

**TITLE 18**

**WATER AND SEWERS<sup>1</sup>**

**CHAPTER**

1. SEWER USE REGULATIONS.
2. STORMWATER MANAGEMENT.
3. CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.
4. WATER.

**CHAPTER 1**

**SEWER USE REGULATIONS**

**SECTION**

- 18-101. Purpose and policy.
- 18-102. Scope.
- 18-103. Abbreviations.
- 18-104. Definitions.
- 18-105. General regulations.
- 18-106. Applications for domestic wastewater discharge and industrial wastewater discharge permits.
- 18-107. Industrial user monitoring, inspection reports, records and safety.
- 18-108. Wastewater charges and fees.
- 18-109. Enforcement.
- 18-110. Penalties and abatements.
- 18-111. Sewer regulation appeals board.
- 18-112. Miscellaneous provisions.
- 18-113. Enforcement response guide.

**18-101. Purpose and policy.** (1) This sewer use chapter sets uniform requirements for users of the publicly owned treatment works for the City of Tullahoma and enables the City of Tullahoma to comply with all applicable state and federal laws, including the State Pretreatment Requirements (Tennessee Rule 1200-4-14), the Clean Water Act (33 United States Code [U.S.C.] section 1251 *et seq.*) and the General Pretreatment Regulations (Title 40 of the Code of Federal Regulations [CFR] part 403).

---

<sup>1</sup>Municipal code references

Board of public utilities: title 2.

Building, utility and housing codes: title 12.

Refuse disposal: title 17.

(2) This chapter provides a means for determining wastewater volumes, constituents, and characteristics, the setting of charges and fees, and the issuance of permits to certain users. Revenues derived from the application of this chapter shall be used to defray the board's cost of operating and maintaining adequate wastewater collection and treatment systems and to provide sufficient funds for capital outlay, bond service costs, capital improvements, and depreciation.

(3) This chapter shall supersede ordinance number 1048, including all amendments, and any other ordinances or portions thereof which may be in conflict with this chapter. More specifically, the purposes of this chapter are:

(a) To prevent the introduction of pollutants into the publicly owned treatment works that will interfere with its operation;

(b) To prevent the introduction of pollutants into the publicly owned treatment works that will pass through the publicly owned treatment works, inadequately treated, into receiving waters, or otherwise be incompatible with the publicly owned treatment works;

(c) To protect both publicly owned treatment works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

(d) To promote reuse and recycling of industrial wastewater and sludge from the publicly owned treatment works;

(e) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the publicly owned treatment works; and

(f) To enable the city to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the publicly owned treatment works is subject. (1988 Code, Appendix F, as replaced by Ord. #1441, Oct. 2013)

**18-102. Scope.** This chapter shall be deemed part of all residential, commercial, industrial, and public contracts for receiving wastewater collection and treatment services from the board and shall apply to all services received whether the service is based upon contract, agreement, signed application, or other mutual understanding. (1988 Code, Appendix F, as replaced by Ord. #1441, Oct. 2013)

**18-103. Abbreviations.** The following abbreviations, when used in this chapter, shall have the designated meanings:

- (1) AO - Administrative Order
- (2) ASTM - ASTM International
- (3) BOD- Biochemical Oxygen Demand
- (4) BMP- Best Management Practice
- (5) BMR- Baseline Monitoring Report

- (6) CFR - Code of Federal Regulations
  - (7) CIU - Categorical Industrial User
  - (8) COD - Chemical Oxygen Demand
  - (9) EPA- U.S. Environmental Protection Agency
  - (10) gpd - gallons per day
  - (11) IU - Industrial User
  - (12) IUDP - Industrial User Discharge Permit
  - (13) mg/l - milligrams per liter
  - (14) NOV - Notice of Violation
  - (15) NPDES - National Pollutant Discharge Elimination System
  - (16) NSCIU - Non-Significant Categorical Industrial User
  - (17) PC - Pretreatment Coordinator
  - (18) POTW - Publicly Owned Treatment Works
  - (19) RCRA - Resource Conservation and Recovery Act
  - (20) RV - Recreational Vehicle
  - (21) SIU - Significant Industrial User
  - (22) SNC - Significant Non-compliance
  - (23) TSS - Total Suspended Solids
  - (24) TUB - Tullahoma Utilities Board or Board of Public Utilities
  - (25) USC - United States Code
  - (26) WEF - Water Environment Federation
- (1988 Code, Appendix F, as replaced by Ord. #1441, Oct. 2013)

**18-104. Definitions.** Unless a provision explicitly states otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated.

- (1) Act or the Act. The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. section 1251 et seq.
- (2) Approval authority. The Tennessee Division of Water Pollution Control Director or his/her representative(s).
- (3) Authorized or duly authorized representative of the user. (a) If the user is a corporation:
  - (i) The president, secretary, treasurer, or a vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or
  - (ii) The manager of one (1) or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; can ensure that the necessary

systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit or general permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(c) If the user is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(d) The individuals described in paragraphs i through iii, above, may designate a duly authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the city.

(4) Available sewer. A sewer shall be considered available when a parcel of land or property abuts upon a street, public right-of-way, or utility easement that contains a permanent sanitary sewer in which the building or structure to be served by public sanitary sewer is located within two hundred feet (200') of the permanent sanitary sewer.

(5) Biochemical Oxygen Demand or BOD. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20 degrees Celsius, usually expressed as a concentration (e.g., mg/l).

(6) Best Management Practices or BMPs means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in § 18-106(3)(b) [Tennessee Rule 1200-4-14-.05(1)(a) and (2)]. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

(7) Board. Board of Public Utilities, Tullahoma Utilities Board.

(8) Categorical pretreatment standard or categorical standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of users and that appear in 40 CFR chapter I, subchapter N, parts 405-471.

(9) Categorical industrial user. An industrial user subject to a categorical pretreatment standard or categorical standard.

(10) City. The City of Tullahoma, Tennessee.

(11) Chemical Oxygen Demand or COD. A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

(12) Control authority. The Tullahoma Utilities Board.

(13) Daily maximum. The arithmetic average of all effluent samples for a pollutant (except pH) collected during a calendar day.

(14) Daily maximum limit. The maximum allowable discharge limit of a pollutant during a calendar day. Where daily maximum limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where daily maximum limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

(15) Environmental Protection Agency or EPA. The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, the Regional Administrator, or other duly authorized official of said agency.

(16) Existing source. Any source of discharge that is not a "new source."

(17) Grab sample. A sample that is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.

(18) Indirect discharge or discharge. The introduction of pollutants into the POTW from any nondomestic source.

(19) Industrial user. A source of indirect discharge.

(20) Instantaneous limit. The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

(21) Interference. A discharge which, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the WWF, its treatment processes or operations, or its sludge processes, use or disposal; or exceeds the design capacity of the treatment works or the collection system.

(22) Local limit. Specific discharge limits developed and enforced by the city upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in Tennessee Rule 1200-4-14-.0S(1)(a) and (2).

(23) Manager. The person designated by the board to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this chapter. The term also means a duly authorized representative of the manager.

(24) Medical waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

(25) Monthly average. The sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

(26) Monthly average limit. The highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily

discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

(27) New source. (a) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Act that will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

(i) The building, structure, facility, or installation is constructed at a site at which no other source is located; or

(ii) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(iii) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

(b) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of subsections (a)(ii) or (iii) above but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

(i) Begun, or caused to begin, as part of a continuous onsite construction program

(A) Any placement, assembly, or installation of facilities or equipment; or

(B) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(ii) Entered into a binding contractual obligation for the purchase of facilities or equipment which is intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

(28) Noncontact cooling water. Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

(29) Pass through. A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the city's NPDES permit, including an increase in the magnitude or duration of a violation.

(30) Person. Any and all persons, including individuals, firms, partnerships, associations, public or private institutions, state and federal agencies, municipalities or political subdivisions, or officers thereof, departments, agencies, or instrumentalities, or public or private corporations or officers thereof, organized or existing under the laws of this or any state or country.

(31) pH. A measure of the acidity or alkalinity of a solution, expressed in standard units.

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

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

(34) Pretreatment requirements. Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

(35) Pretreatment standards or standards. Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.

(36) Prohibited discharge standards or prohibited discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in § 18-106(3) of this chapter.

(37) Publicly Owned Treatment Works or POTW. A treatment works, as defined by section 212 of the Act (33 U.S.C. 1292), which is owned by the city. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant.

(38) Septic tank waste. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

(39) Sewage. Human excrement and gray water (household showers, dishwashing operations, etc.).

(40) Significant Industrial User (SIU). Except as provided in paragraph (iii) of this definition, a significant industrial user is:

(a) An industrial user subject to categorical pretreatment standards; or

(b) An industrial user that:

(i) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);

(ii) Contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(iii) Is designated as such by the board on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

(c) Upon a finding that a user meeting the criteria in part (b) of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the board may at any time, on its own initiative or in response to a petition received from an industrial user, and in accordance with procedures in Tennessee Rule 1200-4-14-.08(6)(f), determine that such user should not be considered a significant industrial user.

(41) Slug load or slug discharge. Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in § 18-106(3) of this chapter. A slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, local limits or permit conditions.

(42) Stormwater. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

(43) Total suspended solids or suspended solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering.

(44) User. Any person, occupied property, or premises having a connection to the sewer system or having access thereto.

(45) Wastewater. Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and



manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

(46) Wastewater treatment plant or treatment plant. That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste. (1988 Code, Appendix F, as replaced by Ord. #1441, Oct. 2013)

**18-105. General regulations.** (1) Use of public sewers required.

(a) Disposal of waste. It shall be unlawful for any person to place, deposit, or permit to be deposited on public or private property within the City of Tullahoma any human or animal excrement or other objectionable waste in such a manner to create a public nuisance or to create a threat or danger to the public health and safety. This section shall not apply to the depositing of animal excrement by livestock or through other generally accepted agricultural activities, nor to the depositing of excrement from household pets, provided such excrement is not deposited nor allowed to accumulate to such an extent as to cause a public nuisance or otherwise to constitute a threat or danger to the public health or safety, and provided further that it shall be unlawful to place, deposit or to permit to be deposited upon the property of another within the City of Tullahoma human or animal excrement or other objectionable waste in any amount without the permission of the owner of such property. Public nuisance or threat or danger to the public health and safety shall be as determined by the City of Tullahoma Codes Department and Coffee County Health Department or other local regulatory agency having jurisdiction.

(b) Direct discharge prohibited. It shall be unlawful to discharge to any natural outlet, within the City of Tullahoma, or any area under the jurisdiction of said city, any sewage or other polluted waters, except where a federal or state discharge permit has been duly issued and is currently valid for such discharge.

(c) New private disposal systems prohibited. Except as hereinafter provided or as otherwise permitted by ordinance or regulation, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other private facility intended or used for the disposal of sewage.

(d) City's right to require sanitary facilities. The owner, tenant or occupant of all houses, buildings, improvements or properties used for residential, commercial, industrial or recreational and all other human occupancy purposes to which sewer is available as defined in this chapter shall, upon demand by the board, install suitable toilet facilities therein and connect the same directly with the proper public sewer in accordance with the provisions of this chapter and shall cease to use any other means for the disposal of sewage, waste, wastewater, and other polluting matter. (See definition of available sewer.)

(e) Connection to public sewer--general requirements. At such time as a sewer becomes available to a property served by a private wastewater disposal system, and upon demand by the board, a direct connection shall be made within thirty (30) days to the public sewer. Where a sewer is available wastewater from the premises shall be discharged either directly or indirectly into the sewer, and the property shall be billed for sewer service. However, if the making of the connection is delayed by the customer, the property shall be subject to such charges thirty (30) days after the sewer is declared operable by the board. Any septic tanks, cesspools, and similar private wastewater disposal facilities shall be abandoned. An extension of time may be granted by the manager for cause. (See definition of available sewer.)

(2) Private sewage disposal. The disposal of sewage by means other than the use of the available public sanitary sewage system shall be in accordance with local, county, and state laws. The disposal of sewage by private disposal systems shall be permissible only in those instances where service from the available public sanitary sewage system is not available, and where such is otherwise permitted by ordinance or regulations.

(3) Building sewers and connections.

(a) Connection of building sewers to POTW. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sanitary sewer or appurtenance thereof without first obtaining a written permit from the board. The owner or his agent shall make application on a special form furnished by the board. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the board.

(b) Costs of installation. All costs and expenses incident to the installation and connection of the building sewer shall be borne by the property owner. The property owner shall indemnify the board from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(c) Separate sewers required. A separate and independent building sewer shall be provided for every building at owner's expense. For existing buildings that share building sewers, the building sewers shall be separated upon the sale of any building involved or upon notice from the board.

(d) Old building sewers. Building sewers left following the demolition of buildings may be used in connection with new buildings only when they are found, upon examination and test by the property owner to the board's satisfaction, to meet all requirements of this chapter and board policies.

(e) Construction controls for new sewers. The size, slope, alignment, materials of construction of a building sewer, and the methods

to be used in excavating, placing of the pipe, jointing, testing, and back filling the trench, shall all conform to the requirements of the standard plumbing code or other applicable rules and regulations of the city and/or the board. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the latest edition of the ASTM and the WEF Manual of Practices shall apply.

(f) Sewer entrances to private facilities. Whenever possible, the building sewer shall be brought to the building at elevations below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(g) Extraneous water prohibited. No person shall make connection of roof down spouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer. Exceptions may be made only if such connection is approved by the manager for purpose of disposal of polluted surface drainage or ground water. Such connections, if approved, will require a wastewater discharge permit.

(h) Quality of construction. All connections to the public sewer system shall be made gas tight and water tight. Any deviations from the prescribed procedures and materials must be approved by the board before installation. Requirements of the board's specifications and the latest edition of the International Code Council, International Building Code - International Plumbing Code shall be followed unless superseded by local state, or federal ordinances.

(i) Inspection and testing of sewers. The applicant for the building sewer permit shall notify the board when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made by or under the supervision of the board. Testing shall be performed as required by policy established by the board.

(j) Excavation safety. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public. Property disturbed in the course of the work shall be restored in a manner satisfactory to the board.

(k) Condition of private sewers. The user shall be responsible for the integrity of building sewers on his property. If it is determined that a building sewer is faulty or in a bad state of repair, such that extraneous stormwater can enter the POTW, the board shall require the user to repair his line. If the line is not repaired within a reasonable time period allowed by the board, water and sewer may be terminated.

(l) Grease traps. Upon construction or renovation, all cafes, restaurants, motels, hotels, or other commercial institutional food

preparation establishments shall install a grease trap on the kitchen waste line, provided however, all existing cafes, restaurants, motels, hotels, or other commercial food preparation establishments shall be required to construct a grease trap, at the owner's expense within ninety (90) days after notification by the board, if and when the board determines that a grease problem exists which is capable of causing damage or operational problems to structures or equipment in the public sewer system, or if such is otherwise required by city ordinance, state or federal law. The board shall retain the right to inspect and approve installation of the grease trap facility. The grease trap must be designed in accordance with current acceptable engineering standards and shall be easily accessible for cleaning. Grease traps shall be maintained by the owner or operator of the facility so as to prevent a stoppage of the public sewer. If the board is required to clean out the public sewer lines as a result of a stoppage resulting from a nonconforming grease trap, the property owner or operator shall be billed the greater amount of two hundred dollars (\$200.00) or the actual cost required to clean the public sewer lines. In the event that an owner or operator of a facility refuses to properly maintain a grease trap, as determined by the board, the board may terminate water and sewer services to the facility. The installation of grease traps shall be in accordance with § 18-105(3)(h).

(m) Alteration to and obstruction to public sewers. No person shall obstruct entrance to or operation of the board's sanitary sewer system. Existing manhole tops are to be kept uncovered and accessible at all times. In the event that construction involving the filling of an area around a manhole occurs, the owner of the property or the person causing the construction to be accomplished shall bear all costs associated with the required adjustment of the sewer manholes. No building or other structure shall be constructed over a sewer line or easement thereof. Fill in or grading of a property such that stormwater concentrates at a manhole will not be permitted. The board reserves the right to enter onto its easements at all times to maintain its system and to remove or cause to be removed all obstructions to said entrance, and furthermore to assess the costs of the removal of obstructions against the owner thereof.

(n) Interruption of service. The board shall not be liable for any damage resulting from failure or overflow of any sewer main, service line or valve, or by discontinuing the operation of its wastewater collections, treatment and disposal facilities, for repair, extensions, or connections, or from the accidental failure of the wastewater collection, treatment and disposal facilities from any cause whatsoever. In cases of emergency the board shall have the right to restrict the use of its wastewater collection, treatment, and disposal facilities in any reasonable manner for the protection of the board and the wastewater control system.

(4) Maintenance of building sewers and grinder pumps. Each individual property owner or user of the POTW shall be entirely responsible for the maintenance of the building sewer located on private property to insure that the building sewer is watertight. This maintenance will include repair or replacement of the service line as deemed necessary by the manager to meet specifications of the board. If upon smoke testing or visual inspection by the board, roof downspout connections, exterior foundation drains, area drains, basement drains, building sewer leaks or other sources of rainwater, surface runoff or groundwater entry into the POTW sewer system are identified on building sewers on private property, the manager may:

(a) Notify the property owner in writing of the nature of the problems identified on the property owner's building sewer and the specific steps required to bring the building sewer within the requirements of this chapter. All steps necessary to comply with this chapter must be completed within a reasonable time specified by the manager entirely at the expense of the property owner.

(b) Except, however, the board will be responsible for replacing/maintaining grinder pumps located on private property unless a grinder pump was installed for the convenience of the owner. The manager or his duly authorized representative shall be permitted to enter all properties for the purpose of inspection, observation, testing and repair of grinder pumps and appurtenances thereto.

(5) Regulations of hauled wastewater disposal.

(a) Disposal of private waste by truck. The board is not obligated to accept or to continue to accept any trucked wastes, regardless of source, owner or operator. If the board chooses to accept trucked wastes, the manager has sole authority to determine who is eligible to dispose trucked wastes and the requirements and conditions of that privilege. The manager shall designate the locations and times where trucked wastes may be discharged, and may refuse to accept any wastes which, in his judgment, would interfere with the effective operation of the treatment works or any sewer line or appurtenance thereto. The owner or operator disposing of trucked wastes shall, upon request, provide manifest to the POTW that states the source of the wastes they wish to discharge, the volume of wastewater from each source, and whether any industrial waste is included in the wastewater. Unless otherwise specifically allowed in writing by the manager, trucked wastes will only be accepted from the following sources: residential septic tanks, portable toilets, or residential sewage holding tanks, including RVs. Grease trap wastes are not acceptable under any condition. Any damages created by the disposal of trucked wastes, including harm to the POTW operations, process, and/or equipment, regardless if intentional or unintentional, shall be the monetary responsibility of the owner and/or operator. These

damages include any fines and/or penalties that may be assessed against the board by regulatory agencies.

(b) Holding tanks. No person shall discharge any holding tank waste into the POTW unless he shall have applied for and have been issued a permit by the manager. 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 the discharge is to occur, the volume of the discharge, and shall limit the wastewater constituents and characteristic of the discharge. Such user shall pay any applicable charges or fees therefore, and shall comply with the conditions of the permit issued by the manager. No permit shall be required to discharge domestic waste from a recreational vehicle holding tank provided such discharge is made into an approved facility designed to receive such waste.

(c) Fees for holding tank waste disposal permit. For each permit issued under the provisions of § 18-106, a service charge therefore shall be paid to the board to be set as specified in § 18-108.

(d) Revocation of permit. Failure to comply with all the provisions of this chapter shall be sufficient cause for the revocation of such permit by the manager. The possession within the city by any person of any motor vehicle equipped with a body type and accessories of a nature and design capable of serving a septic tank of wastewater or excreta disposal system cleaning unit shall be prima facie evidence that such person is engaged in the business of cleaning, draining, or flushing septic tanks or other wastewater or excrete disposal systems within the City of Tullahoma. (1988 Code, Appendix F, as replaced by Ord. #1441, Oct. 2013)

**18-106. Applications for domestic wastewater discharge and industrial wastewater discharge permits.**

(1) Applications for discharge of domestic wastewater. All users or prospective users which generate domestic wastewater shall make application to the manager for written authorization to discharge to the municipal wastewater treatment system. Applications shall be required from all new dischargers as well as for any existing discharger desiring additional service. Connection to the municipal sewer shall not be made until the application is received and approved by the manager, the building sewer is installed in accordance with § 18-105(3) of this chapter and an inspection has been performed by the manager or his representative.

The receipt by the board of a prospective customer's application for service shall not obligate the board to render the service. If the service applied for cannot be supplied in accordance with this chapter and the board's rules and regulations and general practice, the connection charge will be refunded in full, and there shall be no liability of the board to the applicant for such service,

except that conditional waivers for additional services may be granted by the manager for interim periods if compliance may be assured within a reasonable period of time.

(2) Industrial wastewater discharge permits.

(a) Individual wastewater discharge permit and general permit requirement. No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the manager. The manager may require other users to obtain individual wastewater discharge permits as necessary to carry out the purposes of this chapter.

(b) Permit application. Significant industrial users seeking a wastewater discharge permit or a general permit under § 18-106(2)(c) shall complete and file with the manager an application in the form prescribed by the manager, and accompanied by the applicable fees. The applicant shall be required to submit, in units and terms appropriate for evaluation, the following information.

(i) Identifying information. (A) The name and address of the facility including the name of the operator and owner.

(B) Contact information, description of activities, facilities, and plant production processes on the premises;

(ii) Environmental permits. A list of any environmental control permits held by or for the facility.

(iii) Description of operations. (A) A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes.

(B) Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;

(C) Number and type of employees, hours of operation, and proposed or actual hours of operation;

(D) Type and amount of raw materials processed (average and maximum per day);

(E) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;

(iv) Time and duration of discharges;

(v) The location for monitoring all wastes covered by the permit.

(vi) Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in § 18-106(4) (Tennessee Rule 1200-4-14-.06(5))

(vii) Measurement of pollutants. (A) The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for existing sources.

(B) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the manager, of regulated pollutants in the discharge from each regulated process.

(C) Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported.

(D) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in § 18-107(l)(a) of this chapter. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the manager or the applicable standards to determine compliance with the standard.

(E) Sampling must be performed in accordance with procedures set out in § 18-107(1)(c) of this chapter.

(viii) Any request to be covered by a general permit based on § 18-106(2)(c).

(ix) Any other information as may be deemed necessary by the manager to evaluate the permit application.

(c) Wastewater discharge permitting: general permits.

(i) At the discretion of the manager, the manager may use general permits to control SIU discharges to the POTW if the following conditions are met. All facilities to be covered by a general permit must:

(A) Involve the same or substantially similar types of operations;

(B) Discharge the same types of wastes;

(C) Require the same effluent limitations;

(D) Require the same or similar monitoring; and



(E) In the opinion of the manager, are more appropriately controlled under a general permit than under individual wastewater discharge permits.

(ii) To be covered by the general permit, the SIU must file a written request for coverage that identifies its contact information, production processes, the types of wastes generated, the location for monitoring all wastes covered by the general permit, and any other information the POTW deems appropriate.

(iii) The manager will retain a copy of the general permit, documentation to support the POTW's determination that a specific SIU meets the criteria in part (c)(i) (A) thru (E) of this section and applicable state regulations, and a copy of the user's written request for coverage for three (3) years after the expiration of the general permit.

(iv) The manager may not control an SIU through a general permit where the facility is subject to production-based categorical pretreatment standards or categorical pretreatment standards expressed as mass of pollutant discharged per day or for users whose limits are based on the combined waste stream formula or net/gross calculations.

(d) Permit conditions. Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other regulations, user charges and fees established by the board. The conditions of wastewater discharge permits shall be uniformly enforced by the board in accordance with this chapter, and applicable state and federal regulations. Permits must contain all items required by federal regulations; and further, may include but not necessarily be limited to the following:

(i) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

(ii) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

(iii) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;

(iv) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

(v) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;

(vi) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;

(vii) A statement that compliance with the individual wastewater discharge permit or the general permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the individual wastewater discharge permit or the general permit; and

(viii) Other conditions as deemed appropriate by the manager to ensure compliance with this chapter, and state and federal laws, rules, and regulations.

(e) Duration of permits. An individual permit or a general permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. An individual permit or a general permit may be issued for a period less than five (5) years or may be stated to expire on a specific date. Each individual permit or general permit will indicate a specific date upon which it will expire. The terms and conditions of the permit may be subject to modification and changes by the board during the life of the permit as limitations or requirements as identified hereinbefore are modified and changed. The user shall be informed of any proposed changes in his permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(f) Individual wastewater discharge permit and general permit reissuance. A user with an expiring individual permit or a general permit shall apply for permit reissuance by submitting a complete permit application, in accordance with part (k) of this section of the chapter, a minimum of thirty (30) days prior to the expiration of the user's existing individual wastewater discharge permit or general permit.

(g) Transfer of a permit. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be re-assigned or transferred or sold to a new owner, new user, different premise, or a new or changed operation.

(h) Permit modification. The manager may modify an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(i) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;

(ii) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of the individual wastewater discharge permit issuance;

(iii) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(iv) Information indicating that the permitted discharge poses a threat to the POTW, POTW personnel, or the receiving waters;

(v) Violation of any terms or conditions of the individual wastewater discharge permit;

(vi) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

(vii) Revision of or a grant of variance from categorical pretreatment standards pursuant to Tennessee Rule 1200-4-14-.13;

(viii) To correct typographical or other errors in the individual wastewater discharge permit.

(i) Revocation of permit. Any permit issued under the provisions of this chapter is subject to be modified, suspended, or revoked in whole or in part during its term for cause including, but not limited to the following:

(i) Violation of any terms or conditions of the wastewater discharge permit or other applicable federal, state, or local law or regulation.

(ii) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts.

(iii) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

(iv) Intentional failure of a user to accurately report the discharge constituents and characteristics or to report significant changes in plant operations or wastewater characteristics.

(j) Confidential information. Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, individual wastewater discharge permits, general permits, and monitoring programs, and from the manager's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the manager, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made

available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined at 40 CFR 2.302 shall not be recognized as confidential information and shall be available to the public without restriction.

(k) Application signatories and certifications. (i) All wastewater discharge permit applications, user reports and certification statements must be signed by an authorized representative of the user and contain the certification statement in § 18-107(2)(x).

(ii) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this section must be submitted to the manager prior to or together with any reports to be signed by an authorized representative.

(l) Individual wastewater permit and general permit content. An individual wastewater discharge permit or a general permit shall include such conditions as are deemed reasonably necessary by the manager to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW. Individual wastewater discharge permits and general permits must contain:

(i) A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date;

(ii) Effluent limits based on applicable pretreatment standards;

(iii) Self monitoring, sampling, reporting, notification, and recordkeeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law.

(iv) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.

(v) Requirements to control slug discharge, if determined by the manager to be necessary.

(3) Prohibitions and limitations on wastewater discharge.

(a) Requirements of wastewater permits. (i) No person shall discharge or cause to be discharged into the POTW any wastewater other than domestic sewage resulting from normal human habitation including food preparation activities unless he holds a wastewater discharge permit as defined in § 18-106(2). This section shall not apply to existing sources until they are notified of its requirement in writing.

(ii) The board may waive the requirements for a wastewater discharge permit on a case-by-case basis for dischargers whose effluent does not violate the criteria for domestic sewage as established by the controlling agency and who, furthermore, are not categorical users. Notwithstanding the following, existing non-permitted dischargers or dischargers who have had the permit requirement waived may be required to obtain a discharge permit upon sixty (60) days notification by the controlling authority based on the observed character of the user's operations or his waste stream or suspected impact on the POTW or other factors which the board may define.

(iii) In order to avoid wastewater influent to the treatment plant which creates adverse effects, or interferes with any wastewater treatment or collection processes, or creates any hazard in receiving waters or results in the board being in violation of applicable effluent standards, including sludge disposal standards, the board shall establish and amend wastewater effluent limits as deemed necessary. Limits for certain parameters are set as protection criteria for the POTW. Discharge limits for industrial users will be set in discharge permits as outlined in § 18-105 of this chapter. Such limits will be calculated based on the anticipated ability of the plant to absorb specific wastewater constituents without violation of its NPDES permit, safety of the public, and/or disruption of plant operations, including sludge disposal; not to exceed, however, federal limits where applicable.

(b) Prohibitions on wastewater discharge. (i) General prohibitions. Regardless of permit status, no user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.

(ii) Specific prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

(A) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to,

wastestreams with a closed-cup flashpoint of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR 261.21;

(B) Wastewater having a pH less than 5.0 or more than 10.0, or otherwise causing corrosive structural damage to the POTW or equipment;

(C) Solid or viscous substances in amounts which will or may cause obstruction of the flow in the POTW resulting in interference [but in no case solids greater than three inches (3") in any dimension];

(D) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;

(E) Wastewater having a temperature greater than 120 degrees F, (40 degrees C), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees F ( 40 degrees C);

(F) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;

(G) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;

(H) Trucked or hauled pollutants, except at discharge points designated by the POTW in accordance with § 18-105(5) of this chapter;

(I) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;

(J) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the POTW's NPDES permit;

(K) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations;

(L) Stormwater, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the manager;

(M) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail toxicity test;

(N) Fats, oils, or greases of animal or vegetable origin in concentrations greater than one hundred (100) mg/l;

(O) Wastewater causing two readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than five percent (5%) or any single reading over ten percent (10%) of the lower explosive limit of the meter. In addition, no waste stream shall have a closed cup flashpoint of less than 140 degrees fahrenheit or 60 degrees celsius using the test method specified in 40 CFR 261.21. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and sulfides.

(P) Improperly shredded garbage: garbage that has not been ground or comminuted to such a degree that all particles will be carried freely in suspension under flow conditions normally prevailing in the public sewer.

(Q) Excessive discharge rate: Wastewaters at a flow rate which is excessive relative to the capacity of the treatment works or which could cause a treatment process upset and subsequent loss of treatment efficiency; or wastewaters containing such concentrations or quantities of pollutants that their introduction into the treatment works over a relatively short time period (sometimes referred to as "slug" discharges) would cause a treatment process upset and subsequent loss of treatment efficiency.

(R) Human hazard: Any wastewater which causes hazard to human life or creates a public nuisance.

(S) Any substance which will or may cause operational problems or the failure of wastewater pumping equipment in the collection system or at the wastewater treatment plant.

(c) Limitation on wastewater discharges. No person shall discharge or convey or cause to be discharged or conveyed to the public

sewer any wastewater containing pollutants of such character or quality that will:

(i) Not be amenable to treatment or reduction by the wastewater treatment process employed, or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(ii) Constitute a hazard to human or animal life or to the stream or water course receiving the treatment plant effluent.

(iii) Exceed limits as set forth in the wastewater discharge permit or violate the federal pretreatment standards.

(iv) Cause the treatment plant to violate its NPDES permit, pass through limits or other applicable receiving water standards, or cause interference with plant operations.

(4) National categorical pretreatment standards. Users must comply with the categorical pretreatment standards found at 40 CFR chapter I, subchapter N, parts 405-471. Upon the promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, the federal standards, if more stringent than limitations imposed under the chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter. The manager shall notify all affected users of the applicable reporting requirements under 40 CFR, section 403.12.

When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the manager shall impose an alternate limit in accordance with Tennessee Rule 1200-4-14-.06(5).

(5) State pretreatment standards. Users must comply with State of Tennessee pretreatment standards.

(6) Local limits. The manager is authorized to establish local limits pursuant to Tennessee Rule 1200-4-14-.05(3).

(7) The board's right of revision. The board reserves the right to establish, by ordinance or in individual wastewater discharge permits or in general permits, more stringent standards or requirements on discharges to the POTW consistent with the purpose of this chapter.

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

(9) Right to establish more restrictive criteria. No statement in this chapter is intended or may be construed to prohibit the manager from establishing specific wastewater discharge criteria more restrictive where wastes are determined to be harmful or destructive to the facilities of the POTW



or to create a public nuisance, or to cause the discharge of the POTW to violate effluent or stream quality standards, or to interfere with the use of handling of sludge, or to pass through the POTW resulting in a violation of the NPDES permit, or to exceed industrial pretreatment standards for discharge to municipal wastewater treatment systems as imposed or as may be imposed by the Tennessee Department of Environment and Conservation and/or the United States EPA.

(10) Control of prohibited wastes. (a) Regulatory actions. If wastewaters containing any substances in excess concentrations as described in § 18-105(3) of this chapter are discharged or proposed to be discharged into the sewer system of the board of public utilities of the City of Tullahoma, the board shall take action necessary to:

(i) Prohibit the discharge of such wastewater.

(ii) Require a discharger to demonstrate that in-plant modifications will eliminate the discharge of such substances to a degree as to be acceptable to the board.

(iii) Require pretreatment, including storage facilities or flow equalization, necessary to reduce or eliminate the objectionable characteristics or substances so that the discharge will not violate these rules and regulations of federal pretreatment standards and any other applicable requirements promulgated by the EPA in accordance with section 307 of the Clean Water Act of 1977.

(iv) Require the person or discharger making, causing, or allowing the discharge to pay any added cost of handling and treating excess loads imposed on the POTW. Nothing herein authorizes discharge, otherwise prohibited, upon payment of cost therefore.

(v) Discontinue sewer service to the discharge until such time as the problem is corrected.

(vi) Take such other remedial action provided by law as may be deemed to be desirable or necessary to achieve the requirements of this chapter.

(b) Submission of plans. Where pretreatment or equalization of wastewater flows prior to discharge into any part of its POTW is required by the board; plans, specifications and other pertinent data or information relating to such pretreatment or flow-control facilities shall be submitted to the board for review and approval in accordance with timetables established by the board. Approval shall in no way exempt the discharge of such facilities from compliance with any applicable code, ordinance, rule or regulation of any governmental unit or the board. Any subsequent alterations or additions to such pretreatment or flow-control facilities shall not be made without due notice to, and approval of, the

board. Plans must bear the properly executed stamp of an engineer licensed to practice in the State of Tennessee.

(c) Pretreatment facilities. Users shall provide wastewater treatment as necessary to comply with this chapter and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in § 18-106(3) of this chapter within the time limitations specified by EPA, the state, or the manager, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the manager for review, and shall be acceptable to the manager before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the city under the provisions of this chapter.

(d) Additional pretreatment measures. (i) Whenever deemed necessary, the manager may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this chapter.

(ii) The manager may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. An individual wastewater discharge permit or a general permit may be issued solely for flow equalization.

(iii) Grease, oil, and sand/grit interceptors shall be provided when, in the opinion of the manager, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, sand or grit. All interception units shall be of a type and capacity approved by the manager, and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired by the user at their expense.

(iv) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(v) Treatment bypasses. (A) Definitions.

(1) Bypass means the intentional diversion of wastestreams from any portion of an industrial user's facility.

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

(B) A bypass is prohibited and the manager may take enforcement action against an industrial user for a bypass unless:

(1) The bypass is unavoidable to prevent loss of life, personal injury, or severe property damage;

(2) There is no feasible alternative to the bypass, such as the use of auxiliary treatment or retention of the untreated wastewater or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and

(3) The industrial user properly notifies the manager as described in paragraph (D) below.

(C) The manager may approve an anticipated bypass, after considering its adverse effects, if the manager determines that it will meet the three conditions listed in paragraph (B) above.

(D) If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the manager, if possible at least ten (10) days before the date of the bypass. Industrial users must provide an oral notice to the manager upon discovery of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time the industrial user becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the industrial user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and the steps taken or

planned to reduce, eliminate, and prevent reoccurrence of the bypass. The manager may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

(E) An industrial user may allow a bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it is for essential maintenance to ensure efficient operation of the system. These bypasses are not subject to the provisions of paragraphs (B) and (D) of this section.

(e) Accidental discharge/slug discharge control plans. The manager shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control slug discharges. The manager may require any user to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control slug discharges. Alternatively, the manager may develop such a plan for any user. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:

(i) Description of discharge practices, including non-routine batch discharges;

(ii) Description of stored chemicals;

(iii) Procedures for immediately notifying the manager of any accidental or slug discharges, as required by § 18-109(1)(a) of this chapter; and

(iv) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

(v) Significant industrial users are required to notify the manager immediately of any changes at its facility affecting the potential for a slug discharge.

(f) Right of Entry. Agents of the board, the Tennessee Department of Environment and Conservation, and/or EPA upon presentation of credentials shall be permitted to enter all properties of the contributing industry for the purpose of inspection, observation, measurement, sampling, and testing.

(g) Reporting of hazardous waste discharge. (i) Industrial users shall notify the manager, EPA Regional Waste Management Division Director, and state hazardous waste authorities in writing of any discharge into the POTW of substances which, if otherwise

disposed of, would be a hazardous waste under 40 CFR part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR part 261, the EPA hazardous water number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However notifications of changed conditions must be submitted under 40 CFR 403.120). The notification requirement in this section does not apply to pollutants already reported by the user subject to categorical pretreatment standards under the self-monitoring requirements of 40 CFR 403.12(b), (d), and (e).

(ii) Dischargers are exempt from the requirements of paragraph (i), above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one (1) time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

(iii) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the manager, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

(iv) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(v) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a permit issued thereunder, or any applicable federal or state law. (1988 Code, Appendix F, as replaced by Ord. #1441, Oct. 2013)

**18-107. Industrial user monitoring, inspection reports, records and safety.** (1) Wastewater sampling and analysis.

(a) Analytical requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CPR part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CPR part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the manager or other parties approved by EPA.

(b) Control manhole. When required by the board, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole shall be accessibly and safely located, and shall be constructed in accordance with plans and specifications approved by the board. The manhole and monitoring facilities shall be installed by the user at his expense, and shall be operated and maintained and replaced as necessary by him so as to be safe and accessible and produce accurate measurements and data at all times. The board shall have access and use of the control manhole as may be required for their monitoring of the industrial discharge.

When, in the judgment of the manager, there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user the manager may require that separate monitoring facilities be installed for each separate source of discharge.

Whether constructed on public or private property, the control manhole(s) shall be constructed in accordance with the manager's requirements and all applicable local agency construction standards and specifications. When, in the judgment of the manager, an existing user requires a monitoring facility, the user will be so notified in writing. Construction must be completed within one hundred eighty (180) days

following written notification unless an extension is granted by the manager.

(c) **Sample collection.** Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

(i) Except as indicated in part (ii) and (iii) below, the user must collect wastewater samples using twenty-four (24)-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the manager. Where time-proportional composite sampling or grab sampling is authorized by the board, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the board, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.

(ii) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(iii) For sampling required in support of baseline monitoring and ninety (90) day compliance reports required in § 18-107(2)(b) and (c) [Tennessee Rule 1200-4-14-.12(2) and (4)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the manager may authorize a lower minimum. For the reports required by § 18-107(2)(a) (Tennessee Rule 1200- 4-14-.12(5) and (8)), the industrial user is required to collect the number of grab samples necessary to assess and assure compliance by with applicable pretreatment standards and requirements.

(2) Industrial self-monitoring requirements. (a) Discharge monitoring reports. In order to effectively administer and enforce the provisions of these regulations, the board shall require discharge monitoring reports, including but not limited to questionnaires, technical reports, sampling

reports, test analyses, and periodical reports of wastewater discharge. Specific requirements and frequencies of discharge reports shall be included in the industrial user's wastewater discharge permit. At minimum, requirements shall be as stipulated in 40 CFR part 403.12(h), latest edition.

(b) Baseline monitoring reports. (i) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under Tennessee Rule 1200-4-14-.06(1)(d), whichever is later, existing categorical industrial users currently discharging to or scheduled to discharge to the POTW shall submit to the manager a report which contains the information listed in paragraph (ii), below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical industrial users subsequent to the promulgation of an applicable categorical standard, shall submit to the manager a report which contains the information listed in paragraph (2), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(ii) Users described above shall submit the information set forth below.

(A) All information required in §§ 18-106(2)(b)(i), 18-106(2)(b)(ii), 18-106(2)(b)(iii)(A), and 18-106(2)(b)(vi).

(B) Measurement of pollutants.

(1) The user shall provide the information required in § 18-106(2)(b)(vii)(A) thru 18-106(2)(b)(viii)(D).

(2) The user shall take a minimum of one (1) representative sample to compile that data necessary to comply with the requirements of this paragraph.

(3) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the user should measure the flows and concentrations necessary to allow use of the combined wastestream formula in Tennessee Rule 1200-4-14-.06(5) to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been



calculated in accordance with Tennessee Rule 1200-4-14-.06(5) this adjusted limit along with supporting data shall be submitted to the board;

(4) Sampling and analysis shall be performed in accordance with § 18-107(1)(a);

(5) The manager may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;

(6) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.

(C) Compliance certification. A statement reviewed by the user's authorized representative as defined in § 18-104(3) and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(D) Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in paragraph (2)(d)(iv) of this section of this chapter.

(E) Report certification. All baseline monitoring reports must be certified in accordance with part (2)(j) of this section of this chapter and signed by an authorized representative as defined in § 18-104(3).

(c) Compliance date report - categorical user. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the manager a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and

maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O & M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial user, and certified to by a qualified professional.

(d) Periodic compliance report - categorical users. (i) Any categorical user subject to a pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of new source, after commencement of the discharge into the POTW, shall submit to the manager during the months of June and December, unless required more frequently in the pretreatment standard or by the manager, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards and the measured or estimated average and daily maximum flows for the reporting period.

At the discretion of the manager and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the manager may agree to alter the months during which the above reports are to be submitted.

(ii) The manager may impose mass limitations on users where the imposition of mass limitations is appropriate. In such cases, the report required by part (iv) of this section shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user.

(iii) The reports required by this section shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the manager, of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the wastewater discharge permit or the pretreatment standard. All analyses shall be performed in accordance with procedures established by the approval authority pursuant to section 304(h) of the Act and contained in 40 CFR, part 136 and amendments thereto or with any other test procedures approved by the approval authority. Sampling shall be performed in accordance with the techniques approved by the approval authority. Analysis of these samples shall be conducted by an independent laboratory approved by the approval authority.

(iv) Compliance schedule progress reports. (A) A compliance schedule shall contain progress increments in

the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

(B) No increment referred to above shall exceed nine (9) months;

(C) The user shall submit a progress report to the manager no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

(D) In no event shall more than nine (9) months elapse between such progress reports to the manager.

(v) All requirements of this section shall conform to 40 CFR, part 403.12(e) and (f), latest edition.

(e) Periodic compliance reports - non-categorical significant industrial user.

(i) All significant industrial users must, at a frequency determined by the manager submit no less than twice per year (June and December [or on dates specified]) reports indicating the nature, concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period.

(ii) All periodic compliance reports must be signed and certified in accordance with part (2)(j) of this section of this chapter.

(f) Monitoring programs. (i) The board shall require of users such technical or monitoring programs, including the submission of periodic reports, as it deems necessary and as are required by law. The user shall pay all applicable charges for the monitoring program, in addition to the sewage disposal and other charges established by the board.

(ii) The monitoring program shall require the user to conduct a sampling and analysis program of a frequency and type specified by the board to demonstrate compliance with prescribed wastewater discharge limits. The user may either:

(A) Conduct his own sampling and analysis program provided he demonstrates to the board that he has

the necessary qualifications and facilities to perform the work; or,

(B) Engage a private laboratory, approved by the board.

(iii) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(iv) In the event that the board suspects that a violation of any part of this chapter or of the user's wastewater discharge permit is occurring, it may take samples for the purpose of monitoring the discharge. Should this monitoring verify that a violation is occurring, the costs of the monitoring and associated laboratory fees will be borne by the discharger. Should no violation be found, the costs will be at the expense of the board.

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

(h) Notification of violations and repeated sampling and reporting. If sampling performed by an industrial user indicates a violation, the industrial user shall notify the manager within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the manager within thirty (30) days after becoming aware of the violation. Resampling by the industrial user is not required if the board performs sampling at the user's facility at least once a month, or if the board performs sampling at the user between the time when the initial sampling was conducted and the time when the user or the board receives the results of this sampling, or if the board has performed the sampling and analysis in lieu of the industrial user.

(i) Reporting all analysis. If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the manager using the procedures prescribed in paragraph (1)(c) of this section of this chapter, the results of this monitoring shall be included in the report.

(j) Signature and certification. Certification of permit applications, user reports and initial monitoring waiver -- The following certification statement is required to be signed and submitted by users submitting permit applications in accordance with § 18-106(2); users submitting baseline monitoring reports under § 18-107(2)(b)(ii)(E) [Note: See 40 CFR 403.12(l)]; users submitting reports on compliance with the categorical pretreatment standard deadlines under § 18-107(2)(d) [Note: See 40 CFR 403.12(d)]; users submitting periodic compliance reports required by § 18-107(2)(d) [Note: See 40 CFR 403.12(e) and (h)]. The following certification statement must be signed by an authorized representative as defined in § 18-104(3):

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

(k) Reports of changed conditions. Each user must notify the manager of any significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least thirty (30) days before the change.

(i) The manager may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 18-106(2) of this chapter.

(ii) The manager may issue an individual wastewater discharge permit or a general permit under § 18-106(2)(f) of this chapter or modify an existing wastewater discharge permit or a general permit under § 18-106(2)(h) of this chapter in response to changed conditions or anticipated changed conditions.

(l) Reports from unpermitted users. All users not required to obtain an individual wastewater discharge permit or general permit shall provide appropriate reports to the manager as the manager may require. (1988 Code, Appendix F, as replaced by Ord. #1441, Oct. 2013)

**18-108. Wastewater charges and fees.** (1) Purpose of charges and fees. A schedule of charges and fees shall be adopted by the board of public utilities which will enable it to comply with the revenue requirements of the Federal Water Pollution Control Act Amendments of 1972, PL 92-500. Charges and fees shall be determined in a manner consistent with regulations of the Federal Grant Program to ensure that sufficient revenues are collected to defray the board's cost of operating and maintaining adequate wastewater collection and treatment systems and to provide sufficient funds for capital outlay, bond service costs, capital improvements, and depreciation.

(2) Classification of users. All users are to be classified by the manager either by assigning each one to a "user classification" category according to the principal activity conducted on the user's premises, by individual user analyzation, or by a combination thereof. The purpose of such collective and/or individual classification is to facilitate the regulation of wastewater discharges based on wastewater constituents and characteristics, to provide an effective means of source control, and to establish a system of charges and fees which will insure an equitable recovery of the board's cost.

(3) Type of charges and fees. The charges and fees as established in the board's schedule of charges and fees, may include, but not be limited to:

- (a) User classification charges,
- (b) Fees for monitoring, maintenance, and analysis,
- (c) Fees for permits,
- (d) Surcharge fees,
- (e) Discharge permit fees.

(4) Basis for determination of charges. The board shall establish monthly rates and charges for the use of the system and for the services supplied by the system. Said charges shall be based upon the cost categories of administration costs, including billing and accounting costs; operation and maintenance costs of the wastewater collection and treatment system; water distribution; and debt service costs. Charges and fees may be based upon a minimum base charge for each premise, computed on the basis of "normal domestic wastewater."

(5) Computation and assessments. The computation of and assessment of surcharge, monitoring charges, maintenance charges, and testing or analysis charges shall be subject to the appeals procedure provided in this chapter.

(6) Industrial waste surcharge. (a) In the event the user discharges industrial wastes to the public sewer having an average Biochemical Oxygen Demand (BOD) content in excess of 250 mg/l, and/or an average

Total Suspended Solids (TSS) content in excess of 250 mg/l, and/or an average Ammonia-Nitrogen content in excess of 25 mg/l, the user shall pay a surcharge based upon the excess strength of their wastes.

(b) The surcharge rate in dollars per pound shall be set by the board and reviewed annually and adjusted if necessary.

(7) Annual notification. Each user of the system will be notified, at least annually, in conjunction with a regular bill, of the rate and that portion of the user charges which are attributable to waste water treatment services. (1988 Code, Appendix F, as replaced by Ord. #1441, October 2013)

**18-109. Enforcement.** (1) Illegal discharges. (a) Notification of discharges. To enable countermeasures to be taken, users shall notify the manager (or his designated official) immediately upon discharging wastes in violation of this chapter. This notification shall be followed, within five (5) days of the date of occurrence, by a detailed written statement describing the cause of the discharge and the measures being taken to prevent future occurrence. Such notification will not relieve users of liability for any expense, loss, or damage to the sewer system treatment plant, or treatment process, or for any fines imposed on the board on account thereof under state and federal law.

(b) Notice to employees. In order that employees of users be informed of the board's requirements, users shall make available to their employees copies of this chapter together with such other wastewater information and notices which may be furnished by the manager from time to time directed toward more effective water pollution control. A notice shall be furnished and permanently posted on the user's bulletin board advising employees whom to call in case of a discharge in violation of this chapter.

(c) Preventive measures. Any direct or indirect connection or entry point for persistent or deleterious wastes to the user's plumbing or drainage system shall be eliminated.

(2) Enforcement response. (a) Following are the enforcement actions to be administered by the manager or his authorized agent:

(i) Notice of violation (NOV). Whenever the manager finds that any user has violated or is violating this chapter, or a discharge permit or order issued hereunder, the manager or his agent may serve upon said user a written notice of violation. Within fifteen (15) days of the receipt date of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the manager. Submission of this plan in no way relieves the user of liability for any violation occurring before or after receipt of the notice of violation.

(ii) Consent orders. The manager may enter into consent orders, assurances of compliance, or other similar documents establishing an agreement with the user responsible for noncompliance. Such documents shall include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to paragraphs (2)(a)(v) and (vi) below and shall be judicially enforceable.

(iii) Administrative Order (AO). When the manager finds that a user has violated the chapter or a permit or order issued thereunder, he may issue the order to the user responsible directing that, following a specified period, sewer service shall be discontinued unless adequate treatment facilities, devices, or other relative appurtenances have been installed and are properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional monitoring, and management practices.

(iv) Show cause hearing. The manager may order a user which has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the manager and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least thirty (30) days prior to the hearing. Such notice may be served on any authorized representative of the user as defined in § 18-104(3) and required by § 18-106(2)(k). A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

(v) Compliance orders. When the manager finds that a user has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other pretreatment standard or requirement, the manager may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other



related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(vi) Cease and desist orders. When the manager finds that a user has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or a general permit, or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the manager may issue an order to the user directing it to cease and desist all such violations and directing the user to:

(A) Immediately comply with all requirements;  
and

(B) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(vii) Penalties. Notwithstanding any other portions of this chapter, permits, or orders issued hereunder shall be assessed penalties in accordance with § 18-110 of this chapter. Such assessments may be added to the user's next scheduled sewer bill and the manager shall have such other collection remedies as he has to collect other service charges. Users desiring to dispute such charges must file a request for the manager to reconsider the penalty within the ten (10) days of being notified of the penalty. Where the manager believes a request has merit, he shall convene a hearing on the matter within ten (10) days of receiving the request from the user.

(viii) Emergency suspensions. The manager may suspend service to a user when it is necessary to stop an actual or substantial endangerment to the health or welfare of person, the POTW, or the environment. In the event the user fails to voluntarily comply with the suspension order, the manager shall take such steps as deemed necessary, including immediate severance of the sewer connection. A user who is responsible, in

whole or in part, for imminent endangerment shall submit to the manager a detailed written report describing the causes of the event and the measures taken to prevent any further recurrence. The manager may allow the user to recommence discharge when the endangerment has passed.

(ix) Termination of sewer service. Any user who violates the conditions of this chapter or a permit or order, or any applicable state or federal law is subject to permanent termination of service. Causes include, but are not limited to:

(A) Failure to obtain a discharge permit.

(B) Violation of permit conditions.

(C) Failure to accurately report wastewater constituents and discharge characteristics.

(D) Failure to report significant changes in operations or discharge.

(E) Illegal discharge.

(F) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling.

(G) Other actions which endanger the POTW processes, the health of individuals, or the environment.

(x) Termination of water service. Any owner of property being served by a private wastewater disposal system who fails to abandon such private wastewater disposal system and make a direct connection to the public sewer after the same becomes available is subject to termination of water service.

(xi) Publication of users in significant noncompliance.

(A) The manager shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall be applicable to all significant industrial users (or any other industrial user that violates paragraphs (D), (E) or (I) of this section and shall mean:

(B) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits as defined in § 18-104;

(C) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by § 18-104 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

(D) Any other violation of a pretreatment standard or requirement as defined by § 18-106 (daily maximum, long-term average, instantaneous limit, or narrative standard) that the manager determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;

(E) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the manager's exercise of its emergency authority to halt or prevent such a discharge;

(F) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or a general permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(G) Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(H) Failure to accurately report noncompliance; or

(I) Any other violation(s), which the manager determines will adversely affect the operation or implementation of the local pretreatment program.

(b) Enforcement response plan. Whenever the manager finds that any person has violated this chapter or any prohibition, limitation or requirement contained in this chapter or permit or order issued hereunder, he will initiate the appropriate enforcement response as outlined in § 18-113.

(c) Hearing/appeals. (i) Except in those emergency situations as provided for in § 18-108(2)(a)(vii), the manager shall afford any user an opportunity for a hearing and shall provide not less than

forty-eight (48) hours notice thereof, before terminating services for any reason other than non-payment.

(ii) Any user, permit applicant, or permit holder effected by any decision, action or determination made by the manager interpreting or implementing the provisions of this chapter or in granting or refusing of any permit issued hereinunder, may file with the manager a written request for reconsideration within twenty (20) days of such decision, action, or determination setting forth in detail the facts supporting the user's request for reconsideration. The manager's decision, action or determination shall remain in full force and effect during such period of reconsideration and during the appeal therefrom, unless modified or suspended by the sewer regulation appeals board. If the ruling made by the manager is unsatisfactory to the person requesting reconsideration, he may with twenty (20) days after notification of the action, file a written appeal to the sewer regulation appeals board. The written appeal shall be heard within thirty (30) days from the date of filing, unless an extension of such time for a hearing is agreed upon by the manager and the appellant. The sewer regulation appeals board shall make a final decision of the appeal within thirty-five (35) days of the close of the meeting. Appeal from the decision of the sewer regulation appeals board shall be to the Board of Mayor and Aldermen of the City of Tullahoma. Such appeal shall be in writing and shall be filed at the office of the Tullahoma Utilities Board within thirty (30) days after receipt of the decision of the sewer regulation appeals board. Unless facts appear to the contrary, it will be presumed that the appellant received the decisions of the sewer regulation appeals board within three (3) working days of the date of the same. The decision, action or determination of the sewer regulation appeals board shall remain in effect during the pendency of any appeal unless modified or suspended by the board of mayor and aldermen. A decision of the board of mayor and aldermen shall remain in effect during the pendency of any appeal to the courts unless the same is modified or suspended by a court of competent jurisdiction after notice and an evidentiary hearing. An appeal of a decision of the board of mayor and alderman to a court of competent jurisdiction shall be made within sixty (60) days from the date of the decision of the board of mayor and aldermen. (1988 Code, Appendix F, as replaced by Ord. #1441, October 2013)

**18-110. Penalties and abatements.** (1) Public nuisance. Discharges of wastewater in any manner in violation of this chapter or of any order issued by the manager as authorized by this chapter, is hereby declared a public

nuisance and shall be corrected or abated as directed by the manager. Any person creating a public nuisance shall be subject to the provisions of the City of Tullahoma codes or ordinances governing such nuisance. Any costs of emergency corrections incurred by the board shall be billed at actual cost to the user.

(2) Persons subject to penalties. Any person discharging any wastes such that the Industrial User Discharge Permit (IUDP) limits are exceeded regardless of whether an interference, upset, or pass-through incident occurs at the POTW in excess of the NPDES limits, shall be subject to penalties as follows:

(a) Any person discharging loadings of compatible pollutants, including five (5) day BOD, ammonia or suspended solids such that the POTW capacity is not overloaded to the degree that an interference, upset, or pass-through incident occurs shall be assessed all applicable surcharges.

(b) Any person discharging loadings of compatible pollutants, including five (5) day BOD, ammonia or suspended solids such that the POTW capacity is overloaded to the degree that an interference, upset, or pass through incident occurs shall be assessed one thousand dollars (\$1,000.00) penalty; or, the amount of civil penalties and/or fines assessed against the board by state and/or federal regulatory agencies plus the costs incurred by the board in defending itself, including, but not limited to, reasonable attorney's fees, expert witness expenses and court reporter fees, against such charges arising from the IUDP/NPDES violation, whichever is greater. This amount shall be in addition to any and all surcharges which may be applicable for treating said waste. Each occurrence resulting in POTW violations of daily maximum, monthly average, or percent removal limits shall be considered separate violations.

(c) Any person who has a violation of the daily maximum limit or monthly average limit for incompatible pollutants such that no interference, upset, or pass through limits shall be subject to enforcement action in accordance with the following schedule and subject to the following conditions:

(i) For the first significant violation of any IUDP limit in any twelve (12) month period; or, for any violation of an IUDP limit that is not significant, the person shall be issued a Notice of Violation (NOV). A significant violation is defined for this sub-section only as a violation that exceeds an established IUDP limit by more than ten percent (10%).

(ii) For the second significant violation of any parameter during a period of one (1) year from the first significant violation of any parameter, the person shall be assessed a penalty of fifty dollars (\$50.00) for each multiple or fraction thereof by which the IUDP limit is exceeded.

(iii) For each successive significant violation of a particular parameter during a period of one (1) year from the previous significant violation of that parameter, the penalty assessed for each multiple or fraction thereof by which the IUDP is exceeded shall be increased in fifty dollar (\$50.00) increments.

(iv) In no event shall any penalty for a single parameter and/or a combination of penalties assessed for a violation of multiple parameters on a single effluent monitoring report exceed the sum of two thousand dollars (\$2,000.00).

(v) If both the daily maximum and monthly average limit are exceeded for the same parameter on a single effluent monitoring report, or during the same month, the penalty assessed shall be the higher of the two, not both.

(vi) Upon a finding of good cause, penalties under this sub-section may be waived or suspended for violations that occur while the user is timely meeting all requirements and conditions of an approved compliance schedule, provided the parameters violated are specified within the compliance schedule.

(vii) Violations previous to the enactment of the provisions of this sub-section, as amended, shall not be used for the fifty dollar (\$50.00) incremental penalty increases set forth in sub-paragraph (b) above. However, to qualify for the provisions set forth in sub-paragraph (a) above, the user shall have had no significant violations of an IUDP limit within the previous twelve (12) months, regardless of the timing of the enactment of these provisions.

(d) Any person violating the daily maximum limit for incompatible pollutants such that an interference, upset, or pass through does occur at the POTW to the extent that NPDES or pass through limits are exceeded, shall be assessed one thousand dollars (\$1,000.00) penalty; or the amount of civil penalties and/or fines assessed against the board by state and/or federal regulatory agencies plus any costs incurred by the city in defending itself, including, but not limited to, reasonable attorney's fees, expert witness expenses, and court reporter fees, against such charges arising from the IUDP/NPDES violation, whichever is greater.

(e) Any person violating the maximum monthly average concentration for incompatible pollutants such that an interference, upset, or pass through incident occurs at the POTW to the extent that the NPDES or pass through limits has been exceeded, shall be assessed ten thousand dollars (\$10,000.00) penalty; or, the amount of civil penalties and/or fines assessed against the board by state and/or federal regulatory agencies, plus any costs incurred by the board in defending itself, including, but not limited to, reasonable attorney's fees, expert witness

expenses and court reporter fees, against such charges arising from the IUDP/NPDES violations, whichever is greater.

(f) Any person discharging wastes such that sixty-six percent (66%) of the values obtained within a reporting period exceed the daily maximum limits or maximum monthly average by any amount, or thirty-three percent (33%) of the values obtained exceed the daily maximum limit or the maximum monthly average for compatible pollutants by forty percent (40%) or for incompatible pollutants by twenty percent (20%) shall be deemed a significant violation and notice of the same shall be published in the local newspaper. Additionally, such notice shall be published whenever an industrial user has been shown to have caused a POTW upset, to have discharged a material which has potential health hazards to persons in or around the treatment system and/or receiving stream, to have discharged without a permit in force, to have failed to file the required reports, or otherwise failed to conform to the requirements of the board with regard to pretreatment rules and policies.

(3) Basis for imposing penalties. The basis for imposing penalties shall be as follows:

(a) Violations as reported to the board by the industry's self-monitoring.

(b) Violations as discovered by the board in performing verification and demand monitoring.

(c) Other monitoring activities which demonstrate non-compliance.

(4) POTW laboratory analyses. The values obtained at the POTW laboratory for compatible incompatible pollutants shall be considered eligible to determine compliance with the industrial users discharge permit.

Whenever a value obtained by the POTW laboratory for an incompatible pollutant indicates that a violation has occurred, the industry involved may challenge the POTW analysis. Whenever a value obtained by the POTW laboratory is challenged by the industrial user, a sample shall be sent to a commercial laboratory for analysis. In the event that the value obtained by the laboratory indicates no violation has occurred, the board shall concur that no violation has occurred, and the cost of the additional analysis by the laboratory shall be borne by the board. In the event the value obtained by the laboratory indicates that a violation has occurred, the industrial user shall be assessed an amount equal to twice the amount invoiced by the laboratory to recover the costs of sampling and analysis, plus the amount of the penalty(s) and/or costs specified in the provisions of this chapter.

(5) Analytical values at or near detection limits. To prevent penalties from being imposed as a result of inherent analytical imprecision, the penalties specified in this section shall only be imposed whenever any limit is exceeded, and the value obtained is at least 1.5 times the analytical detection limit for the method employed to obtain the value, except when this limit is not met but the

POTW has been assessed penalties by state and/or federal agencies as a result of the industrial discharge, in which case the amount of civil penalties and/or fines assessed against the board by state and/or federal regulatory agencies plus any costs incurred by the board in defending itself, including, but not limited to, reasonable attorney's fees, against such charges arising from the IUDP/NPDES violation, whichever is greater shall be applicable.

(6) Separate offense for each day a violation occurs. Each day in which any such violation continues shall be deemed a separate offense. Any fine provided for in this section shall be in addition to damages to which the board may be entitled to pursuant to other provisions of this chapter and as may otherwise be provided by law.

(7) Penalties resulting from failure to comply. The issuance of a notice of violation, administrative order, or compliance schedule shall not relieve the recipient of any penalties that result from failure to comply with the provisions of this chapter.

(8) Liability for loss or damage. Any person violating any of the provisions of this chapter shall become liable to the board for any expense, loss or damage occasioned the board by reason of such violation including court costs, and reasonable attorney's fees, expert witness expenses, and court reporter fees, or in addition to any other penalty, fine, charge or assessment.

(9) Injunctive relief. When the manager finds that a user has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit or a general permit or order issued hereunder, or any other pretreatment standard or requirement, the manager may petition the chancery or circuit court through the board's attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the individual wastewater discharge permit or general permit order, or other requirement imposed by this chapter on activities of the user. The manager may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

(10) Civil penalties. A user who has violated, or continues to violate, any provisions of this chapter, an individual wastewater discharge permit or a general permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the city for a maximum penalty of one thousand dollars (\$1,000.00) per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

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

(11) Criminal prosecution. A user who willfully or negligently violates any provision of this chapter, an individual wastewater discharge permit, a



general permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor punishable by a penalty of at least one thousand dollars (\$1,000.00) a day for each violation of pretreatment standards and requirements. (1988 Code, Appendix F, as replaced by Ord. #1441, Oct. 2013)

**18-111. Sewer regulation appeals board.** (1) Members. The board of public utilities shall serve as the sewer regulation appeals board.

(2) Powers of the board. The sewer regulation appeals board shall have the following powers:

(a) To conduct hearings on appeals from decisions of the manager in actions taken under the pursuant to this chapter.

(b) The board shall have the power to issue subpoenas requiring attendance and testimony of witnesses and production of evidence relevant to any matter involved in hearings before the board. This power may be exercised by the board on its own initiative or upon application of the parties.

(c) The chairman, vice-chairman or chairman pro temp shall be authorized to administer oaths. All testimony before the board shall be under oath.

(d) To prescribe such rules and regulations for the convening of the board, the conduct of hearings and all matters pertaining to and in furtherance of the authority and powers herein granted. (1988 Code, Appendix F, as replaced by Ord. #1441, Oct. 2013)

**18-112. Miscellaneous provisions.** (1) Power and authority of inspectors. (a) Right of entry: inspection and sampling. The manager shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this chapter and any individual wastewater discharge permit or general permit or order issued hereunder. Users shall allow the manager ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

(i) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the manager shall be permitted to enter without delay for the purposes of performing specific responsibilities.

(ii) The manager shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.

(iii) The manager may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated monthly to ensure their accuracy.

(iv) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the manager and shall not be replaced. The costs of clearing such access shall be borne by the user.

(v) Unreasonable delays in allowing the manager access to the user's premises shall be a violation of this chapter.

(b) Safety. While performing the necessary work on private properties referred to in the above paragraph, the manager or duly authorized employees of the board shall observe all safety rules applicable to the premises established by the company, the board employees and the board shall indemnify the company against loss or damage to its property by board employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions.

(c) Easement. The manager and other duly authorized employees of the board bearing proper credentials and identification shall be permitted to enter all private properties through which the board holds a duly negotiated easement for the purposes of inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved. (1988 Code, Appendix F, as replaced by Ord. #1441, Oct. 2013)

**18-113. Enforcement response guide.** (1) There is hereby established an enforcement response guide as follows:

NONCOMPLIANCE

<u>CATEGORY</u>	<u>NATURE OF VIOLATION</u>	<u>ENFORCEMENT RESPONSE</u>	<u>ACTION BY</u>
1. Failure to file for permit	IU unaware of requirement, No harm to POTW/Environment	Phone Call: NOV with application	Pretreatment Coordinator (PC)
	IU unaware of requirement, Harm to POTW/Environment	AO with Penalty	Manager (M)
	Failure to apply after notice by POTW	Terminate Service; civil action or criminal investigation	Manager Attorney (A)
2. Failure to renew	IU has no submitted renewal application within 10 days of due date	Phone Call: NOV	PC
3. Exceeded limit; No harm to POTW and no violation of NPDES or Pass-Through limits	Not significant, no more than 10% over limit	Phone Call: NOV	PC
<i>NOTES: Penalty not to exceed \$2,000 for any single event or effluent monitory report under this category (#3).</i>	First significant violation of any parameter in 12 month period or greater	Phone Call: NOV	PC
<i>Upon finding of good cause, penalties under this section may be suspended for violations that occur while the User is timely meeting all requirements and conditions of an approved Compliance Schedule, provided the parameters violated are specified within the Compliance Schedule.</i>			
	Second significant violation of any parameter within 12 months of first	NOV with Penalty; \$50 per multiple or fraction over limit	PC, M

	First significant violation of a particular parameter within the 12 month time period of a significant violation of any other parameter.	NOV with Penalty; \$50 per multiple or fraction over limit	PC, M
	Each additional significant violation of previously violated parameter within 12 months of any significant violation.	NOV with Penalty; increase penalty multiplier by \$50 for each additional significant violation of same parameter	PC, M
4. Exceeded limit; caused harm at POTW and/or caused violation of NPDES and/or Pass-Through limits	Isolated	AO with Penalty; Show Cause; Civil Action	PC, M, A
<i>NOTE: Penalties to be determined based on conditions stated in § 18-109(2).</i>	Recurring	AO with Penalty; Show Cause; Terminate Service: Civil or Criminal investigation	PC, M, A
5. Reporting violation	Isolated, not significant	Phone call; NOV	PC
	Recurring, not significant	AO; Show Cause	PC, M
	Failure to report, inaccurate report, falsification	AO; Show Cause; Terminate Service: Civil or Criminal investigation	PC, M, A
5. Compliance Schedule	Failure to meet milestone by less than 30 days	AO; Show Cause	PC, M
	Failure to meet milestone by more than 30 days	AO; Show Cause; Terminate service	PC, M, A
6. Illegal discharge	Initial violation, dilution in lieu of treatment, discharge of unpermitted substances, failure to operate pretreatment facility, no harm to POTW/Environ.	AO; Show Cause	PC, M
	Recurring, evidence of intent or negligence, or harm to POTW/Environment	AO; Show Cause; Terminate Service: Civil or Criminal investigation	PC, M, A

7. Entry denial	Entry denied or consent withdrawn, copies of records denied	AO; Show Cause; Terminate Service	PC, M, A
8. Improper action	Incorrect sampling or procedures when self-monitoring, incomplete records, failure to report additional monitoring; no evidence of intent	Phone Call, NOV	PC
	Recurring or evidence of intent	AO; Show Cause; Civil or Criminal investigation	PC, M, A
9. Failure to connect	Failure to abandon private wastewater disposal system and make a direct connection to public sewer	Cease and Desist Order; Termination of water service; penalty; civil action	M, A

(2) Time frame for response. Initial enforcement responses involving contact with the industrial user and requiring information on corrective or preventative action will occur within fifteen (15) days of violation detection. Significant noncompliance will be addressed with an enforceable order within thirty (30) days of identification of non compliance. Follow up actions, including actions taken for continuing or recurring violations will occur within sixty (60) days of the initial enforcement response. For all continuing violations the response will include a compliance schedule. Violations that threaten health, property or environmental quality are considered emergencies and will evoke immediate responses such as halting the discharge and terminating service. (1988 Code, Appendix F, as replaced by Ord. #1441, Oct. 2013)

## CHAPTER 2

### STORMWATER MANAGEMENT

#### SECTION

- 18-201. General provisions.
- 18-202. Definitions.
- 18-203. Land disturbance and stormwater protection permits.
- 18-204. Stormwater system design and management standards.
- 18-205. Post construction.
- 18-206. Existing locations and developments.
- 18-207. Illicit discharges.
- 18-208. Priority areas.
- 18-209. General prohibitions.
- 18-210. Enforcement.
- 18-211. Penalties.
- 18-212. Appeals.
- 18-213. Funding mechanisms.
- 18-214. Fee schedule.
- 18-215. Floodway/floodway fringe requirements.

**18-201. General provisions.** (1) Purpose. It is the purpose of this chapter to:

(a) Protect, maintain, and enhance the environment of the City of Tullahoma and the public health, safety and the general welfare of the citizens of the city, by controlling discharges of pollutants to the city's stormwater system and maintain and improve the quality of the receiving waters into which the stormwater outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and groundwater of the city.

(b) Enable the City of Tullahoma to comply with the National Pollution Discharge Elimination System (NPDES) permit and applicable regulations, 40 CFR § 122.26 for stormwater discharges.

(c) Allow the City of Tullahoma to exercise the powers granted in Tennessee Code Annotated, § 68-221-1105, which provides that, among other powers municipalities have with respect to stormwater facilities, is the power by ordinance to:

(i) Exercise general regulation over the planning, location, construction, and operation and maintenance of stormwater facilities in the municipality, whether or not owned and operated by the municipality;

(ii) Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute, including the adoption of a system of fees for services and permits;

(iii) Establish standards to regulate the quantity of stormwater discharged and to regulate stormwater contaminants as may be necessary to protect water quality;

(iv) Review and approve plans and plats for stormwater management in proposed subdivisions or commercial/industrial developments;

(v) Issue permits for stormwater discharges, or for the construction, alteration, extension, or repair of stormwater facilities;

(vi) Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit;

(vii) Regulate and prohibit discharges into stormwater facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated; and

(viii) Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of stormwater contamination, whether public or private.

(2) Administering entity. The Tullahoma Department of Public Works shall administer the provisions of this chapter.

(3) Right of entry. The City of Tullahoma, or its designees or agents, shall have the lawful right of entry onto any project for the purpose of determining compliance with the provisions of this chapter. Determining compliance with the provisions of this chapter may include inspection of construction, commercial, or industrial facilities, inspection of post construction stormwater controls or other stormwater control structures, investigation of stormwater related complaints, investigation of potential illicit discharges, or any other reasonable purpose that is deemed necessary for the enforcement of this chapter. Right of entry shall not include entry into any buildings on a property without the permission of the building's owner or occupants.

(4) Right to correct violations. It is imperative to the stormwater system and to the quality of the receiving streams that illicit discharges, unacceptable non-stormwater discharges, and other stormwater quality violations be eliminated in a timely manner. If after reasonable notice from the department of public works, a violation has not been corrected by the owner of the property or facility from which the violation is originating, then the department of public works may take the necessary measures to have the violation eliminated. All costs associated with the elimination of the violation will be billed back to the owner of the violating property or facility. These costs shall include direct and indirect costs associated with the corrective work. (as replaced by Ord. #1433, Sept. 2013)

**18-202. Definitions.** For the purpose of this chapter, the following definitions shall apply: Words used in the singular shall include the plural, and the plural shall include the singular; words used in the present tense shall

include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined in this section shall have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

(1) "As built plans" means drawings depicting conditions as they were actually constructed.

(2) "Base flood" means the flood having a one percent (1%) chance of being equaled or exceeded in any given year (the 100-year flood).

(3) "Base flood elevation" means the water-surface elevation associated with the base flood.

(4) "Best Management Practices" or "BMPs" are physical, structural, and/or managerial practices that, used singly or in combination, prevent or reduce pollution of water, that have been approved by the City of Tullahoma, and that have been incorporated by reference into this chapter as if fully set out therein.

(5) "Channel" means a natural or artificial watercourse with a definite bed and banks that conducts flowing water continuously or periodically.

(6) "Chronic violator" means any person that violates the provisions of the stormwater management ordinance at least three (3) times in a one (1) year period. The violations do not have to appear on the same project but do have to be of a similar nature.

(7) "Community water" means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wetlands, wells and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the City of Tullahoma.

(8) "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.

(9) "Design storm event" means a hypothetical storm event, of a given frequency interval and duration, used in the analysis and design of a stormwater facility.

(10) "Director" means the director of the department of public works.

(11) "Discharge" means dispose, deposit, spill, pour, inject, seep, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means including any direct or indirect entry of any solid or liquid matter into the municipal separate storm sewer system.

(12) "Easement" means an acquired privilege or right of use or enjoyment that a person, party, firm, corporation, municipality or other legal entity has in the land of another.

(13) "Equivalent Residential Unit" or "ERU" shall be the base unit of measure for the establishment of stormwater user's fees. One (1) ERU shall be equal to the average square footage of a detached single-family residential property within the City of Tullahoma.



(14) "Erosion" means the removal of soil particles by the action of water, wind, ice, or other geological agents, whether naturally occurring or acting in conjunction with or promoted by anthropogenic activities or effects.

(15) "Erosion and sediment control plan" means a written plan (including drawings or other graphic representations) that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.

(16) "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation.

(17) "Floodway fringe" means the area between the floodway boundary and the 100-year floodplain boundary.

(18) "Governing body" means the Tullahoma Board of Mayor and Aldermen.

(19) "Illicit connections" means illegal and/or unauthorized connections to the municipal separate stormwater system whether or not such connections result in discharges into that system.

(20) "Illicit discharge" means any discharge to the municipal separate storm sewer system that is not composed entirely of stormwater and not specifically exempted under § 18-207(2).

(21) "Land disturbance and stormwater protection permit" means a permit issued by the department of public works to allow land disturbing activity as defined below.

(22) "Land disturbing activity" means any activity on property that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to, development, redevelopment, demolition, construction, reconstruction, clearing, grading, filling, and excavation.

(23) "Maintenance" means any activity that is necessary to keep a stormwater facility in good working order so as to function as designed. Maintenance shall include complete reconstruction of a stormwater facility if reconstruction is needed in order to restore the facility to its original operational design parameters. Maintenance shall also include the correction of any problem on the site property that may directly impair the functions of the stormwater facility.

(24) "Maintenance agreement" means a document recorded in the land records that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

(25) "Municipal Separate Storm Sewer System (MS4)" means the conveyances owned or operated by the municipality for the collection and transportation of stormwater, including the roads and streets and their drainage systems, catch basins, curbs, gutters, ditches, man-made channel, and storm drains.

(26) "National Pollutant Discharge Elimination System permit" or "NPDES permit" means a permit issued pursuant to 33 U.S.C. 1342.

(27) "Off-site facility" means a structural BMP located outside the subject property boundary described in the permit application for land development activity.

(28) "On-site facility" means a structural BMP located within the subject property boundary described in the permit application for land development activity.

(29) "Peak flow" means the maximum instantaneous rate of flow of water at a particular point resulting from a storm event.

(30) "Person" means any and all persons, including any individual, firm or association and any municipal or private corporation organized or existing under the laws of this or any other state or country.

(31) "Priority area" means an area where land use or activities have the potential to generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.

(32) "Priority construction" means construction that occurs in a "priority area" as previously defined.

(33) "Runoff" means that portion of the precipitation on a drainage area that is discharged from the area into the municipal separate stormwater system.

(34) "Sediment" means solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface either above or below sea level.

(35) "Sedimentation" means soil particles suspended in stormwater that can settle in stream beds and disrupt the natural flow of the stream.

(36) "Soils report" means a study of soils on a subject property with the primary purpose of characterizing and describing the soils. The soils report shall be prepared by a qualified soils engineer, who shall be directly involved in the soil characterization either by performing the investigation or by directly supervising employees.

(37) "Stabilization" means providing adequate measures, vegetative and/or structural, that will prevent erosion from occurring.

(38) "Stormwater" means stormwater runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration and drainage.

(39) "Stormwater management" means the programs to maintain quality and quantity of stormwater runoff to pre-development levels.

(40) "Stormwater management facilities" means the drainage structures, conduits, ditches, combined sewers, sewers, and all device appurtenances by means of which stormwater is collected, transported, pumped, treated, or disposed of.

(41) "Stormwater management plan" means the set of drawings and other documents that compiles all of the information and specifications for the programs, drainage systems, structures, BMPs, concepts and techniques intended to maintain or restore quality and quantity of stormwater runoff to pre-development levels.

(42) "Stormwater runoff" means flow on the surface of the ground, resulting from precipitation.

(43) "Structural BMPs" means devices that are constructed to provide control of stormwater runoff.

(44) "Surface water" includes waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other water courses, lakes and reservoirs.

(45) "TDEC" means the Tennessee Department of Environment and Conservation, Division of Water Pollution Control.

(46) "Watercourse" means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

(47) "Watershed" means all the land area that contributes runoff to a particular watercourse. (as added by Ord. #1433, Sept. 2013)

**18-203. Land disturbance and stormwater protection permits.**

(1) When required. Every person will be required to obtain a land disturbance and stormwater protection permit from the Tullahoma Department of Public Works in the following cases:

(a) Land disturbing activity disturbs one (1) or more acres of land;

(b) Land disturbing activity of less than one (1) acre if such activity is part of a larger common plan of development or sale that affects one (1) or more acres of land;

(c) Land disturbing activity of less than one (1) acre of land, if in the discretion of the public works department such activity poses a potential threat to the MS4 or waters of the state.

(2) Building permit. No building permit shall be issued until the applicant has obtained a land disturbance and stormwater protection permit where the same is required by this chapter.

(3) Exemptions. The following activities are exempt from the permit requirement:

(a) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.

(b) Existing nursery and agricultural operations conducted as a permitted main or accessory use.

(4) Application for a land disturbance and stormwater protection permit. Each application for a land disturbance and stormwater protection permit shall contain the following:

(a) Name of applicant; The applicant shall be the owner of the property on which the project is located. The permit may be issued to a designated agent of the property owner, but the designated agent must provide proof of permission from the property owner that the agent may sign application and obtain the permit on the owner's behalf.

(b) Business or residence address of applicant;

(c) Name, address and telephone number of the owner of the property of record in the office of the assessor of property;

(d) Address and legal description of subject property including the tax reference number and parcel number of the subject property;

(e) Name, address and telephone number of the contractor and any subcontractors who shall perform the land disturbing activity and who shall implement the erosion and sediment control plan;

(f) A statement indicating the nature, extent and purpose of the land disturbing activity including the size of the area for which the permit shall be applicable and a schedule for the starting and completion dates of the land disturbing activity.

(g) Each application shall be accompanied by:

(i) A stormwater management plan providing for stormwater management during construction and after construction has been completed.

(ii) A copy of Notice of Intent (NOI) submitted to Tennessee Department of Environment and Conservation for coverage under general stormwater permit for construction activity, if required.

(iii) Permit review and inspection fees, as set by this chapter.

(5) Review and approval of application. The department of public works will review each application for a land disturbance and stormwater protection permit to determine its conformance with the provisions of this chapter. Within five (5) work days after receiving a complete application, the department shall provide one (1) of the following responses in writing:

(a) Approval of the permit application;

(b) Approval of the permit application with conditions; subject to such reasonable conditions as may be necessary to secure substantially the objectives of this chapter, and issue the permit subject to these conditions; or

(c) Denial of the permit application, indicating the reason(s) for the denial.

If the department of public works has granted approval of the permit with conditions, the applicant shall submit a revised plan that conforms to the conditions established by the department, within seven (7) days of receipt of the conditional approval. However, the applicant shall be allowed to proceed with his land disturbing activity so long as it conforms to the conditions established by the department.

No development plans (or building permit, if required) will be released until the land disturbance and stormwater protection permit has been approved.

(6) Permit duration. Every land disturbance and stormwater protection permit shall expire and become null and void if substantial work authorized by such permit has not commenced within one hundred eighty (180) calendar days of issuance. The work authorized by such permit shall not be

suspended or abandoned at any time after the work is commenced but shall be carried through to completion. A suspension of work for one hundred eighty (180) calendar days, without prior notification and approval, may result in the nullification of the permit and potential forfeiture of bonds. In any event the permittee is responsible for stabilization of any land disturbance activities if the permit is nullified due to extended suspension of work. Once the permit is nullified, the permittee will be required to submit a new application to be able to complete the project, and may be subject to additional permit application fees.

(7) Pre-construction conference. A pre-construction conference will be mandatory for all priority construction activities. Priority construction activities will include the following:

- (a) Construction activities discharging directly into, or immediately upstream of, waters the state recognizes as impaired (for siltation) or high quality;
- (b) Construction activities that will result in the disturbance of five (5) acres or more of property;
- (c) All non-residential construction activities;
- (d) Any other construction activities that the department of public works deems should be considered a priority construction activity.

The department of public works may, at its discretion, require a pre-construction conference for any construction activity, regardless of whether or not the activity is classified as a priority construction activity.

(8) Notice of construction. The applicant must notify the department of public works ten (10) days in advance of the commencement of construction. Regular inspections of the stormwater management system shall be conducted by the department of public works. All inspections shall be documented and written reports prepared that contain the following information:

- (a) The date and location of the inspection;
- (b) Whether construction is in compliance with the approved erosion and sediment control plan and/or stormwater management plan;
- (c) Variations from the approved construction specifications;
- (d) Any violations that may exist.

Copies of the inspection reports will be maintained at the department of public works.

(9) Performance bonds. The department of public works shall require the submittal of a performance security or performance bond prior to issuance of a permit in order to ensure that the stormwater practices are installed by the permit holder as required by the approved stormwater management plan. The amount of the performance bond shall be the total estimated construction cost of the structural BMPs and permanent infrastructure approved under the permit plus any reasonably foreseeable additional related costs. The department may also require the submittal of a performance bond at any point during construction in an amount sufficient to cover all remaining items that have not yet been constructed. The performance bond shall contain forfeiture provisions for failure to complete work specified in the stormwater management plan. The

applicant shall provide an itemized construction cost estimate complete with unit prices which shall be subject to acceptance, amendment or rejection by the department of public works. The department shall have the right to calculate the estimated cost of construction for the purpose of determining the required performance bond amount.

The performance bond shall be released in full only upon submission of as-built plans (if requested) and written certification by a registered professional engineer licensed to practice in Tennessee that the structural BMPs and infrastructure have been installed in accordance with the approved plan and other applicable provisions of this chapter. Partial releases of the performance bond, based on the completion of various stages of construction, can be made at the discretion of the department of public works. (as added by Ord. #1433, Sept. 2013)

**18-204. Stormwater system design and management standards.**

(1) Stormwater Design and BMP Manual. The City of Tullahoma adopts as its stormwater design and best management practices (BMP) manual the following publications, which are incorporated by reference in this chapter as if fully set out herein:

(a) TDEC Sediment and Erosion Control Handbook, latest edition.

(b) TDEC Manual for Post Construction, latest edition.

(2) General performance criteria for stormwater management. Unless judged by the department of public works to be exempt, the following performance criteria shall be addressed for stormwater management at all sites:

(a) All site designs shall control the peak flow rates of stormwater discharge associated with design storms specified in this chapter or in the BMP manual and reduce the generation of post construction stormwater runoff to preconstruction levels. These practices should seek to utilize pervious areas for stormwater treatment and to infiltrate stormwater runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity.

(b) To protect stream channels from degradation, specific channel protection criteria shall be provided as prescribed in the BMP manual.

(c) Stormwater discharges to critical areas with sensitive resources (i.e., shellfish beds, endangered species, swimming beaches, water supply reservoirs) may be subject to additional performance criteria, or may need to utilize or restrict certain stormwater management practices, at the discretion of the department of public works.

(d) Stormwater discharges from "priority areas" may require the application of specific structural BMPs and pollution prevention practices.

(e) Prior to or during the site design process, applicants for land disturbance and stormwater protection permits shall consult with the department of public works to determine if they are subject to additional stormwater design requirements.

(f) The permanent hydrologic data for each sub-area including total land area, appropriate runoff co-efficient, time of concentrations as calculated using the SCS-TR-55 method or approved equal, total runoff for the two (2), five (5), twenty-five (25), and one hundred (100) year storm events for each area using the SCS-TR-55 method for drainage areas greater than one hundred (100) acres or rational method for drainage areas up to one hundred (100) acres. Nashville Tennessee intensity-duration-frequency curves shall be used for runoff calculations if local data is not available.

(g) Hydraulic capacity of existing and proposed stormwater conveyance structures and channels located on the site and off-site (two (2) structures downstream) using Mannings Formula. Each structure or channel shall be capable of passing the referenced event without surcharge:

(i) Twenty-five (25) year design storm - Residential areas, minor street culverts.

(ii) Fifty (50) year design storm - Major drainage channels (existing "blue-line" or intermittent streams), collector and minor arterial street culverts.

(iii) One hundred (100) year design storm - Major arterial street culverts.

Each drainage structure and/or channel shall be designed to not cause flooding of any structure during the one-hundred year event.

(h) Erosion control calculations for slopes having a grade of twenty percent (20%) or greater and a length longer than twenty feet (20') for the applicable design storm event.

(i) Net pre-construction and post construction runoff exiting the site resulting from the two (2), five (5), twenty-five (25), and one hundred (100) year storm events using the SCS-TR-55 method for drainage areas greater than one hundred (100) acres or rational method for drainage areas up to one hundred (100) acres. Runoff velocities shall also be determined.

(j) Detention pond inflow/outflow calculations for the two (2), five (5), twenty-five (25), and one hundred (100) years storm events. Detention calculations shall include stage-storage calculations, elevation-discharge calculations, inflow hydrograph development, routing calculations, and discharge calculations. A one foot (1') minimum freeboard shall be maintained for each design storm event in the detention basin design. The design shall ensure post-development discharge rates do not exceed pre-development discharge rates for the two (2), five (5), and twenty-five (25) year storm events. The design shall ensure that the post-development discharge for the one hundred (100)

year design storm can be managed safely by the detention facility, incorporating spillways as necessary, but not necessarily equaling pre-development discharge rates.

(k) If sediment escapes the construction site, off-site accumulations of sediment that have not reached a stream must be removed at a frequency sufficient to minimize offsite impacts (e.g., fugitive sediment that has escaped the construction site and has collected in street must be removed so that it is not subsequently washed into storm sewers and streams by the next rain and/or so that it does not pose a safety hazard to users of public streets). Sediment that has reached a stream shall be reported to the department of public works as soon as it is discovered. No attempts to remove sediment from a stream shall be made without prior approval. Appropriate arrangements will need to be made to enter private property for the purpose of removing sediment accumulations.

(l) Sediment should be removed from sediment traps, silt fences, sedimentation ponds, and other sediment controls as necessary, and must be removed when design capacity has been reduced by fifty percent (50%).

(m) Offsite material storage areas (including overburden and stockpiles of dirt) used solely by the permitted project are considered a part of the project and shall be addressed in the stormwater management plan.

(n) Pre-construction vegetative ground cover shall not be destroyed, removed, or disturbed more than twenty (20) calendar days prior to grading or earth moving unless the area is seeded and/or mulched or other temporary cover is installed.

(o) Clearing and grubbing must be held to a minimum necessary for grading and equipment operation.

(p) Erosion and sediment control measures must be in place and functional before earth moving operations begin, and must be constructed and maintained throughout the construction period. Temporary measures that may hamper construction activity may be removed at the beginning of the work day, but must be replaced at the end of the work day.

(q) All criteria and requirements of the Tennessee General Permit for Stormwater Discharges from Construction Activities not specifically addressed in this chapter shall be required by this chapter. If a requirement of this chapter conflicts with a requirement of the Tennessee General Permit, the more stringent of the two (2) requirements shall apply.

(3) Stormwater management plan requirements. The stormwater management plan shall include sufficient information to allow the department of public works to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the



measures proposed for managing stormwater generated at the project site. To accomplish this goal, the stormwater management plan shall include the following:

(a) Topographic base map: A topographic base map of the site, at appropriate scale, which extends a minimum of one hundred feet (100') beyond the limits of the proposed development and indicates:

(i) Existing surface water drainage including streams, ponds, culverts, ditches, sink holes, wetlands; and the type, size, elevation, etc., of nearest upstream and downstream drainage structures;

(ii) Current land use including all existing structures, locations of utilities, roads, and easements;

(iii) All other existing significant natural and artificial features;

(iv) Proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns; locations of utilities, roads and easements; the limits of clearing and grading;

(v) Proposed structural BMPs;

(vi) A written description of the site plan and justification of proposed changes in natural conditions may also be required.

(b) Calculations. Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in § 18-204(2) of this chapter will be required. These calculations must show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with this chapter and the guidelines of the BMP manual. Such calculations shall include:

(i) A description of the design storm frequency, duration, and intensity where applicable;

(ii) Time of concentration;

(iii) Soil curve numbers or runoff coefficients including assumed soil moisture conditions,

(iv) Peak runoff rates and total runoff volumes for each watershed area;

(v) Infiltration rates, where applicable;

(vi) Culvert, stormwater sewer, ditch and/or other stormwater conveyance capabilities;

(vii) Flow velocities;

(viii) Data on the increase in rate and volume of runoff for the design storms referenced in § 18-204(2); and

(ix) Documentation of sources for all computational methods and field test results.

(c) Soils information. If a stormwater management control measure depends on the hydrologic properties of soils, then a soils report

shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles and soil survey reports. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure.

(d) Maintenance and repair plan. The design and planning of all stormwater management facilities shall include detailed maintenance and repair procedures to ensure their continued performance. These plans will identify the parts or components of a stormwater management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan. A permanent elevation benchmark may be required to be identified in the plans to assist in the periodic inspection of the facility.

(e) Landscaping plan. Where the management of adequate vegetation is required by the BMP, the applicant must present a detailed plan for the post-construction management of vegetation, including who will be responsible and what methods will be employed to ensure that adequate cover is preserved. At the discretion of the department of public works, it may be required that this plan be prepared by a registered landscape architect licensed in Tennessee.

(f) Maintenance easements. The applicant must ensure access to the site for the purpose of inspection and repair by securing all the maintenance easements needed. These easements must be binding on the current property owner and all subsequent owners of the property and must be properly recorded in the land record.

(g) Maintenance agreement. (i) The department of public works may require the owner of property to be served by an on-site stormwater management facility to execute an inspection and maintenance agreement that shall operate as a deed restriction binding on the current property owner and all subsequent property owners.

(ii) The maintenance agreement shall:

(A) Assign responsibility for the maintenance and repair of the stormwater facility to the owner of the property upon which the facility is located and be recorded as such on the plat for the property by appropriate notation.

(B) Provide for a periodic inspection by the property owner for the purpose of documenting maintenance and repair needs and ensure compliance with the purpose and requirements of this chapter. The property owner will arrange for this inspection to be conducted by a registered professional engineer licensed to practice in the State of Tennessee who will submit a sealed report of the inspection

to the department of public works. It shall also grant permission to the city to enter the property at reasonable times and to inspect the stormwater facility to ensure that it is being properly maintained.

(C) Provide that the minimum maintenance and repair needs include, but are not limited to: removal of silt, litter and other debris, the cutting of grass, the replacement of landscape vegetation, and all additional maintenance and repair needs consistent with the needs and standards outlined in the BMP manual.

(D) Provide that maintenance needs must be addressed in a timely manner, on a schedule to be determined by the department of public works.

(E) Provide that if the property is not maintained or repaired within the prescribed schedule, the department of public works shall perform the maintenance and repair at its expense, and bill the same to the property owner.

(iii) The governing body, upon recommendation of the department of public works, shall have the discretion to accept the dedication of any existing or future stormwater management facility, provided such facility meets the requirements of this chapter, and includes adequate and perpetual access and sufficient areas, by easement or otherwise, for inspection and regular maintenance. Any stormwater facility accepted by the municipality must also meet the municipality's construction standards and any other standards and specifications that apply to the particular stormwater facility in question.

(iv) In general, a maintenance agreement will be required for stormwater structures constructed in conjunction with commercial and industrial developments. The acceptance of dedication of stormwater facilities will generally be limited to structures associated with residential developments. The director of the department of public works may require the public dedication of any structure or require a maintenance agreement for any structure, subject to final acceptance by the governing body.

(h) Sediment and erosion control plans. The applicant must prepare a sediment and erosion control plan for all construction activities that complies with (4) below. It is anticipated that the sediment and erosion control plan and the stormwater pollution prevention plan required by the Tennessee General Permit will, in most cases, be the same plan.

(4) Sediment and erosion control plan requirements. The sediment and erosion control plan shall accurately describe the potential for soil erosion and sedimentation problems resulting from land disturbing activity and shall

explain and illustrate the measures that are to be taken to control these problems. The length and complexity of the plan is to be commensurate with the size of the project, severity of the site condition, and potential for off-site damage. The plan shall conform to the requirements found in the BMP manual and the Tennessee Construction General Permit, and shall include at least the following:

(a) Project description - Briefly describe the intended project and proposed land disturbing activity including number of units and structures to be constructed and infrastructure required.

(b) A topographic map with contour intervals of five feet (5') or less showing present conditions and proposed contours resulting from land disturbing activity.

(c) All existing drainage ways, including intermittent streams and wet-weather conveyances. Include any designated floodways or flood plains.

(d) A general description of existing land cover.

(e) Stands of existing trees as they are to be preserved upon project completion, specifying their general location on the property. Differentiation shall be made between existing trees to be preserved, trees to be removed, and proposed trees to be planted.

(f) Approximate limits of proposed clearing, grading, and filling.

(g) Approximate flows of existing stormwater leaving any portion of the site.

(h) A general description of existing soil types and characteristics and any anticipated soil erosion and sedimentation problems resulting from existing characteristics.

(i) Location, size and layout of proposed stormwater and sedimentation control improvements.

(j) Proposed drainage network.

(k) Proposed drain tile or waterway sizes.

(l) Approximate flows leaving the site after construction and incorporating water run-off mitigation measures. The evaluation must include projected effects on property adjoining the site and on existing drainage facilities and systems. The plan must address the adequacy of outfalls from the development: when water is concentrated, what is the capacity of waterways, if any, accepting stormwater off-site; and what measures, including infiltration, sheeting into buffers, etc., are going to be used to prevent the scouring of waterways and drainage areas off-site, etc.

(m) The projected sequence of work represented by the grading, drainage, and sedimentation and erosion control plans as related to other major items of construction, beginning with the initiation of excavation and including the construction of any sediment basins or detention/retention facilities or any other structural BMPs. Pre-construction vegetative ground cover shall not be disturbed more

than twenty (20) calendar days prior to grading or earth moving unless the area is seeded and mulched or other temporary cover is installed.

(n) Specific remediation measures to prevent erosion and sedimentation run-off. Plans shall include detailed drawings of all control measures used; stabilization measures including vegetation and non-vegetation measures, both temporary and permanent, will be detailed. Detailed construction notes and a maintenance schedule shall be included for all control measures in the plan.

(o) Proposed structures; location and identification of any proposed additional buildings, structures or development on the site.

(p) The erosion control plan shall identify water quality buffer zones that must be established adjacent to all streams, including intermittent streams. The water quality buffer zone shall consist of a setback from the top of the water body's bank of undisturbed vegetation, including trees, shrubs and herbaceous vegetation; enhanced or restored vegetation; or the re-establishment of native vegetation bordering streams, ponds, wetlands, springs, reservoirs or lakes, which exists or is established to protect those water bodies. The purpose of the water quality buffer is to preserve undisturbed vegetation that is native to the streamside habitat in the area of the project. Buffer width will be determined based on the size of the drainage area. Streams or other waters with drainage areas of less than one (1) square mile will require a minimum buffer width of thirty feet (30'). Streams or other waters with drainage areas greater than one (1) square mile will require a minimum buffer width of sixty feet (60'). Drainage areas will be calculated for the lowest point of the stream adjacent to the site. In addition, streams or other waters that are listed by TDEC as impaired or high quality will require a minimum buffer width of sixty feet (60'), regardless of the size of the drainage area. The sixty feet (60') criterion for the width of the buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer zone is more than thirty feet (30') at any measured location. Water quality buffer zones are not sedimentation control measures and shall not be relied on as such. Any construction that must take place within the buffer zone, such as a utility or roadway crossing, must be approved in writing by the department of public works prior to commencement of the project. Approval of construction within the buffer zone will be extremely limited to those uses that are commonly necessary within these areas and that are not extremely intrusive to the area, such as utilities, roadways, footpaths, etc.

In subdivision developments, buffer zones shall be designated as open space rather than be made a part of any individual residential lot. For non-subdivision developments, such as commercial developments, a drainage easement shall be established for the buffer zone. The easement will stipulate that no disturbance can take place without applying for and receiving written approval from the department of public works.

(5) Amendments to the stormwater management plan and/or erosion and sedimentation control plan. Significant changes to a permitted stormwater management plan and/or erosion and sedimentation control plan after approval of the same shall require approval by the department of public works. Work shall not continue on any portion of the plan pending approval of plan amendment. Work that is not related to the modifications being made may continue during the amendment process. Any work performed that is not in accordance with the approved plans is performed at the contractor's risk.

Significant plan changes do not include the location of temporary sedimentation controls. Adjustment to the exact location of temporary sedimentation controls, to better comply with the intent of the erosion and sedimentation control plan, does not require prior approval or resubmittal of plans. Significant changes include, but are not limited to, those that would change the runoff calculations, those that would require changes to the permanent stormwater structures or controls, and those that would require additional permanent stormwater structures or controls. All changes contemplated by the permit holder should be brought to the attention of the department of public works as early as possible to avoid construction delays due to the process. (as added by Ord. #1433, Sept. 2013)

**18-205. Post construction.** (1) As built plans. Applicants may be required to submit as built plans for any structures located on-site after final construction is completed. When required, the plan must show the final design specifications for all stormwater management facilities and must be sealed by a registered professional engineer licensed to practice in Tennessee. A final inspection by the department of public works is required before the final portion of performance bond will be released.

(2) Stabilization requirements. Any area of land from which the natural vegetative cover has been either partially or wholly cleared by development activities shall be revegetated according to a schedule approved by the department of public works. The following criteria shall apply to revegetative efforts:

(a) Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over ninety percent (90%) of the seeded area.

(b) Replanting with native woody herbaceous vegetation must be accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.

(c) Any area of revegetation must exhibit survival of a minimum of seventy-five percent (75%) of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum seventy-five percent (75%) survival for one (1) year is achieved.

(d) Disturbed areas shall be stabilized with vegetation and/or seed and straw mulch within fifteen (15) days of finish grading, as required by the Tennessee Construction Stormwater Permit. Between the dates of November 15<sup>th</sup> and March 1<sup>st</sup>, a bond may be issued for the completion of stabilization work if weather conditions are such that the work cannot be completed. The bond must be issued by the contractor that is permitted for the construction of the project.

(e) Sedimentation controls must be maintained until stabilization efforts have been completed (seeding and mulching, sodding, paving, or gravelling). When sedimentation controls must be removed for temporary installations of stabilization or constructions activities, they must be reinstalled at the end of the day if the stabilization efforts are not completed by the end of the day. Where a bond is issued for stabilization efforts, sedimentation controls must be maintained until the stabilization efforts are completed.

(3) Records of installation and maintenance activities. Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation of the stormwater facility, and of all maintenance and repairs to the facility, and shall retain the records for at least five (5) years. These records shall be made available to the department of public works during inspection of the facility and at other reasonable times upon request.

(4) Failure to meet or maintain design or maintenance standards. If a responsible party fails or refuses to meet the design or maintenance standards required for stormwater facilities under this chapter, the department of public works, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the department of public works shall notify in writing the party responsible for maintenance of the stormwater management facility. Upon receipt of that notice, the responsible party shall effect maintenance and repair of the facility in an approved manner in a time period set by the department of public works. In the event that corrective action is not undertaken within that time, the department of public works may take necessary corrective action. The cost of any action taken by the department of public works under this section shall be charged to the responsible party.

(5) Termination of permit. Once construction has been completed and the site has been stabilized, the permit holder shall request a final inspection from the department of public works. If the department determines that the project is indeed complete, then bonds shall be returned and the codes department will be notified that the project is eligible for a certificate of occupancy from a stormwater perspective. If the department determines that the project is not yet complete, then the permittee will be notified of what corrective measures need to be taken to terminate permit coverage. Bonds will

not be released and a certificate of occupancy will not be issued until this process has been completed. For projects that are covered by the state construction stormwater permit, a copy of the notice of termination that is submitted to the state shall be submitted to the department as well. Acceptance of a notice of termination by the state in no way relieves the permittee from any additional corrective measures required by the department. (as added by Ord. #1433, Sept. 2013)

**18-206. Existing locations and developments.** Adoption of this chapter shall in no way relieve the owners of existing stormwater structures of their responsibilities under previous grading or stormwater ordinances. Existing locations and developments shall comply with the provisions of this chapter to the extent necessary to protect the existing stormwater system and waters of the state. The department of public works shall have the right to require owners of existing stormwater structures to comply with the post construction maintenance and repair provisions of this chapter, or any other provisions as may be deemed necessary to maintain the integrity of the stormwater system. (as added by Ord. #1433, Sept. 2013)

**18-207. Illicit discharges.** (1) Scope. This section shall apply to all water generated on developed or undeveloped land entering the municipality's separate storm sewer system.

(2) Prohibition of illicit discharges. No person shall introduce or cause to be introduced into the municipal separate storm sewer system any discharge that is not composed entirely of stormwater. The commencement, conduct or continuance of any non-stormwater discharge to the municipal separate storm sewer system is prohibited except as follows:

- (a) Water line flushing or other potable water sources;
- (b) Landscape irrigation or lawn watering with potable water;
- (c) Rising ground water;
- (d) Groundwater infiltration to storm drains;
- (e) Pumped groundwater;
- (f) Foundation or footing drains;
- (g) Crawl space pumps;
- (h) Air conditioning condensation;
- (i) Springs;
- (j) Non-commercial washing of vehicles;
- (k) Natural riparian habitat or wetland flows;
- (l) Swimming pools (if dechlorinated to less than one PPM chlorine);
- (m) Fire fighting activities, and
- (n) Any other uncontaminated water source specifically approved by TDEC.
- (o) Discharges specified in writing by the department of public works as being necessary to protect public health and safety.



(3) Prohibition of illicit connections. The construction, use, maintenance or continued existence of illicit connections to the separate municipal storm sewer system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(4) Reduction of stormwater pollutants by use of best management practices. Any person responsible for a property, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, the BMPs necessary to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES pennit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

(5) Notification of spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into stormwater or the municipal separate storm sewer system, the person shall take all necessary steps to ensure the discovery, containment, and clean-up of such release. The department of public works shall be notified of the release within twenty-four (24) hours of the discovery of the release. A written explanation of what caused the release and the actions that were taken to minimize the impacts of the release to the stormwater system and waters of the state shall be submitted to the department of public works within five (5) days of the discovery of the release. (as added by Ord. #1433, Sept. 2013)

**18-208. Priority areas.** (1) Defined. Priority areas are those areas where land use or activities have the potential to generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater. It shall be a violation of this chapter for priority areas to contaminate stormwater runoff in any manner that would violate any water quality standards existing within this chapter or within any state and/or federal documents or regulations. Priority areas may include industrial facilities, certain commercial facilities, large commercial parking areas, and other facilities designated by the department of public works as having the potential to contaminate stormwater runoff from their ongoing activities. Certain priority areas will be regulated by the Tullahoma Department of Public Works as described below.

(2) Industrial and commercial properties. All industrial and commercial properties within Tullahoma shall be prohibited from introducing contaminants into the stormwater system or into waters of the state. To achieve compliance with this requirement, industrial and commercial properties must comply with all applicable local, state, and federal stormwater permitting

requirements. For industrial activities this means compliance with the Tennessee Multi Sector Industrial Permit and all of its provisions, including the development and maintenance of a site specific Stormwater Pollution Prevention Plan (SWPPP) and all monitoring requirements. If the industrial activity is eligible for the NoExposure Certification rather than permit coverage, due to not having any industrial activities exposed to stormwater, then that certification must be obtained and kept current.

(3) Restaurant and grocery store requirements. (a) Written management plan.

(i) Restaurants, grocery stores, and other food preparation facilities shall prepare a written plan outlining the best management practices that will be utilized to minimize impacts from their establishment to the quality or quantity of waters discharged to the Tullahoma MS4.

(ii) For existing facilities, the written plan shall be submitted to the department of public works within ninety (90) days of notification by the department of the necessity of the plan. For new facilities, the plan shall be submitted to the department of public works as part of the initial stormwater management plan. The plan shall be maintained on file at the establishment.

(iii) At a minimum, the plan shall address the following topics:

(A) Methods used to minimize the amount of liquid placed in dumpsters or compactors.

(B) Methods used to keep rain water out of dumpsters.

(C) Methods used to keep leaks and other wastewaters from dumpsters and compactors from entering the storm sewer system.

(D) Procedure used to make sure all waste is contained in dumpsters and compactors.

(E) Schedule for inspection of dumpsters and compactors for leaks or stains and inspection of dumpster and compactor area for litter.

(F) Provisions for the immediate replacement of leaking dumpsters and compactors.

(G) Methods used to keep all washwaters from equipment cleaning areas from entering the storm sewer system.

(b) Best management plan implementation. Within one hundred eighty (180) days of the completion of the written plan, all best management practices required to eliminate impacts to the stormwater system shall be in place and fully implemented.

(c) Training. Within sixty (60) days of the completion of the written plan, all employees shall be trained on the requirements of the

plan and the proper procedures for complying with the plan. Training shall be repeated at least annually or anytime significant changes are made to the plan. Training records that indicate the topics covered and the individuals who were trained shall be maintained at the facility as a part of the written plan.

(d) Sanitary sewer connections. New or additional sanitary sewer connections that are needed to comply with the requirements of this chapter shall be installed under the approval and direction of the Tullahoma Utility Board.

(4) Auto repair and supply shop requirements. (a) Written management plan.

(i) Auto repair shops, auto supply shops, and other auto related facilities that use or collect oils or other automobile fluids shall prepare a written plan outlining the best management practices that will be utilized to minimize impacts from their establishment to the quality or quantity of waters discharged to the Tullahoma MS4.

(ii) The written plan shall be submitted to the department of public works within ninety (90) days of notification by the department of the necessity of the plan. The plan shall be maintained on file at the establishment.

(iii) At a minimum, the plan shall address the following topics:

(A) Methods used to minimize the amount of liquids and greases placed in dumpsters or compactors.

(B) Methods used to keep rain water out of dumpsters.

(C) Methods used to keep leaks and other wastewaters from dumpsters and compactors from entering the storm sewer system.

(D) Procedures used to contain all automotive fluids prior to use or disposal.

(E) Schedule for inspection of dumpsters, compactors, and oil/fluid storage areas for leaks or stains and inspection of dumpster and compactor area for litter.

(F) Provisions for the immediate replacement of leaking dumpsters, compactors, or fluid storage containers.

(G) Details of contracts or arrangements with outside vendors who collect waste oils or other fluids for disposal. Details shall include the name of the vendor, the final disposal or treatment location for the fluids, the method of disposal or treatment of the fluids, and the frequency of pick-up from the facility.

(b) Best management plan implementation. Within one hundred eighty (180) days of the completion of the written plan, all best

management practices required to eliminate impacts to the stormwater system shall be in place and fully implemented.

(c) **Training.** Within sixty (60) days of the completion of the written plan, all employees shall be trained on the requirements of the plan and the proper procedures for complying with the plan. Training shall be repeated at least annually or anytime significant changes are made to the plan. Training records that indicate the topics covered and the individuals who were trained shall be maintained at the facility as a part of the written plan.

(d) **Sanitary sewer connections.** New or additional sanitary sewer connections that are needed to comply with the requirements of this chapter shall be installed under the approval and direction of the Tullahoma Utility Board Wastewater Department. (as added by Ord. #1433, Sept. 2013)

**18-209. General prohibitions.** (1) **Blockage of watercourses or drains.** It shall be unlawful for any person to dump refuse of any nature (including, but not limited to, grass clippings, leaves, brush, garbage, scrap, or any other refuse) into a stream, ditch, storm sewer, or any other drain within the city or to place such refuse or cause such refuse to be placed in a manner in which it is likely to enter into any stream, ditch, storm sewer, or other drain either by natural or other means. It shall be unlawful for any person to cause or allow the obstruction of any watercourse or flow of water either by natural or manmade means. It shall be unlawful to block a watercourse or drain by constructing a fence over the drain in any manner that restricts flow or that can catch debris, thus restricting flow.

(2) **Alteration of watercourses or drains.** It shall be unlawful for any person to cause, permit, or allow the alteration of any stream, ditch, storm sewer or any other drain without written approval from the department of public works and the acquisition of any state permits that may be necessary for the performance of the alterations. Alterations may include, but not be limited to, a change in direction of flow, the addition of a structure such as a culvert or a bridge, or a change in size of a channel or pipe.

(3) **Unpermitted discharge.** It shall be unlawful for any person to discharge stormwater to any stream, ditch, storm sewer or any other storm drain within the city without first obtaining the required state permit coverage as described below:

(i) Construction sites that disturb one (1) acre of land or more or are part of a larger common plan of development must apply for coverage under the Tennessee General Permit for Stormwater Discharges from Construction Activity.

(ii) Industrial facilities must apply for coverage under the Tennessee Stormwater Multi-Sector General Permit for Industrial Activities.

(4) Contamination of stormwater. It shall be unlawful for any industrial, commercial, or residential properties, including but not limited to restaurants, auto repair shops, auto supply shops, and large commercial parking areas, to contaminate stormwater runoff. All numerical or visual effluent limitations set by state permits or regulations shall apply under the provisions of this chapter.

(5) Construction site waste. It shall be unlawful for construction site operators to discard waste, including building materials, concrete truck washout, chemicals, litter, sanitary waste, or any other potential pollutants in a manner that may cause adverse impacts to water quality.

(6) Dumping. It shall be unlawful for any person to dump any liquid waste into any stream, ditch, storm sewer, or any other drain or in any location where it is likely to enter any stream, ditch, storm sewer, or other drain either by natural or other means. Liquid waste may include automotive fluids, wash waters, cleaning fluids, solvents, or any other liquids that could be toxic or otherwise detrimental to the receiving stream or storm sewer system. (as added by Ord. #1433, Sept. 2013)

**18-210. Enforcement.** (1) Enforcement authority. The director of the department of public works or his designees shall have the authority to issue notices of violation and citations, and to impose the civil penalties provided in this section.

(2) Notification of violation. (a) Written notice of violation. Whenever the director of the department of public works finds that any permittee or any other person discharging stormwater has violated or is violating this chapter or a permit or order issued hereunder, the director may serve upon such person written notice of the violation.

Within a time specified in the notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the director. Submission of this plan, as required, in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation.

Where there is work in progress that causes or constitutes in whole or in part, a violation of any provision of this chapter, the city is authorized to issue a notice of violation that requires construction activity to stop immediately so as to prevent further or continuing violations or adverse effects. This notice of violation will serve as a stop work order. All persons to whom the stop work order is directed, or who are involved in any way with the work or matter described in the stop work order shall fully and promptly comply therewith. The city may also undertake or cause to be undertaken, any necessary or advisable protective measures so as to prevent violations of this chapter or to avoid or reduce the effects of noncompliance herewith. The cost of any such protective measures shall be the responsibility of the owner of the property upon which the

work is being done and the responsibility of any person carrying out or participating in the work, and such cost shall be a lien upon the property.

(b) **Administrative orders.** Whenever the director finds that any permittee or other person discharging stormwater has violated this chapter and has failed to respond appropriately to a notice of violation, an administrative order shall be issued as a progressive form of enforcement. The administrative order may include a compliance schedule set by the director and may or may not include a civil penalty. In cases of gross violations of this chapter or a permit issued hereunder, the director may deem it appropriate to issue an administrative order as the initial notice of violation.

(c) **Show cause hearing.** The director may order any person who violates this chapter or a permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the person specifying the time and place for the hearing, the proposed enforcement action and the reasons for such actions, and a request that the violator show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Failure of the violator to show up at the hearing shall result in the initiation of the proposed enforcement action. (as added by Ord. #1433, Sept. 2013)

**18-211. Penalties.** (1) **Violations.** Any person who shall commit any act declared unlawful under this chapter, who violates any provision of this chapter, who violates the provisions of any permit issued pursuant to this chapter, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by the department of public works, shall be guilty of a civil offense.

(2) **Penalties.** Under the authority provided in Tennessee Code Annotated, § 68-221-1106, the municipality declares that any person violating the provisions of this chapter may be assessed a civil penalty by the department of public works of not less than fifty dollars (\$50.00) and not more than five thousand dollars (\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation.

(3) **Measuring civil penalties.** In assessing a civil penalty, the director will follow the provisions of the Enforcement Response Plan (ERP) and will utilize the scoring system outlined in the ERP to set the dollar amount of the penalty. As outlined in the ERP, the director may consider the following factors when determining the amount of the penalty:

- (a) The harm done to public health or the environment;
- (b) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity.
- (c) The economic benefit, if any, gained by the violator;

(d) The amount of effort put forth by the violator to remedy the violation;

(e) Any unusual or extraordinary enforcement costs incurred by the municipality;

(4) Recovery of damages and costs. In addition to the civil penalty, the municipality may recover all damages proximately caused by the violator to the municipality, which may include any reasonable expenses incurred in investigating violations of, and enforcing compliance with, this chapter, or any other actual damages caused by the violation.

(5) Remedies cumulative. The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted.

(6) Chronic violators. The ERP may provide separate categories for chronic violators. (as added by Ord. #1433, Sept. 2013)

**18-212. Appeals.** Pursuant to Tennessee Code Annotated, § 68-221-1106(d), any person aggrieved by the imposition of a civil penalty or damage assessment as provided by this chapter may appeal said penalty or damage assessment to the stormwater board of appeals.

(1) Stormwater board of appeals. (a) There is hereby established a Stormwater Board of Appeals (SWBA) and the board of zoning appeals shall serve as the Stormwater Board of Appeals (SWBA). All meetings of the SWBA shall be open to the public. The time of the meetings shall be announced to the public. A special meeting of the SWBA may be called by its chairman, provided reasonable notice to each board member is given. A record of the proceedings of all meetings of the SWBA shall be kept. The record shall be a public record and shall contain at least the following: The date of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions before the board; a copy of each such motion or resolution presented; and the vote of each member thereon. The attendance of at least a majority of the members of the SWBA shall be required to constitute a quorum for the purpose of transacting business. Matters before the board shall be decided by a majority of the members present if a quorum is constituted.

(b) The SWBA is hereby authorized to hear and decide appeals of any order, decision or ruling of the director of public works or his designee issued pursuant to these regulations. Following the hearing on an application for appeal, the SWBA may affirm, reverse, modify, or remand for more information, the order, decision or ruling of the director of public works or his designee. In no event shall the SWBA issue a decision that in any way conflicts or contradicts these regulations or any other federal, state, or local laws or regulations relating to stormwater, wastewater, zoning, or planning.

(2) Appeals to be in writing. The appeal shall be in writing and filed with the director of public works within thirty (30) days after the civil penalty and/or damage assessment is served in any manner authorized by law.

(3) Public hearing. Upon receipt of an appeal, the stormwater board of appeals shall hold a public hearing within thirty (30) days. At least ten (10) days prior notice of the time, date, and location of said hearing shall be published in a newspaper of general circulation. Ten (10) days notice by registered mail shall also be provided to the aggrieved party, such notice to be sent to the address provided by the aggrieved party at the time of appeal. The decision of the stormwater board of appeals shall be final.

(4) Appealing decisions of the stormwater board of appeals. Any alleged violator may appeal a decision of the stormwater board of appeals pursuant to the provisions of Tennessee Code Annotated, title 27, chapter 8. (as added by Ord. #1433, Sept. 2013, and amended by Ord. #1446, Dec. 2014)

**18-213. Funding mechanisms.** Funding for the stormwater management activities described in this chapter may include, but not be limited to, the following:

- (1) Stormwater user's fees;
- (2) Civil penalties and damage assessments;
- (3) Permit and inspection fees;
- (4) Other funds or income obtained from federal, state, local, and private grants, or revolving funds, and from the Local Government Public Obligations Act of 1986 (Tennessee Code Annotated, title 9, chapter 21).

To the extent that the above listed revenues are insufficient to construct needed stormwater drainage facilities, the cost of the same may be paid from such city funds as may be determined by the municipality's governing body. (as added by Ord. #1433, Sept. 2013)

**18-214. Fee schedule.** (1) Permit review and inspection fees. A fee shall be assessed for each land disturbance and stormwater protection permit as set forth in the following table:

<u>DISTURBED ACREAGE</u>	<u>RESIDENTIAL</u>	<u>COMMERCIAL/INDUSTRIAL</u>
0.01 - 0.99	\$100	\$250
1.00 - 4.99	\$150	\$350
5.00 - 14.99	\$250	\$500
15.00 - 29.99	\$400	\$800
30.00 or more	\$750	\$1,500



The review and inspection fees are based on acreage to be disturbed during the construction of the project. If a proposed acreage of disturbance is not provided, the fee will be based on the total project acreage.

(2) Stormwater user's fee. The governing body shall have the authority to impose, by resolution, on each and every developed property in the city a stormwater user's fee. Prior to establishing or amending user's fees, the municipality shall advertise its intent to do so by publishing notice in a newspaper of general circulation in the city at least thirty (30) days in advance of the meeting of the municipality's governing body which shall consider the adoption of the fee or its amendment.

If the governing body chooses to impose a stormwater user's fee, it shall be based on the establishment of an Equivalent Residential Unit (ERU). The ERU shall be the average square footage of a detached single-family residential property. The city board shall have the discretion to determine the source of the data from which the ERU is established.

(a) Property classifications. For purposes of determining the stormwater user's fee, all properties in the city are classified into one of the following classes:

- (i) Single-family residential property;
- (ii) Other developed property;

(b) Single family residential fee. The municipality's governing body finds that the intensity of development of most parcels of real property in the municipality classified as single family residential is similar and that it would be excessively and unnecessarily expensive to determine precisely the square footage of the improvements (such as buildings, structures, and other impervious areas) on each such parcel. Therefore, all single family residential properties in the city shall be charged a flat stormwater management fee, equal the base rate, regardless of the size of the parcel or the improvements.

(c) Other developed property fee. The fee for other developed property (non-single family residential property) in the municipality shall be set by dividing the total square footage of impervious area of the property by one ERU and then multiplying that factor by the base rate for one ERU. The impervious surface area for other developed property is the square footage for the buildings and other improvements on the property. The minimum stormwater management fee for other developed property shall equal the base rate for single-family residential property.

(d) Base rate. The governing body of the municipality shall establish the base rate for one ERU. The base rate shall be calculated to insure adequate revenues to fund the costs of stormwater management and to provide for the operation, maintenance, and capital improvements of the stormwater system in the city. The base rate will be calculated by dividing the necessary annual revenues for funding the program by the total number of ERUs, as determined by the department, and then dividing by twelve (12) months to make the base rate a monthly value.

(e) Adjustments to stormwater user's fee. The department shall have the right on its own initiative to adjust upward or downward the stormwater user's fee with respect to any property, based on the approximate percentage on any significant variation in the volume or rate of stormwater, or any significant variation in the quality of stormwater, emanating from the property, compared to other similar properties. In making determinations of the similarity of property, the department shall take into consideration the location, geography, size, use, impervious area, stormwater facilities on the property, and any other factors that have a bearing on the variation. Under no circumstances shall a stormwater fee be adjusted to the point that it is below the base rate for one ERU unless the person requesting the adjustment can demonstrate that they do not discharge any stormwater to the MS4 system, in which case the stormwater fee shall be waived.

(f) Property owner to pay stormwater user's fee. For each property for which a stormwater fee is assessed, the stormwater fee shall be paid by the owner of the property. This person shall be designated as the user of the stormwater system.

(g) Stormwater user's fee payment. Payment of the stormwater user's fee shall be made in person or by mail along with the bill to which it is attached. The due date of the stormwater fee shall be as indicated on the bill. The municipality shall be entitled to recover legal fees incurred in collecting delinquent stormwater fees.

(h) Appeal of fees. Any person who disagrees with the calculation of the stormwater user's fee, as provided in this chapter, or who seeks a stormwater user's fee adjustment based upon stormwater management practices, may appeal such fee determination to the director of the department of public works. The appeal shall be filed in writing and shall state the grounds for the appeal. The director may request additional information from the appealing party. Based upon the information provided by the department and the appealing party, the director shall make a final calculation of the stormwater user's fee. The director shall notify the appealing party, in writing, of its decision. (as added by Ord. #1433, Sept. 2013)

**18-215. Floodway/floodway fringe requirements.** (1) Purpose. It is the purpose of this section to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas. This section is designed to:

(a) Restrict or prohibit uses which are vulnerable to water or erosion hazards, or which cause damaging increases in erosion, flood heights, or flow velocities;

(b) Control filling, grading, dredging and other development which may increase erosion or flood damage;

(c) Control the alteration of natural floodplains, stream channels, and natural protective barriers which accommodate flood waters;

(d) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards.

(2) Flood districts. The City of Tullahoma shall recognize two (2) distinct flood districts within the boundaries of the municipality. The two (2) flood districts are described as follows:

(a) Floodway district. The floodway shall be described as that area including the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation. The floodway district shall be defined in one (1) of the two (2) following ways:

(i) Most streams within the City of Tullahoma have been mapped by the Federal Emergency Management Agency (FEMA) to show the floodway and other flood districts. Where FEMA has established the floodway on official Community Panel Maps, then the city shall use the floodway designation provided by FEMA.

(ii) Not all streams have been mapped by FEMA to show floodway areas. For those streams where the floodway has not been mapped by FEMA, the floodway shall be defined as an area on each side of the stream that is equal to two widths of the stream. The floodway area shall be measured from the edge of water when the stream is at normal flow conditions.

(b) Floodway fringe district. The floodway fringe district shall be described as the area between the floodway boundary and the one hundred (100) year floodplain boundary. The flood fringe district shall be defined in one (1) of the two (2) following ways:

(i) Most streams within the City of Tullahoma have been mapped by FEMA to show the one hundred (100) year floodplain boundary and the floodway. Where FEMA has established the one hundred (100) year floodplain boundary on official community panel maps, then the city shall use the flood fringe designation provided by FEMA.

(ii) Not all streams have been mapped by FEMA to show the one hundred (100) year floodplain areas. Areas designated as Zone A on the community panel maps are an approximation of the one hundred (100) year floodplain boundary, but no base flood elevation has been established. For those areas designated on the community panel maps as Zone A, the one hundred (100) year floodplain shall be designated as an area that extends one hundred feet (100'), in every direction, beyond the Zone A area shown.

The area designated as floodway fringe on unmapped streams may be challenged by the applicant for any land disturbance and stormwater protection permit. The applicant may

choose to determine a base flood elevation for the area using one of the methods described in FEMA Manual 265, titled "Managing Floodplain Development in Approximate Zone A Areas - A Guide for Obtaining and Developing Base Flood Elevations," dated April 1995. All data utilized to obtain the base flood elevation shall be submitted to the department of public works for review and approval.

(3) Generally acceptable uses in flood prone districts. All land disturbing activities require that a permit application be submitted to the department of public works, but in general, the following types of activities will be considered for approval within flood prone districts:

(a) Floodway district. Land use activities are highly restricted within floodway districts. Only land use activities that do not result in a restriction to the flows of the floodway will be accepted. Typical uses that can be approved within the floodway district include projects such as sidewalks, underground utilities, and certain types of recreational facilities. Land disturbance activities that fall within the buffer zone requirements of § 18-204(4)(p) of this chapter must receive a buffer zone variance to develop property within the buffer zone.

(b) Flood fringe district. Land disturbance activities are much less restricted within the flood fringe district but will require that certain conditions be met as a part of the development. Land use activities in the flood fringe district can include the construction of structures, including those that are intended for housing purposes.

(4) Permit requirements. All proposed land disturbance activities within either of the flood districts will require that a land disturbance and stormwater protection permit be issued prior to the start of construction. In addition to the requirements of § 18-204(3) of this chapter, the following information shall be provided with the permit application:

(a) Floodway district. For proposed developments within the floodway district to be considered, the application must satisfactorily demonstrate that the project will have no effect on the base flood elevations of the floodway either during or after construction. Developments that include above ground structures or fill material will not generally be accepted.

(b) Flood fringe district. For proposed developments within the flood fringe district, the application shall demonstrate how the following conditions will be met:

(i) All fill material that is placed in the flood fringe at or below the base flood elevation must be offset by an equal volume of cut material removed from the same elevation as the fill and must be removed from the flood fringe area completely.

(ii) No building or structure shall be erected and no existing building or structure shall be extended or moved unless the main floor of said building or structure is placed at least one

foot (1') above the base flood elevation. An elevation certificate shall be submitted and approved. No basement floor or other floor shall be constructed below or at a lower elevation than the main floor. Foundations of all structures shall be designed and constructed to withstand flood conditions at the site.

(iii) Fill material placed for a structure shall extend twenty-five feet (25') beyond the limits of any structure erected thereon. Minimum fill elevation shall be to at least the base flood elevation. Fill shall consist of soil or rock materials only and shall be thoroughly compacted to prevent excessive settlement and shall be protected from erosion. Fill slopes shall not be steeper than one foot (1') vertical to two feet (2') horizontal unless steeper slopes are justified and approved by the department of public works. (as added by Ord. #1433, Sept. 2013)

## CHAPTER 3

### CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.<sup>1</sup>

#### SECTION

- 18-301. Definitions.
- 18-302. Regulations.
- 18-303. Cross connection prohibited.
- 18-304. Statement required.
- 18-305. Inspection.
- 18-306. Right of entry.
- 18-307. Correction time designated.
- 18-308. Protective device required.
- 18-309. Labeling.
- 18-310. Enforcement.
- 18-311. Violation; penalty.

**18-301. Definitions.** The following definitions and terms shall apply in the interpretation and enforcement of this chapter:

(1) "Public water supply." The waterworks system furnishing water to the City of Tullahoma, Tennessee, for general use and which supply is recognized as the public water supply by the Tennessee Department of Health.

(2) "Cross connection." Any physical connection whereby the public water supply is connected with any other water supply system, whether public or private, either inside or outside of any building or buildings, in such manner that a flow of water into the public water supply is possible either through the manipulation of valves or because of any other arrangement.

(3) "Auxiliary intake." Any piping connection or other device whereby water may be secured from a source other than that normally used.

(4) "Bypass." Any system of piping or other arrangement whereby the water may be diverted around any part or portion of a water purification plant.

(5) "Interconnection." Any system of piping or other arrangement whereby the public water supply is connected directly with a sewer, drain, conduit, pool, storage reservoir, or other device which does or may contain sewage or other waste or liquid which would be capable of imparting contamination to the public water supply.

(6) "Person." Any and all persons, natural or artificial, including any individual, firm, or association, and any municipal or private corporation organized or existing under the laws of this or any other state or country. (1988 Code, § 8-501)

---

<sup>1</sup>Municipal code references

Plumbing code: title 12.

Water and sewer system administration: title 18.

Wastewater treatment: title 18.

**18-302. Regulations.** The Tullahoma, Tennessee Public Water Supply is to comply with Tennessee Code Annotated, §§ 68-221-701 through 68-221-720 as well as the Rules and Regulations for Public Water Supplies, legally adopted in accordance with this code, which pertain to cross connections, auxiliary intakes, bypasses, and interconnections, and establish an effective ongoing program to control these undesirable water uses. (1988 Code, § 8-502)

**18-303. Cross connection prohibited.** It shall be unlawful for any person to cause a cross connection to be made, or allow one to exist for any purpose whatsoever, unless the construction and operation of same have been approved by the Tennessee Department of Health and the operation of such cross connection, auxiliary intake, bypass or interconnection is at all times under the direct supervision of the Manager of the Tullahoma Utilities Board of the City of Tullahoma, Tennessee. (1988 Code, § 8-503)

**18-304. Statement required.** Any person whose premises are supplied with water from the public water supply and who also has on the same premises a separate source of water supply, or stores water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with the Manager of the Tullahoma Utilities Board a statement of the non-existence of unapproved or unauthorized auxiliary intakes, bypasses, or interconnections. Such statement shall also contain an agreement that no cross connection, auxiliary intake, bypass, or interconnection will be permitted upon the premises. (1988 Code, § 8-504)

**18-305. Inspection.** It shall be the duty of the Tullahoma, Tennessee Public Water Supply to cause inspections to be made of all properties served by the public water supply where cross connections with the public water supply are deemed possible. The frequency of inspections and reinspections, based on potential health hazards involved shall be established by the Manager of the Tullahoma Utilities Board of the Tullahoma, Tennessee Public Water Supply and as approved by the Tennessee Department of Health. (1988 Code, § 8-505)

**18-306. Right of entry.** The Manager of the Tullahoma Utilities Board or authorized representative shall have the right to enter, at any reasonable time, any property served by a connection to the Tullahoma Public Water Supply for the purpose of inspecting the piping system or systems thereof for cross connections, auxiliary intakes, bypasses, or interconnections. On request, the owner, lessee, or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections. (1988 Code, § 8-506)

**18-307. Correction time designated.** Any person who now has cross connections, auxiliary intakes, bypasses, or interconnections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with the provisions of this chapter. After a thorough investigation of existing conditions and an appraisal of the time required to complete the work, the amount of time shall be designated by the Manager of the Tullahoma Utilities Board of the Tullahoma, Tennessee Public Water Supply. The failure to correct conditions threatening the safety of the public water system as prohibited by this chapter and the Tennessee Code Annotated, § 68-221-711, within a reasonable time and within the time limits set by the Tullahoma, Tennessee Public Water Supply, shall be grounds for denial of water service. If proper protection has not been provided after a reasonable time, the utility shall give the customer legal notification that water service is to be discontinued and shall physically separate the public water supply from the customer's on-site piping system in such a manner that the two systems cannot again be connected by an unauthorized person.

Where cross connections, interconnections, auxiliary intakes, or bypasses are found that constitute an extreme hazard of immediate concern of contaminating the public water system, the manager of the utility shall require that immediate corrective action be taken to eliminate the threat to the public water system. Immediate steps shall be taken to disconnect the public water supply from the on-site piping system unless the imminent hazard(s) is (are) corrected immediately. (1988 Code, § 8-507)

**18-308. Protective device required.** Where the nature of use of the water supplied a premises by the water department is such that it is deemed:

(1) Impractical to provide an effective air-gap separation.

(2) That the owner and/or occupant of the premises cannot, or is not willing, to demonstrate to the official in charge of the system, or his designated representative, that the water use and protective features of the plumbing are such as to pose no threat to the safety or potability of the water supply.

(3) That the nature and mode of operation within a premises are such that frequent alterations are made to the plumbing.

(4) There is a likelihood that protective measures may be subverted, altered, or disconnected, the Manager of the Tullahoma Utilities Board of Tullahoma, Tennessee Public Water Supply, or his designated representative, shall require the use of an approved protective device on the service line serving the premises to assure that any contamination that may originate in the customer's premises is contained therein.

The protective device shall be a reduced pressure zone type backflow preventer approved by the Tennessee Department of Health as to manufacture, model, and size. The method of installation of backflow protective devices shall be approved by the Manager of the Tullahoma Utilities Board Public Water Supply prior to installation and shall comply with the criteria set forth by the



Tennessee Department of Health. The installation shall be at the expense of the owner or occupant of the premises.

Personnel of the Tullahoma, Tennessee Public Water Supply shall have the right to inspect and test the device or devices on an annual basis or whenever deemed necessary by the Manager of the Tullahoma Utilities Board or his designated representative. Water service shall not be disrupted to test the device without the knowledge of the occupant of the premises.

Where the use of water is critical to the continuance of normal operations or protection of life, property, or equipment, duplicate units shall be provided to avoid the necessity of discontinuing water service to test or repair the protective device or devices. Where it is found that only one unit has been installed and the continuance of service is critical, the Manager of the Tullahoma Utilities Board shall notify, in writing, the occupant of the premises of plans to discontinue water service and arrange for a mutually acceptable time to test and/or repair the device. The water supply shall require the occupant of the premises to make all repairs indicated promptly, to keep the unit(s) working properly, and the expense of such repairs shall be borne by the owner or occupant of the premises. Repairs shall be made by qualified personnel acceptable to the Manager of the Tullahoma Utilities Board of the Tullahoma, Tennessee Public Water Supply.

If necessary, water service shall be discontinued (following legal notification) for failure to maintain backflow prevention devices in proper working order. Likewise, the removal, bypassing, or altering of the protective device(s) or the installation thereof so as to render the device(s) ineffective shall constitute grounds for discontinuance of water service. Water service to such premises shall not be restored until the customer has corrected or eliminated such conditions or defects to the satisfaction of the Tullahoma, Tennessee Public Water Supply. (1988 Code, § 8-508)

**18-309. Labeling.** The potable water supply made available to premises served by the public water supply shall be protected from possible contamination as specified herein. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

WATER UNSAFE

FOR DRINKING

Minimum acceptable sign shall have black letters at least one-inch high located on a red background. (1988 Code, § 8-509)

**18-310. Enforcement.** The requirements contained herein shall apply to all premises served by the Tullahoma, Tennessee Water System whether located inside or outside the corporate limits and are hereby made a part of the

conditions required to be met for the city to provide water services to any premises. Such action, being essential for the protection of the water distribution system against the entrance of contamination which may render the water unsafe healthwise, or otherwise undesirable, shall be enforced rigidly without regard to location of the premises, whether inside or outside the Tennessee corporate limits. (1988 Code, § 8-510)

**18-311. Violation; penalty.** Any person who neglects or refuses to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction therefor, shall be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00), and each day of continued violation after conviction shall constitute a separate offense. (1988 Code, § 8-511)

**CHAPTER 4**

**WATER**

**SECTION**

18-401. Fluoridation of water supply authorized; cost.

**18-401. Fluoridation of water supply authorized; cost.** The water department of the city is hereby authorized and instructed to fluoridate the water supply of the city. The cost of such fluoridation will be borne by the revenues of the water department of the city. (1988 Code, § 13-201)