

**TITLE 18**

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

**CHAPTER**

1. WATER.
2. SEWER USE AND WASTEWATER TREATMENT.
3. STORMWATER.

**CHAPTER 1**

**WATER**

**SECTION**

18-101. To be furnished by utility district.

**18-101. To be furnished by utility district.** Water service shall be furnished for the city and its inhabitants by the Hamilton County Water and Wastewater Treatment Authority. (2007 Code, § 18-101, modified)

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<sup>1</sup>Municipal code references

Building, utility and residential codes: title 12.

Refuse disposal: title 17.

## CHAPTER 2

### SEWER USE AND WASTEWATER TREATMENT

#### SECTION

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**18-201. Purpose and policy.** This chapter sets forth uniform requirements for the disposal of wastewater in the service area of the City of Soddy-Daisy, Tennessee, wastewater treatment system. By contract, the City of Soddy-Daisy's wastewater collection system is owned and operated by the Hamilton County Water and Wastewater Treatment Authority ("WWTA"). The objectives of this chapter are:

- (1) To protect the public health;
- (2) To provide problem free wastewater collection and transmission to the POTW treatment plant;
- (3) To prevent the introduction of pollutants into the POTW, which will interfere with the operation of the POCS and RWTF or contaminate the sewage sludge, and to prevent the introduction of pollutants into the POCS which will pass through the RWTF into the receiving waters or the atmosphere, or otherwise be incompatible with or damage the RWTF, and to improve opportunities to recycle and reclaim wastewaters and the sludges resulting from wastewater treatment;
- (4) To provide for full and equitable distribution of the cost of the wastewater treatment system; and
- (5) To enable the City of Soddy-Daisy and the WWTA to comply with the provisions of the Federal Water Pollution Control Act, the General Pretreatment Regulations (40 CFR part 403), and other applicable federal, and state laws and regulations.

In meeting these objectives, this chapter provides that all persons in the service area of the City of Soddy-Daisy must have adequate wastewater disposal either in the form of a connection to the municipal wastewater system or, where the system is not available, an appropriate private disposal system. The chapter also provides for the issuance of permits to system users, for the regulations of wastewater discharge volume and characteristics, for monitoring and enforcement activities; and for the setting of fees for the full and equitable distribution of costs resulting from the operation, maintenance, and capital recovery of the wastewater treatment system and from other activities required by the enforcement and administrative program established herein.

This chapter shall apply to the City of Soddy-Daisy, Tennessee, and to persons outside the city who are, by contract or agreement with the city, users of the municipal wastewater treatment system. Except as otherwise provided herein, except as delegated to the WWTA, the City Manager of the City of Soddy-Daisy shall administer, implement, and enforce the provisions of this chapter. (2007 Code, § 18-201, modified)

**18-202. Definitions.** Unless the context specifically indicates 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. §§ 1251, *et seq.*

(2) "Approval authority." The director in an NPDES state with an approved state pretreatment program and the administrator of the EPA in a non-NPDES state or NPDES state without an approved state pretreatment program.

(3) "Authorized representative of industrial user." An authorized representative of an industrial user may be:

(a) A principal executive officer of at least the level of vice-president, if the industrial user is a corporation;

(b) A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively; or

(c) A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

(4) "Biochemical oxygen demand (BOD)." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five (5) days at twenty degrees (20°) Celsius expressed in terms of weight and concentration (milligrams per liter (mg/l)).

(5) "Building sewer." A sewer conveying wastewater from the premises of a user to a community sewer.

(6) "Categorical standards." The national categorical pretreatment standards or pretreatment standard.

(7) "City." The City of Soddy-Daisy, a municipal corporation.

(8) "City manager." The city manager or person designated by him to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this chapter, or his duly authorized representative. For the purposes of this chapter, the WWTA, its agents and employees, are authorized representatives of the city manager.

(9) "Compatible pollutant." BOD, suspended solids, pH, fecal coliform bacteria, and such additional pollutants as are now or may in the future be specified and controlled in the intermunicipal agreement.

(10) "Control authority." The "approval authority," defined herein above; or the city manager if the city has an approved pretreatment program under the provisions of 40 CFR § 403.11.

(11) "Cooling water." The water discharge from any use such as air conditioning, cooling, or refrigeration, or to which the only pollutant added is heat.

(12) "Customer." Any individual, partnership, corporation, association, or group who receives sewer service from the city under either an express or implied contract requiring payment to the city for such service.

(13) "Direct discharge." The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(14) "Domestic wastewater." Wastewater that is generated by a single family, apartment or other dwelling unit or dwelling unit equivalent or commercial establishment containing sanitary facilities for the disposal of wastewater and used for residential or commercial purposes only.

(15) "Environmental Protection Agency" or "EPA." The U.S. Environmental Protection Agency, or where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of the said agency.

(16) "Garbage." Solid wastes generated from any domestic, commercial or industrial source.

(17) "Grab sample." A sample which is taken from a waste stream on a one (1) time basis with no regard to the flow in the waste stream and without consideration of time.

(18) "Holding tank waste." Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(19) "Incompatible pollutant." Any pollutant which is not a "compatible pollutant" as defined in this section.

(20) "Indirect discharge." The discharge or the introduction of non-domestic pollutants from any source regulated under section 307(b) or (c) of the Act (33 U.S.C. § 1317), into the POTW (including holding tank waste discharged into the system).

(21) "Industrial user." A source of indirect discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to section 402 of the Act (33 U.S.C. § 1342).

(22) "Interference." The inhibition or disruption of the municipal wastewater processes or operations which contributes to a violation of any requirement of the intermunicipal agreement.

(23) "Mass emission rate." The weight of material discharged to the community sewer system during a given time interval. Unless otherwise specified, the mass emission rate shall mean pounds per day of the particular constituent or combination of constituents.

(24) "Maximum concentration." The maximum amount of a specified pollutant in a volume of water or wastewater.

(25) "National categorical pretreatment standard or pretreatment standard." Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 U.S.C. § 1347) which applies to a specific category of industrial users.

(26) "New source." Any source, the construction of which is commenced after the publication of proposed regulations prescribing a section 307(c) (33 U.S.C. § 1317) categorical pretreatment standard which will be applicable to such source, if such standard is thereafter promulgated within one hundred twenty (120) days of proposal in the Federal Register. Where the standard is promulgated later than one hundred twenty (120) days after proposal, a "new source" means any source, the construction of which is commenced after the date of promulgation of the standard.

(27) "NPDES (National Pollution Discharge Elimination System)." The program for issuing, conditioning, and denying permits for the discharge of pollutants from point sources into navigable waters, the contiguous zone, and the oceans pursuant to section 402 of the Federal Water Pollution Control Act, as amended.

(28) "Person." Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine and the singular shall include the plural where indicated by the context.

(29) "pH." The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

(30) "Pollutant." Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharge into water.

(31) "Pollution." The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(32) "POTW treatment plant." The wastewater treatment plant as owned and operated by the City of Chattanooga and that portion of the POTW designed to provide treatment to wastewater.

(33) "Pretreatment" or "treatment." The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical, biological processes, or process changes or other means, except as prohibited by 40 CFR § 40.36(d).

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

(35) "Publicly-Owned Treatment Works (POTW)." A treatment works as defined by section 212 of the Act, (33 U.S.C. § 1292) which is owned in this instance by the WWTA for the benefit of the City of Soddy-Daisy. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this chapter, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the City of Soddy-Daisy who are, by contract or agreement with the City of Soddy-Daisy or the WWTA, users of the city's POTW.

(36) "Shall." Mandatory; "may" is permissive.

(37) "Slug." Any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentrations of flows during normal operation or any discharge of whatever duration that causes the sewer to overflow or back up in an objectionable way or any discharge of whatever duration that interferes with the proper operation of the wastewater treatment facilities or pumping stations.

(38) "Standard Industrial Classification (SIC)." A classification pursuant to the *Standard Industrial Classification Manual* issued by the Executive Office of the President, Office of Management and Budget, 1972.

(39) "State." The State of Tennessee.

(40) "Storm sewer or storm drain." A pipe or conduit which carries storm and surface waters and drainage, but excludes sewage and industrial wastes. It may, however, carry cooling waters and unpolluted waters, upon approval of the city manager.

(41) "Stormwater." Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(42) "Suspended solids." The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids and that is removable by laboratory filtering.

(43) "Toxic pollutant." Any pollutant or combination of pollutants listed as toxic in regulations published by the Administrator of the Environmental

Protection Agency under the provision of CWA 307(a) (33 U.S.C. § 1317) or other acts.

(44) "Twenty-four (24) hour flow proportional composite sample." A sample consisting of several sample portions collected during a twenty-four (24) hour period in which the portions of a sample are proportioned to the flow and combined to form a representative sample.

(45) "User." Any person who contributes, causes or permits the contribution of wastewater into the city's POTW.

(46) "Wastewater." The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, which is contributed into or permitted to enter the POTW.

(47) "Wastewater treatment systems." Defined the same as POTW.

(48) "Waters of the state." All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and other bodies of accumulation of water surface or underground, natural or artificial, public or private, that are contained within, flow through, or border upon the state or any portion thereof.

(49) "WWTA." The Hamilton County Water and Wastewater Treatment Authority. By contract, the WWTA owns and operates the City of Soddy-Daisy's Waterwater Collection System. (2007 Code, § 18-202, modified)

**18-203. Connection to public sewers.** (1) Requirements for proper wastewater disposal. (a) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the service area of the City of Soddy-Daisy, any human or animal excrement, garbage, or other objectionable waste.

(b) It shall be unlawful to discharge to any waters of the state within the service area of the city any sewage or other polluted waters, except where suitable treatment has been provided in accordance with provisions of this chapter.

(c) Except as herein provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(d) Except as provided in § 18-203(1)(f) and (g) below, the owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the service area in which there is now located or may in the future be located a public sanitary sewer, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of the chapter, within sixty (60) days after date of official notice to do so; provided that said public sewer is within five hundred feet (500') of the property line over public access.

(e) The owner of a manufacturing facility may discharge wastewater to the waters of the state; provided that he obtains an NPDES permit and meets all requirements of the Federal Clean Water Act, the NPDES permit, and any other applicable local, state, or federal statutes and regulations.

(f) Where a public sanitary sewer is not available under the provisions of § 18-203(1)(d) above, the building sewer shall be connected to a private sewage disposal system complying with the provisions of § 18-204 of this chapter.

(g) Where a public or private water supply is not available and plumbing is not a part of the construction of the building, a sanitary pit privy shall be provided in accordance with § 18-204 of this chapter.

(2) Physical connection public sewer. (a) No person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without obtaining a written permit from the WWTA as required by § 18-206 of this chapter.

The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the WWTA. A connection fee shall be paid to the city at the time the application is filed.

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

(c) A separate and independent building sewer shall be provided for every building; except where one (1) building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one (1) building sewer.

(d) Old building sewers may be used in connection with new buildings, only when they are found, on examination and tested by the owner, to meet all requirements of this chapter. Tests shall be performed to the satisfaction of the WWTA. All others must be sealed to the specifications of the WWTA.

(e) Building sewers shall conform to the following requirements:

(i) The minimum size of a building sewer shall be as follows:

Conventional sewer system: Four inches (4").

(ii) The minimum depth of a building sewer shall be eighteen inches (18").

(iii) Building sewers shall be laid on the following grades:



Four inch (4") sewers: One eighth inch (1/8") per foot.

Larger building sewers shall be laid on a grade that will produce a velocity, when flowing full, of at least two feet (2') per second.

(iv) Slope and alignment of all building sewers shall be neat and regular.

(v) Building sewers shall be constructed only of ductile iron pipe class 50 or polyvinyl chloride pipe SDR-35 for gravity sewers. Joints shall be rubber or neoprene "o" ring compression joints. No other joints shall be acceptable.

(vi) A cleanout shall be located five feet (5') outside of the building, one (1) as it crosses the property line and one (1) at each change of direction of the building sewer which is greater than forty five (45) degrees. Additional cleanouts shall be placed not more than seventy-five feet (75') apart in horizontal building sewers of six inch (6") nominal diameter and not more than one hundred feet (100') apart for larger pipes. Cleanouts shall be extended to or above the finished grade level directly above the place where the cleanout is installed. A "Y" (wye) and one eighth (1/8) bend shall be used for the cleanout base. Cleanouts shall not be smaller than four inches (4").

(vii) Connections of building sewers to the public sewer system shall be made at the appropriate existing wyes or tee branch using compression type couplings or collar type rubber joint with stainless steel bands. Where existing wye or tee branches are not available, connections of building services shall be made by either removing a length of pipe and replacing it with a wye or tee fitting using flexible neoprene adapters with stainless steel bands of a type approved by the WWTA.

(viii) The building sewer may be brought into the building below the basement floor when gravity flow from the building to the sanitary sewer is at a grade of one-eighth inch (1/8") per foot or more if possible. In cases where basement or floor levels are lower than the ground elevation at the point of connection to the sewer, adequate precautions by installation of check valves or other backflow prevention devices to protect against flooding shall be provided by the owner. In all buildings in which any building sewer is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building sewer shall be lifted by a pump and discharged to the community sewer at the expense of the owner.

(ix) The methods to be used in excavating, placing of pipe, jointing, testing, backfilling the trench, or other activities in the construction of a building sewer which have not been described

above shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city or to the procedures set forth in appropriate specifications of the ASTM and *Water Pollution Control Federal Manual of Practice No. 9*. Any deviation from the prescribed procedures and materials must be approved by the WWTA before installation.

(x) An installed building sewer shall be gastight and watertight.

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

(g) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, basement drains, or other sources of surface runoff or groundwater to a building directly or indirectly to a public sanitary sewer.

(3) Inspection of connections. (a) The sewer connection and all building sewers from the building to the public sewer main line shall be inspected before the underground portion is covered, by the city manager or his authorized representative.

(b) The applicant for discharge shall notify the WWTA when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the city manager or his representative.

(4) Maintenance of building sewers. Each individual property owner or user of the POTW shall be entirely responsible for the maintenance which will include repair or replacement of the building sewer as deemed necessary by the WWTA to meet specifications of the WWTA. (2007 Code, § 18-203, modified)

**18-204. Private domestic wastewater disposal. (1) Availability.**

(a) Where a public sanitary sewer is not available under the provisions of § 18-203(1)(d), but the structure, building or residence has plumbing and is using a water supply, either public or private, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this section.

(b) Where a public sanitary sewer is not available under provisions of § 18-203(1)(d) and a public or private water supply is not available, a sanitary pit privy may be used.

(c) Any residence, office, recreational facility, or other establishment used for human occupancy where the building drain is below the elevation to obtain a grade equivalent to one-eighth inch (1/8") per foot in the building sewer but is otherwise accessible to a public sewer

as provided in § 18-203, the owner shall provide a private sewage pumping station as provided in § 18-203(2)(e)(viii).

(d) Where a public sewer becomes available, the building sewer shall be connected to said sewer within sixty (60) days after date of official notice from the city or WWTa to do so.

(2) Requirements. (a) A sanitary pit privy or private domestic wastewater disposal system may not be constructed within the service area unless and until a certificate is obtained from the city manager stating that a public sewer is not accessible to the property and no such sewer is proposed for construction in the immediate future. No certificate shall be issued for any private domestic wastewater disposal system employing subsurface soil absorption facilities where the area of the lot is less than that specified by the Hamilton County Health Department.

(b) Before commencement of construction of a private sewage disposal system the owner shall first obtain written permission from the Hamilton County Health Department. The owner shall supply any plans, specifications, and other information as are deemed necessary by the Hamilton County Health Department.

(c) A private sewage disposal system shall not be placed in operation until the installation is completed to the satisfaction of the Hamilton County Health Department. They shall be allowed to inspect the work at any stage of construction, and the owner shall notify the Hamilton County Health Department when the work is ready for final inspection, before any underground portions are covered. The inspection shall be made within a reasonable period of time after the receipt of notice by the Hamilton County Health Department.

(d) The type, capacity, location, and layout of a private sewage disposal system shall comply with all recommendations of the Department of Health and Environment of the State of Tennessee, and the Hamilton County Health Department. No septic tank or cesspool shall be permitted to discharge to waters of Tennessee.

(e) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city. When the public sewer becomes available, the building sewer, or the septic tank effluent line shall be connected to the public sewer within sixty (60) days of the date of availability and the private sewage disposal system should be cleaned of sludge and if no longer used as a part of the city's treatment system, filled with suitable material.

(f) No statement contained in this chapter shall be construed to interfere with any additional or future requirements that may be imposed by the City of Soddy-Daisy, the WWTa and the Hamilton County Health Department. (2007 Code, § 18-204, modified)

**18-205. Regulation of holding tank waste disposal.** No person, firm, association or corporation shall dump, drain, or flush any septic tank waste or any other type of wastewater or excreta from a private disposal system into the Soddy-Daisy sewer system. (2007 Code, § 18-205)

**18-206. Application for domestic wastewater connection 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 city 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 city sewer shall not be made until the application is received and approved by the WWTa, the building sewer is installed in accordance with § 18-203 of this chapter, and an inspection has been performed by the city manager or his representative.

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

(2) Industrial wastewater discharge permits. (a) General requirements. All industrial users proposing to connect to or to contribute to the POTW shall obtain a wastewater discharge permit before connecting to or contributing to the POTW. All existing industrial users connected to or contributing to the POTW shall acquire a permit within one hundred eighty (180) days after the effective date of this chapter.

(b) Applications. Applications for wastewater discharge permits shall be required as follows:

(i) Users required to obtain a wastewater discharge permit shall complete and file with the city manager, an application on a prescribed form accompanied by the appropriate fee. Existing users shall apply for a wastewater contribution permit within sixty (60) days after the effective date of this chapter, and proposed new users shall apply at least sixty (60) days prior to connecting to or contributing to the POTW.

(ii) The application shall be in the prescribed form of the city and shall include, but not be limited to, the following information: name, address, and SIC number of applicant; wastewater volume; wastewater constituents and characteristics, including, but not limited to, those mentioned in § 18-207(12) and (13) discharge variations—daily, monthly, seasonal and thirty (30) minute peaks; a description of all chemicals handled on the

premises, each produce produced by type, amount, process or processes and rate of production, type and amount of raw materials, number and type of employees, hours of operation, site plans, floor plans, mechanical and plumbing plans and details showing all sewers and appurtenances by size, location and elevation; a description of existing and proposed pretreatment and/or equalization facilities, and any other information deemed necessary by the city manager.

(iii) Any user who elects or is required to construct new or additional facilities for pretreatment shall as part of the application for wastewater discharge permit submit plans, specifications and other pertinent information relative to the proposed construction to the WWTA for approval. Plans and specifications submitted for approval must bear the seal of a professional engineer registered to practice engineering in the State of Tennessee. A wastewater discharge permit shall not be issued until such plans and specifications are approved. Approval of such plans and specifications shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this chapter.

(iv) If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the application shall include the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. For the purpose of this subsection, "pretreatment standard," shall include either a national pretreatment standard or a pretreatment standard imposed by § 18-207 of this chapter.

(v) The WWTA will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the city may issue a wastewater discharge permit subject to terms and conditions provided herein.

(vi) The receipt by the WWTA of a prospective customer's application for wastewater discharge permit shall not obligate the WWTA to render the wastewater collection and treatment service. If the service applied for cannot be supplied in accordance with this chapter or the WWTA's rules and regulations and general practice, the application shall be rejected and there shall be no liability of the WWTA to the applicant for such service.

(vii) The city manager or WWTA will act only on applications containing all the information required in this section. Persons who have filed incomplete applications will be notified by

the WWTA that the application is deficient and the nature of such deficiency and will be given thirty (30) days to correct the deficiency. If the deficiency is not corrected within thirty (30) days or within such extended period as allowed by the WWTA, the city manager shall deny the application and notify the applicant in writing of such action.

(c) Permit conditions. Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by the WWTA. Permits may contain the following:

(i) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;

(ii) Limits on the average and maximum rate and time of discharge or requirements and equalization;

(iii) Requirements for installation and maintenance of inspections and sampling facilities;

(iv) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests and reporting schedule;

(v) Compliance schedules;

(vi) Requirements for submission of technical reports or discharge reports;

(vii) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the city, and affording city access thereto;

(viii) Requirements for notification of the city of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;

(ix) Requirements for notification of slug discharged; and

(x) Other conditions as deemed appropriate by the city to ensure compliance with this chapter.

(d) Permit modifications. Within nine (9) months of the promulgation of a national categorical pretreatment standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. A user with an existing wastewater discharge permit shall submit to the WWTA within one hundred eighty (180) days after the promulgation of an applicable federal categorical pretreatment standard the information required by § 18-206(2)(b)(ii) and (iii). The terms and conditions of the permit may be subject to modification by the WWTA during the term of the permit as limitations or requirements are modified or other just cause exists. The user shall be informed of any proposed changes in this 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.

(e) Permits duration. Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of one hundred eighty (180) days prior to the expiration of the user's existing permit.

(f) Permit transfer. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the approval of the city. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit.

(g) 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; or

(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.

(3) Confidential information. All information and data on a user obtained from reports, questionnaires, permit application, permits and monitoring programs and from inspection shall be available to the public or any governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the WWTA that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets of the users.

When requested by the person furnishing the report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available to governmental agencies for use related to this chapter; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by the WWTA as confidential shall not be transmitted to any governmental agency or to the general public by the WWTA until and unless prior and adequate notification is given to the user. (2007 Code, § 18-206, modified)

**18-207. Discharge regulations.** (1) Purpose and policy. This section establishes limitations and prohibitions on the quantity and quality of wastewater which may be lawfully discharged into the POTW of the City of Soddy-Daisy, Tennessee. Pretreatment of some wastewater discharge will be required to achieve the goals established by this section and the Clean Water Act. The specific limitations set forth herein, and other prohibitions and limitations of this section, are subject to change as necessary to enable the POTW treatment plant, to provide efficient wastewater treatment, to protect the public health and the environment, and to enable the WWTA and the City of Chattanooga, Tennessee to meet requirements contained in their NPDES permits.

(2) Prohibited pollutants. No person shall introduce into the publicly owned treatment works any of the following pollutants, which acting either alone or in conjunction with other substances present in the POTW interfere with the operation of the POTW as follows:

(a) Pollutants which create a fire or explosion hazard in the POTW;

(b) Pollutants which cause corrosive structural damage to the POTW, but in no case discharges with a pH lower than five (5.0) or higher than ten and one-half (10.5);

(c) Solid or viscous pollutants in amounts which cause obstruction to the flow of the sewers, or other interference with the operation of or which cause injury to the POTW, including waxy or other materials which tend to coat and clog a sewer line or other appurtenances thereto;

(d) Any waters or wastes containing toxic or poisonous substances in sufficient quantities to injure or interfere with the operation of or to damage the POTW;

(e) Any pollutant, including oxygen demanding pollutants released in a discharge of such volume or strength as to cause interference in the POTW; and

(f) Unless a higher temperature is allowed in the user's wastewater discharge permit, no user shall discharge into any sewer line or other appurtenance of the POTW wastewater with a temperature exceeding sixty five and one-half degrees (65.5°) Celsius (one hundred fifty degrees (150°) Fahrenheit).

(3) Wastewater constituent evaluation. (a) The wastewater of every industrial user shall be evaluated upon the following criteria:



(i) Wastewater containing any element or compound which is not adequately removed the POTW which is known to be an environmental hazard.

(ii) Wastewater causing a discoloration or any other condition in the quality of the POTW's effluent such that receiving water quality requirements established by law cannot be met.

(iii) Wastewater causing conditions at or near the POTW which violate any statute, rule, or regulation of any public agency of this state or the United States.

(iv) Wastewater containing any element or compound acting as a lacrimator known to cause nausea or odors which constitute a public nuisance.

(v) Wastewater causing interference with the effluent or any other product of the POTW treatment process' residues, sludges, or scums causing them to be unsuitable for reclamation and reuse or causing interference with the reclamation process.

(b) The city or the WWTa board shall establish reasonable limitations or prohibitions in the wastewater discharge permit of any user that discharges wastewater violating any of the above criteria as shall be reasonably necessary to achieve the purpose and policy of this section.

(4) National pretreatment standards. Certain industrial users are now or hereafter shall become subject to national pretreatment standards promulgated by the Environmental Protection Agency specifying quantities or concentrations of pollutants or pollutant properties which may be discharged into the POTW. All industrial users subject to a national pretreatment standard shall comply with all requirements of such standard, and shall also comply with any additional or more stringent limitations contained in this section. Compliance with national pretreatment standards for existing sources subject to such standards or for existing sources which hereafter become subject to such standards shall be within three (3) years following promulgation of the standards unless a shorter compliance time is specified in the standard. Compliance with national pretreatment standards for new sources shall be required upon promulgation of the standard. Except where expressly authorized by an applicable national pretreatment standard, no industrial user shall increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitution for adequate treatment to achieve compliance with such standard.

(5) Prohibitions on storm drainage and ground water. Stormwater, ground water, rain water, street drainage, roof top drainage, basement drainage, sub-surface drainage, or yard drainage if unpolluted shall not be discharged through direct or indirect connections to a community sewer unless a storm sewer or other reasonable alternative for removal of such drainage does not exist, and then only when such discharge is permitted by the user's

wastewater discharge permit and the appropriate fee is paid for the volume thereof.

(6) Unpolluted water. Unpolluted water, including, but not limited to, cooling water or process water, shall not be discharged through direct or indirect connections to a community sewer except on the same conditions as provided in subsection (5) herein above.

(7) Limitation on radioactive waste. No person shall discharge or permit to be discharged any radioactive waste into the community sewer.

(8) Limitations on the use of garbage grinders. Waste from garbage grinders shall not be discharged into a community sewer except where generated in preparation of food consumed on the premises, and then only where applicable fees therefor are paid. Such grinders must shred the waste to a degree that all particles will be carried freely under normal flow conditions prevailing in the community sewers. Garbage grinders shall not be used for the grinding of plastic, paper products, inert materials, or garden refuse. This portion shall not apply to domestic residences.

(9) Limitations on point of discharge. No person shall discharge any substance directly into a manhole or other opening in a community sewer other than through an approved building sewer, unless he shall have been issued a temporary permit by the city manager. The city manager shall incorporate in such temporary permit such conditions as he deems reasonably necessary to ensure compliance with the provisions of this section and the user shall be required to pay applicable charges and fees therefor.

(10) Septic tank pumping, hauling, and discharge. No person owning vacuum or "cess pool" pump trucks or other liquid waste transport trucks shall discharge directly or indirectly such sewage into the POTW.

(11) Other holding tank waste. No person shall discharge any other holding tank waste into the POTW.

(12) Limitations on wastewater strength. No person or user shall discharge wastewater in excess of the concentration set forth in the table below unless:

(a) An exception has been granted the user under the provisions of § 18-208; or

(b) The wastewater discharge permit of the user provides as a special permit condition a higher interim concentration level in conjunction with a requirement that the user construct a pretreatment facility or institute changes in operation and maintenance procedures to reduce the concentration of pollutants to levels not exceeding the standards set forth in the table within a fixed period of time.

Parameter	Maximum Concentration mg/l (24 hour flow) Proportional Composite Sample	Maximum Instantaneous Concentration mg/l (Grab Sample)
Biochemical Oxygen Demand	*	-
Chemical Oxygen Demand	*	-
Suspended Solids	*	-
Arsenic	1.0	2.0
Cadmium	1.0	2.0
Chromium (total)	5.0	10.0
Chromium Hexavalent	0.05	0.10
Copper	5.0	10.0
Cyanide	2.0	4.0
Lead	1.5	3.0
Mercury	0.1	0.2
Nickel	5.0	10.0
Selenium	1.0	2.0
Silver	1.0	2.0
Zinc	5.0	10.0
Oil and Grease (Petroleum and/or Mineral)	100.0	200.0

\*As established by agreement between WWTa and Chattanooga.

(13) Criteria to protect the treatment plant influent of the City of Chattanooga (POTW). The WWTa shall monitor the City of Soddy-Daisy effluent for each parameter in the following table. The industrial users shall be subject to the reporting and monitoring requirements set forth in § 18-209 as to these parameters. In the event that the effluent reaches or exceeds the levels established by said table, the WWTa shall initiate technical studies to determine the cause of the influent violation, and shall recommend such remedial measures as are necessary, including, but not limited to,

recommending the establishment of new or revised pretreatment levels for these parameters. The WWTA shall also recommend changes to any of these criteria in the event the POTW effluent standards are changed or in the event that there are changes in any applicable law or regulation affecting same or in the event changes are needed for more effective operation of the POTW.

Parameter	Maximum Concentration mg/l (24 hour flow) Proportional Composite Sample	Maximum Instantaneous Concentration mg/l (Grab Sample)
Aluminum dissolved (AL)	15.00	30.0
Antimony (Sb)	0.50	1.0
Arsenic (As)	0.05	0.1
Barium (Ba)	2.50	5.0
Boron	1.0	2.0
Cadmium (Cd)	0.01	0.02
Chromium Total	1.5	3.0
Cobalt	5.0	10.0
Cooper (Cu)	0.4	0.8
Cyanide (CN)	0.5	0.10
Fluoride (F)	10.0	20.0
Iron (Fe)	5.0	10.0
Lead (Pb)	0.10	0.2
Manganese (Mn)	0.5	1.0
Mercury (Hg)	0.015	0.03
Nickel (Ni)	0.5	1.0
Phenols	1.00	2.0
Selenium (Se)	0.005	0.01
Silver (Ag)	0.05	0.1
Sulfide	25.0	40.0
Titanium dissolved	1.0	2.0
Zinc (Zn)	2.0	4.0
Total Kjeldahl	45.00	90.00
Oil & Grease	25.00	50.00

MBAS	5.00	10.0
Total Dissolved Solids	1,875.00	3,750.0
BOD	*	*
COD	*	*
Suspended Solids	*	*

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\*As established by the agreement between WWTA and Chattanooga.

(14) Pretreatment requirements. Users of the POTW shall design, construct, operate, and maintain wastewater pretreatment facilities whenever necessary to reduce or modify the user's wastewater constituency to achieve compliance with the limitations in wastewater strength set forth in subsection (13) above, to meet applicable national pretreatment standards, or to meet any other wastewater condition or limitation contained in the user's wastewater discharge permit.

Plans, specifications, and operating procedures for such wastewater pretreatment facilities shall be prepared by a registered engineer, and shall be submitted to the city manager for review in accordance with accepted engineering practices. The WWTA shall review said plans within forty-five (45) days and shall recommend to the user any appropriate changes. Prior to beginning construction of said pretreatment facility, the user shall submit a set of construction plans and specifications to be maintained by the WWTA. Prior to beginning construction the user shall also secure such building, plumbing, or other permits that may be required by this code. The user shall construct said pretreatment facility within the time provided in the user's wastewater discharge permit. Following completion of construction, the user shall provide the WWTA with "as built" drawings to be maintained by the WWTA.

(15) Right to establish more restrictive criteria. No statement in this chapter is intended or may be construed to prohibit the WWTA 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 a violation of the intermunicipal agreement, 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 Health and Environment and/or the United States Environmental Protection Agency.

(16) Accidental discharges. (a) Protection from accidental discharge. All industrial users shall provide such facilities and institute such procedures as are reasonably necessary to prevent or minimize the potential for accidental discharge into the POTW of waste regulated by this chapter from liquid or raw material storage areas, from truck and

rail car loading and unloading areas, from in-plant transfer or processing and materials handling areas, and from diked areas or holding ponds of any waste regulated by this chapter. Detailed plans showing the facilities and operating procedures shall be submitted to the WWTa before the facility is constructed. The review and approval of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility to provide the protection necessary to meet the requirements of this chapter.

(b) **Notification of accidental discharge.** Any person causing or suffering from any accidental discharge shall immediately notify the WWTa (or designated official) in person, by the telephone to enable countermeasures to be taken by the city manager to minimize damage to the POTW, the health and welfare of the public, and the environment.

This notification shall be followed, within five (5) days of the date of occurrence, by a detailed written statement describing the cause of the accidental discharge and the measures being taken to prevent future occurrence.

Such notification shall not relieve the user of liability for any expense, loss, or damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter or state or federal law.

(c) **Notice to employees.** A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure. In lieu of placing notices on bulletin boards, the users may submit an approved SPIC. Each user shall annually certify to the city manager compliance with this subsection. (2007 Code, § 18-207, modified)

**18-208. Exception to wastewater strength standard.**

(1) **Applicability.** This section provides a method for non-residential users subject to the limitation on wastewater strength parameters listed in § 18-207 to apply for and receive a temporary exception to the discharge level for one (1) or more parameters.

(2) **Time of application.** Applicants for a temporary exception shall apply for same at the time they are required to apply for wastewater discharge permit or a renewal thereof; provided, however, that the city manager shall allow applications at any time with just cause demonstrated by the user.

(3) **Written applications.** All applications for an exception shall be in writing, and shall contain sufficient information for evaluation of each of the factors to be considered.

(4) Review by WWTA. All applications for an exception shall be reviewed by the WWTA. If the application does not contain sufficient information for complete evaluation, the city manager shall notify the applicant of the deficiencies and require additional information. The applicant shall have thirty (30) days following notification by the city manager to correct such deficiencies. This thirty (30) day period may be extended upon application and for just cause shown. Upon receipt of a complete application, the WWTA shall evaluate same within thirty (30) days in accordance with procedures established by the WWTA board. (2007 Code, § 18-208, modified)

**18-209. Industrial user monitoring, inspection reports, records access, and safety.** (1) Monitoring facilities. The installation of a monitoring facility shall be required for all industrial users. A monitoring facility shall be a manhole or other suitable facility approved by the WWTA.

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

Monitoring facilities that are required to be installed shall be constructed and maintained at the user's expense. The purpose of the facility is to enable inspection, sampling and flow measurement of wastewater produced by a user. If sampling or metering equipment is also required by the WWTA, it shall be provided and installed at the user's expense.

The monitoring facility will normally be required to be located on the user's premises outside of the building. The WWTA may, however, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street right-of-way with the approval of the public agency having jurisdiction of that right-of-way and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

(2) Inspection and sampling. The WWTA shall inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the city or its representative ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, records examination or in the performance of any of their duties. The WWTA, approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary

arrangements with their security guards so that upon presentation of suitable identification, personnel from the city, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibility.

(3) Compliance date report. Within one hundred eighty (180) days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the WWTA 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 professional engineer registered to practice engineering in Tennessee.

(4) Periodic compliance reports. (a) Any user subject to a pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the WWTA during the months of June and December, unless required more frequently in the pretreatment standard or by the WWTA, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards and requirements.

In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow. At the discretion of the WWTA and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the WWTA may agree to alter the months during which the above reports are to be submitted.

(b) The WWTA may impose mass limitations on users where the imposition of mass limitations are appropriate. In such cases, the report required by subsection (a) above shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user.

(c) 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 city 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 analysis shall be performed in accordance with procedures



established by the administrator pursuant to 33 U.S.C. § 1314(g) and contained in 40 CFR part 136 and amendments thereto. Sampling shall be performed in accordance with techniques approved by the administrator.

(5) Maintenance of records. Any industrial user subject to the reporting requirements established in this section shall maintain records of all information resulting from any monitoring activities required by this section. Such records shall include for all samples:

- (a) The date, exact place, method, and time of sampling and the names of the persons taking the samples;
- (b) The dates analyses were performed;
- (c) Who performed the analyses;
- (d) The analytical techniques/methods used; and
- (e) The results of such analyses.

Any industrial user subject to the reporting requirement established in this section shall be required to retain for a minimum of three (3) years all records of monitoring activities and results (whether or not such monitoring activities are required by this section) and shall make such records available for inspection and copying by the WWTA, Director of the Division of Water Quality Control, Tennessee Department of Health and Environment, or the Environmental Protection Agency. This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user or when requested by the WWTA, the approval authority, or the Environmental Protection Agency.

(6) Safety. While performing the necessary work on private properties, the WWTA or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the WWTA employees and the WWTA shall indemnify the company against loss or damage to its property by the WWTA employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the monitoring and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions. (2007 Code, § 18-209, modified)

**18-210. Enforcement and abatement.** (1) Issuance of cease and desist orders. When the WWTA finds that a discharge of wastewater has taken place in violation of prohibitions or limitations of this chapter, or the provisions of a wastewater discharge permit, the WWTA shall issue an order to cease and desist, and direct that these persons not complying with such prohibitions, limits requirements, or provisions to:

- (a) Comply immediately;
- (b) Comply in accordance with a time schedule set forth by the city manager;

(c) Take appropriate remedial or preventive action in the event of a threatened violation; or

(d) Surrender the applicable user's permit if ordered to do so after a show cause hearing.

Failure of the WWTA to issue a cease and desist order to a violating user shall not in any way relieve the user from any consequences of a wrongful or illegal discharge.

(2) Submission of time schedule. When the WWTA finds that a discharge of wastewater has been taking place in violation of prohibitions or limitations prescribed in this chapter, or wastewater source control requirements, effluent limitations of pretreatment standards, or the provisions of a wastewater discharge permit, the WWTA shall require the user to submit for approval, with such modifications as he deems necessary, a detailed time schedule of specific actions which the user shall take in order to prevent or correct a violation of requirements. Such schedule shall be submitted to the city manager within thirty (30) days of the issuance of the cease and desist order.

(3) Show cause hearing. (a) The WWTA may order any user who causes or allows an unauthorized discharge to enter the POTW to show cause before the WWTA board why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the board of mayor and commissioners regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause before the board of mayor and commissioners why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing.

(b) The WWTA board may itself conduct the hearing and take the evidence, or the WWTA board may appoint a person to:

(i) Issue in the name of the WWTA board notice of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;

(ii) Take the evidence; and

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

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

(d) After the WWTA board or the appointed persons have reviewed the evidence, they may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer

service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed on existing treatment facilities, and that these devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

(4) Legal action. If any person discharges sewage, industrial wastes, or other wastes into the city's wastewater disposal system contrary to the provisions of this chapter, federal or state pretreatment requirements, or any order of the city or WWTA, the WWTA attorney or the city attorney may commence an action for appropriate legal and/or equitable relief in a court of competent jurisdiction.

(5) Emergency termination of service. The WWTA may suspend the wastewater treatment service and/or a wastewater contribution permit when such suspension is necessary, in the opinion of the WWTA, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes interference to the POTW or causes the WWTA to violate any condition of its agreement with Chattanooga.

Any person notified of a suspension of the wastewater treatment service and/or the wastewater contribution permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the WWTA shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The WWTA shall reinstate the wastewater contribution permit and/or the wastewater treatment service upon proof of the elimination of the non-complying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the city within fifteen (15) days of the date of occurrence.

(6) Public nuisance. Discharges of wastewater in any manner in violation of this chapter or of any order issued by the WWTA, the board of mayor and commissioners or city manager as authorized by this chapter is hereby declared a public nuisance and shall be corrected or abated as directed by the board of mayor and commissioners or the WWTA board. Any person creating a public nuisance shall be subject to the provisions of the city code or ordinances governing such nuisance.

(7) Correction of violation and collection of costs. In order to enforce the provisions of this chapter, the city manager and/or the WWTA shall correct any violation hereof. The cost of such correction shall be added to any sewer service charge payable by the person violating this chapter or the owner or tenant of the property upon which the violation occurs, and the city and/or WWTA shall have such remedies for the collection of such costs as it has for the collection of sewer service charges.

(8) Damage to facilities. When a discharge of wastes causes an obstruction, damage, or any other physical or operational impairment to facilities, the WWTa shall assess a charge against the user for the work required to clean or repair the facility and add such charge to the user's sewer service charge.

(9) Civil liabilities. Any person or user who intentionally or negligently violates any provision of this chapter, requirements, or conditions set forth in permit duly issued, or who discharges wastewater which causes pollution or violates any cease and desist order, prohibition, effluent limitation, national standard or performance, pretreatment, or toxicity standard, shall be liable civilly.

The WWTa and/or the City of Soddy-Daisy shall sue for such damage in any court of competent jurisdiction. (2007 Code, § 18-210, modified)

**18-211. Fees and billing.** (1) Purpose. It is the purpose of this chapter to provide for the equitable recovery of costs from users of the WWTa's wastewater treatment system including costs of operation, maintenance, administration, bond service costs, capital improvements, depreciation, and equitable cost recovery of EPA administered federal wastewater grants.

(2) Types of charges and fees. The charges and fees as established in the WWTa's schedule of charges and fees may include, but are not limited to:

- (a) Inspection fee and tapping fee;
- (b) Fees for applications for discharge;
- (c) Sewer use charges;
- (d) Surcharge fees;
- (e) Industrial wastewater discharge permit fees;
- (f) Fees for industrial discharge monitoring; and
- (g) Other fees as the WWTa may deem necessary.

(3) Fees for application for discharge. A fee may be charged when a user or prospective user makes application for discharge as required by § 18-206 of this chapter.

(4) Inspection fee and tapping fee. An inspection fee and tapping fee for a building sewer installation shall be paid to the WWTa at the time the application is filed.

(5) Sewer user charges. The WWTa board shall establish monthly rates and charges for the use of the wastewater system and for the services supplied by the wastewater system.

(6) Industrial wastewater discharge permit fees. A fee may be charged for the issuance of an industrial wastewater discharge fee in accordance with § 18-206 of this chapter.

(7) Fees for industrial discharge monitoring. Fees may be collected from industrial users having pretreatment or other discharge requirements to compensate the WWTa for the necessary compliance monitoring and other

administrative duties of the pretreatment program. (2007 Code, § 18-212, modified)

**18-212. Validity.** This chapter and its provisions shall be valid for all service areas, regions, and sewage works under the jurisdiction of the City of Soddy-Daisy, Tennessee. (2007 Code, § 18-213)

**18-213. Violations and penalty.** Any user who is found to have violated an order of the board of mayor and commissioners, the WWTA board, the WWTA executive director or the city manager, or who willfully or negligently fails to comply with any provision of this chapter, and the orders, rules, regulations and permits issued hereunder, shall be fined not less than fifty dollars (\$50.00) for each offense. Each day of which a violation shall occur or continue shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the city and/or WWTA may recover reasonable attorney's fees, engineering fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the person found to have violated this chapter or the person found to have violated this chapter or the orders, rules, regulations, and permits issued hereunder. (2007 Code, § 18-211, modified)

## CHAPTER 3

### STORMWATER<sup>1</sup>

#### SECTION

- 18-301. General provisions.
- 18-302. Definitions.
- 18-303. Best Management Practices (BMP) Manual.
- 18-304. Land disturbance permit required.
- 18-305. Runoff management permits.
- 18-306. Non-stormwater discharge permits.
- 18-307. Program remedies for permittee's failure to perform.
- 18-308. Existing locations and developments.
- 18-309. Illicit discharges.
- 18-310. Conflicting standards.
- 18-311. Program fees.
- 18-312. Appeals.
- 18-313. Implementation schedule.
- 18-314. Overlapping jurisdiction.
- 18-315. Violations and penalty.

**18-301. General provisions.** (1) Program area. This section is applicable and uniformly enforceable within the Tennessee municipalities of Collegedale, East Ridge, Lakesite, Lookout Mountain, Red Bank, Ridgeside, Soddy-Daisy, designated unincorporated areas within Hamilton County, and other eligible communities which may join the Hamilton County Stormwater Control Program (hereinafter called the program) and enact this section from time to time. All such participating communities are hereinafter collectively identified as "the parties."

(2) Authorization. The program is authorized under an interlocal agreement dated April 16, 2004, adopted by all of the parties pursuant to *Tennessee Code Annotated*, §§ 5-1-113 and 12-9-101. Said interlocal agreement specifies that the program shall be enforced by Hamilton County under applicable county rules pursuant to *Tennessee Code Annotated*, §§ 5-1-121 and 5-1-123. Applicable terms and provisions of said interlocal agreement and the standard operating procedures for the Hamilton County Stormwater Pollution Control Program, adopted by the parties subsequent to the interlocal agreement, are hereby incorporated into and made a part of this section by reference and shall be as binding as if reprinted in full herein.

(3) Purpose. It is the purpose of this section to:

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<sup>1</sup>Municipal code reference

Plumbing and related codes: title 12.

(a) Protect, maintain, and enhance the environment of the program service area and the health, safety, and the general welfare of its citizens by controlling discharges of pollutants to the program's stormwater system;

(b) Maintain and improve the quality of the receiving waters into which the stormwater outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and ground water;

(c) Enable the parties to comply with the National Pollution Discharge Elimination System (NPDES) permit and applicable regulations (40 CFR 122.26) for stormwater discharges. Compliance shall include the following six (6) minimum stormwater pollution controls as defined by U.S. EPA:

(i) Public education and outreach;

(ii) Public participation;

(iii) Illicit discharge detection and elimination;

(iv) Construction site runoff control for new development and redevelopment;

(v) Post-construction runoff control for new development and redevelopment; and

(vi) Pollution prevention/good housekeeping for municipal operations.

(d) Allow the parties to exercise the powers granted in *Tennessee Code Annotated*, § 68-221-1105, to:

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

(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 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 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; and

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

prohibition shall be enforceable on facilities and operations which are in existence at the time of the initial adoption of this section or which may come into existence after the adoption of this section.

- (4) Goals of the program. The primary goals of the program are to:
- (a) Raise public awareness of stormwater issues;
  - (b) Generate public support for the program;
  - (c) Teach good stormwater practices to the public;
  - (d) Involve the public to provide an extension of the program's enforcement staff;
  - (e) Support public stormwater pollution control initiatives;
  - (f) Increase public use of good stormwater practices;
  - (g) Detect and eliminate illicit discharges into the program service area;
  - (h) Reduce pollutants from construction sites;
  - (i) Treat the "first flush" pollutant load to remove not less than seventy-five percent (75%) Total Suspended Solids (TSS);
  - (j) Remove oil and grit from industrial/commercial site runoff;
  - (k) Protect downstream channels from erosion;
  - (l) Encourage the design of developments that reduce runoff;
  - (m) Reduce or eliminate pollutants from municipal operations;
- and
- (n) Provide a model for good stormwater practices to the public through municipal operations impacting stormwater (i.e., municipalities should "lead by example").

(5) Administering entity. The program staff shall administer the provisions of this section under the direction of the management committee, composed of representatives of the parties. The operating mechanism for the program is defined by an interlocal agreement among the parties and the standard operating procedures adopted by same. The management committee is authorized to enforce this section and to use its judgment in interpreting the various provisions of this section, the interlocal agreement, and the standard operating procedures to ensure that the program's goals are accomplished. If any management committee member is concerned about the appropriateness of any action of the committee, he should report his concerns to the county attorney, who shall review the situation and issue an opinion within ninety (90) calendar days. Should the county attorney find that the committee has, in his judgment, acted inappropriately, but a majority of the committee, after due deliberation, disagree with said finding, the committee shall bring the matter before the county commission for consideration. The determination of the county commission with regard to the issue shall be final.

**18-302. Definitions.** As used herein, certain words and abbreviations have specific meanings related to the program. The definition of some, but not



necessarily all, such program-specific terms are, for the purposes of this section, to be interpreted as described herein below:

(1) "Best Management Practices (BMPs)" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of stormwater runoff. BMPs also include treatment requirements, operating procedures, and practices to control runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

(2) "BMP manual" means a book of reference which includes additional policies, criteria, and information for the proper implementation of the requirements of the program.

(3) "First flush" means the initial stormwater runoff from a contributing drainage area which carries the majority of the contributed pollutants.

(4) "Hot spot" means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater. Examples might include operations producing concrete or asphalt, auto repair shops, auto supply shops, large commercial parking areas, and restaurants.

(5) "Land disturbance activity" means any land change which may result in increased soil erosion from water and wind and the movement of sediments into community waters or onto lands and roadways within the community, including, but not limited to, clearing, dredging, grading, excavating, transporting, and filling of land, except that the term shall not include agricultural activities, exempted under the Clean Water Act, and certain other activities as identified in the program's BMP manual.

(6) "Maintenance agreement" means a legally recorded document which acts as a property deed restriction and which provides for long-term maintenance of stormwater management practices.

(7) "Management committee" means a group of people composed of one (1) representative of the county and one (1) representative of each of the cities participating in the program.

(8) "Municipality" as used herein refers to Hamilton County, Tennessee, a county and political subdivision of the State of Tennessee; the Cities of Collegedale, East Ridge, Lakesite, Red Bank, Ridgeside, and Soddy-Daisy, Tennessee, and the Town of Lookout Mountain, Tennessee, all of which are chartered municipalities of the State of Tennessee; and/or any other participating governmental entity which may join the program in the future.

(9) "Organization" means a corporation, government, government subdivision or agency, business trust, estate, trust, partnership, association, two (2) or more persons having a joint or common interest, or any other legal or commercial entity.

(10) "Person" means an individual or organization.

(11) "Program" means a comprehensive program to manage the quality of stormwater discharged in or from the program area's Municipal Separate Storm Sewer System (MS4).

(12) "Program cost" means any monetary cost incurred by the program in order to fulfill the responsibilities and duties assigned to the program under this section. "Program costs" specifically include costs incurred by any participating municipality for actions performed on behalf of or at the request of the program.

(13) "Program manager." See "stormwater manager."

(14) "Program service area" means the entire physical area within the corporate limits of each participating city together with the urbanized unincorporated are of the county.

(15) "Program staff" means a group of people hired to assist the program manager in carrying out the duties of the program.

(16) "Responsible party" means owners and/or occupants of property within the program area who are subject to penalty in case of default.

(17) "Runoff." See "stormwater runoff."

(18) "Runoff quality objectives" means the "performance criteria for runoff management" adopted by the management committee in conformance with applicable provisions of § 18-305(5) hereinafter in accordance with the "goals of the program" as outlined under § 18-301(4) herein before.

(19) "Redevelopment" means any construction, alteration, or improvement exceeding one (1) acre in areas where existing land use is high density commercial, industrial, institutional, or multi-family residential.

(20) "Stormwater" means stormwater runoff, snow melt runoff, surface runoff and discharge resulting from precipitation.

(21) "Stormwater manager" means the person selected by the management committee, assigned to the Office of the Hamilton County Engineer, and designated to supervise the operation of the program.

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

**18-303. Best Management Practices (BMP) Manual.** (1) Stormwater design or BMP manual. (a) The program will adopt a stormwater design and best management practices (BMP) manual (hereafter referred to as the BMP manual), which is incorporated by reference in this section as if fully set out herein.

(b) This manual will include a list of acceptable BMPs including the specific design performance criteria and operation and maintenance requirements for each stormwater practice. The manual may be updated and expanded from time to time at the discretion of the management committee upon the recommendation of the program staff, based on improvements in engineering, science, and monitoring and local maintenance experience. Stormwater facilities that are designed,

constructed, and maintained in accordance with these BMP criteria will be presumed to meet the minimum water quality performance standards.

**18-304. Land disturbance permits required.** (1) Mandatory. A land disturbance permit from the program will be required in the following cases:

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

(b) Land disturbing activity that disturbs less than one (1) acre of land if such activity is part of a larger common plan of development that affects one (1) or more acres of land as determined by the program manager.

(c) Land disturbing activity that disturbs less than one (1) acre of land if, in the discretion of the program staff, such activity poses a unique threat to the water environment or to public health or safety.

(2) Application requirements. (a) Unless specifically excluded by this section, any landowner or operator desiring a permit for a land disturbance activity shall submit to the program staff a permit application on a form provided by the program.

(b) A permit application must be accompanied by the following:

(i) A sediment and erosion control plan which addresses the requirements of the BMP manual; and

(ii) A nonrefundable land disturbance permit fee as described in Appendix A<sup>1</sup> to this section.

(c) The land disturbance permit application fee shall be established for the program under the provisions of the standard operating procedures.

(3) General requirements. All land disturbing activities undertaken within the program service area shall be conducted in a manner that controls the release of sediments and other pollutants to the stormwater collection and transportation system in accordance with the requirements of the program's BMP manual.

(4) Review and approval of application. (a) The program staff will review each application for a land disturbance permit to determine its conformance with the provisions of this section. The program staff shall complete the review of an application within thirty (30) calendar days of its submission. Should an application be rejected, an additional thirty (30) calendar days will be allowed for staff review of each subsequent submission of a revised application. If the program staff fails to act within the time limit established hereinbefore, an application shall be presumed to be approved by default. No development shall commence

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<sup>1</sup>Appendices to the stormwater ordinance can be found in the office of the recorder.

until the land disturbance permit has been approved by the program staff or until the time limit allowed for review has expired.

(b) Each land disturbance permit shall be issued for a specific project and shall expire twelve (12) months after its issuance. The applicant is solely responsible for the renewal of a permit if work is to continue after the expiration of the permit. Renewal will require payment of an additional land disturbance permit fee.

(5) Transfer of permit. Land disturbance permits are transferable from the initial applicant to another party. A notice of transfer, on a form acceptable to the program and signed by both parties, shall be filed with the program staff. Such transfer shall not automatically extend the life of the existing permit or in any other way alter the provisions of the existing permit.

**18-305. Runoff management permits.** (1) Mandatory. A runoff management permit will be required in the following cases:

(a) Development, redevelopment, and/or land disturbing activity that disturbs one (1) or more acres of land; and

(b) Development, redevelopment, and/or land disturbing activity that disturbs less than one (1) acre of land if such activity is part of a larger common plan of development that affects one (1) or more acres of land as determined by the program manager.

(2) Runoff management. Site requirements, as fully described in the BMP manual, shall include the following items:

(a) Record drawings;

(b) Implementation of landscaping and stabilization requirements;

(c) Inspection of runoff management facilities;

(d) Maintenance of records of installation and maintenance activities; and

(e) Identification of person responsible for operation of maintenance of runoff management facilities.

(3) Application requirements. (a) Unless specifically excluded by this section, any landowner or operator desiring a runoff management permit for a development, redevelopment, and/or land disturbance activity shall submit a permit application on a form provided by the program.

(b) A permit application must be accompanied by:

(i) Stormwater management plan which addresses specific items as described in the BMP manual;

(ii) Maintenance agreement for any pollution control facilities included in the plan; and

(iii) Nonrefundable runoff management permit fees as described in Appendix A<sup>1</sup> to this section.

(c) The application fees for the runoff management permit shall be as established by the program under the provisions of the standard operating procedures.

(4) Building permit. No building permit shall be issued by a participating municipality until a runoff management permit, where the same is required by this section, has been obtained.

(5) General performance criteria for runoff management. Unless a waiver is granted or exempt certification is issued, all sites, including those exempted under subsection (7) below are required to satisfy the following criteria as specified in the BMP manual (whether permitted or not):

(a) Through the selection, design, and maintenance of temporary and permanent BMPs, provide pollution control for sources of contaminants and pollutants that could enter stormwater.

(b) Protect the downstream water environment from degradation including specific channel protection criteria and the control of the peak flow rates of stormwater discharge associated with design storms shall be as prescribed in the BMP manual.

(c) Implement additional performance criteria or utilize certain stormwater management practices to enhance stormwater discharges to critical areas with sensitive resources (e.g., cold water fisheries, shellfish beds, swimming beaches, recharge areas, water supply reservoirs).

(d) Implement specific Stormwater Treatment Practices (STP) and pollution prevention practices for stormwater discharges from land uses or activities with higher-than-typical potential pollutant loadings, known as "hot spots."

(e) Prepare and implement a Stormwater Pollution Prevention Plan (SWPPP) and file a Notice of Intent (NOI) under the provisions of the NPDES general permit for certain industrial sites which are required to comply with NPDES requirements. The SWPPP requirement applies to both existing and new industrial sites. The owner or developer shall obtain the general permit and shall submit copies to the stormwater manager.

(f) Prior to or during the site design process, consult with the program staff to determine if a planned development is subject to additional stormwater design requirements.

(g) Use the calculation procedures as found in the BMP manual for determining peak flows to use in sizing all stormwater facilities.

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<sup>1</sup>Appendices to the stormwater ordinance can be found behind the Appendix tab of this code.

(6) Review and approval of application. (a) The program staff will review each application for a runoff management permit to determine its conformance with the provisions of this section. The program staff shall complete the review of an application within thirty (30) calendar days of its submission. Should an application be rejected, an additional thirty (30) calendar days will be allowed for staff review of each subsequent submission of a revised application. If the program staff fails to act within the time limit established hereinbefore, an application shall be presumed to be approved by default.

(b) No development shall commence until the runoff management permit has been approved by the program staff or until the time limit allowed for review has expired.

(7) Waivers. (a) General. Every applicant shall provide for stormwater management; unless a written request to waive this requirement is filed with and approved by the program.

(b) Downstream damage, etc. prohibited. In order to receive a waiver, the applicant must demonstrate to the satisfaction of the management committee that the waiver will not lead to any of the following conditions downstream:

- (i) Deterioration of existing culverts, bridges, dams, and other structures;
- (ii) Degradation of biological functions or habitat;
- (iii) Accelerated streambank or streambed erosion or siltation; and
- (iv) Increased threat of flood damage to public health, life, or property.

(c) Runoff management permit not to be issued where waiver granted. No runoff management permit shall be issued where a waiver has been granted pursuant to this section. If no waiver is granted, the plans must be resubmitted with a runoff management plan. All waivers must be adopted by a majority of the management committee meeting in open session pursuant to the program's standard operating procedures. The applicant shall prepare an agreement which shall formalize the applicant's commitment to implement all actions proposed by the applicant and relied on by the management committee in granting the waiver. Said agreement, once determined to be acceptable to the management committee, shall be executed by an authorized representative of the applicant and the chairman of the management committee. The executed agreement shall form a binding contract between the applicant and the program, and the terms of said contract shall be fully enforceable by the program staff. The program staff's authority to enforce the terms of the waiver agreement shall be identical to those typically exercised by the staff with regard to the implementation

of runoff management plans. No construction activities shall commence at a site covered by a waiver until the waiver agreement is fully executed.

**18-306. Non-stormwater discharge permits.** (1) Commercial and industrial facilities. Commercial and industrial facilities located within the program service area may in certain situations be allowed to discharge nonpolluting non-stormwater into the stormwater collection system. As allowed by Tennessee Department of Environment and Conservation (TDEC) regulations, certain non-stormwater discharges may be released without a permit. A listing of such allowed discharges is included in § 18-309 which follows. Except for these discharges, a permit for all nonpolluting non-stormwater discharges shall be required in addition to any permits required by the State of Tennessee for stormwater discharges associated with industrial or construction activity.

(2) New facilities. The permit application for a new facility requesting non-stormwater discharges shall include the following:

(a) If the facilities are to be covered under the TDEC general NPDES permit for stormwater discharges associated with industrial activity, a general NPDES permit for stormwater discharges associated with construction activity, or an individual NPDES permit, the owner or developer shall timely obtain such permits or file the NOI and shall submit copies to the program.

(b) Any application for the issuance of a non-stormwater discharge under this section shall include the specific items listed in the program's BMP manual.

(c) Each application for a non-stormwater discharge permit shall be accompanied by payment of a non-stormwater discharge permit fee as described in Appendix A<sup>1</sup> to this section. Said fee shall be established under the provisions of the standard operating procedures for the program.

(3) Review and approval of application. (a) The program staff will review each application for a non-stormwater discharge permit to determine its conformance with the provisions of this section. Within thirty (30) calendar days after receiving an application, the program staff shall provide one (1) of the following responses in writing:

- (i) Approval of the permit application;
- (ii) Approval of the permit application, subject to such reasonable conditions as may be necessary to secure substantially the objectives of this section, and issuance of the permit subject to these conditions; or

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<sup>1</sup>Appendices to the stormwater ordinance can be found behind the Appendix tab of this code.

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

(4) Permit duration. Every non-stormwater discharge permit shall expire within three (3) years of issuance subject to immediate revocation if it is determined that the permittee has violated any of the terms of the permit or if applicable regulations are revised to no longer allow the specific non-stormwater discharge covered by the permit.

**18-307. Program remedies for permittee's failure to perform.**

(1) Failure to properly install or maintain sediment and erosion control measures. (a) If a responsible party fails to properly install or maintain sediment and/or erosion control measures as shown on a sediment and erosion control plan used to secure a land disturbance permit under the program, the program staff is authorized to act to correct the deficiency or deficiencies.

(b) The program manager is hereby authorized to issue a stop work order to the responsible party in any situation where the program manager believes that continued work at a site will result in an increased risk to the public safety or welfare or the downstream water environment. Upon receipt of such a stop work order, the responsible party shall immediately cease all operations at the site except those specifically directed toward correcting the deficiency or deficiencies in the sediment and/or erosion control measures.

(c) Where the deficiency or deficiencies described hereinbefore do not, in the opinion of the stormwater manager, pose an imminent threat to the public safety or welfare or the downstream water environment, the program staff shall notify in writing the responsible party of the deficiency or deficiencies. The responsible party shall then have forty-eight (48) hours to correct the deficiency or deficiencies, unless exigent or other unusual circumstances dictate a longer time. In the event that corrective action is not completed within that time, the program staff may take necessary corrective action.

(d) Where, in the opinion of the stormwater manager, the deficiency or deficiencies described herein before do pose an imminent threat to the public safety or welfare or the downstream water environment, the program staff may immediately act to correct the deficiency or deficiencies by performing or having a third party perform all work necessary to restore the proper function of the sediment and erosion control system. The responsible party will be informed, in writing, as to the actions of the program staff as soon as practicable following implementation of the corrective action. The program staff may request assistance from the staff of any community participating in the program to perform the third party corrective work described in this subsection.



(e) The cost of any action to the program incurred under this section shall be charged to the responsible party. In addition, the responsible party's failure to properly install and/or maintain sediment and erosion control measures in accordance with a land disturbance permit may subject the responsible party to a civil penalty from the program as described in a subsequent section of this section.

(2) Failure to meet or maintain design maintenance standards for runoff management facilities. (a) If a responsible party fails or refuses to meet the design or maintenance standards required for runoff management facilities under this section, the program staff, 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.

(b) In the event that the runoff management facility is determined to be improperly operated or maintained, the program staff shall notify in writing the party responsible for maintenance of the stormwater management facility. Upon receipt of that notice, the responsible party shall have fourteen (14) days to effect maintenance and repair of the facility in an approved manner. In the event that corrective action is not undertaken within that time, the program staff may take necessary corrective action.

(c) The cost of any action to the program incurred under this section shall be charged to the responsible party. In addition, the responsible party's failure to meet the design or maintenance standards of an approved runoff management plan may subject the responsible party to a civil penalty from the program as described in § 18-309(6)(c).

**18-308. Existing locations and developments.** (1) Requirements for all existing locations and developments. Requirements applying to all locations and developments at which land disturbing activities occurred prior to the enactment of this section are described in the BMP manual.

(2) Inspection of existing facilities. The program may, to the extent authorized by state and federal law, establish inspection programs to verify that all stormwater management facilities, including those built both before and after the adoption of this section, are functioning within design limits as established within the program BMP manual. These inspection programs may include, but are not limited to, routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as sources of increased sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with increased discharges of contaminants or pollutants or with discharges of a type more likely than the typical discharge to cause violations of the municipality's NPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws.

Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, ground water, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other BMPs.

(3) Requirements for existing problem locations. (a) The program shall provide written notification to the owners of existing locations and developments of specific drainage, erosion, or sediment problems originating from such locations and developments and the specific actions required to correct those problems.

(b) The notice shall also specify a reasonable time for compliance.

(c) Should the property owner fail to act within the time established for compliance, the program may act directly to implement the required corrective actions.

(d) The cost of any action to the program incurred under this section shall be charged to the responsible party. In addition, the responsible party shall be responsible for the proper maintenance and operation of any facility or facilities installed as a part of the corrective action. Failure of the responsible party to properly install, operate, and/or maintain the facility or facilities installed as part of the corrective action may subject the responsible party to a civil penalty from the program as described in § 18-309(6)(c).

(4) Corrections of problems subject to appeal. Corrective measures imposed by the stormwater utility under this section are subject to appeal under § 18-313.

**18-309. Illicit discharges.** (1) Scope. This section shall apply to all water generated on developed or undeveloped land entering any separate storm sewer system within the program service area.

(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 except as permitted under § 18-306 of this chapter or allowed as described below. The commencement, conduct, or continuance of any non-stormwater discharge to the municipal separate storm sewer system is prohibited except as described as follows:

- (a) Uncontaminated discharges from the following sources:
  - (i) Water line flushing;
  - (ii) Landscape irrigation;
  - (iii) Diverted stream flows;
  - (iv) Rising ground water;
  - (v) Uncontaminated ground water entering the stormwater collection system as infiltration ("infiltration" is defined as water, other than wastewater, that enters the storm sewer system from the ground through such means as defective

pipes, pipe joints, connections, or manholes. "Infiltration" does not include, and is distinguished from, inflow);

(vi) Pumped ground water determined by analysis to be uncontaminated;

(vii) Discharges from potable water sources;

(viii) Foundation drains;

(ix) Air conditioning condensate;

(x) Irrigation water;

(xi) Springs;

(xii) Water from crawl space pumps;

(xiii) Footing drains;

(xiv) Lawn watering;

(xv) Individual residential car washing;

(xvi) Flows from riparian habitats and wetlands;

(xvii) Dechlorinated swimming pool discharges; and

(xviii) Street washwater.

(b) Discharges specified in writing by the program as being necessary to protect public health and safety.

(c) Dye testing, if the program has so specified in writing.

(3) Prohibition of illicit connections.

(a) The construction, use, maintenance, or continued existence of illicit connections to the separate municipal storm sewer system is prohibited.

(b) 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 the use of BMPs. Any person or party responsible for the source of an illicit discharge may be required to implement, at the person's or party'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 permit 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 on any known or suspected release which has resulted, or may result, in illicit discharges of non-allowed pollutants into the stormwater conveyances of the municipal separate storm sewer system, the person shall take all necessary steps to ensure the discovery, containment, and clean up of such release. In the event that such a release involves hazardous materials, the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services.

In the event of a release of non-hazardous materials, the person shall notify the program staff in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the program staff within three (3) business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

(6) Enforcement. (a) Enforcement authority. The stormwater manager or his designees shall have the authority to issue notices of violation and citations and to impose the civil penalties provided in this section.

(b) Notification of violation. (i) Written notice. Whenever the stormwater manager finds that any permittee or any other person discharging non-stormwater has violated or is violating this section or a permit or order issued hereunder, the stormwater manager may serve upon such person written notice of the violation. A copy of any such notice shall be sent to the management committee member representing the municipality in which the discharger is located and other administrative official as designated by each participating community. Within ten (10) days of this notice, an explanation of the violation and a plan for the correction and prevention thereof, to include specific required actions, shall be prepared by the discharger and submitted to the stormwater manager. Submission of this plan and/or acceptance of the plan by the program staff in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation.

(ii) Consent orders. The stormwater manager is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the person to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to subsections (iv) and (v) below.

(iii) Show cause hearing. The stormwater manager may order any person who violates this section or 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 meeting, the proposed enforcement action, the reasons for such action, 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 personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing.

(iv) Compliance order. When the stormwater manager finds that any person has violated or continues to violate this section or a permit or order issued thereunder, he may issue an order to the violator directing that, following a specific time period, adequate structures and devices be installed or procedures implemented and properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the construction of appropriate structures, installation of devices, self-monitoring, and management practices.

(v) Cease and desist orders. When the stormwater manager finds that any person has violated or continues to violate this section or any permit or order issued hereunder, the stormwater manager may issue an order to cease and desist all such violations and direct those persons in noncompliance to:

(A) Comply forthwith; or

(B) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

(c) Civil penalties. (i) Assessment of penalties. In addition to the authority granted to the stormwater manager in the preceding subsections to address illicit discharge violations, the stormwater manager may, in accordance with the provisions of § 18-312 of this chapter, impose a civil penalty on the party responsible for an illicit discharge.

(ii) Appeals. All penalties assessed under this section may be appealed in accordance with the provisions of § 18-313.

**18-310. Conflicting standards.** Whenever there is a conflict between any standard contained in this section, any BMP manual adopted by the program under this section, or any applicable state or federal regulation, the strictest standard shall prevail.

**18-311. Program fees.** (1) Annual program fees. The program shall be financed primarily through an annual fee charged to all residential, commercial, and industrial stormwater dischargers located within the program service area.

(a) Initial annual program fees. (i) Residential properties. A single residential annual fee of nine dollars (\$9.00)

shall be adopted initially for all households in the program service area. Property used for agricultural or residential purposes and shown with a structure or structures of some positive value on the records of the Hamilton County Assessor of Property shall be charged a residential annual program fee as described above. Multi-family residential complexes shall be charged one (1) residential annual program fee for each unit in the complex regardless of the actual occupancy of a given unit. Manufactured home parks and developments shall be charged one (1) residential annual program fee for each space in the development regardless of the actual occupancy of a given space.

(ii) Commercial and industrial properties. Property used for commercial or industrial purposes within the program service area and shown with a structure or structures of some positive value on the records of the Hamilton County Assessor of Property shall initially be charged an annual fee of one hundred eight dollars (\$108.00) per impervious acre of development on the property but not less than the annual residential program fee. Annual stormwater fees for commercial and industrial properties shall be rounded to the nearest dollar. Such rounding shall be applied to all annual stormwater program fees collected by the county trustee and shall be accomplished by rounding amounts ending in one cent to forty-nine cents (\$0.01 to \$0.49) down to the nearest dollar and amounts ending in fifty cents to ninety-nine cents (\$0.50 to \$0.99) up to the nearest dollar. Such rounding only applies to the base stormwater fee, and not to any interest or penalty added to delinquent fee.

(iii) Governmental, institutional, other tax-exempt properties, and properties exempted by statute or action of the management committee shall not be charged an annual program fee.

(b) Annual fee revision procedures. The annual program fee shall only be changed through the following multi-step procedure:

(i) During the first quarter of each calendar year, the stormwater manager shall perform a review of the program's financial condition, including an estimate of probable income and expenses for the upcoming year. Should the annual review indicate that the program will experience a significant budget imbalance in the coming year, the stormwater manager shall present to the management committee a request to revise the annual fee structure to correct the imbalance.

(ii) The management committee shall, at the next meeting following the receipt of the stormwater manager's recommendation, examine the annual financial review and the

stormwater manager's recommendation for the adjustment in the annual fees. If no regular meeting of the management committee is scheduled within thirty (30) calendar days of the issuance of the stormwater manager's recommendation, the chair of the committee shall call a special meeting. The management committee shall be free to adjust the proposed revisions, if any, in the amounts of the annual fees to any amounts which are supported by three-fourths (3/4) of the members of the management committee.

(iii) Once the management committee adopts an annual fee revision recommendation, the stormwater manager shall prepare a draft resolution incorporating the recommendation for action by the Hamilton County Commission. The stormwater manager shall submit the draft resolution for consideration at an upcoming meeting of the county commission, as allowed by the rules and procedures of the county commission. The county commission may adopt the recommendation, reject the recommendation, or adopt a different annual fee revision based on their own assessment of the program's financial situation, subject to the limitations described in the interlocal agreement establishing the program. The action of the county commission shall be final.

(c) Annual fee incorporation in municipal stormwater fee. Nothing contained herein shall prohibit or restrict any participating municipality from enacting and collecting an annual stormwater fee within its own jurisdictional boundaries which is higher than the program's annual fee. The program's annual fee shall be incorporated in the municipality's annual fee. The municipality may collect and utilize the excess funds derived from a higher annual stormwater fee to address stormwater issues within its boundaries as the municipality judges to be in its own best interest.

(d) Collection of delinquent annual fee payments. When any owner of any property subject to the annual program fee, fails to pay the annual program fee on or before the date when such program fee is required to be paid, interest and penalty shall be added to the amount of the program fee due, at the same rate and in the same amount as that set by state law for delinquent property tax. (See *Tennessee Code Annotated*, § 67-1-801.) Should the owner or any property subject to the annual program fee fail to remit payment for said fee within the time period adopted by the management committee for such payments, the program is authorized to take any and all actions which the management committee deems appropriate to try to collect the delinquent fee.

(2) Special program fees. The program shall be allowed to charge special program fees to individuals and organizations for specific activities which require input from the program staff. Because of the service-related

nature of the special program fees, they shall be applicable to all stormwater dischargers located within the program service area, including dischargers who may be exempt from the annual program fee. Special program fees shall comply with the following provisions:

(a) Types. Special program fees may be charged for the following types of services:

(i) Development plans review. Any person or organization with planned construction that will disturb one (1) acre or more shall submit development plans to the program staff which describe in detail the planned construction's conformance with the program requirements for stormwater pollution control at the site of the development. "Disturb" as used in this section shall identify any activity which covers, removes, or otherwise reduces the area of existing vegetation at a site, even on a temporary basis.

(ii) Erosion control plans review: Any person or organization with planned construction that will disturb one (1) acre or more shall submit erosion control plans to the program staff which describe in detail the planned construction's conformance with program requirements for erosion control at construction sites. It is understood that the erosion control plans review fee shall include on-site inspections by qualified member(s) of the program staff of the installed erosion control measures as defined by the approved erosion control plans.

(iii) Erosion control noncompliance re-inspection. Should any on-site inspection of installed erosion control measures reveal that the measures have been improperly installed, prematurely removed, damaged, or have otherwise failed and that such deficiency does not pose an imminent threat to the public safety or welfare or the downstream water environment, the program shall inform the responsible party of the deficiency, the responsible party's obligation to bring the installation into compliance with the approved plan, and the assessment of a re-inspection fee. The re-inspection fee shall reimburse the program for the costs associated with an inspector's returning to a specific site out of the normal inspection sequence.

(iv) Non-stormwater discharge permit review. Commercial and industrial facilities located within the program service area may be allowed to discharge non-polluting wastewater into the stormwater collection system. All such discharges, unless covered by a permit issued directly by TDEC or successor agency, must be covered by a discharge permit issued by the program staff and renewed annually. Fees charged by the program for such non-stormwater discharge permits will include the costs of the periodic sampling and testing of the discharge, determination of



the amount of the discharge, and any costs associated with reviewing and issuing the permit and maintaining necessary records pertaining to the permit.

(v) Residential development retention/detention basin lifetime operation and maintenance fee. The ownership of the property containing a dry detention basin constructed as a part of an approved runoff management plan for a residential development composed of multiple, individually owned lots shall be permanently transferred to Hamilton County, Tennessee, in accordance with the property transfer procedures of the county. In addition, the developer of the residential development shall pay a lifetime operation and maintenance fee to the program for each retention/detention basin. All such fees received by the program shall be deposited in an investment account and the earnings of the account shall be used to pay for the maintenance, repair, and operation of the retention/detention basins transferred to the ownership of the county.

(vi) Other. The management committee may from time to time identify other specific activities which warrant a special program fee. No such fee shall be enacted unless it is endorsed by the county mayor and approved by the county commission. Procedures for establishing a special program fee other than those identified above shall generally comply with the procedures for making revisions to the annual program fee as described in the preceding section.

(b) Initial special program fees. The initial amounts of the various special program fees shall be as noted in Appendix A<sup>1</sup> to this section.

(c) Special program fee revision procedures. Special program fees shall be changed only through the following multi-step procedure:

(i) The stormwater manager shall review the special program fees during the annual program financial review required under the "annual fee revision procedures" described in a previous section. The stormwater manager shall determine the financial viability of each special program fee and present to the management committee requests for revision of those fees, if any, which the stormwater manager believes should be adjusted.

(ii) Once the stormwater manager has submitted his or her recommendations, revisions of the special program fees shall comply with the procedures for management committee review and

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<sup>1</sup>Appendices to the stormwater ordinance can be found in the office of the recorder.

county commission action identified under the "annual fee revision procedures" described hereinbefore.

**18-312. Appeals.** All actions of the program staff, except for possible criminal violations which the staff has reported to the appropriate enforcement agency, shall be subject to an appeals process under the initial jurisdiction of the management committee. Appealable staff actions specifically include the assessment of civil penalties. Following receipt of a written "notice of appeal" from an appellant, the appeals process shall function as follows:

(1) Administrative review. An administrative review of all appeals and/or requests for review shall initially be conducted by the stormwater manager. The stormwater manager shall review the record of the situation and, if the stormwater manager is not satisfied that both of the following conditions have been met, the stormwater manager shall notify the appellant of the finding and grant the relief or a portion of the relief, as determined by the stormwater manager, sought by the appellant:

(a) The matter under dispute has been handled correctly by the program staff under the applicable rules and procedures of the program.

(b) The matter under dispute has been handled fairly by the program staff and the appellant has not, in any way, been treated differently than other dischargers with similar circumstances.

If the stormwater manager determines that both subsections (a) and (b) immediately above have been satisfied, the stormwater manager shall notify the appellant in writing that no relief can be granted at the program staff level and that the appellant is free to pursue the appeal with the management committee. Such notification shall include instructions as to the proper procedure for bringing the matter before the committee. Notification shall be made by hand-delivery; verifiable facsimile transmission; or certified mail, return receipt requested. A copy of the notification shall be provided to the management committee member representing the municipality in which the discharger is located and other administrative official as designated by each participating community. The stormwater manager shall complete the review and issue an opinion within twenty (20) calendar days of the receipt of the appeal.

(2) Committee hearing. Appeals rejected by the stormwater manager, in accordance with the procedure outlined immediately above, may be brought before the management committee. Within thirty (30) calendar days of receipt of a notification of an appeal, the committee shall determine if the appeal is to be heard by the committee as a whole, if the matter is to be referred to a standing subcommittee, or if a new subcommittee is to be appointed specifically to hear the appeal. If a special committee is appointed, the officer presiding at the meeting of the management committee at which the special subcommittee

is appointed shall name a chair and vice chair for said subcommittee. Once the appropriate forum for the appeal is decided, a date and time for hearing the appeal shall be set. Such date and time shall be within fifteen (15) calendar days following the date of the management committee's initial considerations regarding the appeal.

(3) Hearing procedures. Appeal hearings shall be conducted in a formal and orderly manner. However, the hearing is not a "court of law" and the rules of evidence, testimony, and procedures for such courts shall not apply. The stormwater manager or his designee shall first brief the committee or subcommittee on the history of the situation, including the actions of the program staff leading up to the appeal. The appellant shall then present his or her arguments as to why the relief sought should be granted. The stormwater manager or his designee shall then have the opportunity to rebut or refute the appellant's arguments. The committee or subcommittee shall then conduct deliberations concerning the appeal in an open session. During such deliberations, the members may ask questions of and/or seek additional input from the appellant or the program staff to clarify the situation. At the close of these deliberations the committee or subcommittee shall vote to accept or reject the appeal or to adopt a modified position regarding the matter in question. The outcome of this vote shall be considered the final action of the program with regard to the appeal. The chair of the committee or subcommittee hearing the appeal shall prepare a written order reflecting the committee's or subcommittee's determination regarding the appeal. A tape recording, minutes, or other record of the hearing shall be made and maintained by the program staff.

(4) Appealing decisions of the management committee. Any appellant dissatisfied with the decision of the management committee, as described in the preceding subsection, may appeal the management committee's decision by filing an appropriate request for judicial review to the Chancery Court of Hamilton County.

**18-313. Implementation schedule.** (1) Discharge permit. The program is authorized under National Pollutant Discharge Elimination System (NPDES) Permit No. TNS075566 issued by the Tennessee Department of Environment and Conservation (TDEC), Division of Water Pollution Control, which expires February 26, 2008. It is anticipated that subsequent permits will be issued to the program under the same permitting authority. All applicable provisions of the current or any subsequent permit shall be enforceable by the program as if fully spelled out herein. Implementation of certain aspects of the program shall comply with the specific schedule included in the permit.

(2) Implementation schedule.

<u>Description</u>	<u>Effective Date</u>
Prohibition of Illicit Discharges (Ordinance Section (9))	January 1, 2006
Prohibition of the Release of Sediments and Erosion Products from a Land Disturbance Site (Ordinance Section (4), subsection (c))	January 1, 2006
Implementation of the Land Disturbance Permit Program (Ordinance Section (4))	January 1, 2008
Implementation of the Runoff Management Permit Program (Ordinance Section (5))	January 1, 2008
Implementation of the Non-Stormwater Discharge Permit Program (Ordinance Section (6))	January 1, 2008

**18-314. Overlapping jurisdiction.** The State of Tennessee, working through the Tennessee Department of Environment and Conservation (TDEC), is or may be required by federal regulations to address stormwater pollution issues in ways which appear to overlap the goals and requirements of the program described by this section. Where such overlaps occur and where TDEC's regulations and determinations are more restrictive, the TDEC regulations and determinations shall control.

A requirement to comply with TDEC regulations and determinations shall not, in any way, relieve any party from complying with the provisions of this section.

**18-315. Violations and penalty.** (1) Violations. Any person who shall commit any act declared unlawful under this section, who violates any provision of this section, who violates the provisions of any permit issued pursuant to this section, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action required by the program, shall be guilty of a civil offense.

(2) Penalties. Under the authority provided in *Tennessee Code Annotated*, § 68-221-1106, the program declares that any person violating the provisions of this section may be assessed a civil penalty by the program 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. Applicable penalties for some specific violations are outlined in the enforcement protocol described in Appendix B<sup>1</sup> of this section.

(3) Measuring civil penalties. In assessing a civil penalty, the stormwater manager may consider:

- (a) The harm done to the 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 gained by the violator;
- (d) The amount of effort put forth by the violator to remedy this violation;
- (e) Any unusual or extraordinary remedial or enforcement costs incurred by the program or any participating municipality;
- (f) The amount of penalty established by ordinance or resolution for specific categories of violations; and
- (g) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

(4) Recovery of damages and costs. In addition to the civil penalties in subsection (2) above, the program may recover:

- (a) All damages proximately caused by the violator, which may include any reasonable expenses incurred in investigating violations of and enforcing compliance with this section, or any other actual damages caused by this violation.
- (b) The costs of maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by this section.

(5) Other remedies. The program or any participating municipality may bring legal action to enjoin the continuing violation of this section, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.

(6) 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.

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<sup>1</sup>Appendices to the stormwater ordinance can be found in the office of the recorder.