**

**O-05-11 (R1)**

At the regular meeting of the Board of Supervisors of the County of New Kent in the Boardroom of the Administration Building in New Kent, Virginia, on the 11<sup>th</sup> day of April, 2011:

Present:	Vote:
James H. Burrell	Aye
Stran L. Trout	Aye
W. R. Davis, Jr.	Aye
David M. Sparks	Aye
Thomas W. Evelyn	Aye

Motion was made by Mr. Trout, which carried 5:0, to adopt the following ordinance:

**AN ORDINANCE AMENDING, RESTATING, AND READOPTING  
CHAPTER 38, HEALTH & SANITATION  
TO INCLUDE A CHANGE IN THE BILLING FREQUENCY  
FOR WATER AND WASTEWATER SERVICES,  
TO ADD EMERGENCY WATER CONSERVATION MEASURES,  
TO AUTHORIZE REAL PROPERTY LIENS FOR UNPAID UTILITY BILLS,  
AND TO UPDATE COUNTY CODE DUE TO  
CHANGES IN STATE REGULATIONS.**

**WHEREAS**, pursuant to the Virginia Code Section 15.2-2109, the New Kent County Board of Supervisors has the authority to amend, restate and readopt Chapter 38 of the County Code; and

**WHEREAS**, the needs of New Kent County citizens have changed over the years; and

**WHEREAS**, the New Kent County Utilities Department offers changes in the billing cycle as well as changes regarding the use of public utilities in order to assist the citizens and comply with new mandates; and

**WHEREAS**, the Board of Supervisors finds that changes to the Health and Sanitation ordinance are necessary to ensure that New Kent County is current with accepted standards and practices;

**NOW THEREFORE BE IT ORDAINED** that Chapter 38, Health and Sanitation, of the New Kent County Code be amended, restated, and readopted as set forth below:

**Article I. General.**

- §38.1 Establishment of a Department of Public Utilities
- §38.2 Establishment of a Director of the Department of Public Utilities
- §38.3 Definitions
- §38.4 Interruptions of Water Service
- §38.5 Liability of the County
- §38.6 Violations.
- §38.7-§38.10 Reserved

**Article II. Water and Wastewater Rates / Fees, Etc.**

- §38.11 Power to Fix Rates and Enforce Payment; Sufficiency of Rates
- §38.12 Application for Water Service Connections; Fees
- §38.13 Application for Wastewater Service; Requirements
- §38.14 All Metered Water to be Paid for; Exceptions; Testing Meter and Adjustments for Bill if Inaccuracy
- §38.15 Time of Payment; Overdue Accounts; Returned Checks.
- §38.16 Monthly Rates for Water and/or Wastewater Service
- §38.17 Renewal of Water and/or Wastewater Service
- §38.18 Meter Installation / Transfer Fees
- §38.19 Deposit Required When Property Owner not to be Billed for Water and / or Wastewater Service
- §38.20 Responsibility of Owner of Premises for Payment of Bill
- §38.21 Grounds for Discontinuation of Service

- §38.22 Subordination of Note
- §38.23 Performance Agreements and Surety
- §38.24 Lien Established for Unpaid Water Charges
- §38.25-§38.29 Reserved

**Article III. Violations and Penalties**

- §38.30 Unauthorized Tampering with Fire Hydrants, Valves, Pipes or Meters
- §38.31 Unauthorized Use of Water
- §38.32 Unauthorized Use of Wastewater System
- §38.33 Tampering with, etc., Any Public Water Supply System or Wastewater System
- §38.34-38.39. Reserved.

**Article IV. Service Districts, County Wastewater System and County Water System**

- Division 1. Generally
- §38.40 Rules and Regulations for Service Districts, the County Water and Wastewater Systems
- §38.41 Development of the County Water and Wastewater System Service
- §38.42 – §38.44 Reserved
- Division 2. Water Conservation, Emergency Water Conservation
- §38.46 Emergency Water Conservation
- §38.47-§38.49 Reserved
- Division 3. Cross-Connection Control and Backflow Prevention
- §38.50 Purpose and Authority of Department
- §38.51 General Prohibition Against Cross Connection

§38.52-§38.59	Reserved
Division 4.	Private Water and Wastewater Utility Systems
§38.60	Construction of Private Water and Wastewater Facilities Require Approvals
§38.61	Source and Feasibility Study
§38.62	Requirements for Utility Systems
§38.63	Board May Require Increased Capacity
§38.64	Lines, Plants and Related Facilities Belong to County
§38.65	Performance and Maintenance Guarantees
§38.66-§38.69	Reserved

**Article V. Disposal of Human Wastes**

§38.70	Certain Properties Required to have Flush Toilets, to be Connected to a Public Sanitary Wastewater or Septic Tank
§38.71	Privies
§38.72	Permit Required to Install Septic Tank, Privy or other Private Wastewater System
§38.73	Duty of Owners, etc., of Premises as to Maintenance of Sewage Disposal Systems
§38.74	Pump and Haul Wastewater Disposal
§38.75	Regulation of Persons Engaged in Business of Cleaning Privies and Septic Tanks
§38.76	Prohibited Arrangements for Disposal of Human Excrement
§38.77	Septic Tank Contractors Permit Required; Application; Duration; Removal; Revocation
§38.78	Health Director's Order for Correction of Violation of Article
§38.79	Reserved

**Article VI. County Wastewater System**

Division 1.	Generally
§38.80	Applicability of Article
§38.81-§38.89	Reserved
Division 2.	Wastewater and Sewage Disposal
§38.90	Persons and Firms Required to Apply for Connection to the Public Wastewater System
§38.91-§38.94	Reserved.
Division 3.	Pretreatment Standards
§38.95	Purpose and Policy
Division 4.	Reclaimed Water Regulations (Reserved)
§38.96-§38.99	Reserved

**Article VII. County Water System**

Division 1.	Generally
§38.100	Applicability of Article
§38.101	Obstructing Fire Hydrants
§38.102-§38.109	Reserved
Division 2.	Water Service
§38.110	Availability of Water Service
§38.111	Persons and Firms Required to Apply for Connection to Public Water Supply
§38.112	When Connection is Permissible
§38.113	When Connection is Required
§38.114	Separate Meter for Individual Residence or Business

§38.115	Single Service, Separate Meters, Permitted for more than One Tenant
§38.116	Hydrant, Meters, etc. to be Property of County
§38.117	Resale of Public Water
§38.118	Water for Fire Suppression
§38.119-§38.129	Reserved
Division 3.	Construction Meter Regulations
§38.130	Purpose and Policy

**Article I. In General.**

**§38.1. Establishment of a Department of Public Utilities.**

Pursuant to Ordinance Number O-05-11, adopted by the Board of Supervisors on April 11, 2011, the Department of Public Utilities is hereby established (hereinafter “the department”).

**§38.2. Establishment of a Director of the Department of Public Utilities**

The director of the department is hereby designated and shall be directly responsible to the county administrator. The director shall be responsible for the management and operations of the utility system in the county and shall have the authority to make such lawful orders and directives as may be necessary to enforce compliance therewith by others.

**§38.3. Definitions.**

In the construction of this chapter, the following definitions shall apply, unless otherwise specifically provided or unless such construction would be inconsistent with the manifest intent of the board of supervisors:

***Abut:*** Touching, adjoining, or bordering on.

***Appendix A:*** Refers to the County Code Appendix A which outlines all fees for the County and is updated yearly.

***Applicant:*** The person, firm, or corporation applying for authorization to connect a new or existing building to a water or wastewater system.

***Availability Fee:*** A charge paid for a guaranteed allocation of wastewater capacity for the building for which the fee has been paid.

***Board of Supervisors:*** Wherever the term "board of supervisors" is used, it shall be construed to mean the Board of Supervisors of New Kent County, Virginia.

***Bottoms Bridge Service District:*** The utilities service district created by the New Kent County Board of Supervisors on July 12, 2004 (O-05-04). Provisions included in the Utilities Ordinance referring to service areas apply to this service district or any future service district created by the New Kent County Board of Supervisors.

***Campground:*** A facility on which accommodations for temporary occupancy are located, or may be placed, including camping units and major recreational equipment, and which is primarily used for recreational purposes. (See Ordinance 98-2)

***Camping Unit:*** A tent, travel trailer, cabin, lean-to, or similar structure established or maintained and operated in a campground as temporary living quarters for recreation, education or vacation purposes. (See Ordinance 98-2)

***Community Water System:*** A private water or wastewater system serving 2 or more connections.

***Comprehensive Plan:*** Plan adopted by the New Kent County Board of Supervisors pursuant to Virginia Code §15.2-2223.

***Computation of Time:*** Whenever a notice is required to be given or an act to be done, a certain length of time before any proceeding shall be had, the day on which such notice is given or such act is done shall be counted in computing the time, but the day on which such proceeding is to be had shall not be counted.

**Connection Fee:** A charge paid for the authorization to connect a premise to the water or wastewater system. This fee is to help defray the cost associated with connecting customers to public water and/or wastewater.

**County Health Director:** Person directed by the Virginia Department of Public Health to act in New Kent County as their primary designee.

**Corporation:** A duly licensed corporation in good standing with the Virginia State Corporation Commission.

**County:** The County of New Kent in the Commonwealth of Virginia.

**Detector Check Valve:** A combination of a weight-loaded valve in the main line that normally remains closed and a bypass around this valve containing a displacement-type meter which gives positive registration if any flow occurs through either the bypass line or the main line.

**Director:** The Director of the Department of Public Utilities.

**District or Service District:** A district designated by the New Kent County Board of Supervisors which requires an ad valorem tax.

**Fire Service Meter:** A combination of a main line meter for measuring high rates of flow and a bypass meter of appropriate size for measuring low rates of flow.

**Gender:** The word importing the masculine gender only shall extend and be applied to females and firms, partnerships and corporations as well as to males.

**Gravity Wastewater:** A wastewater system that receives sewage flow by force of gravity alone through wastewater laterals and delivers the sewage by force of gravity to a larger wastewater or pumping station.

**Health Department:** The Virginia Department of Public Health.

**Health Officer:** The legally designated health authority of the state board of health for the county or his authorized representative.

**Lateral:** The pipeline running from the water or wastewater main to the customer's property line.

**Local Facilities:** Those portions of the water and wastewater systems which are used to deliver, respectively, water to or collect waste water from an individual user or individual users in local areas, subdivisions, and developments. Included are local water distribution mains and valves, local waste water collection mains,

water service lines and wastewater lateral lines to a user's premises, meter boxes, fire hydrants, and other appurtenances necessary. Pump stations will be included when in accordance with approved plans and built to serve others.

***Master Water and Wastewater Plan:*** Plan for water and wastewater development for the entire county. This plan was developed as a guideline for future development and has models, density tables and estimated future water and wastewater flows with proposed service areas which can be viewed at the New Kent County Public Utilities Office.

***Month:*** A calendar month.

***Number:*** A word importing the singular number only may here extend and be applied to several persons and things as well as to one person and thing; and a word importing the plural number only may extend and be applied to one person or thing, as well as to several persons or things.

***Oath:*** An affirmation in all cases in which by law an affirmation may be submitted for an oath.

***One-family Dwelling:*** A building or manufactured home containing one (1) dwelling unit.

***Or, And:*** "Or" may be read "and," and "and" may be read "or" if the sense requires it.

***Owner:*** When applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or a part of such building or land.

***Person:*** Shall extend and be applied to associations, firms, partnerships and bodies politic and corporate as well as to individuals.

***Remote Facilities:*** Those portions of the water or wastewater system which are used, directly or indirectly, to transport water to or transport wastewater from local facilities. Included are water distribution mains and valves, wastewater mains, fire hydrants, pump stations, and other such appurtenances as are necessary.

***Service:*** The supply of potable water and sewage service shall mean the removal of waste water.

***Service Area:*** Area designated by the board of supervisors and approved by DEQ, maps of which are available at the department.

***Sidewalk:*** Any portion of a street between the curb line, or the lateral lines of a roadway where there is no curb, and the adjacent property line intended for the use of pedestrians.

***Signature or Subscription:*** Includes a mark when a person cannot write.

***State, Commonwealth:*** Shall be construed as if the words "of Virginia" followed.

***Street, Highway:*** Shall include public streets, avenues, boulevards, highways, roads, alleys, lanes, viaducts, bridges, and the approaches thereto and all other public thoroughfares in the county, and shall mean the entire width thereof between abutting property lines; it shall be construed to include a sidewalk or footpath, unless the contrary is expressed or unless such construction would be inconsistent with the manifest intent of the board of supervisors.

***Swear, Sworn:*** Shall be equivalent to the word "affirm" or "affirmed" in all cases in which by law an affirmation may be substituted for an oath.

***Time:*** Words used in the past or present tense include the future as well as the past and present.

***Utility System:*** To be construed broadly to include, but not be limited to, any water or wastewater facility, transmission or distribution line, well, septic field or system, pump station, and/or other component part of a system that provides water or wastewater service

***Wastewater Main:*** Any pipe or conduit used to transport sewage.

***Written or In Writing:*** Shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

***Year:*** Shall be construed to mean a calendar year; and the word "year" alone shall be equivalent to the expression "year of our Lord."

***Other Words:*** The rules of construction given in sections §1-13.1 to §1-15, Code of Virginia, shall govern, so far as applicable, the construction of all other words not defined in this section.

**§38.4. Interruptions of Water Service.**

If for any reason water service provided by the department of public utilities must be interrupted, the director shall, if such interruption is known to him in advance thereof, give notice to each customer affected thereby; provided, that notice may be given generally to all customers through news releases to the press, radio or television stations serving the county. In any case of prolonged interruption due to failure of electric service or failure of any pump or other apparatus to function properly, the director may, at his discretion, disconnect water service from all or any portion of the county water system to preserve water for fire protection or other emergency use.

In any case, no interruption of water service by the department shall impose any liability upon the board, the county administrator or the director.

**§38.5. Liability of the County.**

The county shall not be liable for any damages resulting from the bursting of any main, service pipe or cock, from the shutting off of water for repairs, extensions or connections or from the accidental failure of the water supply from any cause whatsoever. In cases of emergency, the county shall have the right to restrict the uses of water in any reasonable manner for the protection of the county and its water supply. The county will not be responsible for any damage caused by defective plumbing or open outlets when water is ordered turned on by the owner or agent of the owner. All applicants for and consumers of water service shall be required to accept and shall be deemed to have consented to such conditions of pressure and service as are provided by the county's distribution system at the locations serviced and to hold the county harmless from any damages arising out of low pressure or high pressure conditions, interruptions of service or quality of water.

**§38.6. Violations and Penalties of all Sections**

a. Any person violating any of the provisions of this chapter shall, upon conviction thereof, be guilty of a Class 2 misdemeanor and shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) or confinement in jail not exceeding six months, or both; each day any violation shall continue shall constitute a separate offense. Any

person violating or failing to comply with any of the rules or regulations of any service district or the department of public utilities promulgated by authority of the board of supervisors which are on file in the office of the county administrator shall be subject to the same punishment as above provided.

b. Nothing in this section shall be deemed to limit the authority of the county to apply to the county circuit court for injunctive relief to enjoin a violation or a threatened violation of this chapter.

c. Any person violating any provision of these regulations shall forfeit their right to obtain water through a construction meter and lose any deposits with the county. Loss of the meter shall be cause by the county to bill the offender the average amount of water used and the cost of replacement of the meter and appurtenances, less the offender's deposit.

§38.7 - §38.10. Reserved

## **Article II. Water and Wastewater Rates / Fees; Etc.**

### **§38.11. Power to Fix Rates and Enforce Payment; Sufficiency of Rates**

a. The board is vested with full power to make and fix rates for use of water and wastewater from all customers of the water and wastewater system and to collect, require and enforce the payment of such rates by all remedies provided by law.

b. The water and wastewater rates fixed by the board shall be fair and just, but the rates shall take into consideration the cost of maintenance, extension, operation and administration of the water and wastewater system, and the cost of insurance against loss by injury, persons or property, and any other cost or expense growing out of or pertaining to the water and wastewater system, including interest on any surety. Such rates shall also be sufficient to pay at or before maturity annually any and all sureties issued on account of the water and wastewater system.

Any disputes of any description regarding any charges assessed by the county pursuant to this chapter shall be barred if more than six (6) months has elapsed from the date such charges were billed.

**§38.12. Application for Water Service Connection and Availability Fees;  
Requirements**

a. Connection and Availability Fees. Applications for water service shall be made in writing on forms provided by the director. Application shall be made at the Public Utilities Office, on a prescribed form, by the owner or agent of the premises to be served, at which time all applicable fees shall be paid as outlined in Appendix A . The written application shall serve as a contract with the county in which the consumer agrees to pay for all water used, consumed or wasted on the premises therein to be specified and upon the terms and conditions prescribed by the board from time to time. Every consumer by signing such application shall agree to observe, comply with and be bound by all ordinances, rules, regulations, terms and conditions prescribed for and relating to the use of water while receiving the service. Whenever an application for water service is made pursuant to the provisions of section 38-111(c) or this paragraph and if the application is made within ninety (90) days of the date owners are notified pursuant to section 38-111(b), in lieu of being paid in a lump sum at the time of application as prescribed above, it may be at the owner's option be paid in thirty (30) equal installments, at the rate of one thirtieth (1/30) of the total every other month. If he chooses this option, the owner shall execute a promissory note in a form acceptable to the county attorney. The note shall state that default shall constitute a lien on the property in accordance with section 38-24. The first payment shall be made at the time of application for service, and the subsequent twenty-nine (29) payments shall be tendered with the bi-monthly payments for water service pursuant to section 38-15. In the event that application is not made within the stipulated ninety-day period, then the owner shall pay the applicable fees cited in Appendix A in a lump sum at the time application is made.

b. Connection fees. The connection fee for an increase in the size of an existing service shall be the greater of the actual cost of the new meter or the differential between

the application fee for the new meter size and the existing meter size. An application for the changed connection shall be made and the application fee shall be paid.

The connection fee shall be assessed to all applicants. Its payment grants the applicant authorization to connect to the system and partial payment for back-up facilities. A meter fee will be charged as outlined in Appendix A which covers the cost of the water meter which will be provided by the system. When a building with an existing connection or authorization to connect is razed or removed, a building subsequently erected on the same premises shall not be considered a new connection and no application fee shall be assessed except to the extent an increased fee is due for an increase in the size of the service as otherwise provided.

The applicant shall construct and pay for all local and remote facilities in accordance with subsection (e) below.

c. Size of the Meter. The size of the meter installed shall be determined by the director.

d. Location of the Meter. The location of all connections is to be determined by the director and connection shall be made with the approval and under the supervision of the director or his designee.

e. Plans for Development. Developers, subdividers and individuals constructing any type of industrial commercial, housing development or individual home or building or building addition where people live or congregate, within a service area, or desiring to connect to the county water system, shall submit plans and specifications to the director for all main water lines, laterals, valves, hydrants and other appurtenances necessary for connection to the county water system for adequate fire suppression flows and consumptive usage. New off-site extensions shall be sized as required by the director or the approved water development plan to serve all existing and projected water demands to be served by the design route for the fifty-year (50) planning period.

After approval of said plans and specifications by the director, the applicant at his own expense and in accordance with department requirements and specifications, shall provide the department with three (3) sets of approved plans and shall proceed to construct main water lines, laterals, valves, hydrants, and other appurtenances necessary, as required for connection to the county water system. The director or his designee, shall

have the authority to inspect such systems during any phase of construction and may order construction stopped when not in conformity with plans and specifications previously approved or county standards. Such water lines, laterals, valves, hydrants, and other appurtenances, when connected, shall become the property of the county, and the person(s) shall execute such instruments as may be required conveying the same to the county. Whenever water main lines, fire hydrants, or valves are located on private property, the owner shall grant an exclusive deed of easement not less than twenty (20) feet in width about such lines and appurtenances to the county for maintenance and repair access. Any service taps off such lines shall be provided with curb stops and meter setters at the edge of the easement.

Where the capacity of an existing water distribution system is not sufficient to meet the fire service and potable use needs of the development, the developer, subdivider, or individual shall expand the capacity of the local and/or remote facilities of the existing water distribution system, as required by the director, so as to provide sufficient capacity to serve the fire service and potable use needs of the development while not decreasing the supply of water available to existing users of the water supply system.

If work has not commenced within one year of the plan approval, the plans will have to be resubmitted in compliance with any code changes.

**§38.13. Application for Wastewater Service; Requirements**

a. Connection and Availability fees. Applications for wastewater service shall be made in writing on forms provided by the director. Application shall be made at the public utilities office, on a prescribed form, by the owner or agent of the premises to be served, at which time all applicable fees shall be paid as outlined in Appendix A. The written application shall serve as a contract with the county in which the consumer agrees to pay for all water used, consumed or wasted on the premises therein to be specified and upon the terms and conditions prescribed by the board from time to time. Every consumer by signing such application shall agree to observe, comply with and be bound by all ordinances, rules, regulations, terms and conditions prescribed for a relating to the use of water while receiving the service. Whenever an application for water service is made pursuant to the provisions of 38-12 or this paragraph and if the application is made

within ninety (90) days of the date owners are notified pursuant to section 38-111. In lieu of being paid in a lump sum at the time of the application as prescribed above, it may be at the owner's option be paid in thirty (30) equal installments, at the rate of one-thirtieth (1/30) of the total every other month. If he chooses this option, the owner shall execute a promissory note in a form acceptable to the county attorney. The note shall state that default shall constitute a lien on the property in accordance with section 38-24. The first payment shall be made at the time of application for service, and the subsequent twenty-nine (29) payments shall be tendered with the bi-monthly payments for wastewater service pursuant to section 38-15. In the event that application is not made within the stipulated ninety-day period, then the owner shall pay the applicable fees cited in Appendix A in a lump sum at the time application is made.

When the number or size of an existing meter is increased, then the difference between the present connection fee costs and the new connection fee costs shall be paid.

A connection and an availability fee shall be assessed to all applicants. Its payment grants the applicants authorization to connect to the system and covers payment for back-up facilities. These fees are intended to help defray the capital costs of providing equipment necessary to continue operation of the county sewage facilities. When a building with an existing connection or authorization to connect is razed or removed, a building subsequently erected on the same premises shall not be considered a new connection and no application fee shall be assessed except to the extent an increased fee is due for an increase in the size of the service as otherwise provided.

The applicant shall construct and pay for all local and remote facilities in accordance with subsection (e) below.

b. Size of Wastewater Lateral. The size of the wastewater lateral installed to the main wastewater shall be determined by the director.

c. Location of Service provided. Wastewater service is only provided by the county wastewater system to the property line of any premises supplied with wastewater service. Basement drains or drains connecting fixtures located below the level of the ground surrounding the building shall not be connected to the wastewater system unless the owner provides positive protection against the danger of flooding due to wastewater blockages, such as through the use of such devices as pumps, check valves, etc. In any

case, no back-up of wastewater into any portion of a building or residence shall impose any liability to the county.

d. Location and manner of connection. The location of all connections is to be determined by the director or his designee. All connections shall be made with the approval and under the supervision of the director or his designee. Each individual building, be it a residence or a place of business, receiving wastewater service shall have a separate lateral to the wastewater main whether or not owned by the same person or persons occupying the same lot or lots. For the purpose of this article, an outbuilding shall not be considered an individual residence unless it is used as a dwelling.

e. Plans for development. Developers, subdividers and individuals constructing any type of industrial, commercial, housing development or individual home or building or building addition where people live or congregate, within a service area, or desiring to connect to the county wastewater system, shall submit plans and specifications to the director for all local and remote facilities, necessary for connection to the public wastewater system. New off-site extensions shall be sized as required by the director or the approved wastewater development plan to serve all existing and projected wastewater demands to be served by the design route for the fifty-year (50) planning period.

After approval of said plans and specifications by the director, the applicant, at his own expense and in accordance with department of public utilities requirements and specifications, shall provide the public utilities department with three (3) sets of approved plans and shall proceed to construct local and remote facilities, referenced above, as required for connection to the county sewage system. The director or his designee shall have the authority to inspect such systems during any phase of construction and may order construction stopped when not in conformity with plans and specifications previously approved or county standards. Such main wastewater lines, laterals, pumps, manholes, and other appurtenances, when connected, shall become the property of the county public utilities department wastewater system, and the applicant shall execute such instruments as may be required conveying same to the county public utilities department. Whenever main sewage lines, pumps, or manholes hereafter are located on private property, the owner shall grant an exclusive deed of easement not less than twenty

(20) feet in width about such lines and appurtenances to the county public utilities department for maintenance and repair access.

Where the capacity of the existing wastewater system is not sufficient to meet the needs of the development, the developer, subdivider, or individual shall expand the capacity of the local and/or remote facilities of the existing wastewater system, as required by the director, so as to provide sufficient capacity to serve the wastewater needs of the development as well as the needs of the existing users of the wastewater system.

If work has not commenced within one year of the plan approval, the plans will have to be resubmitted in compliance with any code changes.

All wastewater connection and availability fees shall be paid for each lot or parcel to be served prior to final plat or site plan approval by the county, unless a wastewater availability fee agreement, as provided in subsection (f) below, has been entered into with the county prior to the due date.

f. Deferral of Payment. Water and wastewater fees for subdivisions of three or more lots or units, or planned unit developments may be deferred or made in installments pursuant to a wastewater connection availability fee agreement entered into with the county. The minimum requirements for such an agreement are:

1. The agreement must be entered into before the development is approved.
2. The agreement may provide for no greater than three annual installment payments and each installment shall be in equal amounts. The final payment shall be made no later than two years from the due date or at the date of the last connection usage fee payment is made, whichever occurs earlier. The county reserves the right to require a term of less than two years if the projected build out of development is for a period less than two years from approval.
3. The first installment payment must be made at the time of execution of the Agreement.
4. The payment obligations under the agreement must be backed by an appropriate surety provided in a form acceptable to the County Attorney. Such security must be provided at the time of execution of the agreement. The amount of security provided under this section shall be reduced as the wastewater connection availability fee payments are received by the county.

g. With the recommendation of the county administrator, the property owner/developer may request that the board of supervisors approve alternative payment and security arrangements under the following terms:

1. Such deviation from the requirements serves a public interest rather than a private interest;
2. There is good cause shown;
3. Adequate and sufficient consideration is provided; and
4. An agreement is entered into that is backed by security in a form acceptable to the County Attorney.

**§38.14. All Metered Water to be Paid For; Exceptions; Testing Meter and Adjustments of Bill for Inaccuracy.**

a. All water passing through the water meter shall be charged and paid for, whether used or wasted. The county is not responsible for water charges incurred due to leakage or for water wasted by water service pipes or fixtures in disrepair which belong to the customer. However, in certain cases, the director may at his discretion determine a fair and reasonable settlement of the disputed bill, when, in the opinion of the director, the circumstances justify such consideration and without which, an injustice to the customer will result.

b. Adjustments shall not be considered for disputed bills for which six (6) months has elapsed from the date such charges were billed.

c. Any customer shall have the right to request that the water meter serving his premises be examined and tested by the department of public utilities for the purpose of ascertaining whether or not it is registering correctly. When a customer desires to have such water meter so examined and tested, they shall make the request in writing to the director and, at the same time, pay a fee as provided in Appendix A. If such water meter, upon testing in accordance with American Waterworks Association Standards (latest revision), registers five (5) percent more water consumption than actually passes through it, the water meter shall be replaced with an AWWA acceptable water meter. In addition, the fee paid pursuant to this section shall be refunded and the water bill shall be correspondingly corrected.

**§38.15. Time of Payment; Overdue Accounts; Returned Checks.**

- a. Monthly Payment. All charges for water and wastewater service levied by this department shall be due and payable bi-monthly at the county treasurer's office upon receipt of the bill. Failure of the customer to receive either a public utilities bill or disconnect notice mailed to the address on file shall neither be considered cause for nonpayment, nor justification for an extension of the payment date.
- b. Delinquent utility bills. Any utility bill that is not paid by the last day of the month following water and/or wastewater service shall be delinquent. A disconnect notice shall be mailed when a bill is delinquent, and in the event the bill is delinquent for fifteen (15) days, the director shall discontinue the water supply without notice.
- c. Late payment fee. A late payment fee of ten (10%) percent of the delinquent amount due or five dollars (\$5.00), whichever is greater, shall be added to a bill the first day the bill becomes delinquent.
- d. Payment Extension fee. For those customers who are delinquent and cannot pay their bill by the disconnect date, an extension may be granted, provided the customer has not been terminated for non-payment during the past two years, has contacted the department to work out an extension and agrees to pay an extension fee as provided in Appendix A to this Code. Extension of payments shall not exceed fifteen (15) days from the date the extension was granted.
- e. When a check, which has been received in payment of a utility bill or in payment of a utility deposit or installation fee, is returned by the bank for insufficient funds, or any other reason, the consumer shall pay a service charge for each returned check as provided in Appendix A. This charge is to defray the administrative cost to the county for handling and processing such returned checks.

**§38.16. Monthly Rates for Water and/or Wastewater Service**

- a. The monthly rates for water and/or wastewater service are based upon metered consumption of water, effective when service becomes available and shall be as provided in Appendix A.

b. Where any building or premises supplied by a single service is rendered to one or more tenants, the water and/or wastewater bill shall be charged to and paid by the owner of the premises who alone shall be deemed the agent for the whole building or premises for this service.

c. Whenever a water meter is out of order and fails to register, the customer shall be charged with an average daily consumption as shown by the meter when in good working order and registering correctly.

**§38.17. Renewal of Water and/or Wastewater Service**

a. Renewal of Wastewater Service. In case wastewater service is discontinued for violation of any of the regulations, continued in this chapter, such service will only be renewed when the conditions under which such service was discontinued are corrected, the payment of all proper rates, charges and the payment of a renewal fee, as provided in Appendix A are provided to the county treasurer. For any person requesting renewal of wastewater service which was terminated for non-payment, outside of normal working hours (before 8:00 a.m. or after 4:30 p.m., Monday through Friday, or Saturday or Sunday), an additional charge as outlined in Appendix A will be made for the renewal of wastewater service. No person who is delinquent for wastewater service at any premises within the county shall have the right to wastewater or water service at any other place or premises within the county until such time as payment is made and a deposit is provided, whether he is owner or tenant of such premises.

b. Renewal of Water Service. When water service has been discontinued for violation of any of the regulations contained in this chapter, such service will only be renewed when the conditions under which such service was discontinued are corrected, the payment of all proper rates and charges and the payment of a renewal fee, as provided in Appendix A, to the county treasurer. For any person requesting renewal of water service which was terminated for non-payment, outside of normal working hours (before 8:00 a.m. or after 4:30 p.m., Monday through Friday, or Saturday or Sunday), an additional charge, as outlined in Appendix A, will be charged for the renewal of water service. No person who is delinquent for water or wastewater service at any premises

within the county shall have the right to water service at any other place or premises within the county, whether he is the owner or tenant of such premises.

c. Reestablishment without authorization. Should water or wastewater service be terminated to any premises by the county for any violation of this chapter and afterwards be found reestablished without authorization from the director, the water meter shall be removed and will not be reinstalled until the conditions under which such service was discontinued are corrected, upon payment of all outstanding charges, and, in addition thereto, pay a meter reinstallation fee as provided in Appendix A.

**§38.18. Meter Installation/Transfer Fees**

Meter Installation/Transfer fee. A fee as outlined in Appendix A will be charged for establishing new accounts, or for a customer who transfers from one location to another within the system. Water service will not be turned on for any customer or location who has an outstanding delinquent water and/or wastewater bill.

**§38.19. Deposit Required When Property Owner Not To Be Billed For Water and/or Wastewater Service.**

A deposit, as outlined in Appendix A, is required with the application for service. The deposit shall be held by the county until applicant ceases to be served by the county system at which time such deposit shall be returned, without interest, to the person by whom it was made; provided that the meter has been read and all charges or fees to date deducted from the amount of deposit. The repayment will occur as a credit to the final bill. If the deposit is not sufficient to pay all charges and fees due on the date on which the applicant vacates the premises in question, the applicant shall pay the balance due.

**§38.20. Responsibility of Owner of Premises for Payment of Bill**

Where any building or premises supplied by a single service is rendered to one or more tenants, the water and/or wastewater bill shall be charged to and paid by the owner of the premises who alone shall be deemed the agent for the whole building or premises for this service.

**§38.21. Grounds for Discontinuation of Service**

Service may be discontinued for any of the following reasons:

- a. Permitting water and/or wastewater service through a pipe to any property other than that described in the application.
- b. In case of vacancy of the premises without notice to the department.
- c. For violation of sections 38-6, 38-31, 38-32 or 38-33.
- d. For nonpayment for water and/or wastewater service.
- e. For introducing into any pipes connected to the county water and/or wastewater system any water other than that supplied by the county system.
- f. For tampering or altering by the customer, or others with the knowledge of the customer, with any meter, service connection, water service line, or any other appurtenances of the county water system which regulate or control the customer's water supply.
- g. For willful waste of water from improper pipes, fixtures or otherwise pursuant to the State Conservation Water Management Plan.

**§38.22. Subordination of Note**

In the event the owner of property has signed a promissory note for the repayment of a connection fee, as such note is described in section 38-12, the director is hereby authorized to execute any appropriate document, assuming same has been approved as to form by the county attorney, to subordinate the note and the lien represented by such notice when the county has been requested to do so by the commonwealth or any bona fide agency thereof or political subdivision thereof.

**§38.23. Performance Agreements and Surety**

A letter of credit, certified check, bond or other surety in a form acceptable to the county attorney shall be required of developers, subdividers, or other persons prior to the issuance of any building permits for the development to insure completion of all improvements required by this chapter. The amount of the surety and the designated length of time of completion of the required improvements shall be fixed by the director of public utilities or his authorized designee.

**§38.24. Lien Established for Unpaid Water Charges**

As provided in section §15.2-2118 of the Code of Virginia, 2007, as amended, any unpaid tax or charges for water or wastewaters or use thereof furnished by the county water system or county wastewater system shall become a lien on the real estate served by such waterline or wastewater system.

§38.25--§38.29. Reserved.

**Article III. Violations and Penalties.**

**§38.30. Unauthorized Tampering with Fire Hydrants, Valves, Pipes or Meters**

It shall be unlawful for any unauthorized person to open, disconnect or disturb any fire hydrant, valve, pipe, or meter connected with the public water main or to disturb disturbs the public system in any manner except for the legitimate purpose of extinguishing a fire. Any person authorized to open fire hydrants shall use only an approved spanner wrench and shall replace the caps on the outlets when the hydrants are not in use.

**§38.31. Unauthorized Use of Water**

It shall be unlawful for any person to extend any pipe or to use any device or attachment to supply water to any premises other than that described in the application.

**§38.32. Unauthorized Use of Wastewater System**

a. It shall be unlawful for any real property owner to knowingly and willfully allow rain water, or any other surface water, to be directed into the county wastewater system, or to permit any connection to such system to exist which permits the diversion of such surface water into said wastewater system. Any such owner who fails to correct any such diversion into the wastewater system after ten (10) days' written notice of the situation by the county shall be subject to immediate disconnection from the county water system

without further notice, and may, in addition thereto, be prosecuted, convicted, and punished as provided by section 38.6 of this Code.

b. It shall be unlawful for any unauthorized person to knowingly and willfully connect to, disturb, or otherwise tamper with the county wastewater system, or any part thereof. Any person violating the provisions of this subsection shall be deemed guilty of a violation of this chapter and punished as provided therein.

c. Prohibited waste materials. No person shall discharge or cause to be discharged any substances to any public wastewater system.

**§38.33. Tampering with, etc, any Public Water Supply System or Wastewater System**

It shall be unlawful for any unauthorized person to open, disconnect, disturb or otherwise tamper with any part of or appendage to any public water supply system or wastewater system of the county.

Any disputes of any description regarding any charges assessed by the county pursuant to this chapter shall be barred if more than six (6) months has elapsed from the date the charges were billed.

38.34-38.39 Reserved.

**Article IV. Service Districts, County Wastewater System  
and County Water System**

**Division 1. Generally.**

**§38.40. Rules and Regulations for Service Districts, the County Water System, and the County Wastewater System**

The director may promulgate such rules and regulations as he may deem appropriate relating to the county water and wastewater systems, or any service district; such regulations may include, but are not limited to, cessation of connections when available

capacity is exceeded, upon approval by resolution from of the board of supervisors. All such rules and regulations shall be placed on file in the office of the clerk for the board of supervisors and there made available to the public for inspection and use during all regular office hours. It shall be unlawful for any person to violate or fail to comply with any such rule or regulations; any such violation is punishable as a class 2 misdemeanor, which is not more than six months in jail and/or not more than a \$1,000 fine.

**§38.41. Development of the County Water and Wastewater System Service Areas.**

The board of supervisors shall designate water and wastewater system service areas with the recommendation of the director in compliance with the Comprehensive Plan.

§38.42-§38.45 Reserved.

**Division 2. Water Conservation, Emergency Water Conservation**

**§38.46. Emergency Water Conservation**

Emergency water conservation is clearly differentiated from normal conservation programs. The director may proclaim an emergency water conservation alert for the county water system due to a water emergency, either through equipment failure, limiting the ability of the county to provide water, or through the limiting of available supplies. The alert levels as outlined in the county's Water Conservation and Management Plan which is maintained and can be viewed during normal business hours at the New Kent County Administration Office at 12007 Courthouse Circle, New Kent, Virginia 23124 shall be as follows:

- a. Tier I-Voluntary Use Restrictions. These restrictions are to limit the water usage and must follow the guidelines in the county's Water Conservation and Management Plan.

b. Tier II-Mandatory Use Restrictions. These restrictions have specific procedures that must be followed by all customers of the water system. These restrictions are outlined in the county's Water Conservation and Management Plan.

c. Tier III-Water Rationing. During extreme conditions, the county may introduce water rationing to conserve the water for its citizens. The rationing methods are outlined in the county's Water Conservation and Management Plan.

d. Tier IV-Additional Restrictions. During exceptional water emergencies, the county may introduce additional restrictions as outlined in the county's Water Conservation and Management Plan.

§38.47--§38.49. Reserved.

### **Division 3. Cross-Connection Control and Backflow Prevention**

#### **§38.50. Purpose and Authority of Department**

The county has adopted Cross-Connection Control and Backflow Prevention Regulations for the county water system. It is the purpose and intent of these regulations to ensure that all water supplies under the control of the county and destined for public consumption be pure and not constitute a danger to the public health or safety. This department is designed to satisfy the requirements of section 6.0 of the commonwealth's waterworks regulations promulgated by the state department of health and are hereby adopted by the board of supervisors for the county's water system. These requirements are a supplement to the applicable plumbing codes.

#### **§38.51. General Prohibition Against Cross Connections**

Cross connection between approved potable community or non-community water systems with other unapproved systems or equipment containing water or other substances of unknown or questionable safety are prohibited, except when and where, as approved by the director, protective devices such as a reduced pressure zone backflow

preventer or its equivalent are installed, maintained and tested to ensure proper operation on a continuing basis.

§38.52.- §38.59. Reserved.

#### **Division 4. Private Water and Wastewater Utility Systems**

##### **§38.60. Construction of Private Water and Wastewater Facilities Require Approvals.**

No community utility, water or wastewater system, capable of serving two or more connections, shall be constructed in this county without first obtaining the approval of the board of supervisors upon recommendation from the director. All utility systems shall be built in accordance with criteria and requirements of the county, state and federal rules and regulations and the plans and specifications for all such systems shall be approved by the director. All systems must be built using the applicable current county standards that apply, at the time of submittal for plans and specifications. If more than one year after the approval, construction has not begun; construction plans will have to be amended to comply with the current rules and regulations.

##### **§38.61. Source and Feasibility Study.**

The developer of a proposed community utility system shall provide the county with proof of an adequate source of water supply and/or wastewater treatment capacity for the system and a feasibility study indicating the financial basis for the upkeep and maintenance of the system. The county may require such additional information as is deemed necessary to protect the potential customers of the system. No utility system shall be approved unless these studies show that the system can operate efficiently, effectively, and at a financially sound basis

##### **§38.62. Requirements for Utility Systems**

a. Community utility systems.

1. A community utility system is defined as a self-contained utility system not connected to the public utility system that serves a predetermined number of land parcels within a subdivision or planned unit development. This could be a community water system, wastewater system or both.
  2. A community water system shall not be approved if:
    - a. Any portion of the property to be served by the utility system is (i) within 2500 feet (measured on a straight line) from an existing water service area or an existing public water system or (ii) is within such distance from a water system that is projected to be constructed within the next five years as stated in the capital improvements plan; or
    - b. The feasibility study indicates that (i) the number of users or potential users is such that the operation and maintenance of the system will impose a burden on the county or (ii) the necessary improvements to the system, when considered with present and future operation and maintenance costs, will require the expenditure of funds reasonably certain to cause deficit operations over a period of years;
  3. No community wastewater collections systems shall be allowed.
- b. Requirements for approved community utility systems.
1. Extensions of transmission mains and/or distribution mains and construction of wells with adequate storage, and proper treatment necessary to provide public water service for a new development shall be installed by and at the total expense of the developer.
    - a. For community water systems, the facilities necessary to supply and pump the water for a new development shall be at the total expense of the developer.
    - b. For community utility systems that are within a utility service area or projected to be within such area within five years, the developer will be required to pay for the entire costs of the improvements connecting the development utility infrastructure to the public utility system.

2. Materials and methods of construction shall be in strict accordance with the county's construction specifications for water facilities; engineering submittals and designs shall be reviewed and approved by the director.
3. All charges for services rendered by the county, including full-time inspection and engineering review shall be paid in full by the developer at no expense to the county. The developer shall post a surety in a form approved by the county attorney for these obligations.
4. When a development is being done in phases or sections, an overall master utility plan for the entire development must be submitted to the director prior to the approval of any construction plan for any phase or section.
5. The developer shall enter into an agreement with the county prior to the approval of any construction plan to construct the system in accordance with all county requirements and to convey the system to the county when finished as approved by the director.
6. The completed system shall be deeded to the county in proper legal form for ownership and operation in a form as approved by the county attorney.

**§38.63. Board May Require Increased Capacity**

The board of supervisors may require the developer to provide for increased utility system capacity to serve areas of desired growth or present need beyond the boundary of the proposed project property and shall enter into an agreement with the developer for such increased capacity.

**§38.64. Lines, Plants and Related Facilities Belong to County.**

When the county shall acquire any utility system, the following provisions shall apply:

- a. All lines, rights-of-way, plants, pumping stations and other related facilities, including ingress and egress, shall be in the name of and owned wholly by the county.

**§38.65. Performance and Maintenance Guarantees**

Developers of utility systems built after January 1, 1983, shall be required to furnish performance and maintenance guarantees approved by the county attorney for the

construction and continued operation and maintenance of the system. No building permit shall be issued for any lot served by a system built after January 1, 1983, which is not covered by an approved guarantee. The guarantee shall be in an amount equal to one year's operational costs and shall be for a duration to be determined by the director.

§38.66—§38.69. Reserved.

## **Article V. Disposal of Human Wastes**

### **§38.70. Certain Properties Required to Have Flush Toilets, to be Connected to a Public Sanitary Wastewater or Septic Tank.**

- a. Except as provided in section 38-71, any inhabited or occupied building, dwelling or residence of any type shall be provided by its owner with one or more sanitary flush toilets, in such numbers as may be reasonably sufficient to accommodate the number of persons usually congregating, living, working or loitering therein; and such toilets shall be connected to a public gravity wastewater if and when such gravity wastewater is or becomes available. A gravity wastewater system shall be regarded as available to any building when the building itself lies within the defined service area of a public wastewater system and/or service district as determined by the director of public utilities and when sufficient treatment capacity exists in the system, as determined by the management thereof, and which is situated on a property which abuts a road, right-of-way or easement in which a gravity wastewater of the county wastewater system is located. Nothing contained herein shall be construed to require the connection to a gravity wastewater system by the owner of any detached one-family dwelling on an individual lot or parcel of land which, at its closest point, is more than five hundred (500) feet from the gravity wastewater system. When public gravity wastewater is not available, such toilets shall be connected to a sanitary septic tank approved by the county health department.
- b. Any inhabited or occupied building, dwelling or residence of any type shall be provided by its owner with not less than one sanitary flush toilet.

**§38.71. Privies.**

a. Any inhabited or occupied building, dwelling or residence of any type where human beings congregate, live, work or loiter, and for which no sanitary wastewater is available and for which no sanitary septic tank meeting the requirements of the state board of health, this Code and the regulations of the county health department can be provided, shall be provided by its owner with a sanitary privy which meets the requirements of the state board of health and the county health department.

b. The owner, person in charge, and each occupant of any property which is provided with a sanitary privy pursuant to this section shall be responsible for the maintenance of such privy, at all times, in a safe, sanitary and clean condition, free of offensive odors and seepage, fly-proof, and so as not to constitute a nuisance or a danger to any source of water or food supply.

**§38-72. Permit Required to Install Septic Tank, Privy or Other Private Wastewater System.**

It shall be unlawful for any person to install, construct, maintain, use or repair or to have installed, constructed, maintained, used or repaired a septic tank and drain field or a privy, privy vault or other private wastewater disposal system pursuant to this article without first obtaining a permit from the health department. Septic tanks, privies and other private wastewater disposal systems installed under this article shall be inspected by a representative of the health department and approved before they are permitted to be covered for use. The health director shall decide the capacity and design and approve the location of any septic tank and drain field installed under this article.

**§38.73. Duty of Owners, etc., of Premises as to Maintenance of Sewage Disposal Systems**

It shall be unlawful for any owner, person in charge, tenant or lessee of any premises lawfully and properly supplied with a septic tank and drain field, or a wastewater system or other approved device for the disposal of human excrement to misuse or neglect the same so as to allow or cause it to cease to be sanitary.

**§38.74. Pump and Haul Wastewater Disposal.**

a. Whenever the director of public utilities determines, in his sole discretion, that the wastewater generated by any commercial, residential, or other facility can only be practically disposed of by pumping and hauling such material, as described by the Sewage Handling and Disposal Regulations promulgated by the Virginia State Board of Health, and that the duration of use of such disposal method shall exceed one (1) year, he shall reduce such a finding to writing and forward same to the county administrator, with a copy to the county health director, or his designee.

b. The county administrator shall present the declaration described in subsection (a), above, to the board of supervisors, which shall determine whether or not the facility shall be included in the list of such facilities described in the county's general permit for pump and haul with the state health commissioner.

c. In the event the board of supervisors determines that a facility should be added to the general permit, it shall determine the terms and conditions upon which such addition shall occur, and it shall direct the county attorney to prepare a contract with the owner of such facility specifying such terms and conditions. No facility shall be added to the general permit until such contract, signed by the owner, shall be delivered to the county administrator in recordable form for his signature on behalf of the board. At a minimum, such contract shall provide:

1. That the term of the contract and placement on the general permit shall not exceed two (2) years, but additional two (2) year terms may be authorized by the board under such terms and conditions as it may direct.

2. That surety for the performance of the contract may be required by the board in an amount to be determined by the director and in a form approved by the county attorney.

3. That, in the event a county-owned wastewater line shall become available to such facility, as "available" is defined by Chapter 38 of the County Code, the owner shall forthwith connect the facility to such line with all possible diligence, thereby terminating the contract and the placement on the general permit.

4. That the contract may be terminated and the facility removed from the general permit on thirty (30) days written notice by the board.
- d. Any person, firm, or corporation who utilizes the "pump and haul" method of sewage disposal without benefit of the contract and general permit described in this section, or without benefit of an emergency pump and haul permit issued by the county health director, or his designee, shall be found in violation of this chapter.

**§38.75. Regulation of Persons Engaged in Business of Cleaning Privies and Septic Tanks**

No person shall engage in the business of cleaning privies or septic tanks until the equipment to be used in connection with such business is approved in writing by the health director and until the name and address of the person owning or operating such equipment is painted thereon in letters at least four (4) inches high.

Any person contracting to clean privies or septic tanks in the county for any person shall first post a surety acceptable to the health director in the penalty of one thousand dollars (\$1,000.00), issued by a surety company licensed to do business in the State of Virginia. The conditions of such surety shall be to indemnify and save harmless any person and the county from all loss damage, expense or cost by reason of any claim, suit or action instituted by such person or the county on account or in consequence of neglect on the part of the principal obligor in carrying out the act of cleaning a privy or septic tank or wastewater disposal system in the county. Such surety shall be so conditioned that any and all sludge and material removed from such system shall be disposed of in accordance with all applicable provisions of this Code and the regulations of the state board of health and the county health department. A copy of such surety shall be filed by the principal obligor with the health department

**§38.76. Prohibited Arrangements for Disposal of Human Excrement**

No person shall construct, maintain or permit on any premises maintained by him an arrangement for the disposal of human excrement which may endanger any source of food or drinking water, which allows flies to have access to human excrement, or in any way become a menace to the public health of the community; nor shall any person

deposit any human excrement upon the surface of the ground or in any place where it may endanger a source of food or drinking water or be accessible to flies or animals.

**§38.77. Septic Tank Contractors Permit Required; Application; Duration; Removal; Revocation**

Any person contracting to install, repair or clean a septic tank in the county for another person shall first obtain a permit from the county health department to do such work. To obtain a permit as required by this section, such person shall apply to the county health department and, if the applicant is considered qualified to perform the duties of such a contractor, a permit shall be issued. Permits shall be renewed annually, and a permit may be revoked at any time by the county health department for failure to comply satisfactorily with the provisions of this article and other regulations of the county health department and the state department of health.

**§38.78 Health Director's Order for Correction of Violation of Article**

If upon any inspection, the health director, his designated agent, or other lawful authority shall find any violation of this article, he shall direct, by written notice, that the violation in question be corrected within such reasonable time, not to exceed thirty (30) days, as shall be specified by him. It shall be unlawful for any person to fail, neglect, or refuse to comply with such notice within the specified time.

§38.79. Reserved

**Article VI. County Wastewater System**

**Division 1. Generally.**

**§38.80. Applicability of Article.**

Whereas the county has determined that provision of a public wastewater disposal system is essential to protect the public health, safety and general welfare, and to prevent spread

of diseases, and is otherwise necessary to promote the public health, safety and welfare, the county hereby establishes a public wastewater system for such purpose.

The provisions of this article shall be applicable to any public wastewater collection and/or treatment system owned or leased and operated by the county, herein known as the "public wastewater system." This article also provides for the construction operation, extension, maintenance, and the setting of charges and fees for the use of the wastewater facilities of the county and its service districts. The governing body exercises its authority to establish, maintain, operate, extend and enlarge a public wastewater system within the county under the provisions of chapter 9 of title 15.1 of the Code of Virginia of 1950, as amended.

§38.81—§38.89. Reserved.

## **Division 2. Wastewater and Sewage Disposal**

### **§38.90. Persons and Firms Required to Apply For Connection to the Public Wastewater System**

- a. When determined to be essential to the establishment of an adequate wastewater collection system within the county, which is necessary in order to protect the public health, safety and general welfare and to prevent the spread of diseases and illnesses related to the disposal of wastewater, and is necessary to prudently and with foresight prepare for the potential diminishment, loss, or pollution of groundwater, through making publicly supplied wastewater service readily accessible if and when the collection is needed, the county may construct a public collection system and require application for a connection to the wastewater system in accordance with this section.
- b. Whenever a wastewater line is constructed by the county wastewater system, and when wastewater service is available to properties abutting the line, the county may declare wastewater service to be available and notify the owners of the properties abutting the road, right-of-way, or easement in which the wastewater line is located of the service availability by certified mail.

c. Whenever the county wastewater system constructs and provides a gravity wastewater lateral connection at a point on a property or within ten (10) feet of a property, and an inhabited or occupied building, dwelling or residence of any type is situated thereon, the owner of the property shall make an application for wastewater service, paying all applicable fees (or one-thirtieth (1/30) part thereof as provided in section 38-13 hereinafter), and begin paying the bi-monthly minimum charge (as provided in section 38-15 hereinafter), within one hundred and eighty (180) days of the time the county declares the wastewater supply to be available. Anyone requesting connection to the county wastewater system, after one hundred and eighty (180) days from when the county declares the wastewater available, shall pay all applicable fees in full prior to connection to the wastewater system.

d. Whenever gravity wastewater lines of the county wastewater system exist, the owner of any inhabited or occupied building, dwelling or residence of any type completed after the county has declared the wastewater supply to be available, and which is situated on a property which abuts a road, right-of-way, or easement in which a wastewater line of the county wastewater system is located is required to make an application for wastewater service, paying the applicable fees and connecting the building to the wastewater system.

§38.91—§38.94. Reserved.

### **Division 3. Pretreatment Standards**

#### **§38.95. Purpose and Policy.**

Pursuant to this chapter, the county has adopted Pretreatment Standards Regulations for the county wastewater system. These regulations sets forth uniform requirements for direct and indirect users of the wastewater collection and treatment systems of the publicly owned treatment works (POTW) within the county and enables the POTW to comply with all applicable state and federal laws required by the Clean Water Act of 1977, the General Pretreatment Regulations (40 CFR, Part 403), and the Virginia General

Pretreatment Regulations for Existing and New Sources of Pollution (9 VAC 25-31-730, et al.)

The objectives of these regulations are:

- a. To prevent the introduction of pollutants into wastewater systems which will interfere with the operation of the system or contaminate the resulting sludge;
- b. To prevent the introduction of pollutants into wastewater systems which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;
- c. To improve the opportunity to recycle and reclaim wastewaters and sludges from the system.

**Division 4. Reclaimed Water Regulations (Reserved)**

§38.96—§38.99. Reserved.

**Article VII. County Water System**

**Division 1. Generally**

**§38.100. Applicability of Article**

Whereas the county has determined that provision of an adequate supply of potable water is essential to protect the public health, safety and general welfare, and to prevent the spread of diseases, and is otherwise necessary to promote the public health, safety and welfare, the county hereby establishes a public water system for such purpose.

The provisions of this article shall be applicable to any public water supply and distribution system owned or leased and operated by the county, herein known as the "county water system." The governing body exercises its authority to establish, maintain, operate, extend and enlarge a public water system within the county under the provisions of chapter 21 of title 15.2 of the Code of Virginia of 2007, as amended.

**§38.101. Obstructing Fire Hydrants.**

No bushes, shrubbery, fences, or other objects obstructing free access to a fire hydrant shall be permitted within six (6) feet of a fire hydrant and no object either movable (including automobiles or other types of vehicles) or permanent shall be placed in front of a hydrant for a distance of six (6) feet from either side.

§38.102—§38.109. Reserved.

**Division 2. Water Service.**

**§38.110. Availability of Water Service**

The County is in the Eastern Virginia Ground Water Withdrawal Area, designated by the state. The Commonwealth of Virginia Ground Water Withdrawal Act of 1992 regulates withdrawals, not the county. Therefore, any request for public water that is not already included within a service area already permitted by the county, is not guaranteed. New developments must, at their own expense, apply for the appropriate ground water withdrawal permit or a modification to a county permit, prior to final approval for connection to the public system.

**§38.111. Persons and Firms Required To Apply For Connection to Public Water Supply**

a. When determined to be essential to the establishment of an adequate water supply and distribution system within the county, which is necessary in order to protect the public health, safety and general welfare and to prevent the spread of diseases and illnesses related to the consumption of water, and is necessary to prudently and with foresight prepare for the potential diminishment, loss, or pollution of groundwater, through making publicly supplied water readily accessible if and when the supply is needed, the county may construct one or more public water supply systems and require application for a water service connection with it in accordance with this section to such systems.

- b. Whenever a water line is constructed by the county water system, and when water service is available to properties abutting the line, the county may declare the water supply to be available and notify the owners of the properties abutting the road, right-of-way, or easement in which the water line is located of the service availability by certified mail.
- c. Whenever the county water system declares the water system available and an inhabited or occupied building, dwelling or residence of any type is situated thereon, the owner of the property shall connect to the water system and shall apply for water service, pay the applicable connection fee [or one-thirtieth (1/30) part thereof as provided in section 38-12 hereinafter], and begin paying the bi-monthly minimum charge (as provided in appendix A of this Code hereinafter), within ninety (90) days of the time the county declares the water supply to be available.
- d. Whenever water lines of the county water system exist, the owner of any inhabited or occupied building, dwelling or residence of any type completed after the county has declared the water supply to be available, and which is situated on a property which abuts a road, right-of-way, or easement in which a water line of the county water system is located, is required to make an application for water service, pay the applicable connection fees, and begin paying the bi-monthly minimum charge and connect to the public water system.
- e. Nothing contained herein shall be construed to require the filing of an application for connection to the county water system by the owner of any detached one-family dwelling on an individual lot or parcel of land which, at its closest point, is more than five hundred (500) feet from the water meter connection, if one is constructed and provided by the county water system, or from the side of the road, right-of-way, or easement which abuts the property and in which the water line is located, measured at the point nearest the structure.
- f. Subdivision requirements: Whenever a subdivision is required to be served by public water, water lines must be extended to all lots within the subdivision in accordance with the provisions of section 38-12. Subdividers shall pay all applicable application fees prior to final plat approval by the county for each lot in the subdivision.

**§38.112. When Connection Is Permissible**

Whenever the owner of a property has made an application for a connection and paid the applicable fees, he may connect his premises to the system in accordance with the provisions of section §38-12.

Any residential, commercial or industrial structure constructed on a parcel of land which abuts upon a road, right-of-way, or easement containing a county water main, shall connect to the water main after paying all application fees and in accordance with the department specifications unless non-user status is granted by the director.

**§38.113. When Connection Is Required**

Whenever any county health officer shall determine, through investigation, testing, or other appropriate means, that the continued utilization of a water source other than county water presents a clear and present danger to public health or to the health of the occupants or users of any structure, and that county water is available to any such structure under the criterion described in section 38-12 of this Code, he shall issue a written directive to the owner or owners of such structure and to its tenants, if appropriate, requiring that the facility be immediately connected to the county water system within ten (10) days. Proof that such a directive was mailed first class mail to the property owner as his name and address appear on the records of the commissioner of the revenue on the date of mailing shall constitute prima facie evidence of notice of the directive to all owners. The application fees described in Appendix A shall be deferred for a period not to exceed six (6) months when connection is made pursuant to said directive.

Water from any existing well may not be used inside any dwelling or residence connected to the county water system, but may be used only for outside purposes, such as watering lawns, gardens and flower beds, and washing automobiles.

The owner of a property within a designated Groundwater Service Area, as identified in the Comprehensive Plan, shall not construct or cause to be constructed a new well into any aquifer or water bearing formation, whose purpose is for the withdrawal of potable or non-potable water, unless the lot is located in the service area which does not have public water facilities available and when public water becomes available through the construction of the necessary facilities, the owner agrees to abandon the well and connect

to the newly constructed water facilities. The exception being a well for the purpose of a closed loop geothermal system, in which the water is returned to the source aquifer.

**§38.114. Separate Meter for Individual Residence or Business**

Each individual building, be it a residence or place of business, receiving water shall have a separate meter whether or not owned by the same person or persons occupying the same lot or lots. For the purpose of this regulation an outbuilding shall not be considered an individual residence unless it is used as a dwelling.

**§38.115. Single Service, Separate Meters, Permitted For More Than One Tenant**

Where any one building, house or premises supplied by a single meter is rented to more than one (1) tenant, the owner of the property may, at his request, have separate meters for each unit installed at his cost, upon paying the separate connection fees and upon agreeing to be responsible for the charges therefore; provided, however, that in the event the building is used for more than one (1) business, or as professional offices for more than one (1) tenant, the owner of the premises may have one (1) meter to serve all businesses and professional offices in any one (1) building upon the payment of one (1) application fee.

**§38.116. Hydrant, Meters, etc. To Be Property of County**

All fire hydrants, meters, meter boxes and pipes and connections between the main water line and the meter boxes or curb stops are the property of county, whether or not the same be located on private property. This stipulation shall not require the county to provide or maintain fire hydrants, meters, meter boxes, and pipes to any location on any private property. Any such pipes and appurtenances which may be located on private property as a convenience to the county or the owner may be withdrawn to the property line at any time by the county.

**§38.117. Resale of Public Water**

The resale of water is prohibited under any terms or conditions except when specifically authorized by the board.

**§38.118. Water for Fire Suppression**

Water lines solely for fire protection shall not be metered but shall be provided with a detector check valve. In manufactured home parks and travel trailer parks, potable water service may be tapped from fire protection lines if a fire service meter is installed. Fire suppression water must be supplied in such parks when connected to the county water system for potable supply in accordance with the regulations of the director

§38.119—§38.129. Reserved.

**Division 3. Construction Meter Regulations**

**§38.130. Purpose and Policy**

Pursuant to this chapter, the county has adopted Construction Meter Regulations for the county water system. The primary purpose of fire hydrants in the county water system is to provide quick and easy access to water from distribution piping for fire suppression. Fire hydrants are also used for secondary purposes such as construction and pool filling. Because fire hydrants can be a conduit for contamination it is incumbent on the department to protect the distribution system from potential contamination as well as preserve the primary function of fire suppression. It is with these basic tenets of the community we serve that restrictions on use of fire hydrants as a water source, other than for firefighting and system maintenance, must be imposed.

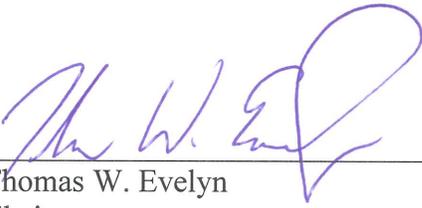
The department provides water service for permanent facilities via underground meters; however, for other circumstances (if approved) water service will be provided by issuance of construction meter assemblies and construction meter service permits. If a long-term/permanent requirement exists then an underground service tap and meter will be required. Issuance of a permit and construction meter assembly (HMA) is contingent on the applicant meeting specific criteria.

This ordinance shall be effective as of July 1, 2011.



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G. Cabell Lawton, IV  
County Administrator



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Thomas W. Evelyn  
Chairman