

REQUEST FOR BOARD ACTION

HENDERSON COUNTY BOARD OF COMMISSIONERS

MEETING DATE: September 6, 2005

SUBJECTS: Revisions to the Sewer Use Ordinance

ATTACHMENTS: Yes (Sewer Use Ordinance is located in inside front pocket of agenda book)

SUMMARY OF REQUEST:

The North Carolina Department of Transportation (NCDOT) has changed its requirements concerning the granting of encroachments to private parties to construct sewer facilities parallel and adjacent to the State roads. When it is not technically possible to build a total-gravity sewer collection system, which may, upon certain requirements being met, be deeded to the Cane Creek Sewer District, developers are considering building a combination gravity/pump station/ force main sewer collection system which they would own and operate. However, if the developer can't secure an encroachment for a force main from the NCDOT, this option is eliminated.

In order to (a) assist developers with securing a NCDOT encroachment for sewer collection systems to be owned by the developer and (b) protect the Cane Creek Sewer District against unnecessary risk and expense, staff is requesting that the Board amend the Sewer Use Ordinance per the attached edition. A paragraph about processing encroachments is included. A number of other proposed additions and changes establish procedures for developers to serve the various types of development with a privately-owned sewer collection system.

Other proposed revisions address the elimination of the Mud Creek Water and Sewer District and better identify potential water suppliers.

Still other proposed revisions address new billing and collection arrangements and formalize the policy that sewer collection systems must be total-gravity in order for Cane Creek Water and Sewer District to accept ownership.

COUNTY MANAGER'S RECOMMENDATION\BOARD ACTION REQUESTED:

This agenda item addresses the issue that was caused by the ruling by NCDOT about allowing private developers to use their rights-of-way. This item is also in keeping with the Board's Strategic Plan's initiative to review all of the County's ordinances and make any appropriate changes to update them.

**AN ORDINANCE TO REVISE AND AMEND
HENDERSON COUNTY SEWER POLICIES**

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF HENDERSON COUNTY, NORTH CAROLINA:

WHEREAS, due to various changes in circumstances the sewer ordinance and policies contained therein of Henderson County are in need of revision,

NOW, THEREFORE, IT IS ORDAINED AS FOLLOWS:

1. Chapter 152 of the Henderson County Code, entitled "Sewers", is repealed in its entirety.
2. A new Chapter 152A of the Henderson County Code, entitled "Sewers" is hereby adopted. The text of such new Chapter is as follows:

Chapter 152A, SEWERS

Part 1, Sewer Use

ARTICLE I, General Provisions

§ 152A-1. Statutory authority; jurisdiction.

This Part 1 is adopted pursuant to provisions of the North Carolina General Statutes, Chapter 153A, Article 15. This chapter shall apply to all persons who are users of the Cane Creek Water and Sewer District (CCWSD) sewer system and any other sanitary sewer system owned, operated and/or controlled by Henderson County, North Carolina or CCWSD.

§ 152A-2. Abbreviations.

The following abbreviations shall have the designated meanings:

BOD	--	Biochemical oxygen demand.
CCWSD	--	Cane Creek Water and Sewer District.
CFR	--	Code of Federal Regulations.
COD	--	Chemical oxygen demand.
DEM	--	The North Carolina Department of Environmental, Health and Natural Resources, Division of Environmental Management.
EPA	--	The United States Environmental Protection Agency.
l	--	Liter.

mg	--	Milligrams(s).
mg/l	--	Milligram(s) per liter.
MSD	--	Metropolitan Sewerage District of Buncombe County.
NPDES--		National Pollutant Discharge Elimination System.
OSHA	--	Occupational Safety and Health Administration.
P.L.	--	Public Law.
POTW	--	Publicly owned treatment works.
SWDA	--	The Solid Waste Disposal Act.
SIU	--	Significant industrial user.
SS	--	Suspended solids.
USC	--	United States Code.

§ 152A-3. Definitions and word usage.

A. The following words, terms and phrases, wherever used in this chapter, shall have the meanings respectively ascribed to them in this section unless the context plainly indicates otherwise or that a more restricted or extended meaning is intended.

ACCIDENTAL DISCHARGE -- Any release of wastewater which, for any unforeseen reason, fails to comply with any prohibition or limitation in this chapter.

ACT or THE ACT -- The Federal Water Pollution Control Act, (P.L. 92- 500), as amended by the Clean Water Act of 1977 (P.L. 95-217), the Clean Water Act of 1987, and as further amended (33 U.S.C. § 1251 et seq.).

APPROVAL AUTHORITY -- The Director, North Carolina Department of Environment, Health and Natural Resources, Division of Environmental Management (DEM).

AUTHORIZED REPRESENTATIVE OF USER:

- (1) A principal executive officer of at least the level of vice president if the user is a corporation.
- (2) A general partner or proprietor if the user is a partnership or proprietorship, respectively.
- (3) A representative of the user who is responsible for the overall operation of the facilities from which the discharge originates.
- (4) Any other duly authorized representative of the user.

BIOCHEMICAL OXYGEN DEMAND or BOD -- The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five days at 20° C. (68° F.) expressed in terms of weight and volume (milligrams per liter).

BOARD -- The Board of County Commissioners of Henderson County and the Board of Trustees of CCWSD.

BUILDING SEWER or HOUSE CONNECTION -- The connecting pipe from a building, beginning five feet outside the inner face of the building wall, to a sanitary sewer service lateral.

CANE CREEK WATER AND SEWER DISTRICT (CCWSD) -- A municipal corporation and body politic and corporate established under North Carolina General Statutes pursuant to Chapter 162A, Article 6, to provide public water supply and sanitary sewer service within a geographic area whose boundaries have been established in accordance with said Chapter 162A, Article 6 of the North Carolina General Statutes. As used in this Part 1, CCWSD is used to refer to both the District and/or its geographic boundaries.

CATEGORICAL STANDARD -- National Categorical Pretreatment Standard or pretreatment standard as defined below.

CITY--A Municipality and/or its elected officials.

COLOR -- Considered to be the true color of the light transmitted by a waste solution after removing suspended material, including pseudocolloidal particles.

COMBINED SEWER -- A sewer receiving both surface stormwater runoff and wastewater.

CONSTITUENTS -- The specific compounds and components which comprise the wastewater.

CONTROL AUTHORITY -- The Board of County Commissioners of Henderson County, North Carolina.

COOLING WATER -- The water discharged from any use, such as air conditioning, cooling or refrigeration, to which the only pollutant added is heat.

COUNTY -- Henderson County and/or CCWSD.

COUNTY ENGINEER -- A professional engineer registered in the State of North Carolina retained or employed by the County to advise on matters concerning the construction, operation and/or maintenance of its County sewerage system or any other person designated by the County.

COUNTY SEWERAGE SYSTEM -- Any sewerage system owned, operated and/or controlled by the county.

DEVELOPER SERVICE PROVIDER - A developer that owns a sewerage system, (that serves or is intended to serve properties owned by separate parties) which discharges into a sewerage system owned or controlled by Henderson County, CCWSD or any other sewer district created and owned by the County.

DEVELOPER USER - Any User who is either a developer service provider or a sewerage customer of a developer service provider.

DIRECT DISCHARGE -- The discharge of treated or untreated wastewater directly to the waters of the State of North Carolina.

DOMESTIC WASTE -- All liquid and waterborne pollutants, as defined below, exclusive of unpolluted wastewater as defined below 1.03.63 or wastewater as defined below or wastes from processes or operations of industrial users as defined below.

ENVIRONMENTAL PROTECTION AGENCY or EPA -- The United States Environmental Protection Agency or, where appropriate, the term may also be used as a designation for the Administrator or other duly authorized official of said Agency.

FLAMMABLE -- As defined in § 152A-17A.

GRAB SAMPLE -- A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

HOLDING TANK WASTE -- Any waste from holding tanks, such as vessels, chemical toilets, trailers, septic tank, vacuum pump tank trucks and septic tank haulers.

INDIRECT DISCHARGE -- The discharge or the introduction of nondomestic pollutants from any source regulated under the Act into the county sewerage system, including holding tank waste discharged into the sewerage system.

INDUSTRIAL USER -- A user who discharges industrial waste, as that term is defined below into the county sewerage system.

INDUSTRIAL WASTE -- The liquid and waterborne pollutants resulting from the processes or operations employed in industrial establishments.

INFILTRATION -- The water entering sanitary sewers and building sewers from the soil through defective joints, broken or cracked pipe, improper connections, manhole walls or other defects in the county sewerage system as that term is defined above. Infiltration does not include and is distinguished from inflow.

INFLOW -- The water discharged into sanitary sewers and building sewers from such sources as roof leaders, cellar and yard area drains, foundation drains, commercial and industrial discharges of unpolluted wastewater as defined below and drains from springs and swampy areas. It does not include and is distinguished from infiltration.

INTERFERENCE -- The inhibition or disruption of the wastewater treatment process or operations or acts or discharges which may cause damage to any portion of the county sewerage system or which contribute to a violation of any requirement of any permit regulating the operation of the county sewerage system, including a NPDES Permit. The term includes interference with sewage sludge use or disposal in accordance with state or federal criteria, guidelines or regulations or any state or federal criteria, guidelines or regulation or any state or federal sludge management plan applicable to the method of disposal or use employed by the county sewerage system.

MASTER SEWER PERMIT - A permit issued to municipal service providers, public utilities, developer service providers, or a property owner's association service provider to allow a common sewer connection authorized by § 152A-8B to connect into the county sewerage system. The master sewer

permit may only be issued to municipal service providers, public utilities, developer service providers, or property owner's association service providers who own, operate, and maintain the sewage collection system serving the separate properties in question. Payment of all applicable fees shall be required prior to issuance of the master sewer permit. Individualized sewer permits for all customers served by the common connection shall be required pursuant to § 152A-40B.

MUNICIPAL SERVICE PROVIDER -- An incorporated town, municipality or village or a sewerage district established under Chapter 162A of the North Carolina General Statutes which owns or controls a sewerage system (that serves or is intended to serve properties owned by separate parties) which discharges directly or indirectly into a sewerage system owned or controlled by Henderson County, CCWSD or any other sewer district created by the county.

MUNICIPAL USER -- Any User who is either a municipal service provider or a sewerage customer of a municipal service provider.

NATIONAL CATEGORICAL PRETREATMENT STANDARD or PRETREATMENT STANDARD -- Any regulation containing pollutant discharge limits promulgated by the EPA.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT or NPDES PERMIT -- A permit issued by the State of North Carolina regulating the discharge of wastewater into the surface waters of the state.

NEW SOURCE -- Any source, the construction of which is commenced after the adoption of this chapter.

NORMAL DOMESTIC WASTE -- A waste having average concentrations of 300 mg/l of BOD or less and 300 mg/l of suspended solids or less as determined by samples taken before entering the county sewerage system.

PERSON -- Any individual, firm, company, association, corporation, governmental agency, board, commission or municipal corporation other than the county.

pH -- The logarithm of the reciprocal of the concentration of hydrogen ions in moles per liter of solution. Stabilized pH is that determined after a sample of waste has been subjected to natural aeration.

POLLUTANT -- Any solid waste, chemical waste, biological material, radioactive material, thermal waste or industrial, municipal or agricultural waste discharged into water.

POLLUTION -- The man-made or man-induced alteration of the chemical, physical, biological or radiological integrity of water.

POTW TREATMENT PLANT -- That portion of the POTW designed to provide treatment to wastewater.

PRETREATMENT -- The lawful reduction of the amounts of pollutants, the elimination of pollutants, the alteration of the nature of pollutants or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to discharging or otherwise introducing such pollutants into the county sewerage system.

PRETREATMENT REQUIREMENT -- Any substantive or procedural requirement related to pretreatment other than a National Categorical Pretreatment Standard imposed on an industrial user.

PRIVATE WASTEWATER DISPOSAL SYSTEM -- Any facilities for wastewater treatment and disposal not owned by a governmental entity.

PROPERLY SHREDDED GARBAGE -- The organic wastes resulting from the preparation, cooking and dispensing of foods that have been shredded to such a degree that all particles will be carried freely under flow conditions normally prevailing in sanitary sewers, with no particle being greater than 1/2 inch in any dimension.

PROPERTY OWNER'S ASSOCIATION SERVICE PROVIDER - A property owner's association that owns a sewerage system (that serves or is intended to serve properties owned by separate parties) which discharges into a sewerage system owned or controlled by Henderson County, CCWSD or any other sewer district created and owned by the County.

PROPERTY OWNER'S ASSOCIATION USER - Any User who is either a property owner's association service provider or a sewerage customer of a property owner's association service provider.

PUBLICLY OWNED TREATMENT WORKS or POTW -- All facilities owned by the county, MSD or any of the governmental units within the county for collecting, pumping, treating or disposing of wastewater. This definition includes the POTW treatment plants and any sewers that convey wastewater to the POTW treatment plants (sewerage system).

PUBLIC SEWER -- County sewerage system or any sewerage system owned or controlled by any governmental entity.

PUBLIC UTILITY -- A public utility, which is regulated by the North Carolina Utilities Commission, that owns a sewage collection system (that serves or is intended to serve properties owned by separate parties) which legally discharges the sewage therefrom into the County sewerage system.

PUBLIC UTILITY USER -- Any user who is either a public utility or a sewerage customer of a public utility.

PUBLIC WATER SYSTEM--A government-owned water system.

RECEIVING STREAM -- That body of water, stream or watercourse receiving the discharge from a wastewater treatment plant or that body of water, stream or watercourse formed by the effluent from a wastewater treatment plant.

SANITARY SEWAGE -- Sewage excluding process wastes from industrial users.

SANITARY SEWER -- A public sewer that carries liquid and waterborne wastes from residences, commercial buildings, industrial plants and institutions, together with minor quantities of ground- and surface waters that are not intentionally admitted.

SANITARY SEWER SERVICE LATERAL -- The sewer pipe which is connected on one end to the sanitary sewer and on the other end to the building sewer.

SEWAGE -- A combination of water-carried wastes from residences and industrial users (wastewater).

SEWER -- A pipe or conduit for carrying wastewater.

SEWERAGE SYSTEM -- All facilities for collecting, pumping, treating and disposing of wastewater (POTW).

SIGNIFICANT INDUSTRIAL USER or SIU -- Any industrial user of the POTW who:

- (1) Has a discharge flow of 25,000 gallons or more per average workday;
- (2) Has a discharge which is greater than 5% of the hydraulic flow or organic design capacity of the POTW;
- (3) Has a discharge which contains toxic pollutants or priority pollutants as defined in the Act or federal or North Carolina law, statutes, rules or regulations;
- (4) Is found by the county, the approval authority, or the EPA to have significant impact, either singly or in combination with other contributing industries, on the county sewerage system, the quality of sludge, the system's effluent quality or air emissions generated by the county sewerage system.

SLUDGE -- Any discharge of water or wastewater for any duration during which the rate of flow or concentration of any constituent increases to such magnitude so as to adversely affect the operation of the County sewerage system or the ability of the wastewater treatment plants to meet applicable water quality objectives.

STANDARD INDUSTRIAL CLASSIFICATION or SIC -- A classification of an industry based on its produce or service.

STANDARD METHODS -- The analytical procedures set forth in the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, or EPA Methods for Chemical Analysis of Water and Wastes.

STATE -- The State of North Carolina.

STORM SEWER or STORM DRAIN -- A sewer which carries stormwaters and surface waters and drainage, but which excludes sanitary sewage and polluted industrial wastewater.

STORMWATER -- Any flow occurring during or following any form of natural precipitation and resulting therefrom.

STRENGTH OF WASTE -- The concentration of pollutants or substances contained in a liquid waste.

SUBDIVISION -- A development of two or more single-family residences intended for owner occupancy with individual residences located on individual lots

SUSPENDED SOLIDS -- The total solid matter that either floats on the surface of or is suspended in water or liquid waste and which is removable by laboratory filtration.

TOXIC POLLUTANT -- Any pollutant or combination of pollutants listed as toxic in federal or state law or regulations promulgated by the EPA.

TWENTY-FOUR-HOUR FLOW PROPORTIONAL COMPOSITE SAMPLE or COMPOSITE SAMPLE -- A sample consisting of at least eight portions collected during a twenty-four-hour period or the total period of waste flow if less than 24 hours in which the sample portions are collected

proportionate to the flow and proportionately combined into a single sample. Alternate sampling requirements may be established in a user's permit to discharge industrial wastes and/or by the approved authority.

UNPOLLUTED WASTEWATER:

- (1) Any wastewater which is substantially free of pollutants and is discharged from the following:
 - (a) Rain downspouts and drains.
 - (b) Footing drains.
 - (c) Storm- and surface water drains.
 - (d) Cooling water systems.

- (2) Unpolluted wastewater shall contain, by definition, none of the following:
 - (a) BOD in excess of 10 mg/l.
 - (b) Suspended solids in excess of 10 mg/l.
 - (c) Free or emulsified greases or oils.
 - (d) Acids or alkalis.
 - (e) Phenols or other substances imparting taste or odor to receiving waters.
 - (f) Toxic or poisonous substances.
 - (g) Noxious or odorous gases.
 - (h) Temperature which exceeds 60° C. (or 140° F.) at its introduction into a storm sewer or which exceeds 40° C. (104° F.) at its introduction into a receiving stream.

- (3) Unpolluted wastewater shall also mean any wastewaters judged by the DEM to be admissible to streams and watercourses under the jurisdiction of the DEM and in accordance with the standards of water quality established by the DEM for the particular stream or watercourse into which such unpolluted wastewater is to be discharged.

USER -- Any person, who directly or indirectly discharges, causes or permits the discharge of wastewater into the county sewerage system, including, but not limited to, municipal users and public utility users.

WASTEWATER -- Sewage.

WASTEWATER TREATMENT PLANT -- The facilities of the county, city or MSD for treating and disposing of wastewater (POTW treatment plant).

WATERCOURSE -- A channel in which a flow of water occurs either continuously or intermittently.

WATERS OF THE STATE -- All bodies or accumulations of water, surface or underground, within the boundaries of the State of North Carolina.

B. Definitions include both the singular and the plural, and all pronouns include both the singular and plural and cover all genders.

ARTICLE II, Use of Public Sewers Required

§ 152A-4. Discharge of untreated wastewater prohibited.

It shall be unlawful for any person to discharge to any outlet other than a sanitary sewer, in Henderson County, any domestic or industrial wastes except where suitable treatment has been provided in accordance with this chapter or where an appropriate NPDES permit has been obtained.

§ 152A-5. Storm sewers.

Where a storm sewer, as defined by § 152A-3, is adjacent to a property, cooling water, as defined by § 152A-3, which meets the definition of that section, may be discharged into said storm sewer, provided that the county determines that sufficient capacity exists in said storm sewer to carry the cooling water without exceeding the design storm drainage capacity of said storm sewer and where an appropriate NPDES permit has been obtained from the DEM.

§ 152A-6. Sanitary sewers.

The owner(s) of all houses, buildings or properties situated within the county and/or CCWSD and abutting on any street, alley easement or right-of-way in which there is now located or may in the future be located abutting said property a sanitary sewer of the county that discharges to a wastewater treatment plant, who has installed toilet or other facilities therein necessary for the discharge of domestic or industrial wastes, is hereby required, at the owner(s)' expense, to connect such facilities directly with the sanitary sewer in accordance with provisions of this chapter within 90 days after being directed to do so by any governmental entity having jurisdiction, including the county, provided that said sanitary sewer abuts the property.

§ 152A-7. Sanitary sewer service lateral.

A. The sanitary sewer service lateral is the pipe which joins the sanitary sewer to the building sewer. In nonroadway areas, the sanitary sewer service lateral shall extend 10 feet from the center line of the sanitary sewer. In roadway areas, the sanitary sewer service lateral shall extend to a point:

- (1) Three feet beyond any existing roadway drainage ditch.
- (2) Three feet beyond the edge of the traveled roadway (if no drainage ditch).
- (3) At least 10 feet from the center line of the sanitary sewer but further if necessary to meet the requirements in Subsection A (1) and (2) above.

B. The property owner or user shall not perform, direct or permit the performance of any maintenance or construction work on any part of the sanitary sewer system or related facilities without expressed written approval of the County.

C. Prior to connecting to any County-owned sanitary sewer systems, a property owner shall obtain a sewer permit from the County Utilities Department, and any other permits required by the County Inspection Department. Any and all fee(s) shall be due and payable at the time of obtaining the permit(s).

§ 152A-8. Separate sewer connections; exceptions.

Except as herein otherwise provided, there shall be a separate tap and connection with the sewer pipe of the County for each house, structure or building, and no connection shall be used to collect the sewage from more than one house, structure, or building.

A. When an owner of an interior lot proposes to construct a non-dwelling structure as a separate building in the rear of an existing house, structure or building, and such structures and additions on such lot are in a common occupancy, such owner may be permitted to serve the additional structure or building through the sewer connection serving the existing structure; provided that:

(1) The interior lot fronts on one street only.

(2) The interior lot is of insufficient size to allow subdivision or construction of an additional structure which could abut such street.

(3) Such additional construction is in compliance with the City zoning ordinances if located within the jurisdiction of the City or with the County zoning ordinances if located within the jurisdiction of the County.

B. A common sewer connection, including a private sewage collection system, will be permitted to serve more than one building of the following categories:

(1) Group apartment housing (projects consisting of one or more structures situated on one tract under common ownership and not intended to be capable of subdividing into individual lots or tracts for sale purposes).

(2) Motel and/or hotel buildings (and associated businesses located on the same or a contiguous parcel).

(3) Hospital campuses and associated medical service providers.

(4) Warehouses and industrial buildings (and associated businesses located on the same or a contiguous parcel).

(5) School campuses.

(6) Shopping center buildings (and associated businesses located on the same or a contiguous parcel).

(7) Condominium developments (individual ownership of a single unit in a multiunit structure with common elements, such as hallways, parking bays and open spaces).

(8) Townhouse developments (a development consisting of one or more residential structures comprised of two or more attached single-family residences intended for owner occupancy with individual residences located on their own individual lots with the possibility of common ownership of open spaces, parking bays, etc.).

- (9) Church campuses.
- (10) Campuses of homes for the ill or aged, including rest and convalescent homes.
- (11) Mobile home parks.
- (12) Dwelling units within a planned unit development
- (13) Subdivisions.
- (14) Buildings served by a municipal service provider's sewer system.
- (15) Buildings served by a public utility's sewer system.
- (16) Buildings served by a developer service provider's sewer system.
- (17) Buildings served by a property owner association service provider's sewer system.

C. A common sewer connection, including a private sewage collection system, will be permitted to serve the above categories meeting the following minimum requirements:

(1) The building or buildings to be served shall be in compliance with the applicable zoning ordinances.

(2) The applicant shall be required to demonstrate to the satisfaction of the County that all buildings being served by the common connection are under single ownership. A master sewer permit shall be issued to such owner and such owner shall bear the entire responsibility of paying all of the sewer service fees and other fees imposed pursuant to or under the authority of this Chapter 152, Article VII, for all buildings customers served by the common connection.

(a) Section 152A-8C (2) shall not apply to the following categories of development if such categories of development have in place an incorporated property owner's association to own, operate and maintain the sewage collection system serving the separate properties or if the developer owns, operates, and maintains the sewage collection system serving the separate properties of the following categories of development. A master sewer permit for these categories shall be issued in the name of the qualifying property owner's association or developer to allow connection of the association's or developer's sewage system into the County sewerage system. In addition, sewer permits for the individual buildings customers to be served by the common connection shall be issued in accordance with § 152A-40AB. Lastly, the property owner's association or developer shall bear the entire responsibility of paying all of the sewer service fees and other fees imposed pursuant to or under the authority of this Chapter 152, Article VII, for all customers served by the common connection.

[1] Condominium developments [§ 152A-8B(7)].

[2] Townhouse developments [§ 152A-8B(8)].

[3] Dwelling units within a planned unit development [§ 152A-8B(12)] if such units are intended for owner-occupancy.

[4] Subdivisions [§ 152A-8B(13)].

(b) Section 152A-8C (2) shall not apply to the following categories of development. Sewer permits for these categories shall be issued in accordance with § 152A-40B. Said public utility or municipal service provider shall bear the entire responsibility of paying all of the sewer service fees and other fees imposed pursuant to or under the authority of this Chapter 152, Article VII, for all buildings customers served by the common connection:

[1] Buildings served by a municipal service provider [§ 152A-8B(14)].

[2] Buildings served by a public utility [§ 152A-8B(15)].

(3) The applicant shall be required to submit to the Henderson County Utilities Department a site plan showing the proposed sewer construction. Such plans shall be prepared by a registered professional engineer licensed in North Carolina who shall also provide inspection of the work as required by the State of North Carolina. The plans (design) and construction shall meet the requirements of the State of North Carolina, the County, and the Metropolitan Sewerage District of Buncombe County. The applicant shall secure all required local, state, and federal permits for the subject construction project. All construction shall be performed by a properly licensed utilities contractor.

(4) Should a building served by a common connection as allowed in this § 152A-8 be conveyed to a new owner, the County shall require a separate sewer connection from that building to the main in the street, except in the case of those developments described by § 152A-8C(2)(a) above and buildings served by a municipal service provider or a public utility as described in § 152A-8C(2)(b) above.

(5) All municipal service providers, developer service providers, property owner's association service providers and all public utilities shall be required, at their own expense, to install a master water meter which meets the approval of Henderson County and/or CCWSD, that measures all of the water used by the sewer customers of their sewer system which legally discharges into a sewer system owned, operated or controlled by Henderson County and/or CCWSD. Semiannually, during the months of January and July, the municipal service providers, developer service providers, property owner's association service providers, or and public utility utilities shall be required to furnish a written certification (by a party competent to do so) to CCWSD, to the effect that said master water meter is accurately measuring the water usage. Henderson County and/or CCWSD shall have the right to have the subject master water meter checked for accuracy at any time. If the master water meter is found to be defective, the municipal service provider, developer service provider, property owner's association service provider and public utilities shall immediately replace the defective meter with a new master water meter that meets the approval of Henderson County and CCWSD.

(6) All municipal service providers, developer service providers, property owner's association service providers, and public utilities shall be required to furnish to CCWSD at no charge, a monthly electronic list of all sewer customers along with their addresses and water account numbers (if any).

§ 152A-9. Lateral construction and cost.

The County may, at the County's discretion, require the property owner or user to construct and pay for the installation of sanitary sewer service laterals, use an installer approved by the county and then deed said sanitary sewer service laterals to the County. If the County does not require the property owner to contract for said installation of said service laterals, the County shall install the service by contract and the County may charge the property owner in advance for the full cost of such installation. The service lateral

shall become the property of the County. The County shall maintain the sanitary sewer service laterals, the length of which is defined in § 152A-7.

§ 152A-10. Maintenance and repair.

The maintenance and repair of sewer lines, connections, etc., from the point where the sanitary sewer service laterals end, as defined in § 152A-7, to and inside the subject building shall be the responsibility of the property owner. If a property owner or his representative claims that the cause of a stoppage or disturbance exists in the sanitary sewer service lateral and an investigation discloses that the cause of such stoppage or disturbance actually exists in that portion of the sewer line lying between the end of the sanitary sewer service lateral and the building which is serviced by such line, the property owner shall pay to the County the actual cost to the County of making such investigation. If, however, upon investigation, it is found that the cause of such disturbance or disrepair is in the sanitary sewer service lateral, as defined in § 152A-7, the county shall make such repair without additional cost to the property owner.

§ 152A-11. Sanitary sewer depth.

Street sanitary sewers will be constructed to general engineering standards.

§ 152A-12. Sewer cleanouts.

Sewer service shall not be furnished to any property not presently served unless a sewer cleanout is installed according to the specifications of the Henderson County Utilities Department.

ARTICLE III, Wastewater Disposal Limitations

§ 152A-13. Holding tank wastes wastewater.

A. Except as allowed per item B immediately below, no person or entity shall discharge, directly or indirectly, any holding tank wastewater into the County's sewerage system.

B. Any person or entity wanting to operate a dumping station for the discharge of sanitary sewage from recreation vehicles into the County's sewerage system shall be required to apply for and secure a permit from the County. All applicants for such permits shall complete such forms as required by the County, pay appropriate fees and agree, in writing, to abide by the provisions of this chapter and any special conditions or regulations established by the County. These permits shall be issued only for approved facilities designed for the receipt of sanitary sewage only.

§ 152A-14. Additional requirements.

No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by other municipal or state agencies.

ARTICLE IV, Excluded Wastes

§ 152A-15. General prohibitions.

No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the County sewerage system. This prohibition applies to all such users of the County sewerage system.

§ 152A-16. Prohibited wastes; exceptions.

No user shall discharge or deposit any of the following materials, waste materials, wastes, gases or liquids into any sanitary sewer forming a part of the County sewerage system, except where these may constitute occasional, intermittent inclusions in the wastewater discharged from residential premises:

- A. Any wastewater having a temperature which will inhibit biological activity in a wastewater treatment plant or result in other interference with the treatment processes, but in no case wastewater with a temperature which exceeds 60° C. (140° F.) at its introduction into the wastewater treatment plant.
- B. Any water or waste containing more than 50 mg/l of fat, oil or grease or other substances that will solidify or become viscous at temperatures between 0° C. (32° F.) and 60° C. (140° F.).
- C. Wastewater containing floatable oil, fat or grease from industrial plants.
- D. Any garbage that has not been properly shredded so that no particles are any greater than 1/2 inch in any dimension.
- E. Any waste capable of causing abnormal corrosion, abnormal deterioration, damage to or hazard to structures or equipment of the county sewerage system, or to humans or animals or interference with proper operation of wastewater treatment facilities. All wastes discharged to the county sewerage system must have a pH value in the range of six to 10 pH units. Prohibited materials include, but are not limited to, concentrated acids and alkalis and high concentrations of compounds of sulfur, chlorine and fluorine and substances which may react with water to form strongly acidic or basic products.
- F. Any waters or wastes having a color which is not removable by the existing wastewater treatment processes and which causes the plant effluent to exceed NPDES color requirements for discharge to the receiving waters.

§ 152A-17. Specific prohibited wastes.

No user shall discharge or deposit any of the following materials, waste materials, waste gases or liquids into any sanitary sewer forming part of the county sewerage system:

- A. Any liquids, solids or gases which, by reason of their nature or quantity, are or may be sufficient, either alone or by interaction with other substances, to cause fire or explosion or be injurious in any way to the county sewerage system or to the operation of the County sewerage system. At no time shall two successive readings (15 to 30 minutes between readings) on an explosion hazard meter at point of discharge into the county sewerage system be more than 5% nor any single reading be more than 10% of the Lower Explosive Limit (LEL) of the meter. Prohibited materials covered by this subsection include, but are not limited to, gasoline, commercial solvents, toluene, xylene, peroxides, chlorates, perchlorates, bromates, carbides and hydrides.
- B. Any noxious or malodorous solids, liquids or gases which, either singly or by interaction with other wastes, are capable of creating a public nuisance or hazard to life or are or may be sufficient to prevent entry into a sewer for its maintenance and repair.

C. Any substances which may cause wastewater treatment plant effluent or any other products of the County sewerage system, such as residues, sludges, or scums, to be unsuitable for the reclamation process. In no case shall a substance discharged into the County sewerage system cause the system to be in noncompliance with sludge use or disposal criteria, guidelines, ordinances, or regulations developed by local, state or federal authorities.

D. Any substance which will cause the County sewerage system to violate its NPDES permit or the receiving water quality standards established by the DEM, the EPA or any other governmental entity having jurisdiction.

E. Any water or wastes which, by interaction with other waters or wastes in the County sewerage system, release obnoxious gases, from suspended solids which interfere with operation of the sanitary sewers or create conditions deleterious to structures and treatment processes.

F. Any form of inflow, as defined by § 152A-3, including storm drainage.

G. Infiltration, as defined by § 152A-3, in excess of 300 gallons per inch of pipe diameter per mile of pipe per day.

H. Any unpolluted wastewater, as defined in § 152A-3, except as specifically permitted by the county.

§ 152A-18. Specified pollutant limitations.

A. No user shall discharge into any sanitary sewer forming part of the county sewerage system any of the following materials in concentrations exceeding the limits stated below:

(1) Any water or wastes that contain more than 10 mg/l of hydrogen sulphide, sulphur dioxide or nitrous oxide.

(2) Any toxic or poisonous substance or any other materials in sufficient quantity to interfere with the wastewater treatment processes or to constitute a hazard to humans or animals or to cause a violation of the water quality standards or effluent standards for the stream or watercourse receiving the effluent from a wastewater treatment plant or to exceed limitations set forth in an applicable National Categorical Pretreatment Standard.

(3) Any waters containing suspended solids of such character and quantity that unusual provisions, attention or expense is required to handle such materials at a wastewater treatment plant.

B. No person shall discharge wastewater containing concentrations of the constituents listed below in excess of the upper limits listed below or in excess of more stringent standards promulgated by the state or EPA for an industrial classification applicable to the user.

Constituent	Fixed Upper Limit for Constituents (mg/L)	
	Maximum Instantaneous Concentration (grab sample)	Maximum Daily Average (24- hour flow proportional composite sample)
Arsenic	2.0	1.0
Cadmium	1.2	0.7
Chromium	2.5	1.0

Copper	2.5	1.0
Cyanide	1.9	1.0
Lead	0.6	0.4
Mercury	0.2	0.1
Nickel	2.5	1.0
Silver	1.2	0.7
Tin	2.5	1.0
Zinc	2.5	0.5
Total Metals	10.5	6.8

C. The admission into the County sewerage system of any waters or wastes having a BOD in excess of 500 mg/l on a twenty-four-hour composite basis or for any single sample having a BOD in excess of 1,500 mg/l will be subject to review by the county. Where necessary, in the opinion of the County, the user shall provide and operate, at his own expense, such pretreatment facilities as may be required to reduce the BOD to meet the above requirements.

D. The admission into the County sewerage system of any waters or wastes having a suspended solids content in excess of 500 mg/l on a twenty-four-hour composite basis or for any single sample having a suspended solids content in excess of 1,500 mg/l will be subject to review by the County. Where necessary, in the opinion of the County, the user shall provide and operate, at his own expense, such pretreatment facilities as may be required to reduce the suspended solids content to meet the above requirements.

E. The admission into the County sewerage system of any waters or wastes in volumes or with constituents such that existing dilution conditions in the sanitary sewers or at a wastewater treatment plant would be affected to the detriment of the county sewerage system will be subject to review and approval of the county. Where necessary, in the opinion of the County, pretreatment or equalizing units may be required to bring constituents or volumes of flow within the limits previously prescribed or to an otherwise acceptable level and to hold or equalize flows so that no peak flow conditions may hamper the operation of any unit of the county sewerage system. Said equalization or holding unit shall have a capacity suitable to serve its intended purpose and be equipped with acceptable outlet control facilities to provide flexibility in operation and accommodate changing conditions in the waste flow.

F. Upon the promulgation of Federal Categorical Pretreatment Standards for a particular industry, the federal standard, if more stringent than limitations imposed by this chapter, shall immediately supersede the limitations imposed under this chapter. All affected users shall notify the county of the applicable reporting requirements imposed by federal law.

G. State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those of this chapter.

H. The Board of County Commissioners of Henderson County, North Carolina, reserves the right to establish more stringent limitations or requirements on discharges to the county sewerage system.

ARTICLE V, Administration

§ 152A-19. Right of entry.

The County and/or its duly authorized representative(s), bearing proper credentials and identification, shall be permitted to enter upon all properties of any user for the purpose of inspection, observation, flow

measurement, sampling and testing of wastewaters, sewer service connections or other facilities regulated in accordance with this chapter.

§ 152A-20. Protection of equipment.

No person or user shall maliciously, willfully or negligently break, damage, destroy, deface, tamper with or remove any equipment or materials which are a part of the County sewerage system or which are used by the County for the purposes of making waste examinations and waste flow measurements or monitoring and left upon the premises of a person discharging wastes into the County sewerage system. Only persons authorized by the County will be allowed to uncover, adjust, maintain and remove such equipment and materials.

§ 152A-21. Appeals.

The Board of County Commissioners of Henderson County, North Carolina, shall be the reviewing authority for all appeals of actions or administrative determinations made by the County under the provisions of this chapter. Notice of an intent to appeal and request for a hearing shall be addressed to the Chairman of the Board, in writing, and shall detail the nature of the appeal. An early date for such hearing shall be set by the Board and the appellant promptly notified in writing. The decision of the Board after such hearing shall be final and conclusive and shall be conveyed to the persons involved in writing.

ARTICLE VI, Enforcement and Penalties

§ 152A-22. Enforcement.

A. Any user who violates any sections of this chapter or applicable state or federal law or regulations is subject to enforcement action as herein provided or as provided in Chapter 1, General Provisions, Article II.

B. Every user in violation of the provisions of this chapter or applicable state and federal laws and regulations or who furnishes false information relative to his use of the County sewerage system, whether he directly commits the acts or aids and abets the same and whether present or absent, shall be proceeded against and held as a principal.

§ 152A-23. Actions to protect the system.

If a user of the County sewerage system proposes to discharge, discharges or accidentally discharges wastewaters or any substance in any manner that is in violation of any section of this chapter or applicable state or federal laws or regulations, the County Engineer or other duly authorized representative may take the appropriate action to protect the county sewerage system.

§ 152A-24. Action by board.

Action may be taken by the Board upon receiving a report from the County Engineer or other duly authorized representative outlining details of the user's failure to comply with actions of the county taken pursuant to § 152A-23. The Board may order a user violating this chapter to show cause before the Board why proposed enforcement action should not be taken. The procedure used by the Board shall be as provided in the succeeding subsections of this article.

A. A notice shall be delivered to the user showing:

(1) The date, hour and place of the hearing to be held regarding the alleged violation and any proposed enforcement action.

(2) A reference to the particular section or sections of this chapter which are involved.

(3) A short statement of the factual allegations.

(4) Any proposed enforcement action.

(5) A direction that the user show cause why such proposed enforcement action should not be taken.

B. Notice of the hearing shall be delivered to the user personally or mailed, by registered or certified mail, return receipt requested, at least 10 days before the hearing, to the user or any authorized representative of the user.

C. The Board may itself conduct the hearing or may designate any one or number of its members to conduct the hearing as a hearing officer or officers. When it is impractical for a hearing officer to conduct the hearing, another hearing officer may be assigned to continue with the case, unless it is shown that substantial prejudice to a party will result therefrom, in which event a new hearing shall be held or the case dismissed with prejudice to the County.

§ 152A-25. Powers of hearing officer and district board.

During the course of a hearing and in preparation therefore, the Board or any hearing officer designated to conduct the hearing may:

A. Administer oaths and affirmations.

B. Issue, in the name of the Board, notice of the hearing to persons calling for their attendance, testimony and production of evidence relevant to any matter involved in such hearings.

C. Regulate the course of the hearing and set the time and place for continued hearings.

D. Hear the evidence.

§ 152A-26. Place of hearing.

Hearings held pursuant to this chapter shall be held in the offices of the Board of County Commissioners, unless the Board or hearing officer designated to conduct the hearing determines that the obtaining of evidence will be better facilitated by holding the hearing at the site of the alleged violation of this chapter.

§ 152A-27. Conduct of hearing.

Hearings held pursuant to this article shall be conducted as follows:

A. A user who is a party to the Board action may file a written answer before the date set for hearing.

B. If a user who is a party to the Board action fails to appear after notice has been served or properly mailed and if no adjournment is granted, the Board or a hearing officer may proceed with the hearing and make its decision in the absence of the party.

C. At any hearing held pursuant to this section, testimony taken must be under oath and recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the actual cost to the county therefore.

D. Users who are parties to the Board action shall be given the opportunity to present arguments on issues of law and an opportunity to present evidence on issues of fact.

E. Users who are parties to the Board action may cross-examine any witness. A party may submit rebuttal evidence.

F. At the conclusion of a hearing conducted by a hearing officer, the officer shall transmit a report of the hearing, together with recommendations to the Board for action thereon.

G. At the conclusion of a hearing conducted by the Board, or upon receipt by the Board of a report of hearing from a hearing officer, the Board shall take action pursuant to § 152A-28.

§ 152A-28. Final decision.

The Board shall make final order. The order shall be made after review of the official record as defined below in § 152A-29, shall be in writing and shall include findings of fact and conclusions of law.

A. Findings of fact shall be based exclusively on the evidence and on matters officially noticed by the Board or hearing officer.

B. An order shall not be made except upon consideration of the record as a whole or such portion thereof as may be cited by any party to the hearing and shall be supported by substantial evidence.

C. A copy of the order shall be served upon each party personally or by registered or certified mail, return receipt requested, and a copy furnished to his attorney of record.

D. Service of all notices or orders contemplated by this article be deemed complete upon the mailing of the order by registered or certified mail, return receipt requested, addressed to the user or to its attorney of record.

§ 152A-29. Official record.

The official record of the hearing shall include:

A. Notices, pleadings, motions and intermediate rulings.

B. Questions and offers of proof, objections and rulings thereon.

C. Evidence presented.

D. Matters officially noticed, except matters so obvious that a statement of them would serve no useful purpose.

E. Proposed findings and exceptions if any.

F. Any decision, opinion, order, transmittal or report by the hearing officer presiding at a hearing and by the Board.

§ 152A-30. Violations and penalties.

A. If, in its order, the Board finds the user is in violation of, fails to comply with or has failed to comply with any of the provisions of this chapter, including the willful furnishing of false information relative to same, it may, in the order, in addition to invoking the enforcement actions set forth in § 152A-22:

(1) Subject the user to a civil penalty of not more than \$1,000 for each violation, to be recovered by the Board in a civil action in the nature of a debt if the user does not pay the penalty within a prescribed period of time after he has been found to be in violation of this chapter. When a user has been assessed a civil penalty by the Board, he shall be notified of the assessment personally or by registered or certified mail, return receipt requested.

(2) Require the user making, causing or allowing the discharge to pay any costs or expenses incurred by the county, which expenses may include, but not be limited to, damage to the county sewerage system, extraordinary monitoring of the wastes and extraordinary treatment measures or processing imposed on the wastewater treatment by said discharge.

(3) Require the user making, causing or allowing the discharge to pay any cost or expense incurred by the County for any fine or penalty imposed on the County by the state or federal government or agency thereof because of a violation of the NPDES Permit or damage to the environment that is attributed to said discharge.

(4) Require the user making, causing or allowing the discharge to furnish a bond or other security, with terms specified by the Board, to hold the County harmless from any loss or expense that the County may incur as a result of such noncompliance or any future noncompliance.

(5) Recover reasonable attorney's fees and expenses incurred by the Board as a result of its employing legal counsel to assist the County Engineer or the Board in taking action pursuant to this article of this chapter.

B. If the user assessed fails to pay the amount of the civil penalty or assessment to the County within 30 days after receipt of notice, or such longer period, not to exceed 180 days, as the Board may specify, the Board may institute a civil action to recover the amount of the assessment in the General Court of Justice of the county in which the violation occurred or, in the discretion of the County, in the county in which the person assessed has his or its principal place of business.

§ 152A-31. Emergency enforcement action.

If the County Engineer or other duly authorized representative determines that an action, a potential action or a continuing action of a user may create a potential for damage to the County sewerage system, the receiving stream, the environment, life or health of humans or animals or an interference with treatment processes at a wastewater treatment plant:

A. He may recommend to the Board enforcement of this chapter as it applies to said violation by said user by seeking an appropriate equitable remedy issuing from a court of competent jurisdiction.

B. The Board may, without providing prior notice to said user, request enforcement of this chapter as it applies to said violation by said user by seeking an appropriate equitable remedy issuing from a court of competent jurisdiction. In such case, the General Court of Justice shall have jurisdiction to issue such orders as may be appropriate, and it shall not be a defense to the application of the Board for equitable relief that there is an adequate remedy at law.

§ 152A-32. Billing and payment procedures.

All monthly bills due the county for sewer service shall be payable at the collection office in the Henderson County Finance Department office or other designated location within 21 10 days after date of issue. If any bill remains unpaid for a period of 30 days after being mailed, and if the subject customer is provided with metered water service by a government entity, the Henderson County Finance Department shall request that the said government entity turn the customer's water off. In cases in which sewer service but not water service is furnished to a customer and the bill for such sewer service remains unpaid for a period of 30 days after being mailed to such consumer, the Henderson County Finance Department may take any steps which are legal, including but not limited to hiring collectors and filing a court action, to collect the bills.

A. Notice and hearing.

(1) The County shall designate a person(s) to hear customer complaints concerning overcharges, charges for services not rendered or other billing errors. The County's designee is authorized to review disputed bills and to correct any errors which may appear therein.

(2) The County's designee shall notify sewer customers whose service may be terminated that the amount shown as due on any such customer's bill may be questioned by discussing such bill with a designated official who is authorized to correct billing errors. The notice shall include the phone number, office hours and office location of the designated official. The notice may be given by mail, by notice enclosed with a bill, by notice printed on a bill or by similar means.

(3) Sewer service shall not be terminated for failure to pay a sewer bill until 10 days after the notice required by this section has been mailed.

B. Time and method of payment of sewer fees. All monthly sewer user fees shall be due and payable at the Henderson County Finance Department office. All sewer permit fees and sewer capacity depletion fees and other sewer fees shall be payable at the Henderson County Utilities Department / CCWSD. Sewer bills and fees not paid within 30 days after the invoice is mailed, in addition to any other penalties provided by law, the County may request any government-owned water supplier to cut off from such property the use of water and if such water is obtained from sources of supply other than a government-owned water system, the discharge thereof into the County's system shall be illegal and the owner of the property subject to fine or imprisonment as provided by law.

C. Refunds or damages for failure of sewer service. No person shall be entitled to damages nor to have any portion of payment refunded for any failure of sewer service due to any necessary construction or repairs.

D. CCWSD sewer bills will still be rendered when the premises are vacant even if the water is turned off.

E. Adjustment of bills inequitable or abnormal due to unavoidable waste. The County may adjust and settle inequitable and abnormal sewer bills due to unavoidable waste.

F. Billing records for sewer services. The County city shall maintain billing records for sewer services for a period of three years. Adjustments to sewer bills will be based on the availability of records.

ARTICLE VII, User Charges and Fees; Permits; Alternatives to Master Water Meter; Encroachments; Wastewater Pump Stations and Force Mains.

§ 152A-33. Purpose.

It is the purpose of this article to provide for the recovery of costs from users of the County sewerage system(s) for the implementation of the program established herein and for the construction, operation and maintenance of said system(s). The County will adopt user charges and fees from time to time as necessary to meet the system(s) budgetary requirements.

§ 152A-34. Water from other than a government-owned water system.

For a property which uses water, all or a part of which is from a source other than a government-owned water system, there shall be a sewer user charge, separate from and in addition to any sewer user charge based on the consumption of water from the government-owned water system.

A. Such separate or additional sewer user charges shall be measured by the quantity of water from the source other than the government-owned water system which is discharged into the County's sewers from such property. The owner of such property shall install, without cost to the County, a meter to measure the quantity of water received from a source other than the government-owned water system and discharged into the County's sewer. No meter shall be installed or be used for such purposes without the approval of the County.

B. The owner of such property shall pay for such water so discharged into the County's sewers an amount as though all such water came from the government-owned water system.

C. If the owner of such property fails to install and maintain, at his own expense, an approved meter, the County shall make an estimate of the amount of water from sources other than the government-owned water system which is discharged into the County's sewers from such property, using the consumption from similar operations, and if none, a formula based upon the operations of the business of the occupant of the premises as a standard, and bill such estimated water so discharged into the County's sewer as though the same were metered.

§ 152A-35. Water used for industrial or commercial purposes and not discharged into county system.

A. Whenever a property upon which a sewer user charges is hereby imposed uses water from the government-owned water system for an industrial or commercial purpose so that the water so used is not discharged into the County sewerage system, the quantity of the water so used and not discharged into the County's sewers shall be excluded in determining the sewer user charges of such property and shall be measured by a device approved by the County and installed and maintained without cost to the County, and provided that the water supply of such property is metered and the owner pays for such water at metered rates.

B. The sewer user charges based upon the consumption of government-owned water system City water to be paid by the owner of such property shall be computed at the rates established for sewer service and using a quantity of water equal to the total quantity of water furnished such property by the government-owned water system, less a quantity not discharged into the County's sewer; provided, however, that where, in the opinion of the County, it is not practical to install a measuring device to determine continuously the quantity of water not discharged into the County's sewers, the County shall determine periodically, in such a way and by such method as it may prescribe, the quantity of water discharged into the County's sewers, and the quantity of metered water used to determine the sewer user charges shall be the portion so determined of the quantity measured by water meter or meters.

§ 152A-36. Fee schedule.

All charges, fees and other penalties shall be as determined by the County and set forth in a fee schedule.

§ 152A-37. Capacity depletion fees.

A. A one-time charge which shall be payable to Henderson County by users of all of the County sewerage systems, the capacity depletion fee is intended to compensate the County for capacity utilized within the County sewerage system. The amount of the capacity depletion fee, the manner in which it is calculated and other particulars in regard to said capacity depletion fee shall be set and established from time to time by the Henderson County Board of Commissioners sitting as the Board of Commissioners or as Directors of Henderson County's water and sewer districts in a fee schedule. The moneys generated by the capacity depletion fee will be used in regard to Henderson County's sewer systems for capital projects, emergency repairs and operations and maintenance at the discretion of the Henderson County Board of Commissioners sitting as the Board of Commissioners or as Directors of Henderson County's water and sewer districts.

B. In addition to capacity depletion fees imposed by Henderson County, users of the County's sewerage system may be subject to fees imposed by other government entities which have contracted to transport/treat wastewater from the County's sewerage collection system.

§ 152A-38. Monthly sewer service fee.

The monthly sewer service fee is a monthly charge which shall be payable to Henderson County by all users other than municipal users service providers, developer service providers, property owner's association service providers and public utility utilities. The amount of this service fee, the manner in which it is calculated and other particulars in regard to said monthly sewer service fee shall be set and established from time to time by the Henderson County Board of Commissioners sitting as the Board of Commissioners or as Directors/trustees of Henderson County's water and sewer districts in a fee schedule. This service fee will be used in regard to the County's sewerage systems for capital projects, emergency repairs and operations and maintenance at the discretion of the Henderson County Board of Commissioners sitting as the Board of Commissioners or as Directors/trustees of Henderson County's water and sewer districts

§ 152A-39. Monthly municipal sewer service fee, monthly developer sewer service fee, the monthly property owner's association sewer service fee, and monthly public utility sewer service fee

A. The monthly municipal sewer service fee is a monthly charge which shall be payable to Henderson County by all municipal service providers. The amount of this service fee, the manner in which it is calculated and other particulars in regard to said monthly municipal sewer service fee shall be set and established from time to time by the Henderson County Board of Commissioners sitting as the

Board of Commissioners or as Directors/trustees of Henderson County's water and sewer districts in a fee schedule. This service fee will be used in regard to the County's sewerage systems for capital projects, emergency repairs and operations and maintenance at the discretion of the Henderson County Board of Commissioners sitting as the Board of Commissioners or as Directors/trustees of Henderson County's water and sewer districts.

B. The monthly developers sewer service fee is a monthly charge which shall be payable to Henderson County by all developer service providers. The amount of this service fee, the manner in which it is calculated and other particulars in regard to said monthly developer sewer service fee shall be set and established from time to time by the Henderson County Board of Commissioners sitting as the Board of Commissioners or as Directors/trustees of Henderson County's water and sewer districts in a fee schedule. This service fee will be used in regard to the County's sewerage systems for capital projects, emergency repairs and operations and maintenance at the discretion of the Henderson County Board of Commissioners sitting as the Board of Commissioners or as Directors/trustees of Henderson County's water and sewer districts.

C. The monthly property owner's association sewer service fee is a monthly charge which shall be payable to Henderson County by all property owner's association service providers. The amount of this service fee, the manner in which it is calculated and other particulars in regard to said monthly property owner's association sewer service fee shall be set and established from time to time by the Henderson County Board of Commissioners sitting as the Board of Commissioners or as Directors/trustees of Henderson County's water and sewer districts in a fee schedule. This service fee will be used in regard to the county's sewerage systems for capital projects, emergency repairs and operations and maintenance at the discretion of the Henderson County Board of Commissioners sitting as the Board of Commissioners or as Directors/trustees of Henderson County's water and sewer districts.

D. The monthly public utility sewer service fee is a monthly charge which shall be payable to Henderson County by all public utilities. The amount of this service fee, the manner in which it is calculated and other particulars in regard to said monthly public utility sewer service fee shall be set and established from time to time by the Henderson County Board of Commissioners sitting as the Board of Commissioners or as Directors/trustees of Henderson County's water and sewer districts in a fee schedule. This service fee will be used in regard to the County's sewerage systems for capital projects, emergency repairs and operations and maintenance at the discretion of the Henderson County Board of Commissioners sitting as the Board of Commissioners or as Directors/trustees of Henderson County's water and sewer districts.

§ 152A-40. Permits.

A. Except as provided in § 152A-40B, all users shall apply for a sewer permit. All applications (including those submitted pursuant to § 152A-40B below) shall be submitted to the County in care of the Utilities Director and shall be accompanied by any applicable fee(s) and such other documentation as the county shall require.

B. All municipal service providers, property owner's association service providers, developer service providers and public utilities shall make application for a master sewer permit to allow connection into the County sewerage system by the service provider or public utility and shall also be required to make application for a sewer permit on behalf of each of their customers. Henderson County shall not accept any application from a customer of a municipal service provider, a property owner's association service provider, developer service provider or a public utility. The municipal service provider, property owner's association service provider, developer service provider or and public utility must grant Henderson County, CCWSD, their staff and other agents, access to the master water meter 24 hours per day, 365

days per year, for the purposes of reading the master water meter and checking the accuracy of the master water meter. Such right of access must be granted prior to the issuance of the master sewer permit.

C. Before the CCWSD will issue a master sewer permit to a developer service provider that owns, operates, and maintains or proposes to construct a private sewage collection system (serving or intended to serve the separate properties in the categories of development in 152A-8C.(2) (a)) that connects or will connect to the County sewer system with a common connection, the developer service provider shall be required to furnish written documentation (acceptable to the County's Utilities Director and the Office of the County Attorney) that (a) a property owner's association has been established for the subject categories of development and each separate owner in the referenced development is legally required to be a member of said property owner's association and pay (subject to a lien enforceable by the association and by Henderson County on the owner's property in development) all assessments levied by the property owner's association, which may levy the same on its own part but must levy the same upon the demand of Henderson County for reimbursement of the costs of the monthly sewer service and other fees imposed by CCWSD or Henderson County, or for the operation, maintenance, repair and replacement of the sewage collection system and (b) within one year of the date the master sewer permit is issued, the property owner's association shall become the owner of the subject sewage collection system and as such shall become a property owner's association service provider that is responsible for the operation, maintenance, repair, and replacement of the said sewage collection system as well as for paying all of the monthly sewer service fees and other fees imposed by CCWSD and/or Henderson County.

If the developer of the subject categories of development still owns properties therein, at the time the property owner's association becomes the owner of the sewage collection system, the developer shall be responsible for securing separate County sewer permits on behalf of each proposed new sewer customer. For any properties not owned by the developer, the property owner's association service provider shall be responsible for securing separate County sewer permits on behalf of each proposed new sewer customer.

§ 152A-41. Alternatives to Master Water Meter.

As an alternative to the requirement, found elsewhere in this Ordinance, of installing a master water meter, the County Utilities Director may approve a different method of capturing the water usage information that is to be used to calculate the sewer bill(s). Such different method must (a) accurately measure the subject water usage and (b) provide the necessary information at minimal or no cost to CCWSD, and (c) be readily available to CCWSD.

§ 152A-42. Policies Concerning Encroachments.

Encroachments are required by the North Carolina Department of Transportation (NCDOT) for sewer lines to be constructed on the NCDOT rights-of-way. In cases where the NCDOT will not grant an encroachment to a private party (to construct a sewer force main in the NCDOT rights-of-way) without CCWSD signing the encroachment as the second party, it is the policy of CCWSD to (1) require the private party to sign an agreement to indemnify CCWSD for any expenses CCWSD incurs due to the encroachment, (2) require the private party to sign the encroachment as the third party and (3) after which CCWSD will sign the subject encroachment as the second party. It is the intent hereof that the private party own the sewer force main and bear all the expenses associated therewith. CCWSD will (1) resolve problems identified by the NDCOT and then (2) recover any resulting costs from the private party.

§ 152A-43. Policies Concerning Wastewater Pump Stations and Force Mains.

A. CCWSD will not take ownership of wastewater pump stations/force mains constructed or proposed by others. Wastewater pump stations/force mains increase operating costs, are subject to failure

causing spills which degrade the environment and result in fines, can cause major problems during storm events, require additional staff, limit sewer service to the greater community, and encourage development of marginal property rather than directing growth in areas identified by the Board of Commissioners.

B. One of goals of the Cane Creek Water and Sewer District (CCWSD) is for the District's sewer system to be expanded by developers constructing gravity sewer line extensions. If it isn't technically possible to serve a proposed project with a gravity sewer line, the developer can consider providing the sewer service via a wastewater pump station and force main. However, before the CCWSD will consider issuing a permit for a developer to construct a wastewater pump station and force main, the developer shall have to meet certain requirements, including but not limited to having a North Carolina licensed civil engineer provide the CCWSD with a letter explaining why it is not technically possible to serve the proposed property with a gravity sewer line.

ARTICLE VIII, Sewer Extensions

§ 152A-44. General policy.

The Board of County Commissioners of Henderson County is empowered under the laws of the State of North Carolina to own, construct, operate and maintain wastewater collection/treatment systems (N.C.G.S. 153A-274). The Board has or will establish under this statute systems in several sections of the county. This policy is established to clearly state the procedure which must be followed in order for the Board to consider an extension of the County-owned wastewater collection system. This policy will also govern extensions to CCWSD wastewater collection system which shall be reviewed and approved by the Board of Commissioners.

§ 152A-45. Cane Creek Water and Sewer District.

It shall be unlawful for any person(s), corporation or local government(s), etc., to construct, operate or maintain a public or private wastewater collection system(s) and/or wastewater treatment facility(ies) within the specified boundaries of CCWSD without the expressed written approval of the Board of Commissioners.

§ 152A-46. Application.

A. Any person(s) who wish(es) to extend the County sanitary sewer system must make application to the Henderson County Utilities Department on the approved form. Said application form shall be completely filled out, properly signed, and notarized.

(1) Attached to said application must be a preliminary drawing (prepared by a North Carolina registered professional engineer) which shows the proposed sewer from the existing County-owned or County-controlled sewer line to the subject property (and any improvements thereon) on the appropriate Henderson County Tax Map.

(2) The adjacent property lines, owner's names and deed references for all properties affected by the proposed sewer line shall be shown on said drawing.

B. Said completed and properly executed application form and the attached drawing must be submitted to the Henderson County Utilities Department.

C. All required CCWSD fees shall be submitted to the Henderson County Utility Department at the same time the application is submitted.

§ 152A-47. Procedure.

A. The Board of Commissioners will review an application for a sewer extension and determine under what conditions, if any, service may be granted to the applicant. The Board of Commissioners, as it deems appropriate, may require the applicant, at his/her own expense, to submit information outlining the proposed project and its impact upon the existing wastewater collection/treatment system to which it will be connected.

B. The proposed project and all facilities proposed for connection to the system must be in compliance with this Part 1.

C. It shall be understood by the applicant that County sewer service is subject to a number of engineering constraints, financial considerations and available treatment capacity. Therefore, each application will be reviewed and acted upon based on the current circumstances, past operating experiences, future growth considerations and financial information associated with the project.

§ 152A-47.1. Delegation of authority.

The Board of Commissioners may, pursuant to a duly adopted resolution, delegate its authority under this article to the County Manager of Henderson County and in such resolution may restrict or limit such delegation of authority.

§ 152A-47.2. System design and construction.

Should the Board approve the application for a sanitary sewer line extension, the following steps shall be taken:

A. The applicant must retain the services of a North Carolina registered professional engineer to prepare detailed plans and specifications for the proposed extension and the applicant shall furnish two copies of the said plans and specifications to the Henderson County Utilities Department for review. Said plans shall include both plan and profile views and clearly identify (by property lines, names of current property owners and deed book and page references) all properties which shall be affected during construction of the proposed sewer extension. Each sewer line extension shall be constructed within a permanent twenty-foot wide dedicated permanent easement and within a forty-foot-wide (unless otherwise approved in writing by the Henderson County Utilities Department in advance of construction) dedicated temporary easement, both issued by the landowner, and any others with an interest in said property, to Henderson County. Said engineering plans shall include both said permanent and said temporary construction easements.

B. The design of the proposed wastewater collection system shall be in accordance with generally accepted engineering standards. The Board may appoint an independent professional engineer to act as its agent in reviewing the plans and specifications for the County.

C. It shall be the applicant's responsibility to obtain all required federal, state and local permits for the project. All permits shall be in the name of the Cane Creek Water and Sewer District of Henderson County and, when obtained, transmitted to the Henderson County Utilities Department.

D. It shall be the applicant's responsibility to contact the affected landowners and secure the required easements free, clear and unencumbered, and the attorney's title opinion addressed to the County that the same is free, clear and unencumbered and to contact any others with an interest in subject property and to secure any release deeds that may be required. Said easements shall be on a form approved and provided by the County. Should the landowner refuse to grant the easement or the others with an interest in subject property refuse to grant a release deed, the County may intercede on behalf of the applicant to obtain approval. If the landowner will not execute the easement document and/or if the others with an interest in subject property will not execute a release deed, the County may determine that it is in the public's best interest to proceed under condemnation. All legal, engineering and acquisition expenses (including awards by the Courts) related to obtaining the necessary easements and release deeds shall be the applicant's responsibility.

E. Once all permits, easements and release deeds have been obtained and accepted by the County, the applicant may proceed with construction of the approved facilities.

F. During construction, the applicant's design engineer shall make periodic on-site inspections to verify proper installation. The County shall retain the right to have its own designated representative inspect the progress of the work at any time. Once construction is completed, the design engineer shall certify to the applicant and the County that the system was installed in accordance with the approved plans and specifications.

G. Should the applicant wish to deviate from or change the original, permitted design of said project, the applicant must first obtain written permission for said change or deviation from the County. Failure to do so may be grounds for the County to reject the installation and to deny sanitary sewer service.

H. The applicant shall warranty the facilities constructed for a period of one year from defective materials and/or workmanship. The effective date shall be the date of certification by the design engineer.

I. Once completed and accepted by the County, the applicant shall convey to the County (by deed) all ownership and control of all or any part, in the County's discretion, of the facilities installed by the applicant and shall furnish to the County one set of Mylar, two sets of paper copies, and one electronic copy of the as-built plans.

§ 152A-47.3. Project financing.

The Board of Commissioners will provide the basic wastewater facilities, including the interceptor sewers, major sewer lift stations (on interceptor sewer lines) and wastewater treatment facilities for the areas which it has determined will be served by a County-owned system. Construction of such facilities will be financed from bond funds, state/federal grant/loan funds, system revenues and other available funds and under a time schedule determined by the Board.

A. The extension of wastewater collection lines from the basic wastewater facilities shall be financed in whole or part by the applicant as determined by the Board.

B. Once the project has been approved by the Board and all permits, easements and release deeds have been secured, the applicant may proceed with construction in one of two ways:

(1) The applicant shall deposit with the County his pro rata share of the funds in an amount equal to 120% of the design engineer's estimated construction cost. The County will secure bids and award construction contracts in accordance with the North Carolina General Statutes. The engineering, inspection fees and contractor invoices will be paid by the County from funds appropriated for the

project. Should actual costs exceed the funds available, the applicant shall be responsible for covering any and all costs overruns unless approved otherwise by the Board.

(2) The applicant shall secure a properly licensed utility contractor, approved by the County, to proceed with the installation. All engineering, inspection fees, and contractor, and other invoices shall be paid by the applicant. Should any County funds be appropriated to the project, (1) disbursement shall be made to the applicant on a pro rata basis upon receipt of an invoice certified for payment by the design engineer and (2) the applicant shall provide to the County a performance bond for the full amount of the project costs.

3. This ordinance is effective upon adoption.

Adopted by the Henderson County Board of Commissioners on _____, and signed this the _____ day of _____, 2005.

HENDERSON COUNTY BOARD OF COMMISSIONERS

By: _____
WILLIAM L. MOYER, Chairman

Attest:

Clerk to the Board of Commissioners

Chapter 152, SEWERS

[HISTORY: Adopted by the Board of Commissioners of Henderson County as indicated in Part histories. Amendments noted where applicable.]

GENERAL REFERENCES

Manager -- See Ch. 30.

Subdivision of land -- See Ch. 170.

Cane Creek Water and Sewer District -- See Ch. 300.

Sewage Disposal Agreement -- See Ch. 501.

Regional Water Supply and Water Service Agreement -- See Ch. 503.

Cane Creek Water and Sewer District Agreement -- See Ch. 508.

Part 1, Sewer Use [Adopted 2-1-1988; amended in its entirety 2-18-1998]

ARTICLE I, General Provisions

§ 152-1. Statutory authority; jurisdiction. [Amended 6-16-2004]

This Part 1 is adopted pursuant to provisions of the North Carolina General Statutes, Chapter 153A, Article 15. This chapter shall apply to all persons who are users of the Cane Creek Water and Sewer District (CCWSD) sewer system and any other sanitary sewer system owned, operated and/or controlled by Henderson County, North Carolina Henderson County or the Cane Creek Water and Sewer District CCWSD.

§ 152-2. Abbreviations.

The following abbreviations shall have the designated meanings:

~~ABHWA~~ ~~----- The Water Authority of Asheville, Buncombe and Henderson.~~

BOD -- Biochemical oxygen demand.

CCWSD -- the Cane Creek Water and Sewer District.

CFR -- Code of Federal Regulations.

COD -- Chemical oxygen demand.

DEM -- The North Carolina Department of Environmental, Health and Natural Resources, Division of Environmental Management. [Amended 11-18-1998]

EPA -- The United States Environmental Protection Agency.

l -- Liter.

~~MCWSD~~ ~~Mud Creek Water and Sewer District.~~

mg -- Milligrams(s).

mg/l -- Milligram(s) per liter.

MSD -- Metropolitan Sewerage District of Buncombe County.

NPDES -- National Pollutant Discharge Elimination System.

OSHA -- Occupational Safety and Health Administration.

P.L. -- Public Law.

POTW -- Publicly owned treatment works.

SWDA -- The Solid Waste Disposal Act.

SIU -- Significant industrial user.

SS -- Suspended solids.

USC -- United States Code.

§ 152-3. Definitions and word usage.

A. The following words, terms and phrases, wherever used in this chapter, shall have the meanings respectively ascribed to them in this section unless the context plainly indicates otherwise or that a more restricted or extended meaning is intended.

ACCIDENTAL DISCHARGE -- Any release of wastewater which, for any unforeseen reason, fails to comply with any prohibition or limitation in this chapter.

ACT or THE ACT -- The Federal Water Pollution Control Act, (P.L. 92- 500), as amended by the Clean Water Act of 1977 (P.L. 95-217), the Clean Water Act of 1987, and as further amended (33 U.S.C. § 1251 et seq.).

APPROVAL AUTHORITY -- The Director, North Carolina Department of Environment, Health and Natural Resources, Division of Environmental Management (DEM).
[Amended 11-18-1998]

AUTHORIZED REPRESENTATIVE OF USER:

- (1) A principal executive officer of at least the level of vice president if the user is a corporation.
- (2) A general partner or proprietor if the user is a partnership or proprietorship, respectively.
- (3) A representative of the user who is responsible for the overall operation of the facilities from which the discharge originates.
- (4) Any other duly authorized representative of the user.

BIOCHEMICAL OXYGEN DEMAND or BOD -- The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five days at 20° C. (68° F.) expressed in terms of weight and volume (milligrams per liter).

BOARD -- The Board of County Commissioners of Henderson County and the Board of Trustees of ~~the Cane Creek Water and Sewer District~~ **CCWSD**. [Amended 6-16-2004]

BUILDING SEWER or HOUSE CONNECTION -- The connecting pipe from a building, beginning five feet outside the inner face of the building wall, to a sanitary sewer service lateral.

CANE CREEK WATER AND SEWER DISTRICT (CCWSD) -- A municipal corporation and body politic and corporate established under North Carolina General Statutes pursuant to Chapter 162A, Article 6, to provide public water supply and sanitary sewer service within a geographic area whose boundaries have been established in accordance with said ~~Charter~~ **Chapter** 162A, Article 6 of the North Carolina General Statutes. As used in this Part 1, ~~the term "Cane Creek Water and Sewer District"~~ **CCWSD** is used to refer to both the District and/or its geographic boundaries. [Amended 6-16-2004]

CATEGORICAL STANDARD -- National Categorical Pretreatment Standard or pretreatment standard as defined below.

CITY--**A Municipality and/or its elected officials.**

~~(1) — The City of Hendersonville.~~

~~(2) — The Board of Commissioners of the City of Hendersonville, North Carolina.~~

COLOR -- Considered to be the true color of the light transmitted by a waste solution after removing suspended material, including pseudocolloidal particles.

COMBINED SEWER -- A sewer receiving both surface stormwater runoff and wastewater.

CONSTITUENTS -- The specific compounds and components which comprise the wastewater.

CONTROL AUTHORITY -- The Board of County Commissioners of Henderson County, North Carolina.

COOLING WATER -- The water discharged from any use, such as air conditioning, cooling or refrigeration, to which the only pollutant added is heat.

COUNTY -- Henderson County and/or ~~the Cane Creek Water and Sewer District~~ **CCWSD**. [Amended 6-16-2004]

COUNTY ENGINEER -- A professional engineer registered in the State of North Carolina retained or employed by the County to advise on matters concerning the construction, operation and/or maintenance of its County sewerage system or any other person designated by the County. [Amended 6-16-2004]

COUNTY SEWERAGE SYSTEM -- Any sewerage system owned, operated and/or controlled by the county. [Amended 6-16-2004]

DEVELOPER SERVICE PROVIDER - A developer that owns a sewerage system, (that serves or is intended to serve properties owned by separate parties) which discharges into a sewerage system owned or controlled by Henderson County, CCWSD or any other sewer district created and owned by the County.

DEVELOPER USER - Any User who is either a developer service provider or a sewerage customer of a developer service provider.

DIRECT DISCHARGE -- The discharge of treated or untreated wastewater directly to the waters of the State of North Carolina.

DOMESTIC WASTE -- All liquid and waterborne pollutants, as defined below, exclusive of unpolluted wastewater as defined below 1.03.63 or wastewater as defined below or wastes from processes or operations of industrial users as defined below.

ENVIRONMENTAL PROTECTION AGENCY or EPA -- The United States Environmental Protection Agency or, where appropriate, the term may also be used as a designation for the Administrator or other duly authorized official of said Agency.

FLAMMABLE -- As defined in § 152-17A.

GRAB SAMPLE -- A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

HOLDING TANK WASTE -- Any waste from holding tanks, such as vessels, chemical toilets, trailers, septic tank, vacuum pump tank trucks and septic tank haulers.

INDIRECT DISCHARGE -- The discharge or the introduction of nondomestic pollutants from any source regulated under the Act into the county sewerage system, including holding tank waste discharged into the sewerage system.

INDUSTRIAL USER -- A user who discharges industrial waste, as that term is defined below into the county sewerage system.

INDUSTRIAL WASTE -- The liquid and waterborne pollutants resulting from the processes or operations employed in industrial establishments.

INFILTRATION -- The water entering sanitary sewers and building sewers from the soil through defective joints, broken or cracked pipe, improper connections, manhole walls or other defects in the county sewerage system as that term is defined above. Infiltration does not include and is distinguished from inflow.

INFLOW -- The water discharged into sanitary sewers and building sewers from such sources as roof leaders, cellar and yard area drains, foundation drains, commercial and industrial discharges of unpolluted wastewater as defined below and drains from springs and swampy areas. It does not include and is distinguished from infiltration.

INTERFERENCE -- The inhibition or disruption of the wastewater treatment process or operations or acts or discharges which may cause damage to any portion of the county sewerage system or which contribute to a violation of any requirement of any permit regulating the operation of the county sewerage system, including a NPDES Permit. The term includes interference with sewage sludge use or disposal in accordance with state or federal criteria, guidelines or regulations or any state or federal criteria, guidelines or regulation or any state or federal sludge management plan applicable to the method of disposal or use employed by the county sewerage system.

MASTER SEWER PERMIT - A permit issued to **municipal service providers, public utilities, developer service providers, or a property owner's association service provider** to allow a common sewer connection authorized by § 152-8B to connect into the county sewerage system. The master sewer permit may only be issued to ~~the owner of all buildings to be served by the common sewer connection,~~ **municipal service providers, public utilities, developer service providers, or property owner's association service providers who own, operate, and maintain the sewage collection system serving the separate properties in question.** Payment of all applicable fees shall be required prior to issuance of the master sewer permit. Individualized sewer permits for all ~~buildings~~ **customers** served by the common connection shall be required pursuant to § 152-40A.B.1 **[Added 6-16-2004]**

MUNICIPAL SERVICE PROVIDER -- An incorporated town, municipality or village or a sewerage district established under Chapter 162A of the North Carolina General Statutes which owns or controls a sewerage system (that serves or is intended to serve properties owned by separate parties) which discharges directly or indirectly into a sewerage system owned or controlled by Henderson County, MCWSD, CCWSD or any other sewer district created by the county.

MUNICIPAL USER -- Any User who is either a municipal service provider or a sewerage customer of a municipal service provider.

NATIONAL CATEGORICAL PRETREATMENT STANDARD or PRETREATMENT STANDARD -- Any regulation containing pollutant discharge limits promulgated by the EPA.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT or NPDES PERMIT -- A permit issued by the State of North Carolina regulating the discharge of wastewater into the surface waters of the state.

NEW SOURCE -- Any source, the construction of which is commenced after the adoption of this chapter.

NORMAL DOMESTIC WASTE -- A waste having average concentrations of 300 mg/l of BOD or less and 300 mg/l of suspended solids or less as determined by samples taken before entering the county sewerage system.

PERSON -- Any individual, firm, company, association, corporation, governmental agency, board, commission or municipal corporation other than the county.

pH -- The logarithm of the reciprocal of the concentration of hydrogen ions in moles per liter of solution. Stabilized pH is that determined after a sample of waste has been subjected to natural aeration.

POLLUTANT -- Any solid waste, chemical waste, biological material, radioactive material, thermal waste or industrial, municipal or agricultural waste discharged into water.

POLLUTION -- The man-made or man-induced alteration of the chemical, physical, biological or radiological integrity of water.

POTW TREATMENT PLANT -- That portion of the POTW designed to provide treatment to wastewater.

PRETREATMENT -- The lawful reduction of the amounts of pollutants, the elimination of pollutants, the alteration of the nature of pollutants or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to discharging or otherwise introducing such pollutants into the county sewerage system.

PRETREATMENT REQUIREMENT -- Any substantive or procedural requirement related to pretreatment other than a National Categorical Pretreatment Standard imposed on an industrial user.

PRIVATE WASTEWATER DISPOSAL SYSTEM -- Any facilities for wastewater treatment and disposal not ~~owned maintained and operated by the county, MSD or municipal service provider~~ **owned** **a governmental entity**.

PROPERLY SHREDDED GARBAGE -- The organic wastes resulting from the preparation, cooking and dispensing of foods that have been shredded to such a degree that all particles will be carried freely under flow conditions normally prevailing in sanitary sewers, with no particle being greater than 1/2 inch in any dimension.

PROPERTY OWNER'S ASSOCIATION SERVICE PROVIDER - A property owner's association that owns a sewerage system (that serves or is intended to serve properties owned by separate parties) which discharges into a sewerage system owned or controlled by Henderson County, CCWSD or any other sewer district created and owned by the County.

PROPERTY OWNER'S ASSOCIATION USER - Any User who is either a property owner's association service provider or a sewerage customer of a property owner's association service provider.

PUBLICLY OWNED TREATMENT WORKS or POTW -- All facilities owned by the county, MSD or any of the governmental units within the county for collecting, pumping, treating or disposing of wastewater. This definition includes the POTW treatment plants and any sewers that convey wastewater to the POTW treatment plants (sewerage system).

PUBLIC SEWER -- County sewerage system or any sewerage system owned or controlled by ~~a municipal service provider~~ **any governmental entity**.

PUBLIC UTILITY -- A public utility, which is regulated by the North Carolina Utilities Commission, that owns a sewage collection system **(that serves or is intended to serve properties owned by separate parties)** which legally discharges the sewage therefrom into the **County** sewerage system. [Added 6-16-2004]

PUBLIC UTILITY USER -- Any user who is either a public utility or a sewerage customer of a public utility. [Added 6-16-2004]

PUBLIC WATER SYSTEM--A government-owned water system.

RECEIVING STREAM -- That body of water, stream or watercourse receiving the discharge from a wastewater treatment plant or that body of water, stream or watercourse formed by the effluent from a wastewater treatment plant.

SANITARY SEWAGE -- Sewage excluding process wastes from industrial users.

SANITARY SEWER -- A public sewer that carries liquid and waterborne wastes from residences, commercial buildings, industrial plants and institutions, together with minor quantities of ground- and surface waters that are not intentionally admitted.

SANITARY SEWER SERVICE LATERAL -- The sewer pipe which is connected on one end to the sanitary sewer and on the other end to the building sewer.

SEWAGE -- A combination of water-carried wastes from residences and industrial users (wastewater).

SEWER -- A pipe or conduit for carrying wastewater.

SEWERAGE SYSTEM -- All facilities for collecting, pumping, treating and disposing of wastewater (POTW).

SIGNIFICANT INDUSTRIAL USER or SIU -- Any industrial user of the POTW who:

- (1) Has a discharge flow of 25,000 gallons or more per average workday;
- (2) Has a discharge which is greater than 5% of the hydraulic flow or organic design capacity of the POTW;
- (3) Has a discharge which contains toxic pollutants or priority pollutants as defined in the Act or federal or North Carolina law, statutes, rules or regulations;
- (4) Is found by the county, the approval authority, or the EPA to have significant impact, either singly or in combination with other contributing industries, on the county sewerage system, the quality of sludge, the system's effluent quality or air emissions generated by the county sewerage system.

SLUDGE -- Any discharge of water or wastewater for any duration during which the rate of flow or concentration of any constituent increases to such magnitude so as to adversely affect the operation of the County sewerage system or the ability of the wastewater treatment plants to meet applicable water quality objectives.

STANDARD INDUSTRIAL CLASSIFICATION or SIC -- A classification of an industry based on its produce or service.

STANDARD METHODS -- The analytical procedures set forth in the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, or EPA Methods for Chemical Analysis of Water and Wastes.

STATE -- The State of North Carolina.

STORM SEWER or STORM DRAIN -- A sewer which carries stormwaters and surface waters and drainage, but which excludes sanitary sewage and polluted industrial wastewater.

STORMWATER -- Any flow occurring during or following any form of natural precipitation and resulting therefrom.

STRENGTH OF WASTE -- The concentration of pollutants or substances contained in a liquid waste.

SUBDIVISION -- A development of two or more single-family residences intended for owner occupancy with individual residences located on individual lots

SUSPENDED SOLIDS -- The total solid matter that either floats on the surface of or is suspended in water or liquid waste and which is removable by laboratory filtration.

TOXIC POLLUTANT -- Any pollutant or combination of pollutants listed as toxic in federal or state law or regulations promulgated by the EPA.

TWENTY-FOUR-HOUR FLOW PROPORTIONAL COMPOSITE SAMPLE or COMPOSITE SAMPLE -- A sample consisting of at least eight portions collected during a twenty-four-hour period or the total period of waste flow if less than 24 hours in which the sample portions are collected proportionate to the flow and proportionately combined into a single sample. Alternate sampling requirements may be established in a user's permit to discharge industrial wastes and/or by the approved authority.

UNPOLLUTED WASTEWATER:

(1) Any wastewater which is substantially free of pollutants and is discharged from the following:

- (a) Rain downspouts and drains.
- (b) Footing drains.
- (c) Storm- and surface water drains.
- (d) Cooling water systems.

(2) Unpolluted wastewater shall contain, by definition, none of the following:

- (a) BOD in excess of 10 mg/l.
- (b) Suspended solids in excess of 10 mg/l.
- (c) Free or emulsified greases or oils.

- (d) Acids or alkalis.
 - (e) Phenols or other substances imparting taste or odor to receiving waters.
 - (f) Toxic or poisonous substances.
 - (g) Noxious or odorous gases.
 - (h) Temperature which exceeds 60° C. (or 140° F.) at its introduction into a storm sewer or which exceeds 40° C. (104° F.) at its introduction into a receiving stream.
- (3) Unpolluted wastewater shall also mean any wastewaters judged by the DEM to be admissible to streams and watercourses under the jurisdiction of the DEM and in accordance with the standards of water quality established by the DEM for the particular stream or watercourse into which such unpolluted wastewater is to be discharged.

USER -- Any person, who directly or indirectly discharges, causes or permits the discharge of wastewater into the county sewerage system, including, but not limited to, municipal users and public utility users. [Amended 6-16-2004]

WASTEWATER -- Sewage.

WASTEWATER TREATMENT PLANT -- The facilities of the county, city or MSD for treating and disposing of wastewater (POTW treatment plant).

WATERCOURSE -- A channel in which a flow of water occurs either continuously or intermittently.

WATERS OF THE STATE -- All bodies or accumulations of water, surface or underground, within the boundaries of the State of North Carolina.

B. Definitions include both the singular and the plural, and all pronouns include both the singular and plural and cover all genders.

ARTICLE II, Use of Public Sewers Required

§ 152-4. Discharge of untreated wastewater prohibited.

It shall be unlawful for any person to discharge to any outlet other than a sanitary sewer, in Henderson County, any domestic or industrial wastes except where suitable treatment has been provided in accordance with this chapter or where an appropriate NPDES permit has been obtained.

§ 152-5. Storm sewers.

Where a storm sewer, as defined by § 152-3, is adjacent to a property, cooling water, as defined by § 152-3, which meets the definition of that section, may be discharged into said storm sewer, provided that the county determines that sufficient capacity exists in said storm sewer to carry the cooling water without exceeding the design storm drainage capacity of said storm sewer and where an appropriate NPDES permit has been obtained from the DEM.

§ 152-6. Sanitary sewers. [Amended 6-16-2004]

The owner(s) of all houses, buildings or properties situated within the county and/or CCWSD and abutting on any street, alley easement or right-of-way in which there is now located or may in the future be located abutting said property a sanitary sewer of the county that discharges to a wastewater treatment plant, who has installed toilet or other facilities therein necessary for the discharge of domestic or industrial wastes, is hereby required, at the owner(s)' expense, to connect such facilities directly with the sanitary sewer in accordance with provisions of this chapter within 90 days after being directed to do so by any governmental entity having jurisdiction, including the county, provided that said sanitary sewer abuts the property.

§ 152-7. Sanitary sewer service lateral.

A. The sanitary sewer service lateral is the pipe which joins the sanitary sewer to the building sewer. In nonroadway areas, the sanitary sewer service lateral shall extend 10 feet from the center line of the sanitary sewer. In roadway areas, the sanitary sewer service lateral shall extend to a point:

- (1) Three feet beyond any existing roadway drainage ditch.
- (2) Three feet beyond the edge of the traveled roadway (if no drainage ditch).
- (3) At least 10 feet from the center line of the sanitary sewer but further if necessary to meet the requirements in Subsection A (1) and (2) above.

B. The property owner or user shall not perform, direct or permit the performance of any maintenance or construction work on any part of the sanitary sewer system or related facilities without expressed written approval of the County.

C. Prior to connecting to any County-owned sanitary sewer systems, a property owner shall obtain a sewer permit from the County Utilities Department, and any other permits required by the County Inspection Department. Any and all fee(s) shall be due and payable at the time of obtaining the permit(s). [Amended 11-18-1998]

~~D. All property owners (in the Cane Creek Water and Sewer District) who own a building which is both within 150 feet of a Sanitary Sewer and to where the wastewater~~

~~from the main flow by gravity to said Sanitary Sewer, shall be required to either connect said building to said sanitary sewer system and pay the appropriate fees or not connect said building to said sanitary sewer system, yet pay the minimum monthly user fee for said district as established by the district.~~

§ 152-8. Separate sewer connections; exceptions.

Except as herein otherwise provided, there shall be a separate tap and connection with the sewer pipe of the County for each house, structure or building, and no connection shall be used to collect the sewage from more than one house, structure, or building.

A. When an owner of an interior lot proposes to construct a nondwelling structure as a separate building in the rear of an existing house, structure or building, and such structures and additions on such lot are in a common occupancy, such owner may be permitted to serve the additional structure or building through the sewer connection serving the existing structure; provided that:

- (1) The interior lot fronts on one street only.
- (2) The interior lot is of insufficient size to allow subdivision or construction of an additional structure which could abut such street.
- (3) Such additional construction is in compliance with the City zoning ordinances if located within the jurisdiction of the City or with the County zoning ordinances if located within the jurisdiction of the County.

B. A common sewer connection, including a private sewage collection system, will be permitted to serve more than one building of the following categories: [Amended 6-16-2004]

- (1) Group apartment housing (projects consisting of one or more structures situated on one tract under common ownership and not intended to be capable of subdividing into individual lots or tracts for sale purposes).
- (2) Motel and/or hotel buildings (and associated businesses located on the same or a contiguous parcel).
- (3) Hospital campuses and associated medical service providers.
- (4) Warehouses and industrial buildings (and associated businesses located on the same or a contiguous parcel).
- (5) School campuses.
- (6) Shopping center buildings (and associated businesses located on the same or a contiguous parcel).

- (7) Condominium developments (individual ownership of a single unit in a multiunit structure with common elements, such as hallways, parking bays and open spaces).
- (8) Townhouse developments (a development consisting of one or more residential structures comprised of two or more attached single-family residences intended for owner occupancy with individual residences located on their own individual lots with the possibility of common ownership of open spaces, parking bays, etc.).
- (9) Church campuses.
- (10) Campuses of homes for the ill or aged, including rest and convalescent homes.
- (11) Mobile home parks.
- (12) Dwelling units within a planned unit development
- (13) Subdivisions.
- (14) Buildings served by a municipal service provider's sewer system.
- (15) Buildings served by a public utility's sewer system.
- (16) Buildings served by a developer service provider's sewer system.
- (17) Buildings served by a property owner association service provider's sewer system.

C. A common sewer connection, including a private sewage collection system, will be permitted to serve the above categories meeting the following minimum requirements: [Amended 6-16-2004]

- (1) The building or buildings to be served shall be in compliance with the applicable zoning ordinances.
 - (2) The applicant shall be required to demonstrate to the satisfaction of the County that all buildings being served by the common connection are under single ownership. A master sewer permit shall be issued to such owner and such owner shall bear the entire responsibility of paying all of the sewer service fees and other fees imposed pursuant to or under the authority of this Chapter 152, Article VII, for all buildings customers served by the common connection.
- (a) Section 152-8C (2) shall not apply to the following categories of development if such categories of development have in place an incorporated property owner's association to own, operate and maintain the sewage collection system serving the individual separate properties or if the developer owns, operates, and maintains the sewage collection system

serving the separate properties of the following categories of development. A master sewer permit for these categories shall be issued in the name of the qualifying property owner's association or developer to allow connection of the association's or developer's sewage system into the County sewerage system. In addition, sewer permits for the individual buildings customers to be served by the common connection shall be issued in accordance with § 152-40A.B. Lastly, the property owner's association or developer shall bear the entire responsibility of paying all of the sewer service fees and other fees imposed pursuant to or under the authority of this Chapter 152, Article VII, for all buildings customers served by the common connection.

[1] Condominium developments [§ 152-8B(7)].

[2] Townhouse developments [§ 152-8B(8)].

[3] Dwelling units within a planned unit development [§ 152-8B(12)] if such units are intended for owner-occupancy.

[4] Subdivisions [§ 152-8B(13)].

(b) Section 152-8C (2) shall not apply to the following categories of development. Sewer permits for these categories shall be issued in accordance with § 152-40B. Said public utility or municipal service provider shall bear the entire responsibility of paying all of the sewer service fees and other fees imposed pursuant to or under the authority of this Chapter 152, Article VII, for all buildings customers served by the common connection:

[1] Buildings served by a municipal service provider [§ 152-8B(14)].

[2] Buildings served by a public utility [§ 152-8B(15)].

(3) The applicant shall be required to submit to the Henderson County Utilities Department a site plan showing the proposed sewer construction. Such plans shall be prepared by a registered professional engineer licensed in North Carolina who shall also provide inspection of the work as required by the State of North Carolina. The plans (design) and construction shall meet the requirements of the State of North Carolina, the County, and the Metropolitan Sewerage District of Buncombe County. The applicant shall secure all required local, state, and federal permits for the subject construction project. All construction shall be performed by a properly licensed utilities contractor.

(4) Should a building served by a common connection as allowed in this § 152-8 be conveyed to a new owner, the County shall require a separate sewer connection from that building to the main in the street, except in the case of those developments described by § 152-8C(2)(a) above and buildings served by a municipal service provider or a public utility as described in § 152-8C(2)(b) above.

(5) All municipal service providers, developer service providers, property owner's association service providers and all public utilities shall be required, at their own expense, to install a master water meter which meets the approval of Henderson County and/or the Cane Creek Water and Sewer District CCWSD, that measures all of the water used by the sewer customers of public utility's water their sewer system which legally discharges into a sewer system owned, operated or controlled by Henderson County and/or the Cane Creek Water and Sewer District CCWSD. Semiannually, during the months of January and July, the municipal service providers, developer service providers, property owner's association service providers, or and public utility utilities shall be required to furnish a written certification (by a party competent to do so) to the County and the Cane Creek Water and Sewer District CCWSD, to the effect that said master water meter is accurately measuring the water usage. Henderson County and/or the Cane Creek Water and Sewer District CCWSD shall have the right to have the subject master water meter checked for accuracy at any time. If the master water meter is found to be defective, the municipal service provider, developer service provider, or property owner's association service provider that own, operate, and maintain the sewage collection system serving the individual properties of the subdivision and public utility utilities shall immediately replace the defective meter with a new master water meter that meets the approval of Henderson County and the Cane Creek Water and Sewer District CCWSD.

(6) All municipal service providers, developer service providers, property owner's association service providers, and public utilities shall be required to furnish to CCWSD at no charge, a monthly electronic list of all sewer customers along with their addresses and water account numbers (if any).

§ 152-9. Lateral construction and cost.

The County may, at the County's discretion, require the property owner or user to construct and pay for the installation of sanitary sewer service laterals, use an installer approved by the county and then deed said sanitary sewer service laterals to the County. If the County does not require the property owner to contract for said installation of said service laterals, the County shall install the service by contract and the County may charge the property owner in advance for the full cost of such installation. The service lateral shall become the property of the County. The County shall maintain the sanitary sewer service laterals, the length of which is defined in § 152-7.

§ 152-10. Maintenance and repair.

The maintenance and repair of sewer lines, connections, etc., from the point where the sanitary sewer service laterals end, as defined in § 152-7, to and inside the subject building shall be the responsibility of the property owner. If a property owner or his representative claims that the cause of a stoppage or disturbance exists in the sanitary sewer service lateral and an investigation discloses that the cause of such stoppage or disturbance actually exists in that portion of the sewer line lying between the end of the

sanitary sewer service lateral and the building which is serviced by such line, the property owner shall pay to the County the actual cost to the County of making such investigation. If, however, upon investigation, it is found that the cause of such disturbance or disrepair is in the sanitary sewer service lateral, as defined in § 152-7, the county shall make such repair without additional cost to the property owner.

§ 152-11. Sanitary sewer depth.

A. Street sanitary sewers will be constructed in general to a depth of six feet to eight feet to serve adjacent properties where there are not existing houses to general engineering standards.

B. — Where structures exist prior to a sanitary sewer main being installed in a street, the sanitary sewer will be built or laid to depths up to 11 feet (when economically feasible) to provide gravity flow into the street sanitary sewer. Where structures are at such elevations that sanitary sewers 11 feet deep in the street will not provide gravity flow, the property owner will be responsible for making such installations as may be necessary to discharge sewage into the street sanitary sewer.

§ 152-12. Sewer cleanouts.

Sewer service shall not be furnished to any property not presently served unless a sewer cleanout is installed according to the specifications of the Henderson County Utilities Department.

ARTICLE III, Wastewater Disposal Limitations

§ 152-13. Holding tank wastes wastewater.

~~Holding tank wastes and septic tank wastes shall be discharged into the county sewerage system only under the following conditions:~~

A. — ~~Persons owning vacuum pump or septic tank trucks or other liquid waste transport trucks shall not discharge directly or indirectly, wastewater from such trucks into the county sewerage system unless such persons shall first have applied for and received a permit from the county. All applicants for such permits shall complete such forms as required by the county, pay appropriate fees and agree in writing to abide by the provisions of this chapter and any special conditions or regulations established by the county. The owners of such vehicles shall affix and display their permit numbers on the sides of vehicles used for such purposes. Such permits shall be valid for a period of one year from the date of issuance, provided that such permits shall be subject to revocation by the county for violation of any provision of this chapter or reasonable regulation established by the county. Such permits shall be limited to the discharge of sanitary sewage containing no industrial waste. The county shall designate the locations and times where such trucks may be discharged and may refuse to accept any truckload of waste in~~

~~its absolute discretion where the county determines that the waste could interfere with the effective operation of the county sewerage system.~~

A. Except as allowed per item B immediately below, no person or entity shall discharge, directly or indirectly, any holding tank wastewater into the County's sewerage system.

~~B. No person shall discharge any other holding tank waste, including industrial process wastes, into the county sewerage system unless he shall have applied for and have been issued a permit by the county, MSD, city or other wastewater treatment authority. Unless otherwise allowed under the terms and conditions of the permit, a separate permit must be secured for each separate discharge. The permit shall state the specific location of discharge, the time of day discharge is to occur, the volume of the discharge, and shall limit the wastewater constituents and characteristics of the discharge. Such user shall pay any applicable charges or fees therefor and shall comply with all conditions of the permit issued by the county.~~

B. Any person or entity wanting to operate a dumping station for the discharge of sanitary sewage from recreation vehicles into the County's sewerage system shall be required to apply for and secure a permit from the County. ~~C. No person shall operate a dumping station for the discharge of sanitary sewage from recreation vehicles into the County sewerage system unless the user of the dumping station shall have first applied for and received a permit from the county.~~ All applicants for such permits shall complete such forms as required by the County, pay appropriate fees and agree, in writing, to abide by the provisions of this chapter and any special conditions or regulations established by the County. These permits shall be issued only for approved facilities designed for the receipt of sanitary sewage only.

§ 152-14. Additional requirements.

No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by other municipal or state agencies.

ARTICLE IV, Excluded Wastes

§ 152-15. General prohibitions.

No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the County sewerage system. This prohibition applies to all such users of the County sewerage system.

§ 152-16. Prohibited wastes; exceptions.

No user shall discharge or deposit any of the following materials, waste materials, wastes, gases or liquids into any sanitary sewer forming a part of the County sewerage

system, except where these may constitute occasional, intermittent inclusions in the wastewater discharged from residential premises:

A. Any wastewater having a temperature which will inhibit biological activity in a wastewater treatment plant or result in other interference with the treatment processes, but in no case wastewater with a temperature which exceeds 60° C. (140° F.) at its introduction into the wastewater treatment plant.

B. Any water or waste containing more than 50 mg/l of fat, oil or grease or other substances that will solidify or become viscous at temperatures between 0° C. (32° F.) and 60° C. (140° F.).

C. Wastewater containing floatable oil, fat or grease from industrial plants.

D. Any garbage that has not been properly shredded so that no particles are any greater than 1/2 inch in any dimension.

E. Any waste capable of causing abnormal corrosion, abnormal deterioration, damage to or hazard to structures or equipment of the county sewerage system, or to humans or animals or interference with proper operation of wastewater treatment facilities. All wastes discharged to the county sewerage system must have a pH value in the range of six to 10 pH units. Prohibited materials include, but are not limited to, concentrated acids and alkalis and high concentrations of compounds of sulfur, chlorine and fluorine and substances which may react with water to form strongly acidic or basic products.

F. Any waters or wastes having a color which is not removable by the existing wastewater treatment processes and which causes the plant effluent to exceed NPDES color requirements for discharge to the receiving waters.

§ 152-17. Specific prohibited wastes.

No user shall discharge or deposit any of the following materials, waste materials, waste gases or liquids into any sanitary sewer forming part of the county sewerage system:

A. Any liquids, solids or gases which, by reason of their nature or quantity, are or may be sufficient, either alone or by interaction with other substances, to cause fire or explosion or be injurious in any way to the county sewerage system or to the operation of the County sewerage system. At no time shall two successive readings (15 to 30 minutes between readings) on an explosion hazard meter at point of discharge into the county sewerage system be more than 5% nor any single reading be more than 10% of the Lower Explosive Limit (LEL) of the meter. Prohibited materials covered by this subsection include, but are not limited to, gasoline, commercial solvents, toluene, xylene, peroxides, chlorates, perchlorates, bromates, carbides and hydrides.

B. Any noxious or malodorous solids, liquids or gases which, either singly or by interaction with other wastes, are capable of creating a public nuisance or hazard to life or are or may be sufficient to prevent entry into a sewer for its maintenance and repair.

C. Any substances which may cause wastewater treatment plant effluent or any other products of the County sewerage system, such as residues, sludges, or scums, to be unsuitable for the reclamation process. In no case shall a substance discharged into the County sewerage system cause the system to be in noncompliance with sludge use or disposal criteria, guidelines, ordinances, or regulations developed by local, state or federal authorities.

D. Any substance which will cause the County sewerage system to violate its NPDES permit or the receiving water quality standards established by the DEM, the EPA or any other governmental entity having jurisdiction.

E. Any water or wastes which, by interaction with other waters or wastes in the County sewerage system, release obnoxious gases, from suspended solids which interfere with operation of the sanitary sewers or create conditions deleterious to structures and treatment processes.

F. Any form of inflow, as defined by § 152-3, including storm drainage.

G. Infiltration, as defined by § 152-3, in excess of 300 gallons per inch of pipe diameter per mile of pipe per day.

H. Any unpolluted wastewater, as defined in § 152-3, except as specifically permitted by the county.

§ 152-18. Specified pollutant limitations.

A. No user shall discharge into any sanitary sewer forming part of the county sewerage system any of the following materials in concentrations exceeding the limits stated below:

(1) Any water or wastes that contain more than 10 mg/l of hydrogen sulphide, sulphur dioxide or nitrous oxide.

(2) Any toxic or poisonous substance or any other materials in sufficient quantity to interfere with the wastewater treatment processes or to constitute a hazard to humans or animals or to cause a violation of the water quality standards or effluent standards for the stream or watercourse receiving the effluent from a wastewater treatment plant or to exceed limitations set forth in an applicable National Categorical Pretreatment Standard.

(3) Any waters containing suspended solids of such character and quantity that unusual provisions, attention or expense is required to handle such materials at a wastewater treatment plant.

B. No person shall discharge wastewater containing concentrations of the constituents listed below in excess of the upper limits listed below or in excess of more stringent standards promulgated by the state or EPA for an industrial classification applicable to the user.

Fixed Upper Limits for Constituents
(Milligrams per Liter)

Constituent	Maximum Instantaneous Concentration (24-Hour Flow Proportional	
	Grab Sample	Composite Sample)
Arsenic	2.0	1.0
Cadmium	1.2	0.7
Chromium	2.5	1.0
Copper	2.5	1.0
Cyanide	1.9	1.0
Lead	0.6	0.4
Mercury	0.2	0.1
Nickel	2.5	1.0
Silver	1.2	0.7
Tin	2.5	1.0
Zinc	2.5	0.5
Total Metals	10.5	6.8

C. The admission into the County sewerage system of any waters or wastes having a BOD in excess of 500 mg/l on a twenty-four-hour composite basis or for any single sample having a BOD in excess of 1,500 mg/l will be subject to review by the county. Where necessary, in the opinion of the County, the user shall provide and operate, at his own expense, such pretreatment facilities as may be required to reduce the BOD to meet the above requirements.

D. The admission into the County sewerage system of any waters or wastes having a suspended solids content in excess of 500 mg/l on a twenty-four-hour composite basis or for any single sample having a suspended solids content in excess of 1,500 mg/l will be subject to review by the County. Where necessary, in the opinion of the County, the user shall provide and operate, at his own expense, such pretreatment facilities as may be required to reduce the suspended solids content to meet the above requirements.

E. The admission into the County sewerage system of any waters or wastes in volumes or with constituents such that existing dilution conditions in the sanitary sewers or at a wastewater treatment plant would be affected to the detriment of the county sewerage system will be subject to review and approval of the county. Where necessary, in the opinion of the County, pretreatment or equalizing units may be required to bring constituents or volumes of flow within the limits previously prescribed or to an otherwise acceptable level and to hold or equalize flows so that no peak flow conditions may

hamper the operation of any unit of the county sewerage system. Said equalization or holding unit shall have a capacity suitable to serve its intended purpose and be equipped with acceptable outlet control facilities to provide flexibility in operation and accommodate changing conditions in the waste flow.

F. Upon the promulgation of Federal Categorical Pretreatment Standards for a particular industry, the federal standard, if more stringent than limitations imposed by this chapter, shall immediately supersede the limitations imposed under this chapter. All affected users shall notify the county of the applicable reporting requirements imposed by federal law.

G. State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those of this chapter.

H. The Board of County Commissioners of Henderson County, North Carolina, reserves the right to establish more stringent limitations or requirements on discharges to the county sewerage system.

ARTICLE V, Administration

§ 152-19. Right of entry.

The County and/or its duly authorized representative(s), bearing proper credentials and identification, shall be permitted to enter upon all properties of any user for the purpose of inspection, observation, flow measurement, sampling and testing of wastewaters, sewer service connections or other facilities regulated in accordance with this chapter.

§ 152-20. Protection of equipment.

No person or user shall maliciously, willfully or negligently break, damage, destroy, deface, tamper with or remove any equipment or materials which are a part of the County sewerage system or which are used by the County for the purposes of making waste examinations and waste flow measurements or monitoring and left upon the premises of a person discharging wastes into the County sewerage system. Only persons authorized by the County will be allowed to uncover, adjust, maintain and remove such equipment and materials.

§ 152-21. Appeals.

The Board of County Commissioners of Henderson County, North Carolina, shall be the reviewing authority for all appeals of actions or administrative determinations made by the County under the provisions of this chapter. Notice of an intent to appeal and request for a hearing shall be addressed to the Chairman of the Board, in writing, and shall detail the nature of the appeal. An early date for such hearing shall be set by the Board and the appellant promptly notified in writing. The decision of the Board after such hearing shall be final and conclusive and shall be conveyed to the persons involved in writing.

ARTICLE VI, Enforcement and Penalties

§ 152-22. Enforcement. [Amended 11-18-1998]

- A. Any user who violates any sections of this chapter or applicable state or federal law or regulations is subject to enforcement action as herein provided or as provided in Chapter 1, General Provisions, Article II.
- B. Every user in violation of the provisions of this chapter or applicable state and federal laws and regulations or who furnishes false information relative to his use of the County sewerage system, whether he directly commits the acts or aids and abets the same and whether present or absent, shall be proceeded against and held as a principal.

§ 152-23. Actions to protect the system.

If a user of the County sewerage system proposes to discharge, discharges or accidentally discharges wastewaters or any substance in any manner that is in violation of any section of this chapter or applicable state or federal laws or regulations, the County Engineer or other duly authorized representative may take the appropriate action to protect the county sewerage system.

§ 152-24. Action by board.

Action may be taken by the Board upon receiving a report from the County Engineer or other duly authorized representative outlining details of the user's failure to comply with actions of the county taken pursuant to § 152-23. The Board may order a user violating this chapter to show cause before the Board why proposed enforcement action should not be taken. The procedure used by the Board shall be as provided in the succeeding subsections of this article.

- A. A notice shall be delivered to the user showing:
- (1) The date, hour and place of the hearing to be held regarding the alleged violation and any proposed enforcement action.
 - (2) A reference to the particular section or sections of this chapter which are involved.
 - (3) A short statement of the factual allegations.
 - (4) Any proposed enforcement action.
 - (5) A direction that the user show cause why such proposed enforcement action should not be taken.

B. Notice of the hearing shall be delivered to the user personally or mailed, by registered or certified mail, return receipt requested, at least 10 days before the hearing, to the user or any authorized representative of the user.

C. The Board may itself conduct the hearing or may designate any one or number of its members to conduct the hearing as a hearing officer or officers. When it is impractical for a hearing officer to conduct the hearing, another hearing officer may be assigned to continue with the case, unless it is shown that substantial prejudice to a party will result therefrom, in which event a new hearing shall be held or the case dismissed with prejudice to the County.

§ 152-25. Powers of hearing officer and district board.

During the course of a hearing and in preparation therefor, the Board or any hearing officer designated to conduct the hearing may:

A. Administer oaths and affirmations.

B. Issue, in the name of the Board, notice of the hearing to persons calling for their attendance, testimony and production of evidence relevant to any matter involved in such hearings.

C. Regulate the course of the hearing and set the time and place for continued hearings.

D. Hear the evidence.

§ 152-26. Place of hearing.

Hearings held pursuant to this chapter shall be held in the offices of the Board of County Commissioners, unless the Board or hearing officer designated to conduct the hearing determines that the obtaining of evidence will be better facilitated by holding the hearing at the site of the alleged violation of this chapter.

§ 152-27. Conduct of hearing.

Hearings held pursuant to this article shall be conducted as follows:

A. A user who is a party to the Board action may file a written answer before the date set for hearing.

B. If a user who is a party to the Board action fails to appear after notice has been served or properly mailed and if no adjournment is granted, the Board or a hearing officer may proceed with the hearing and make its decision in the absence of the party.

C. At any hearing held pursuant to this section, testimony taken must be under oath and recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the actual cost to the county therefor.

D. Users who are parties to the Board action shall be given the opportunity to present arguments on issues of law and an opportunity to present evidence on issues of fact.

E. Users who are parties to the Board action may cross-examine any witness. A party may submit rebuttal evidence.

F. At the conclusion of a hearing conducted by a hearing officer, the officer shall transmit a report of the hearing, together with recommendations to the Board for action thereon.

G. At the conclusion of a hearing conducted by the Board, or upon receipt by the Board of a report of hearing from a hearing officer, the Board shall take action pursuant to § 152-28.

§ 152-28. Final decision.

The Board shall make final order. The order shall be made after review of the official record as defined below in § 152-29, shall be in writing and shall include findings of fact and conclusions of law.

A. Findings of fact shall be based exclusively on the evidence and on matters officially noticed by the Board or hearing officer.

B. An order shall not be made except upon consideration of the record as a whole or such portion thereof as may be cited by any party to the hearing and shall be supported by substantial evidence.

C. A copy of the order shall be served upon each party personally or by registered or certified mail, return receipt requested, and a copy furnished to his attorney of record.

D. Service of all notices or orders contemplated by this article be deemed complete upon the mailing of the order by registered or certified mail, return receipt requested, addressed to the user or to its attorney of record.

§ 152-29. Official record.

The official record of the hearing shall include:

A. Notices, pleadings, motions and intermediate rulings.

B. Questions and offers of proof, objections and rulings thereon.

- C. Evidence presented.
- D. Matters officially noticed, except matters so obvious that a statement of them would serve no useful purpose.
- E. Proposed findings and exceptions if any.
- F. Any decision, opinion, order, transmittal or report by the hearing officer presiding at a hearing and by the Board.

§ 152-30. Violations and penalties.

A. If, in its order, the Board finds the user is in violation of, fails to comply with or has failed to comply with any of the provisions of this chapter, including the willful furnishing of false information relative to same, it may, in the order, in addition to invoking the enforcement actions set forth in § 152-22:

(1) Subject the user to a civil penalty of not more than \$1,000 for each violation, to be recovered by the Board in a civil action in the nature of a debt if the user does not pay the penalty within a prescribed period of time after he has been found to be in violation of this chapter. When a user has been assessed a civil penalty by the Board, he shall be notified of the assessment personally or by registered or certified mail, return receipt requested.

(2) Require the user making, causing or allowing the discharge to pay any costs or expenses incurred by the county, which expenses may include, but not be limited to, damage to the county sewerage system, extraordinary monitoring of the wastes and extraordinary treatment measures or processing imposed on the wastewater treatment by said discharge.

(3) Require the user making, causing or allowing the discharge to pay any cost or expense incurred by the County for any fine or penalty imposed on the County by the state or federal government or agency thereof because of a violation of the NPDES Permit or damage to the environment that is attributed to said discharge.

(4) Require the user making, causing or allowing the discharge to furnish a bond or other security, with terms specified by the Board, to hold the County harmless from any loss or expense that the County may incur as a result of such noncompliance or any future noncompliance.

(5) Recover reasonable attorney's fees and expenses incurred by the Board as a result of its employing legal counsel to assist the County Engineer or the Board in taking action pursuant to this article of this chapter.

B. If the user assessed fails to pay the amount of the civil penalty or assessment to the County within 30 days after receipt of notice, or such longer period, not to exceed 180 days, as the Board may specify, the Board may institute a civil action to recover the amount of the assessment in the General Court of Justice of the county in which the violation occurred or, in the discretion of the County, in the county in which the person assessed has his or its principal place of business.

§ 152-31. Emergency enforcement action.

If the County Engineer or other duly authorized representative determines that an action, a potential action or a continuing action of a user may create a potential for damage to the County sewerage system, the receiving stream, the environment, life or health of humans or animals or an interference with treatment processes at a wastewater treatment plant:

A. He may recommend to the Board enforcement of this chapter as it applies to said violation by said user by seeking an appropriate equitable remedy issuing from a court of competent jurisdiction.

B. The Board may, without providing prior notice to said user, request enforcement of this chapter as it applies to said violation by said user by seeking an appropriate equitable remedy issuing from a court of competent jurisdiction. In such case, the General Court of Justice shall have jurisdiction to issue such orders as may be appropriate, and it shall not be a defense to the application of the Board for equitable relief that there is an adequate remedy at law.

§ 152-32. Billing and payment procedures.

All **monthly** bills due the county for sewer service shall be payable at the collection office in the **Henderson County Finance City Water and Sewer Department office** or other designated location within **21** 40 days after date of issue. ~~Such bills shall be rendered monthly. The sending of a bill to the consumer shall be the notice required by the City Charter.~~ If any bill remains unpaid for a period of 30 days after being mailed, **and if the subject customer is provided with metered water service by a government entity, the Henderson County Finance Department shall request that the said government entity turn the customer's water off. the water shall be turned off.** In cases in which sewer service but not water service is furnished to a customer and the bill for such sewer service remains unpaid for a period of 30 days after being mailed to such consumer, **the Henderson County Finance Department may take any steps which are legal, including but not limited to hiring collectors and filing a court action, to collect the bills.** ~~the sewer service to such property or consumer, shall be cut off and discontinued without further notice, and, in the event the consumer desires to reinstate and restore such sewer service, the same shall not be restored to such premises unless and until all delinquent sewer charges for sewer services furnished to such premises, plus a connection charge in the amount of \$200 is paid to the county.~~

A. Notice and hearing.

(1) The County shall designate a person(s) to hear customer complaints concerning overcharges, charges for services not rendered or other billing errors. The County's designee is authorized to review disputed bills and to correct any errors which may appear therein.

(2) The County's designee shall notify sewer customers whose service may be terminated that the amount shown as due on any such customer's bill may be questioned by discussing such bill with a designated official who is authorized to correct billing errors. The notice shall include the phone number, office hours and office location of the designated official. The notice may be given by mail, by notice enclosed with a bill, by notice printed on a bill or by similar means.

(3) Sewer service shall not be terminated for failure to pay a sewer bill until 10 days after the notice required by this section has been mailed.

B. Time and method of payment of sewer fees. All monthly sewer user fees shall be due and payable at the Henderson County Finance Department office. All sewer permit fees and sewer capacity depletion fees and other sewer fees shall be payable at the Henderson County Utilities Department / CCWSD. ~~same time and place that water rentals or bills are due and payable. Sewer rentals shall be included in the same bills, but stated separately, and shall be collected at the same time and in the same manner, and, if~~ Sewer bills and fees not paid within 30 days after the invoice is mailed, ~~the time limit for the payment of water bills,~~ in addition to any other penalties provided by law, the County may request any government-owned water supplier to cut off from such property the use of water and if such water is obtained from sources of supply other than a government-owned ~~the city~~ water system, the discharge thereof into the County's system shall be illegal and the owner of the property subject to fine or imprisonment as provided by law.

C. Refunds or damages for failure of sewer water service. No person shall be entitled to damages nor to have any portion of payment refunded for any failure of sewer service due to any necessary construction or repairs.

D. ~~Procedure with reference to vacancy of premises. In county sewer districts and/or systems other than the Cane Creek Water and Sewer District, when premises are vacant for more than 30 days and the premises is served by a municipal water system, no bill shall be rendered for such period, provided that written notice is given in advance of the date of vacancy and of reoccupancy and the water is turned off during such period of vacancy. In the Cane Creek Water and Sewer District CCWSD, sewer bills will still be rendered when the premises are vacant even if the water is turned off.~~

E. Adjustment of bills inequitable or abnormal due to unavoidable waste. The County may adjust and settle inequitable and abnormal sewer bills due to unavoidable waste.

F. Billing records for ~~water and~~ sewer services. The ~~County city~~ shall maintain billing records for sewer services for a period of ~~three one~~ years. Adjustments to sewer bills will be based on the availability of records.

ARTICLE VII, User Charges and Fees; Permits; ~~Alternatives to Master Water Meter; Encroachments; Wastewater Pump Stations and Force Mains.~~

§ 152-33. Purpose.

It is the purpose of this article to provide for the recovery of costs from users of the ~~County~~ sewerage system(s) for the implementation of the program established herein and for the construction, operation and maintenance of said system(s). The ~~County~~ will adopt user charges and fees from time to time as necessary to meet the system(s) budgetary requirements.

§ 152-34. Water from other than ~~a government-owned water system. city or ABHWA supply.~~

For a property which uses water, all or a part of which is from a source other than ~~a government-owned water system the city's or ABHWA's water supply system~~, there shall be a sewer user charge, separate from and in addition to any sewer user charge based on the consumption of water from the ~~government-owned water system city's or ABHWA's water supply system.~~

A. Such separate or additional sewer user charges shall be measured by the quantity of water from the source other than the ~~government-owned water system the city's or ABHWA's water supply system~~ which is discharged into the ~~County's~~ sewers from such property. The owner of such property shall install, without cost to the ~~County~~, a meter to measure the quantity of water received from a source other than the ~~government-owned water system City's or ABHWA's water supply system~~ and discharged into the ~~County's~~ sewer. No meter shall be installed or be used for such purposes without the approval of the ~~County~~.

B. The owner of such property shall pay for such water so discharged into the ~~County's~~ sewers an amount as though all such water came from the ~~government-owned water system City's or ABHWA's water supply system.~~

C. If the owner of such property fails to install and maintain, at his own expense, an approved meter, the ~~County~~ shall make an estimate of the amount of water from sources other than the ~~government-owned water system City or ABHWA's water supply system~~ which is discharged into the ~~County's~~ sewers from such property, using the consumption from similar operations, and if none, a formula based upon the operations of the business of the occupant of the premises as a standard, and bill such estimated water so discharged into the ~~County's~~ sewer as though the same were metered.

§ 152-35. Water used for industrial or commercial purposes and not discharged into county system.

A. Whenever a property upon which a sewer user charges is hereby imposed uses water from the **government-owned water system** ~~City's or ABHWA's water supply system~~ for an industrial or commercial purpose so that the water so used is not discharged into the **County** sewerage system ~~of the County~~, the quantity of the water so used and not discharged into the **County's** sewers shall be excluded in determining the sewer user charges of such property and shall be measured by a device approved by the **County** and installed and maintained without cost to the **County**, and provided that the water supply of such property is metered and the owner pays for such water at metered rates.

B. The sewer user charges based upon the consumption of **government-owned water system** ~~City~~ water to be paid by the owner of such property shall be computed at the rates established for sewer service and using a quantity of water equal to the total quantity of water furnished such property by the **government-owned water system** ~~City or ABHWA~~, less a quantity not discharged into the **County's** sewer; provided, however, that where, in the opinion of the **County**, it is not practical to install a measuring device to determine continuously the quantity of water not discharged into the **County's** sewers, the **County** shall determine periodically, in such a way and by such method as it may prescribe, the quantity of water discharged into the **County's** sewers, and the quantity of metered water used to determine the sewer user charges shall be the portion so determined of the quantity measured by water meter or meters.

§ 152-36. Fee schedule.

All charges, fees and other penalties shall be as determined by the **County** and set forth in a fee schedule.

§ 152-37. Capacity depletion fees.

A. A one-time charge which shall be payable to Henderson County by users of all of the **County** sewerage systems, the capacity depletion fee is intended to compensate the **County** for capacity utilized within the **County** sewerage system. The amount of the capacity depletion fee, the manner in which it is calculated and other particulars in regard to said capacity depletion fee shall be set and established from time to time by the Henderson County Board of Commissioners sitting as the Board of Commissioners or as Directors of Henderson County's water and sewer districts in a fee schedule. The moneys generated by the capacity depletion fee will be used in regard to Henderson County's sewer systems for capital projects, emergency repairs and operations and maintenance at the discretion of the Henderson County Board of Commissioners sitting as the Board of Commissioners or as Directors of Henderson County's water and sewer districts.

B. **In addition to capacity depletion fees imposed by Henderson County, users of the County's sewerage system may be subject to fees imposed by other government entities**

which have contracted to transport/treat wastewater from the County's sewerage collection system.

§ 152-38. Monthly sewer service fee. [Amended 6-16-2004]

The monthly sewer service fee is a monthly charge which shall be payable to Henderson County by all users other than municipal ~~users~~ **service providers, developer service providers, property owner's association service providers** and public ~~utility~~ **utilities**. The amount of this service fee, the manner in which it is calculated and other particulars in regard to said monthly ~~municipal~~ sewer service fee shall be set and established from time to time by the Henderson County Board of Commissioners sitting as the Board of Commissioners or as Directors/trustees of Henderson County's water and sewer districts in a fee schedule. This service fee will be used in regard to the County's sewerage systems for capital projects, emergency repairs and operations and maintenance at the discretion of the Henderson County Board of Commissioners sitting as the Board of Commissioners or as Directors/trustees of Henderson County's water and sewer districts

§ 152-39. **Monthly municipal sewer service fee, monthly developer sewer service fee, the monthly property owner's association sewer service fee, and monthly public utility sewer service fee** [Amended 6-16-2004]

A. The monthly municipal sewer service fee is a monthly charge which shall be payable to Henderson County by all municipal ~~users~~ **service providers**. The amount of this service fee, the manner in which it is calculated and other particulars in regard to said monthly municipal sewer service fee shall be set and established from time to time by the Henderson County Board of Commissioners sitting as the Board of Commissioners or as Directors/trustees of Henderson County's water and sewer districts in a fee schedule. This service fee will be used in regard to the County's sewerage systems for capital projects, emergency repairs and operations and maintenance at the discretion of the Henderson County Board of Commissioners sitting as the Board of Commissioners or as Directors/trustees of Henderson County's water and sewer districts.

B. **The monthly developers sewer service fee is a monthly charge which shall be payable to Henderson County by all developer service providers. The amount of this service fee, the manner in which it is calculated and other particulars in regard to said monthly developer sewer service fee shall be set and established from time to time by the Henderson County Board of Commissioners sitting as the Board of Commissioners or as Directors/trustees of Henderson County's water and sewer districts in a fee schedule. This service fee will be used in regard to the County's sewerage systems for capital projects, emergency repairs and operations and maintenance at the discretion of the Henderson County Board of Commissioners sitting as the Board of Commissioners or as Directors/trustees of Henderson County's water and sewer districts.**

C. **The monthly property owner's association sewer service fee is a monthly charge which shall be payable to Henderson County by all property owner's**

association service providers. The amount of this service fee, the manner in which it is calculated and other particulars in regard to said monthly property owner's association sewer service fee shall be set and established from time to time by the Henderson County Board of Commissioners sitting as the Board of Commissioners or as Directors/trustees of Henderson County's water and sewer districts in a fee schedule. This service fee will be used in regard to the county's sewerage systems for capital projects, emergency repairs and operations and maintenance at the discretion of the Henderson County Board of Commissioners sitting as the Board of Commissioners or as Directors/trustees of Henderson County's water and sewer districts.

D. The monthly public utility sewer service fee is a monthly charge which shall be payable to Henderson County by all public ~~utility users~~ **utilities**. The amount of this service fee, the manner in which it is calculated and other particulars in regard to said monthly ~~municipal~~ **public utility** sewer service fee shall be set and established from time to time by the Henderson County Board of Commissioners sitting as the Board of Commissioners or as Directors/trustees of Henderson County's water and sewer districts in a fee schedule. This service fee will be used in regard to the County's sewerage systems for capital projects, emergency repairs and operations and maintenance at the discretion of the Henderson County Board of Commissioners sitting as the Board of Commissioners or as Directors/trustees of Henderson County's water and sewer districts.

§ 152-40. Permits. [Amended 6-16-2004]

A. Except as provided in § 152-40B, all users shall apply for a sewer permit. All applications (including those submitted pursuant to § 152-40B below) shall be submitted to the County in care of the Utilities Director and shall be accompanied by any applicable fee(s) and such other documentation as the county shall require.

B. All municipal service providers, **property owner's association service providers, developer service providers** and public utilities shall make application for a ~~general master~~ sewer permit to allow connection into the County sewerage system by the service provider **or public utility** and shall also be required to make application for a sewer permit on behalf of each of their customers. Henderson County shall not accept any application from a customer of a municipal service provider, **a property owner's association service provider, developer service provider** or a public utility. The municipal service provider, **property owner's association service provider, developer service provider** ~~or and~~ public utility must grant Henderson County, ~~the Cane Creek Water and Sewer District~~ **CCWSD**, their staff and other agents, access to the master water meter 24 hours per day, 365 days per year, for the purposes of reading the master water meter and checking the accuracy of the master water meter. Such right of access must be granted prior to the issuance of the ~~general master~~ sewer permit. ~~to the municipal service provider or public utility.~~

C. **Before the CCWSD will issue a master sewer permit to a developer service provider that owns, operates, and maintains or proposes to construct a private sewage collection system (serving or intended to serve the separate properties in the categories of**

development in 152-8C.(2) (a)) that connects or will connect to the County sewer system with a common connection, the developer service provider shall be required to furnish written documentation (acceptable to the County's Utilities Director and the Office of the County Attorney) that (a) a property owner's association has been established for the subject categories of development and each separate owner in the referenced development is legally required to be a member of said property owner's association and pay (subject to a lien enforceable by the association and by Henderson County on the owner's property in development) all assessments levied by the property owner's association, which may levy the same on its own part but must levy the same upon the demand of Henderson County for reimbursement of the costs of the monthly sewer service and other fees imposed by CCWSD or Henderson County, or for the operation, maintenance, repair and replacement of the sewage collection system and (b) within one year of the date the master sewer permit is issued, the property owner's association shall become the owner of the subject sewage collection system and as such shall become a property owner's association service provider that is responsible for the operation, maintenance, repair, and replacement of the said sewage collection system as well as for paying all of the monthly sewer service fees and other fees imposed by CCWSD and/or Henderson County.

If the developer of the subject categories of development still owns properties therein, at the time the property owner's association becomes the owner of the sewage collection system, the developer shall be responsible for securing separate County sewer permits on behalf of each proposed new sewer customer. For any properties not owned by the developer, the property owner's association service provider shall be responsible for securing separate County sewer permits on behalf of each proposed new sewer customer.

§ 152-41. Alternatives to Master Water Meter.

As an alternative to the requirement, found elsewhere in this Ordinance, of installing a master water meter, the County Utilities Director may approve a different method of capturing the water usage information that is to be used to calculate the sewer bill(s). Such different method must (a) accurately measure the subject water usage and (b) provide the necessary information at minimal or no cost to CCWSD, and (c) be readily available to CCWSD.

§ 152-42. Policies Concerning Encroachments.

Encroachments are required by the North Carolina Department of Transportation (NCDOT) for sewer lines to be constructed on the NCDOT rights-of-way. In cases where the NCDOT will not grant an encroachment to a private party (to construct a sewer force main in the NCDOT rights-of-way) without CCWSD signing the encroachment as the second party, it is the policy of CCWSD to (1) require the private party to sign an agreement to indemnify CCWSD for any expenses CCWSD incurs due to the encroachment, (2) require the private party to sign the encroachment as the third party and (3) after which CCWSD will sign the subject encroachment as the second party. It is the intent hereof that the private party own the sewer force main and bear all the expenses

associated therewith. CCWSD will (1) resolve problems identified by the NDCOT and then (2) recover any resulting costs from the private party.

§ 152-43. Policies Concerning Wastewater Pump Stations and Force Mains.

A. CCWSD will not take ownership of wastewater pump stations/force mains constructed or proposed by others. Wastewater pump stations/force mains increase operating costs, are subject to failure causing spills which degrade the environment and result in fines, can cause major problems during storm events, require additional staff, limit sewer service to the greater community, and encourage development of marginal property rather than directing growth in areas identified by the Board of Commissioners.

B. One of the goals of the Cane Creek Water and Sewer District (CCWSD) is for the District's sewer system to be expanded by developers constructing gravity sewer line extensions. If it isn't technically possible to serve a proposed project with a gravity sewer line, the developer can consider providing the sewer service via a wastewater pump station and force main. However, before the CCWSD will consider issuing a permit for a developer to construct a wastewater pump station and force main, the developer shall have to meet certain requirements, including but not limited to having a North Carolina licensed civil engineer provide the CCWSD with a letter explaining why it is not technically possible to serve the proposed property with a gravity sewer line.

ARTICLE VIII, Sewer Extensions

§ 152-44. General policy.

The Board of County Commissioners of Henderson County is empowered under the laws of the State of North Carolina to own, construct, operate and maintain wastewater collection/treatment systems (N.C.G.S. 153A-274). The Board has or will establish under this statute systems in several sections of the county. This policy is established to clearly state the procedure which must be followed in order for the Board to consider an extension of the County-owned wastewater collection system. This policy will also govern extensions to the ~~Cane Creek Water and Sewer District~~ CCWSD wastewater collection system and the ~~Mud Creek Water and Sewer District~~ wastewater collection system which shall be reviewed and approved by the respective District Board of Commissioners.

§ 152-45. Cane Creek and ~~Mud Creek~~ Water and Sewer Districts.

It shall be unlawful for any person(s), corporation or local government(s), etc., to construct, operate or maintain a public or private wastewater collection system(s) and/or wastewater treatment facility(ies) within the specified boundaries of the ~~Cane Creek Water and Sewer District~~ CCWSD or the ~~Mud Creek Water and Sewer District~~ without the expressed written approval of the respective District Board of Commissioners.

§ 152-46. Application.

A. Any person(s) who wish(es) to extend the County sanitary sewer system must make application to the ~~Board of County Commissioners~~ Henderson County Utilities Department on the approved form. Said application form shall be completely filled out, properly signed, and notarized.

(1) Attached to said application must be a preliminary drawing (prepared by a North Carolina registered professional engineer) which shows the proposed sewer from the existing County-owned or County-controlled sewer line to the subject property (and any improvements thereon) on the appropriate Henderson County Tax Map.

(2) The adjacent property lines, owner's names and deed references for all properties affected by the proposed sewer line (~~and a forty-foot construction easement~~) shall be shown on said drawing.

B. Said completed and properly executed application form and the attached drawing must be submitted to the Henderson County Sewer Utilities Department. ~~no later than 30 days prior to a regular Board meeting to be considered at that meeting.~~

C. All required CCWSD fees shall be submitted to the Henderson County Utility Department at the same time the application is submitted.

§ 152-47. Procedure.

A. The Board of Commissioners will review an application for a sewer extension and determine under what conditions, if any, service may be granted to the applicant. The Board of Commissioners, as it deems appropriate, shall may require the applicant, at his/her own expense, to submit information outlining the proposed project and its impact upon the existing wastewater collection/treatment system to which it will be connected.

B. The proposed project and all facilities proposed for connection to the system must be in compliance with this Part 1.

C. It shall be understood by the applicant that County sewer service is subject to a number of engineering constraints, financial considerations and available treatment capacity. Therefore, each application will be reviewed and acted upon based on the current circumstances, past operating experiences, future growth considerations and financial information associated with the project.

§ 152-47.1. Delegation of authority.

The Board of Commissioners may, pursuant to a duly adopted resolution, delegate its authority under this article to the County Manager of Henderson County and in such resolution may restrict or limit such delegation of authority.

§ 152-47.2. System design and construction.

Should the Board approve the application for a sanitary sewer line extension, the following steps shall be taken:

A. The applicant must retain the services of a North Carolina registered professional engineer to prepare detailed plans and specifications for the proposed extension **and the applicant shall furnish two copies of the said plans and specifications to the Henderson County Utilities Department for review.** Said plans shall include both plan and profile views and clearly identify (by property lines, names of current property owners and deed book and page references) all properties which shall be affected during construction of the proposed sewer extension. Each sewer line extension shall be constructed within a permanent twenty-foot wide dedicated permanent easement and within a forty-foot-wide (unless otherwise approved in writing by the **Henderson County Sewer Utilities Department** in advance of construction) dedicated temporary easement, both issued by the landowner, and any others with an interest in said property, to Henderson County. Said engineering plans shall include both said permanent and said temporary construction easements.

B. The design of the proposed wastewater collection system shall be in accordance with generally accepted engineering standards. The Board may appoint an independent professional engineer to act as its agent in reviewing the plans and specifications for the **County.**

~~C. After approval of the detailed plans and specifications by the County Sewer Department, the applicant shall furnish said Department with two sets of these documents. Three additional sets, a completed application form and the appropriate processing fee shall be submitted to the County Sewer Department for transmittal to the State Division of Environmental Management for final review and approval.~~

C. It shall be the applicant's responsibility to obtain all required federal, state and local permits for the project. All permits shall be in the name of ~~the county~~ **Cane Creek Water and Sewer District of Henderson County** and, when obtained, transmitted to the ~~Board of County Commissioners~~ **Henderson County Utilities Department.**

D. It shall be the applicant's responsibility to contact the affected landowners and secure the required easements free, clear and unencumbered, and the attorney's title opinion addressed to the **County** that the same is free, clear and unencumbered and to contact any others with an interest in subject property and to secure any release deeds that may be required. Said easements shall be on a form approved and provided by the **County.** Should the landowner refuse to grant the easement or the others with an interest in subject property refuse to grant a release deed, the **County** may intercede on behalf of the applicant to obtain approval. If the landowner will not execute the easement document and/or if the others with an interest in subject property will not execute a release deed, the **County** may determine that it is in the public's best interest to proceed under condemnation. All legal, engineering and acquisition expenses (including awards

by the Courts) related to obtaining the necessary easements and release deeds shall be the applicant's responsibility.

E. Once all permits, easements and release deeds have been obtained and accepted by the County, the applicant may proceed with construction of the approved facilities.

F. During construction, the applicant's design engineer shall make periodic on-site inspections to verify proper installation. The County shall retain the right to have its own designated representative inspect the progress of the work at any time. Once construction is completed, the design engineer shall certify to the applicant and the County that the system was installed in accordance with the approved plans and specifications.

G. Should the applicant wish to deviate from or change the original, permitted design of said project, the applicant must first obtain written permission for said change or deviation from the County. Failure to do so may be grounds for the County to reject the installation and to deny sanitary sewer service.

H. The applicant shall warranty the facilities constructed for a period of one year from defective materials and/or workmanship. The effective date shall be the date of certification by the design engineer.

I. Once completed and accepted by the County, the applicant shall convey to the County (by deed) all ownership and control of all or any part, in the County's discretion, of the facilities installed by the applicant and shall furnish to the County one set of Mylar, **two sets of paper copies, and one electronic copy of the** as-built plans.

§ 152-47.3. Project financing.

The Board of County Commissioners will provide the basic wastewater facilities, including the interceptor sewers, major sewer lift stations (on interceptor sewer lines) and wastewater treatment facilities for the areas which it has determined will be served by a County-owned system. Construction of such facilities will be financed from bond funds, state/federal grant/loan funds, system revenues and other available funds and under a time schedule determined by the Board.

A. The extension of wastewater collection lines from the basic wastewater facilities shall be financed in whole or part by the applicant as determined by the Board.

B. Once the project has been approved by the Board and all permits, easements and release deeds have been secured, the applicant may proceed with construction in one of two ways:

(1) The applicant shall deposit with the County his pro rata share of the funds in an amount equal to 120% of the design engineer's estimated construction cost. The County will secure bids and award construction contracts in accordance with the North Carolina General Statutes. The engineering, inspection fees and contractor invoices will be paid by

the County from funds appropriated for the project. Should actual costs exceed the funds available, the applicant shall be responsible for covering any and all costs overruns unless approved otherwise by the Board.

(2) The applicant shall secure a properly licensed utility contractor, approved by the County, to proceed with the installation. ~~The applicant shall provide to the county a performance bond for the full amount of the construction costs and related engineering fees.~~ All engineering, inspection fees, ~~and contractor,~~ and other invoices shall be paid by the applicant. Should any County funds be appropriated to the project, (1) disbursement shall be made to the applicant on a pro rata basis upon receipt of an invoice certified for payment by the design engineer ~~EN~~ and (2) the applicant shall provide to the County a performance bond for the full amount of the project costs.