

TITLE 18

WATER AND SEWERS¹

CHAPTER

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CHAPTER 1

WATER AND SEWERS

SECTION

- 18-101. To be furnished under franchise.
- 18-102. Disposal prohibited except in water closets.
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18-101. To be furnished under franchise. Water service shall be furnished for the city and its inhabitants under such franchise as the board of commissioners shall grant. (1977 Code, § 13-101)

18-102. Disposal prohibited except in water closets. It shall be unlawful for any person to dispose of any human excreta in the city except in a sanitary water closet. (as added by Ord. #493, § 1, Nov. 1997)

18-103. Where water closet required. Every residence and building in the city in which human beings reside, are employed, or congregated shall have, for the disposal of human excreta, a sanitary water closet. (as added by Ord. #493, § 1, Nov. 1997)

18-104. Liability of property owner. It shall be unlawful for any person owning, leasing or renting property in the city to permit the disposal of human excreta on any property owned, leased or rented by such person or his agent, except in a sanitary water closet. (as added by Ord. #493, § 1, Nov. 1997)

¹Municipal references

Building, utility and housing codes: title 12.

18-105. Connection with septic tank required. Any building in the city which toilet facilities are required, which is not located within an area required for connection with a sewer, as provided in section 18-1¹ of this code, shall have such toilet facilities connected with a septic tank. (as added by Ord. #493, § 1, Nov. 1997)

18-106. Connection with city sanitary sewer required. (1) Sewer connection required. Every building having plumbing fixtures installed and intended for human habitation, occupancy, or use on premises abutting a street, alley, or easement in which there is a sanitary sewer for single family lots existing as of the effective date of this section² and five hundred (500) feet for all others, shall be considered as being served by the city's sanitary sewer system.

All new buildings hereafter constructed which may be served by the city's sewer system shall not be occupied until the connection has been made. The owner or occupant of each lot or parcel of land which is now served or which may hereafter be served by the city's sewer system shall cease to use any other method for the disposal of sewage except as approved for direct discharge by the Tennessee Department of Health and Environment. Should a septic tank system fail to function properly, repairs shall be prohibited and connection to the sanitary sewer system shall be required. Septic tanks shall not be used where sewers are available. The public works director shall make any decision as to the location and or availability of sewers. Notwithstanding the above exceptions, all premises served by the city's sanitary sewer shall be subject to sewer user charges as adopted from time to time by the City of Collegedale.

(2) Sewer connection required. The discharge of sewage into places other than the city's sewer system is declared a nuisance, except for discharge into a properly functioning septic tank system approved by the Chattanooga-Hamilton County Health Department or discharges permitted by a National Discharge Elimination System Permit issued by the State of Tennessee Department of Health and Environment (NPDES).

(3) Unconnected sewer service lines declared a nuisance. Except for discharge to a properly functioning septic tank system approved by the Chattanooga-Hamilton County Health Department or discharges permitted by a National Discharge Elimination System permit (hereinafter "NPDES") issued by the State of Tennessee Department of Health and Environment, the

¹Ord. No. 493, § 1 (November 1997) from which these provisions were taken, reads "section 18-1 of this code." However there is no municipal code section 18-1.

²These provisions were taken from Ord. No. 493 which passed second and final reading November 17, 1997.

discharge of sewage into places other than the city's sewer system is declared a nuisance. If the owner of any property which requires a sewer connection fails or refuses to connect to the city's system, the building inspector may take such action to abate the nuisance as may be warranted under the circumstances.

(4) Every building located on a lot having sewer service available as defined in paragraph (1) shall pay sewer availability fee equal to the water used as determined by the water meter volume times the sewer rate applicable for the building, whether or not there is an actual connection made to the sewer. (as added by Ord. #493, Nov. 1997, and amended by Ord. #535, June 2000)

CHAPTER 2

CROSS-CONNECTIONS, AUXILIARY INTAKES, ETC.¹

SECTION

- 18-201. Definitions.
- 18-202. Regulated.
- 18-203. Statement required.
- 18-204. Violations.

18-201. Definitions. The following definitions and terms shall apply in the interpretation and enforcement of this chapter:

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

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

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

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

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

(6) "Person." Any and all persons, natural or artificial, including any individual firm or association, and any municipal or private corporation organized or existing under the laws of this or any other state or county. (1977 Code, § 8-301)

18-202. Regulated. It shall be unlawful for any person to cause a cross-connection, auxiliary intake, by-pass, or interconnection to be made, or allow one to exist for any purpose whatsoever unless the construction and,

¹The regulations in this chapter are recommended by the Tennessee Department of Public Health for adoption by cities.

Municipal code reference

Plumbing code: title 12.

operation of same have been approved by the Tennessee Department of Public Health, and the operation of such cross-connection, auxiliary intake, by-pass, or interconnection is at all times under the direct supervision of the superintendent of the water works. (1977 Code, § 8-302)

18-203. Statement required. Any person whose premises are supplied with water from the public water supply, and who also has on the same premises a separate source of water supply, or stores water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with the superintendent of the water works, a statement of the non-existence of unapproved or unauthorized cross-connections, auxiliary intakes, by-passes, or interconnections. Such statement shall also contain an agreement that no cross-connection, auxiliary intake, by-pass, or interconnection will be permitted upon the premises until the construction and operation of same have received the approval of the Tennessee Department of Public Health, and the operation and maintenance of same have been placed under the direct supervision of the superintendent of the water works. (1977 Code, § 8-303)

18-204. Violations. Any person who now has cross-connections, auxiliary intakes, by-passes, or interconnections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with such provisions. After a thorough investigation of existing conditions and an appraisal of the time required to complete the work, the amount of time to be allowed shall be designated by the superintendent of the water works. In addition to, or in lieu of any fines and penalties that may be judicially assessed for violations of this chapter, the superintendent of the water works shall discontinue the public water supply service at any premises upon which there is found to be a cross-connection, auxiliary intake, by-pass, or interconnection, and service shall not be restored until such cross-connection, auxiliary intake, by-pass, or interconnection has been discontinued. (1977 Code, § 8-304)

CHAPTER 3

WASTEWATER USER CHARGES, ETC.

SECTION

- 18-301. Definitions.
- 18-302. Costs to be defrayed by charges.
- 18-303. How cost is assessed.
- 18-304. Customers to be billed monthly; penalty for delinquency; discontinuance of service.
- 18-305. Distribution of funds collected.
- 18-306. Periodic review and revision of charges.
- 18-307. Fees for industrial contributors of "process wastes."
- 18-308. Collection of certain charges for Chattanooga.
- 18-309. Computation and amortization of industrial cost recovery amounts.
- 18-310. Distribution of first 50% of industrial charges collected.
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- 18-312. Expenditure of funds for expansion or reconstruction, etc.
- 18-313. Investment of funds pending use.
- 18-314. Definition of "industrial user or development."
- 18-315. Computation of industrial recovery charges.
- 18-316. Metering facilities and sampling devices.
- 18-317. Annual assessments against industries.

18-301. Definitions. Unless specifically indicated otherwise, the meaning of the terms used in this ordinance shall be as follows:

(1) "BOD" (Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20°, expressed in milligrams per liter (mg/l).

(2) "SS" (Suspended Solids) shall mean solids that either float on the surface of or are in suspension in water, sewage, or other liquids and which are removable by laboratory filtering.

(3) "COD" (Chemical Oxygen Demand) shall mean the chemical oxygen demand exerted by the organics in the wastewater as measured utilizing standard laboratory procedures.

(4) "Normal Domestic Wastewater" shall mean wastewater that has a BOD concentration of not more than 300 mg/l, a suspended solids concentration of not more than 400 mg/l, and a COD concentration of not more than 600 mg/l.

(5) "Operation and maintenance" shall mean all expenditures during the useful life of the treatment works for materials, labor, utilities, and other items which are necessary for managing and maintaining the sewage works to

achieve the capacity and performance for which such works were designed and constructed.

(6) "Replacement" shall mean expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed. The term "operation and maintenance" includes replacement.

(7) "Single family residential customer" shall mean any contributor to the city's wastewater system from a facility that houses a single family and is used for domestic dwelling purposes only.

(8) "Wastewater system" shall mean any devices and systems for the storage, treatment, recycling, and reclamation of municipal sewage, domestic sewage, or liquid industrial wastes. These include intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment and their appurtenances. (1977 Code, § 13-501)

18-302. Costs to be defrayed by charges. (1) The charges promulgated by this ordinance shall defray, in their entirety, the costs associated with the following components:

(a) Operation and maintenance costs, including replacement as defined in section 18-301.

(b) Bond and/or loan amortization, including principal, interest, and applicable reserve and sinking funds.

(c) The rates for sewer usage shall be calculated based on the Chattanooga regional rate plus Collegedale's cost to serve. This method shall be used for water meter customers, bulk users, and regional users. Increases in the Chattanooga regional rate will automatically pass through; increases in Collegedale's cost to serve will require approval by ordinance.

(2) In addition to the above cost components, industrial cost recovery payments shall be assessed in accordance with an existing City of Collegedale ordinance. (1977 Code, § 13-502, and amended by Ord. #1048, Nov. 2017))

18-303. How cost is assessed. (1) The cost for wastewater services shall be divided into components and assessed in accordance with the following:

(a) That the rates for sewer usage be revised as follows, effective July 1st, 2021:

Water meter billings users: \$11.44 per 1,000 gallons (with \$23.50 monthly minimum)

Bulk users: \$5.2712 per 1,000 gallons

Regional users: As established in interlocal agreement

(b) Monthly charge for high strength wastewaters. The following assessments, in addition to user charges, shall be levied for high strength wastewaters:

<u>Parameter</u>	<u>Maximum Limit without Additional Assessment</u>	<u>Cost per Pound for Pollutants Present Over Prescribed Maximums</u>
BOD	300 mg/l	0.0105124 \$/lb.
SS	400 mg/l	0.0143145 \$/lb.
COD	600 mg/l	0.0066 \$/lb.

The method of determining the concentration of pollutants shall be a composite sample collected over a twenty-four (24) hour interval on a quarterly basis. The city may require additional sampling, up to four (4) samples per month, if the analytical results vary substantially from a weighted average. The entire cost of sampling and analysis shall be borne by the customer.

(c) Monthly charge for toxic pollutants. Any customer which discharges toxic pollutants that cause an increase in the cost of disposing of the effluent or the sludge, or any user which discharges any substance which singly or by interaction with other substances causes increases in the cost of operation, maintenance, or replacement of the treatment works, shall pay for such increased costs. The charge to each such user shall be as determined by the responsible operating personnel and shall be approved by the city commission.

(d) Privilege connection fee. (1) The minimum privilege connection fee shall apply to the following structures: single-family structure or each unit of a duplex, triplex, or any other multi-unit residential structure; a single-unit non residential structure such as a school, church, service station, or other single-unit commercial structure; and each unit of a multi-unit non-residential structure such as a shopping center or other commercial structure shall be determined in accordance with the following schedule based on water meter sizes. The privilege connection fee for a multi-unit structure shall be calculated as if each unit were individually metered.

<u>Water Meter Size</u>	<u>Sewer Tapping Fee</u>
Less than 1"	\$ 450
1"	450
Between 1" & 2"	600
2"	900
3"	1,400
4"	3,000

6"	3,400
8"	4,500

(2) The minimum privilege connection fee does not include the cost of service assembly; i.e., making tap and furnishing and installing service line, pavement, or other repair, or other restorative work, all of which is to be borne by the purchaser.

(3) The city must approve the size and location of each private service line.

(4) All connections and extensions to the city's system must comply with the specifications of the Tennessee Department of Health & Environment and the City of Collegedale.

(5) The above delineated wastewater service charge shall be applied to all customers and there shall be no differentiation between customers located outside the city limits of Collegedale. (1977 Code, § 13-503, as amended by Ord. # 261, Jan. 1990; Ord. # 262, Jan. 1990; Ord. #292, Aug. 1992; Ord. #447, § 1, March 1996, and Ord. #1093, June 2021 *Ch8_07-19-21*)

18-304. Customers to be billed monthly; penalty for delinquency; discontinuance of service. Each customer shall be billed monthly for wastewater services that are applicable to that particular customer. Notwithstanding any regulations to the contrary, all customers shall be assessed a monthly service charge based on their wastewater discharge.

All monthly charges are due and payable thirty (30) days after receipt, and if paid after said time period, the charges are subject to a late charge not to exceed ten (10) percent of the total charge.

Failure to pay said monthly charges within sixty (60) days of receipt will give the city the right to discontinue service without notice. If service is discontinued because of nonpayment of monthly charges, service will not be reinstated until the customer has paid the total cost of disconnection and reconnection. (1977 Code, § 13-504)

18-305. Distribution of funds collected. The funds received from monthly wastewater charges and connection fees shall be distributed on or before the tenth of the month following the months in which they are collected. Said funds shall be distributed in the sequence and manner as follows:

(1) The funds due the City of Chattanooga, in accordance with contractual agreements and as approved by the mayor and city commission, shall be paid directly to that city.

(2) That portion of the monthly service charge, which is currently 28¢/1000 gallons, designated as funds to be expended only for operation, maintenance, and replacement of the City of Collegedale portion of the wastewater systems, shall be deposited in the "Collegedale Wastewater Operation and Maintenance Fund." Expenditures from both of these established

funds shall be in accordance with current E.P.A. regulations. Said regulations currently require the annual surplus in the "Collegedale Operation and Maintenance Fund" remain in said fund and be utilized during the forthcoming year for operation and maintenance purposes only.

(3) The funds amounting to one-twelfth (1/12) of the annual requirement for amortization of the bonds issued for sewer improvements to the Farmers Home Administration, plus one-twelfth (1/12) of the amount stipulated in the bond ordinance for the necessary reserve fund or funds, plus one-twelfth (1/12) of the annual amount required for repayment of the loan obtained from the State of Tennessee for construction of a wastewater interceptor system, shall be deposited in the "Collegedale Wastewater Bond and Loan Amortization Fund" and said funds may not be withdrawn from said account except for the specific purpose of satisfying the long term debts enumerated above.

(4) The funds remaining after items (1), (2), and (3), have been satisfied, including any deficiencies that may have accrued in any of the said accounts, shall be deposited in the "Collegedale Wastewater Surplus Fund," and said funds may be utilized for any purpose that directly relates to the wastewater system or as directed by the mayor and city commission. (1977 Code, § 13-505, as amended by Ord. #291, May 1992)

18-306. Periodic review and revision of charges. The city will review the user charge system every two (2) years and revise user charge rates as necessary to ensure that the system generates adequate revenues to pay the costs of operation and maintenance including replacement and that the system continues to provide for the proportional distribution of operation and maintenance including replacement cost among users and user classes.

The city will notify each user at least annually, in conjunction with a regular bill, of the rate being charged for operation, maintenance including replacement of the treatment works. (1977 Code, § 13-506)

18-307. Fees for industrial contributors of "process wastes." All existing and/or future industrial developments which contribute "process wastes" to the facilities constructed under the E.P.A. grant program shall be charged a fee in direct proportion to their "process waste" contribution or "reserve capacity" as compared to the design criteria of the wastewater treatment and transportation projects, which fee shall be in addition to the sewer service charges as provided by a separate ordinance. (1977 Code, § 13-507)

18-308. Collection of certain charges for Chattanooga. Certain portions of the wastewater interceptor and treatment facilities serving the City of Collegedale are to be owned and operated by the City of Chattanooga. The City of Collegedale shall collect from existing and/or future industrial developments an industrial cost recovery equal to an amount agreed upon by the two cities.

Said collections shall be awarded to the City of Chattanooga within thirty (30) days of receipt. (1977 Code, § 13-508)

18-309. Computation and amortization of industrial cost recovery amounts. The industrial cost recovery amount shall be based on the federal government's share, excluding the cost of detection and repair of infiltration/inflow sources, of the project cost. Industries' payment shall be amortized over a 30 year cost recovery period and shall not include an interest component. (1977 Code, § 13-509)

18-310. Distribution of first 50% of industrial charges collected. The City of Collegedale shall retain 50 percent of the amounts recovered from assessments relating to the Collegedale portion of the interceptor system from the industrial users. After industrial cost recovery administrative costs are defrayed, eighty percent (80%) of the residual shall be deposited annually in the "Collegedale Wastewater Expansion - Reconstruction Fund." The remaining twenty percent (20%) of the residual shall be deposited into the "Wastewater System Revenue Fund." (1977 Code, § 13-510)

18-311. Distribution of remaining 50%. The remaining fifty percent (50%) of the amounts recovered from assessments relating to the Collegedale portion of the interceptor system shall be deposited in the "Collegedale Industrial Cost Recovery Fund." The entire proceeds of this fund, including principal and interest, shall be remitted on an annual basis to the U.S. Treasury, through E.P.A. (1977 Code, § 13-511)

18-312. Expenditure of funds for expansion or reconstruction, etc. The eighty percent (80%) portion of the amount retained by the city pursuant to section 18-310, together with interest earned thereon, shall be used solely for the eligible costs of the expansion or reconstruction of wastewater facilities associated with the project. Before said funds are expended from the "Collegedale Wastewater Expansion - Reconstruction Fund" the city shall receive written approval of the proposed expenditures from the E.P.A. Regional Administrator.

The twenty percent (20%) portion of the retainage by the city pursuant to Section 18-310, shall not be utilized for construction of industrial pretreatment facilities or for rebates to industrial users for industrial cost recovery assessments or user charges. (1977 Code, § 13-512)

18-313. Investment of funds pending use. Pending use, the funds deposited in the "Collegedale Wastewater Expansion - Reconstruction Fund" and the "Collegedale Industrial Cost Recovery Fund" shall, at the direction of the mayor and city commission, be invested in obligations of the U.S. Government

or in obligations guaranteed as to principal and interest by the U.S. Government or any agency thereof. (1977 Code, § 13-513)

18-314. Definition of "industrial user or development." For the purpose of this chapter, an industrial user or development is defined as follows: Any non-governmental, non-residential user of a publicly owned treatment works which discharges more than the equivalent of 25,000 gallons per day (gpd) of sanitary wastes and which is identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented under one of the following divisions:

Division A. Agriculture, Forestry, and Fishing

Division B. Mining

Division D. Manufacturing

Division E. Transportation, Communications, Electric, Gas, and Sanitary Services

Division I. Services

Sanitary wastes are to be excluded from assessment relating to industrial cost recovery. (1977 Code, § 13-514)

18-315. Computation of industrial recovery charges. The industrial recovery charges shall be based on the average flow, the pounds of BOD and the pounds of suspended solids contained in the waste after an allowance for domestic sewage has been deducted. Charges shall be in accordance with the following:

INDUSTRIAL COST RECOVERY CHARGES

<u>Parameter</u>	<u>Annual Unit Costs</u>
Average Flow (Estimated or Observed)	\$26.69 per 1000 gpd
BOD (in excess of 300 mg/l)	\$ 1.30 per lbs. per day
Suspended Solids (in excess of 400 mg/l)	\$ 0.81 per lbs. per day

The above charges shall not be altered unless applicable portions of the system are expanded or upgraded, in which case, the then current E.P.A. regulations shall govern.

In no case shall the industrial cost recovery assessments exceed thirty (30) years. (1977 Code, § 13-515)

18-316. Metering facilities and sampling devices. The city shall furnish and install a flow meter to record both the total and peak flows. The initial cost of metering facility shall be borne by the industry. If the city deems that the waste may exceed a BOD concentration of 300 mg/l or a suspended solids concentration of 300 mg/l, the city may install, at the expense of the industry, a sampling device. (1977 Code, § 13-516)

18-317. Annual assessments against industries. The city shall, on or before the fifteenth day of October, issue an assessment to the industries covering the annual cost for the preceding year ending on the thirty-first day of August. If the assessment is not paid by the fifteenth day of November, the city will take whatever action is necessary, including but not limited to termination of wastewater service, to obtain full payment. (1977 Code, § 13-517)

CHAPTER 4

SEWER EXTENSION POLICY

SECTION

- 18-401. Service offered to areas not presently served.
- 18-402. Sanitary sewer main extension agreement.
- 18-403. Areas outside city limits.
- 18-404. Sewer tap certificates.
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- 18-413. Number of sewer tap certificates.
- 18-414. Service to contiguous areas.
- 18-415. Responsibility for construction.
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- 18-417. Applications for individual services.

18-401. Service offered to areas not presently served. The City of Collegedale will provide sewer service to areas not presently served by the existing sewer system according to the policies provided in this chapter. (Ord. #292, Aug. 1992)

18-402. Sanitary sewer main extension agreement. Any party requiring sewer service to property that is not adjacent to existing sewer lines will enter into a sanitary sewer main extension agreement with the city for sewer service. The sanitary sewer main extension agreement is a contract between the party or parties requesting sewer service and the city. The agreement identifies the property to be served, number of single family equivalent taps for the property or the sewer tapping fee as determined by Ord. #262, Jan. 1990, for non-residential development, cost of the gravity line to the property, and credit for the line cost. The cost of the sewer main extension shall include engineering fees, easement acquisition cost and construction cost of the gravity portion of the line between the existing sewer system and the property boundary of the property. It does not include the cost of sewer lines within the property. The design and construction of the sewer main shall be in accord with the city and state regulations for sewer lines and must be permitted by both agencies prior to starting construction. The city may require competitive bids for the construction of the work. The persons requesting the extension will be

responsible for payment of all work and cost relative to the extension. (Ord. #292, Aug. 1992)

18-403. Areas outside city limits. In addition to the above, property that is outside but is contiguous to the city limits must be annexed prior to receiving sewer service. (Ord. #292, Aug. 1992)

18-404. Sewer tap certificates. In consideration for the payment described in § 18-402, the city shall issue sewer tap certificates (credits) to the party making such payment for the gravity portion of the sanitary sewer main extension. Pump stations and force mains are excluded. The number of certificates shall be determined by the payment amount divided by the current tap fee but shall not exceed the number of single family tap equivalents or as determined by Ord. #262, Jan. 1990, for non-residential development in the property to be served. The sewer tap certificates may be redeemed by the holder for sewer taps at the stated value within a five year period from the date of issue. The city will require the certificates be redeemed before selling taps in the property to other parties. (Ord. #292, Aug. 1992)

18-405. Modification of extensions. The city may elect to modify the sewer line extension by paying the difference between the required line cost and modified cost. Such modifications may include but are not limited to size increase, manhole additions, service lateral additions, etc. (Ord. #292, Aug. 1992)

18-406. City may participate in cost. This policy governing sewer extensions shall not limit the city from participating in the cost of sewer main extension when the application warrants consideration due to favorable return on investment. (Ord. #292, Aug. 1992)

18-407. Construction plans. Prior to construction the developer will submit construction plans to the city for review and approval. The construction plans shall conform to the standards of design, construction and materials required by the city and the state. The city reserves the right to modify the sewer system by enlarging lines, adding manholes or services or other changes. The cost of the modifications will be reimbursed to the developer by the city. (Ord. #292, Aug. 1992)

18-408. Permits and easements. The developer will be responsible for obtaining all permits and easements necessary for the construction of the sanitary sewer line described above. (Ord. #292, Aug. 1992)

18-409. Review and acceptance of bids. The city retains the right of review and acceptance of the bids for construction. (Ord. #292, Aug. 1992)

18-410. Computation of cost. The total cost for extending the sanitary sewer line to the boundary of the property to be served shall be determined as the sum of the engineering fees, easement acquisition cost, and construction cost including materials and labor for installation of the gravity portion of the sanitary sewer line. (Ord. #292, Aug. 1992)

18-411. Payment of cost. Payment of the total cost for the sanitary sewer line shall be the responsibility of the developer. (Ord. #292, Aug. 1992)

18-412. Inspection and approval of line. Prior to placing the sanitary sewer line into services, the line shall be inspected and approved by the city and "record plans" of the construction provided to the city. (Ord. #292, Aug. 1992)

18-413. Number of sewer tap certificates. In consideration of the payment described in § 18-411 above, the city shall issue sewer tap certificates to the developer. The number of sewer tap certificates issued shall be determined by dividing the total cost for the sanitary sewer line, excluding the cost of pump stations, force mains, and the city's portion of the cost by the current sewer tap fee and rounding to the next lower whole number and not exceeding the number of single family tap equivalents from the project or at the value assigned for the sewer tapping fee in Ord. #262, Jan. 1990, for non-residential use not exceeding the applicable part of the line cost. The sewer tap certificates so issued shall be negotiable as payment for sewer taps on the sewer extension covered in this chapter. The tap certificates shall expire five (5) years after the date of issue. (Ord. #292, Aug. 1992)

18-414. Service to contiguous areas. It is understood that the city will provide sewer service to areas contiguous to the city only upon request of annexation of the area to the city. The developer agrees that at any future time should any part of the property become contiguous to the city limits of Collegedale, the developer, its/his/her or their heir(s), successor(s) and/or assign(s) will cause all of said property to be annexed to the city. (Ord. #292, Aug. 1992)

18-415. Responsibility for construction. Construction of sanitary sewer collection system to serve the interior of the property is the responsibility of the developer. The interior collection system shall be installed according to plans and specifications submitted to, and approved by, the city and the state.

18-416. Portions of system transferred to city. Such portions of the sanitary sewer collection system as may be approved and accepted by the city shall be transferred to the city, at no cost to the city, by the developer. Said instruments and or deeds shall include such easements as necessary for ingress, egress, operation and maintenance. (Ord. #292, Aug. 1992)

18-417. Applications for individual services. Applications for individual services (sewer taps) will be accepted upon completion of construction, receipt of "record plans", receipt of a waiver of lien from the contractor installing the sewer system, copies of permit approvals for operation from regulatory agencies, and proof that plumbing permits for the structures for which application is being made have been issued. (Ord. #292, Aug. 1992)

CHAPTER 5

WASTEWATER COLLECTION SYSTEM AND TREATMENT WORKS
REGULATIONS

SECTION

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- 18-513. Miscellaneous fees.
- 18-514. Penalties for violations of chapter, permit conditions or order.

18-501. General provisions. (1) Purpose and policy. The purpose of this chapter is to set uniform requirements for users of the City of Collegedale's wastewater collection system and treatment works to enable the city to comply with the provisions of the Clean Water Act and other applicable federal and state laws and regulations, and to provide for the public health and welfare by regulating the quality and quantity of wastewater discharged into the city's wastewater collection system and treatment works. This chapter provides a means for determining wastewater volumes, constituents and characteristics, the setting of charges and fees, and the issuance of permits to certain users. This chapter establishes effluent limitations and other discharge criteria and provides that certain users shall pretreat waste to prevent the introduction of pollutants into the publicly owned treatment works (hereinafter referred to as POTW) which will interfere with the operation of the POTW or contaminate the sewage sludge; to prevent the introduction of pollutants into the POTW which will pass through the treatment works into the receiving waters or the atmosphere, or otherwise be incompatible with the treatment works; and to improve opportunities to recycle and reclaim wastewater and the sludges resulting from wastewater treatment. This chapter provides measures for the enforcement of its provisions and abatements of violations thereof. This chapter establishes a wastewater regulations board and its duties, and establishes the

duties of the superintendent to insure that the provisions of this chapter are administered fairly and equitably to all users.

(2) Definitions. For purposes of this chapter, the following phrases and words shall have the meaning assigned below, except in those instances where the content clearly indicates a different meaning:

(a) "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.

(b) "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 an NPDES state without an approved state pretreatment program.

(c) "Authorized representative of industrial user." An authorized representative of an industrial user may be: (1) A principal executive officer of at least the level of vice president, if the industrial user is a corporation; (2) a general partner or proprietor of the industrial user is a partnership of proprietorship, respectively; (3) a duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facility from which the indirect discharge originates.

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

(e) "Board." The wastewater regulations board.

(f) "Categorical standards." National pretreatment standards.

(g) "City." The City of Collegedale, Tennessee, a municipal corporation.

(h) "Community sewer." Any sewer containing wastewater from more than one premise.

(i) "Compatible pollutant." Biochemical oxygen demand, suspended solids, pH and fecal coliform bacteria; plus any additional pollutants identified in the publicly owned treatment works' NPDES permit for which the publicly owned treatment works is designed to treat such pollutants to a substantial degree.

(j) "Control authority." The approval authority defined hereinabove, or the superintendent if the city has an approved pretreatment program under the provisions of 40 C.F.R. 403.11.

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

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

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

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

(o) "Incompatible pollutant." All pollutants other than compatible pollutants as defined as subsection (2)(i) of this section.

(p) "Indirect discharge." The discharge or the introduction of nondomestic 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) for treatment before direct discharge to the waters of the state.

(q) "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).

(r) "Interference." Inhibition or disruption of the sewer system, treatment processes or operations or which contributes to a violation of any requirement of the city's NPDES permit. The term includes prevention of sewage sludge use or disposal of the POTW in accordance with Section 405 of the Act (33 U.S.C. 1345) or any criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

(s) "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.

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

(u) "National 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 industrial users.

(v) "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.

(w) "National pollution discharge elimination system or NPDES permit." A permit issued to a POTW pursuant to Section 402 of the Act (33 U.S.C. 1342).

(x) "Person." Any individual, partnership, copartnership, 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; the singular shall include the plural where indicated by the context.

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

(z) "Premises" A parcel of real estate or portion thereof including any improvements thereon which is determined by the superintendent to be a single user for purposes of receiving, using and paying for services.

(aa) "Pretreatment." 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 or biological processes, process changes, or by other means, except as prohibited by 40 C.F.R. 403.6(d).

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

(cc) "Publicly owned treatment works or POTW." A treatment works as defined by Section 212 of the Act (33 U.S.C. 1292), which is owned in this instance by the city. This definition includes any sewers that convey wastewater to such a treatment works, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. The term also means the City of Collegedale, a municipality, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

(dd) "Reclaimed water." Water which, as a result of treatment of waste, is suitable for direct beneficial uses or a controlled use that would not occur otherwise.

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

(ff) "Superintendent." The person designated by the city 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.

(gg) "Toxic pollutant." Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provisions of 33 U.S.C. 1317.

(hh) "Treatment works." Any devices and systems used in the storage, treatment, recycling and reclamation of domestic sewage or industrial wastes of a liquid nature including interceptor sewers, outfall sewers, sewage collection systems, pumping, power and other equipment and appurtenances; extensions, improvements, remodeling, additions and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment; and including combined storm water and sanitary sewer systems.

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

(jj) "Unpolluted water." Water to which no constituent has been added, either intentionally or accidentally, which would render such water unacceptable to the State of Tennessee or the Environmental Protection Agency having jurisdiction thereof for disposal to storm or natural drainage, or directly to surface waters.

(kk) "User." Any person, firm, corporation or governmental entity that discharges, causes or permits the discharge of wastewater into a community sewer.

(ll) "Waste." Includes sewage and any and all other waste substances, liquid, solid, gaseous or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing or processing operation of whatever nature, including such waste placed within containers of whatever nature prior to, and for purpose of disposal.

(mm) "Wastewater." Waste and water, whether treated or untreated, discharged into or permitted to enter a community sewer.

(nn) "Wastewater constituents and characteristics." The individual chemical, physical, bacteriological and radiological parameters, including volume and flow rate and such other parameters that serve to define, classify or measure the contents, quality, quantity and strength of wastewater.

(oo) "Waters of the State of Tennessee." Any water, surface or underground, within the boundaries of the state.

(3) Abbreviations. The following abbreviations shall have the following meanings:

- (a) BOD: Biochemical oxygen demand.
- (b) CFR: Code of Federal Regulations.
- (c) COD: Chemical oxygen demand.
- (d) EPA: Environmental Protection Agency.
- (e) GMP: Good management practices.
- (f) l: Liter.
- (g) MBAS: Methylene-blue-active substances.
- (h) NPDES: National Pollutant Discharge Elimination System.
- (i) POTW: Publicly owned treatment works.
- (j) SIC: Standard industrial classification.
- (k) SWDA: Solid Waste Disposal Act, 42 U.S.C. 6901 et seq.
- (l) U.S.C.: United States Code. (1977 Code, § 8-601)

18-502. Prohibitions and limitations on discharges into the public owned treatment works. (1) Purpose and policy. This section establishes limitations and prohibitions on the quantity and quality of wastewater which may be lawfully discharged into the publicly owned treatment works. Pretreatment of some wastewater discharge will be required to achieve the goals established by this chapter and the Clean Water Act. The specific limitations set forth in subsection (12) hereof, and other prohibitions and limitations of this chapter, are subject to change as necessary to enable the city to meet the requirements contained in its NPDES permit. The wastewater regulations board shall review said limitations from time to time to insure that they are sufficient to enable the treatments works to comply with NPDES permit, that they are sufficient to provide for a cost effective means of operating the treatment works, and that they are sufficient to protect the public health and the environment. The board shall recommend changes or modifications as necessary.

(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 will cause corrosive structural damage to the POTW, but in no case discharges with a pH lower than 5.0 or higher than 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 pollutant, including oxygen-demanding pollutants (BOD, etc.) released in a discharge of such volume or strength as to cause interference in the POTW;

(e) Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the treatment works influent exceeds forty (40) degrees centigrade (one hundred four (104) degrees Fahrenheit). 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 (65) degrees centigrade (one hundred fifty (150) degrees Fahrenheit).

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

(a) Wastewater containing any element or compound which is not adequately removed by the treatment works which is known to be an environmental hazard;

(b) Wastewater causing a discoloration or any other condition in the quality of the city's treatment works' effluent such that receiving water quality requirements established by law cannot be met;

(c) Wastewater causing conditions at or near the city's treatment works which violate any statute, rule or regulation of any public agency of this state or the United States;

(d) Wastewater containing any element or compound known to act as a lacrimator, known to cause nausea, or known to cause odors constituting a public nuisance;

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

(f) Wastewater having constituents and concentrations in excess of those listed in subsection (12), or which cause a violation of the limits in subsection (13).

(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 chapter. 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 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 other 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. Storm water, groundwater, rain water, street drainage, roof top drainage, basement drainage, subsurface 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) hereinabove.

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

(a) When the person is authorized to use radioactive materials by the Tennessee Department of Public Health or the Nuclear Regulatory Commission;

(b) When the waste is discharged in strict conformity with applicable laws and regulations of the aforementioned agencies or any other agency having jurisdiction; and

(c) When a copy of permits received from said regulatory agencies have been filed with the superintendent.

(8) Limitations on the use of garbage grinders. Waste from garbage grinders shall not be discharged into a community sewer except when 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 the 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 provision 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 superintendent. The superintendent shall incorporate

in such temporary permit such conditions as he deems reasonably necessary to insure compliance with the provisions of this chapter, 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 cesspool pump trucks or other liquid waste transport trucks shall discharge directly or indirectly into the POTW unless such person shall first have applied for and received a truck discharge operation permit from the superintendent. All applicants for a truck discharge operation permit shall complete such forms as required by the superintendent, pay appropriate fees, and agree in writing to abide by the provisions of this chapter and any special conditions or regulations established by the superintendent. The owners of such vehicles shall affix and display the permit number on the side of each vehicle used for such purposes. Such permits shall be valid for a period of one year from date of issuance; provided, that such permit shall be subject to revocation by the superintendent for violation of any provision of this chapter or reasonable regulation established by the superintendent. Such permits shall be limited to the discharge of domestic sewage waste containing no industrial waste. The superintendent shall designate the locations and times where such trucks may be discharged, and may refuse to accept any truckload of waste in his absolute discretion where it appears that the waste could interfere with the effective operation of the treatment works or any sewer line or appurtenance thereto.

(11) Other holding tank waste. No person shall discharge any other holding tank waste into the POTW unless he shall have applied for and have been issued a permit by the superintendent. Unless otherwise allowed under the terms and conditions of the permit, a separate permit must be secured for each separate discharge. The permit shall state the specific location of discharge, the time of day the discharge is to occur, the volume of the discharge, and shall limit the wastewater constituents and characteristics of the discharge. Such user shall pay any applicable charges or fees therefor, and shall comply with the conditions of the permit issued by the superintendent. Provided, however, no permit will be required to discharge domestic waste from a recreational vehicle holding tank provided such discharge is made into an approved facility designed to receive such waste.

(12) Limitations on wastewater strength. No person or user shall discharge wastewater in excess of the concentrations set forth in the table below unless an exception has been granted the user under the provisions of section 18-503; or 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.

<u>Parameter</u>	<u>Maximum Concentration (24 Hour Flow) Proportional Composite Sample (mg/l)</u>	<u>Maximum Instantaneous Concentration Grab Sample (mg/l)</u>
Biochemical oxygen demand	*	-
Chemical oxygen demand	*	-
Suspended solids	*	-
Arsenic (As)	1.0	2.0
Cadmium (Cd)	1.0	2.0
Chromium Total (CR)	5.0	10.0
Chromium Hex (Cr+6)	0.05	0.10
Copper (Cu)	5.0	10.0
Cyanide (CN)	2.0	4.0
Lead (Pb)	1.5	3.0
Mercury (Hg)	0.1	0.2
Nickel (Ni)	5.0	10.0
Selenium (Se)	1.0	2.0
Silver (Ag)	1.0	2.0
Zinc (Zn)	5.0	10.0
Oil & Grease petroleum and/or mineral)	100.0	200.00

*Limited by design capacity.

(13) Criteria to protect the treatment plant influent. The superintendent shall monitor the treatment works influent for each parameter of the following table. The industrial users shall be subject to the reporting and monitoring requirements set forth in section 18-504 and section 18-505 as to these parameters. In the event that the influent at the treatment works reaches or exceeds the levels established by said table, the superintendent shall initiate technical studies to determine the cause of the influent violation and shall recommend to the board such remedial measures as are necessary, including but not limited to recommending the establishment of new or revised pretreatment levels for these parameters. The superintendent 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 Instantaneous Concentration (Grab Sample in mg/l)	Maximum Concentration (24-Hour Flow Proportional Composite Sample in mg/l)
Aluminum		
dissolved (AL)	15.00	30.00
Antimony (Sb)	0.50	1.0
Arsenic (As)	0.05	0.1
Barium (Ba)	2.50	5.0
Boron (B)	1.00	2.0
Cadmium (Cd)	0.01	0.02
Chromium--total (Cr)	1.50	3.0
Cobalt (Co)	5.00	10.0
Copper (Cu)	0.40	0.8
Cyanide (CN)	0.05	0.1
Fluoride (F)	10.00	20.0
Iron (Fe)	5.00	10.0
Lead (Pb)	0.10	0.2
Manganese (Mn)	0.50	1.0
Mercury (Hg)	0.015	0.03
Nickel (Ni)	0.50	1.0
Phenols	1.00	2.0
Selenium (Se)	0.005	0.01
Silver (Ag)	0.05	0.0
Titanium--Dissolved (Ti)	1.00	2.0
Zinc (Zn)	2.00	4.0
Total Kjeldahl		
Nitrogen (TKN)	45.00	90.0
Oil & Grease	25.00	50.0
MBAS	5.00	10.0
Total dissolved solids	1,875.00	3,750.0
BOD	*	
COD	*	
Suspended Solids	*	

*Not to exceed the design capacity of treatment works.

(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 (12) of this section, to meet applicable national pretreatment standards, or to

meet any other wastewater condition or limitation contained in the user's wastewater discharge permit.

(15) Plans and specifications. Plans, specifications and operating procedures for such wastewater pretreatment facilities shall be prepared by a registered engineer, and shall be submitted to the superintendent for review in accordance with accepted engineering practices. The superintendent shall review said plans within forty-five (45) days and shall recommend to the users 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 superintendent. 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 facilities within the time provided in the user's wastewater discharge permit. Following completion of construction the user shall provide the superintendent with "as-built" drawings to be maintained by the superintendent.

(16) Prevention of accidental discharges. All industrial users shall provide such facilities and institute such procedures as are reasonably necessary to prevent or minimize that 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 inplant transfer or processing and materials handling areas, and from diked areas or holding ponds of any waste regulated by this chapter. The wastewater discharge permit of any user who has a history of significant leaks, spills or other accidental discharge of waste regulated by this chapter shall be subject on a case-by-case basis to a special permit condition or requirement for the construction of facilities or establishment of procedures which will prevent or minimize the potential for such accidental discharges. For such special permit conditions shall be developed by the user and submitted to the superintendent for review under the provisions of subsection (15) of this section. (1977 Code, § 8-602)

18-503. Exceptions to wastewater strength standard. (1) Applicability. This section provides a method for nonresidential users subject to the limitation on wastewater strength parameters listed in section 18-502(12) to apply for and receive a temporary exception to the discharge level for one 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 a wastewater discharge permit or a renewal thereof. Provided, however, that the superintendent shall allow applications at any time unless the applicant shall have submitted the same or substantially similar application within the preceding year and the same shall have been denied by the board.

(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 by the board pursuant to subsection (5) hereof.

(4) Review by superintendent. All applications for an exception shall be reviewed by the superintendent. If the application does not contain sufficient information for complete evaluation, the superintendent shall notify the applicant of the deficiencies and request additional information. The applicant shall have thirty (30) days following notification by the superintendent to correct such deficiencies. This thirty-day period may be extended by the board upon application and for just cause shown. Upon receipt of a complete application the superintendent shall evaluate same within thirty (30) days and shall submit his recommendations to the board at its next regularly scheduled meeting.

(5) Review by board. The board shall review and evaluate all applications for an exception and shall take into account the following factors:

(a) The board shall consider whether or not the applicant is subject to a national pretreatment standard containing discharge limitations more stringent than those in section 18-502 and grant an exception only if such exception may be granted within limitations of applicable federal regulations;

(b) The board shall consider whether or not the exception would apply to discharge of a substance classified as a toxic substance under regulations promulgated by the Environmental Protection Agency under the provisions of Section 307(a) of the Act (33 U.S.C. 1317), and then grant an exception only if such exception may be granted within the limitations of applicable federal regulations;

(c) The board shall consider whether or not the granting of an exception would create conditions that would reduce the effectiveness of the treatment works, taking into consideration the concentration of said pollutant in the treatment works' influent and the design capability of the treatment works;

(d) The board shall consider whether or not the granting of an exception might cause the treatment works to violate the limitations in its NPDES permit, taking into consideration the concentration of the pollutant and in the treatment works' influent and the demonstrated ability of the treatment works to consistently remove such pollutant;

(e) The board shall consider whether or not the granting of an exception would cause elements or compounds to be present in the sludge of the treatment works which would prevent sludge use or disposal by the city or which would cause the city to violate any regulation promulgated by EPA under the provisions of Section 405 of the Act (33 U.S.C. 1345);

(f) The board may consider the cost of pretreatment or other types of control techniques which would be necessary for the user to achieve effluent reduction, but prohibitive cost alone shall not be the basis for granting an exception;

(g) The board may consider the age of equipment and industrial facilities involved to the extent that such factors affect the quality or quantity of wastewater discharge;

(h) The board may consider the process employed by the user and process changes available which would affect the quality or quantity of wastewater discharge;

(i) The board may consider the engineering aspects of various types of pretreatment or other control techniques available to the user to improve the quality or quantity of wastewater discharge;

(j) The board may consider an application for an exception based upon the fact that water conservation measures instituted by the user or proposed by the user result in a higher concentration of particular pollutants in the wastewater discharge of the user without increasing the amount of mass of pollutants discharged. To be eligible for an exception under this provision, the applicant must show that except for water conservation measures, the applicant's discharge has been or would be in compliance with the limitations on wastewater strength set for in section 18-502(12). Provided, however, no such exception shall be granted if the increased concentration of pollutants in the applicant's wastewater would have a significant adverse impact upon the operation of the POTW.

(6) Good management practices required. The board shall not grant an exception unless the applicant shall demonstrate to the board that he is utilizing good management practices (GMP) to prevent or reduce his contribution of pollutants to the POTW. GMP's include but are not limited to preventative operating and maintenance procedures, schedule of activities, process changes, prohibiting of activities, and other management practices to reduce the quality or quantity of effluent discharged and to control plant site runoff, spillage, leaks, and drainage from raw material storage.

(7) Exception may be granted following review. The board shall review the application for an exception at the first regularly scheduled meeting following recommendation of the superintendent. It may grant the application for exception with such conditions or limitations as may have been recommended by the superintendent without a hearing provided that no person, including the applicant, shall object thereto, and provided further that the board finds that the granting of the exception with such conditions as have been recommended by the superintendent will be in compliance with the provisions of this chapter.

(8) Hearing. In the event that the applicant objects to recommendations of the superintendent concerning conditions to be imposed upon the applicant, the board desires a hearing to further investigate the matter, or any interested party granted permission by the board to intervene objects to the granting of the exception, then in such event the board shall schedule a hearing within ninety (90) days following presentation of the matter by the superintendent to resolve such matters. At such hearing, the applicant, the superintendent, and any intervening party shall have the right to present relevant proof by oral or documentary evidence. The procedure set forth in

section 18-510 hereof shall be applicable to such a hearing. The applicant shall bear the burden of proof in such hearing. (1977 Code, § 8-603)

18-504. Wastewater discharge permit, discharge reports and administration. (1) Applicability. The provisions of this section are applicable to all industrial users of the POTW.

(2) Application and permit requirements for industrial users. All industrial users of the POTW prior to discharging nondomestic waste into the POTW shall apply for an obtain a wastewater discharge permit in the manner hereinafter set forth. All original applications shall be accompanied by a report containing the information specified in subsection (3) hereof. All original applications shall also include a site plan, floor plan, mechanical and plumbing plans with sufficient detail to show all sewers and appurtenances in the user's premises by size, location and elevation; and the user shall submit to the superintendent revised plans whenever alterations or additions to the user's premises affect said plans. Any currently connected user discharging waste other than domestic waste who has not heretofore filed such a report shall file same with the superintendent prior to February 21, 1979.

(3) Report requirements. The report required by subsection (2) above or other provisions of this chapter for all industrial users shall contain in units and terms appropriate for evaluation the information listed in (a) through (e) below. Industrial users subject to national pretreatment standards shall submit to the superintendent a report which contains the information listed in (a) through (g) below within one hundred and eighty (180) days after the promulgation by the Environmental Protection Agency of a national pretreatment standard under Section 307 (b) or (c) (33 U.S.C. 1317 (b) or (c)) of the Act or by February 21, 1979, where such national pretreatment standards have been promulgated prior to the effective date of this chapter; provided, that industrial users subject to the requirements of 40 C.F.R. Section 403.12 may file with the superintendent a copy of a report submitted to the control authority, as defined in said section, in lieu of the report herein provided. Industrial users who are unable to achieve a discharge limit set forth in section 18-502 hereof without improved operation and maintenance procedures or pretreatment shall submit a report which contains the information listed in (a) through (g) below. As specified hereinabove, the report shall contain all or applicable portions of the following.

- (a) The name and address of the industrial user;
- (b) The location of such industrial user;
- (c) The nature, average rate of production and standard industrial classification of the operation(s) carried out by such industrial user;
- (d) The average and maximum flow of the discharge from such industrial user to the POTW, in gallons per day;

(e) The nature and concentration of pollutants in the discharge from each regulated process from such industrial user and identification of any applicable pretreatment standards and requirements. The concentration shall be reported as a maximum or average level as provided for in the applicable pretreatment standard. If an equivalent concentration limit has been calculated in accordance with any pretreatment standard, this adjusted concentration limit shall also be submitted to the superintendent for approval;

(f) A statement reviewed by an authorized representative of the industrial user and identification of any applicable pretreatment standards and requirements. The concentration shall be reported as a maximum or average level as provided for in the applicable pretreatment standard. If an equivalent concentration limit has been calculated in accordance with any pretreatment standard, this adjusted concentration limit shall also be submitted to the superintendent for approval;

(g) If additional pretreatment or operation and maintenance procedure will be required to meet the Pretreatment Standards, then the report shall contain the shortest schedule by which the industrial 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, when the context so indicates, the phrase "pretreatment standard" shall include either a national pretreatment standard or a pretreatment standard imposed as a result of the user's discharging any incompatible pollutant regulated by section 18-502 hereof. For purposes of this paragraph the term "pollutant" shall include any pollutant identified in a national pretreatment standard or any incompatible pollutant identified in section 18-502 hereof.

(4) Incomplete applications. The superintendent will act only on applications that are accompanied by a report which contains all the information required in subsection (3) above. Persons who have filed incomplete applications will be notified by the superintendent 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 superintendent, the superintendent shall submit the application for a permit to the board with a recommendation that it be denied and notify the applicant in writing of such action.

(5) Evaluation of applications. Upon receipt of complete applications, the superintendent shall review and evaluate the applications and shall propose such special permit conditions as he deems advisable. All wastewater discharge permits shall be expressly subject to all the provisions of this chapter and all other applicable ordinances, laws and regulations. The superintendent may also propose that the wastewater discharge permit be subject to one or more special conditions in regard to any of the following.

- (a) Pretreatment requirements;
 - (b) The average and maximum wastewater constituents and characteristics;
 - (c) Limits on rate and time of discharge or requirements for flow regulations and equalization;
 - (d) Requirements for installation of inspection and sampling facilities;
 - (e) Specifications for monitoring programs which may include sampling locations, frequency and method of sampling, number, types and standards for tests and reporting schedule;
 - (f) Requirements for submission of technical reports or discharge reports;
 - (g) Requirements for maintaining records relating to wastewater discharge;
 - (h) Mean and maximum mass emission rates, or other appropriate limits when incompatible pollutants (as set forth in section 18-502) are proposed or present in the user's wastewater discharge;
 - (i) Other conditions as deemed appropriate by the superintendent to insure compliance with this chapter or other applicable ordinance, law or regulation;
 - (j) A reasonable compliance schedule, not to extend beyond July 1, 1983, or such earlier date as may be required by other applicable law or regulation, whichever is sooner, to ensure the industrial user's compliance with pretreatment requirements or improved methods of operation and maintenance;
 - (k) Requirements for the installation of facilities to prevent and control accidental discharge or spills at the user's premises;
 - (l) The unit charge or schedule of charges and fees for the wastewater to be discharged to a community sewer.
- (6) Applicant to be notified of proposed permit conditions; right to object.
- (a) Upon completion of his evaluation, the superintendent shall notify the applicant of any special permit conditions which he proposed to be included in the wastewater discharge permit;
 - (b) The applicant shall have forty-five (45) days from and after the date of the superintendent's recommendations for special permit conditions to review same and file written objections with the superintendent in regard to any special permit condition recommended by the superintendent. The superintendent may, but shall not be required to, schedule a meeting with applicant's authorized representative within fifteen (15) days following receipt of the applicant's objections, and attempt to resolve disputed issues concerning special permit conditions;
 - (c) If applicant files no objection to special permit conditions proposed by the superintendent, or a subsequent agreement is reached

concerning same, the superintendent shall issue a wastewater discharge permit to applicant with such special conditions incorporated therein. Otherwise, the superintendent shall submit the disputed matters to the board for resolution as hereinafter provided.

(7) Board to establish permit conditions; hearing. (a) In the event the superintendent cannot issue a wastewater discharge permit pursuant to subsection (6) above, the superintendent shall submit to the board his proposed permit conditions and the applicant's written objections thereto at the next regularly scheduled meeting of the board;

(b) The board shall schedule a hearing within ninety (90) days following the meeting referred to hereinabove unless such time be extended for just cause shown to resolve any disputed matters relevant to such permit;

(c) The superintendent shall notify the applicant of the date, time, place and purpose of the hearing scheduled by the board. The applicant shall have the right to participate in such hearing and present any relevant evidence to the board concerning proposed special permit conditions or other matters being considered by the board;

(d) Following such hearing or such additional hearings as shall be deemed necessary and advisable by the board, the board shall establish such special permit conditions as it deems advisable to insure the applicant's compliance with this chapter or other applicable law or regulation and direct the superintendent to issue a wastewater discharge permit to the applicant accordingly.

(8) Compliance schedule and reporting requirements. The following conditions shall apply to the schedule required by subsection (3), (5) or (7) of this section:

(a) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment requirements for the industrial user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction completing construction, etc.)

(b) No increment referred to in (8)(a) above shall exceed nine (9) months.

(c) Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the control authority and the superintendent including, as a minimum, whether or not it complied with the increment of progress to be met on such date, and if not, the date on which it expects to comply with this increment of progress, the reason for the delay, and steps being taken by the industrial user to return the construction to the schedule established. In no event shall more than nine (9) months elapse

between such progress reports to the control authority and the superintendent.

(d) Within ninety (90) 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 industrial user subject to pretreatment standards and requirements shall submit to the control authority and the superintendent 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 industrial user 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 operation and maintenance procedure or pretreatment is necessary to bring the industrial user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial user, as defined in section 18-501 of this chapter, and certified to by a qualified professional.

(e) Any industrial 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 control authority and the superintendent during the months of June and December, unless required more frequently in the pretreatment standard or by the control authority and the superintendent, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards.

In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow reported in subsection (3)(d) of this section. At the discretion of the control authority or the superintendent, as applicable, and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the control authority or the superintendent, as applicable may agree to alter the months during which the above reports are to be submitted. The control authority or the superintendent, as applicable, may impose mass limitations on industrial users which are using dilution to meet applicable pretreatment standards or requirements or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by this paragraph shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the industrial user.

(f) The industrial user shall notify the POTW immediately by telephone of any slug loading, as defined by section 18-502(2)(d), by the industrial user.

(g) The reports required in 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 limits where requested by the control authority or the superintendent, as applicable, of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the applicable pretreatment standard. All analyses shall be performed in accordance with procedures established by the Environmental Protection Agency under the provisions of Section 304 (h) of the Act (33 U.S.C. 1314(h)) and contained in 40 C.F.R. Part 136 and amendments thereto or with any other test procedures approved by the Environmental Protection Agency or the superintendent. Sampling shall be performed in accordance with the techniques approved by the Environmental Protection Agency or the superintendent.

(h) Any industrial user required by this paragraph to submit a similar report to the control authority under the provisions of 40 C.F.R. 403.12, may submit to the superintendent a copy of said report in lieu of a separate report to the superintendent, provided that all information required by this chapter is included in the report to the control authority.

(9) 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.

(10) Retention of records. Any industrial user subject to the reporting requirements established in this section shall be required to retain for a minimum of three (3) years any 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 superintendent, the director of the division of water quality control, Tennessee Department of Public Health, 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 superintendent, the director, or the Environmental Protection Agency.

(11) Duration of permits. Wastewater discharge permits shall be issued for a period of three (3) years. Provided that original permits may be issued for

a period between two (2) and three (3) years for the administrative convenience of the superintendent so as to stagger the renewal dates of the permits. Provided further that permits issued to users granted an exception pursuant to section 18-503 shall be issued for a period of one year. Notwithstanding the foregoing, users becoming subject to a national pretreatment standard shall apply for new permits on the effective date of such national pretreatment standards. The superintendent shall notify in writing any user whom he has cause to believe is subject to a national pretreatment standard of the promulgation of such federal regulations, but any failure of the superintendent in this regard shall not relieve the user of the duty of complying with such national pretreatment standards. A user must apply in writing for a renewal permit within the period of time not more than ninety (90) days and not less than thirty (30) days prior to expiration of the current permit. Provided further that limitations or conditions of a permit are subject to modification or change as such changes may become necessary due to changes in applicable water quality standards, changes in the city's NPDES permit, changes in section 18-502(12), changes in other applicable laws or regulations, or for other just causes. Users shall be notified of any proposed changes in their permit by the superintendent at least thirty (30) days prior to the effective date of the change. Any change or new condition in a permit shall include a provision for a reasonable time scheduled for compliance. The user may appeal the decision of the superintendent in regard to any changed permit conditions as otherwise provided in this chapter.

(12) Transfer of a permit. 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 or for different premises, unless approved by the superintendent.

(13) 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:

(a) Violation of any terms or conditions of the wastewater discharge permit or other applicable law or regulation;

(b) Obtaining of a permit by misrepresentation or failure to disclose fully all relevant facts; or

(c) A change in any condition that requires either temporary or permanent reduction or elimination of the permitted discharge. (1977 Code, § 8-604)

18-505. Inspections, monitoring and entry. (1) Procedures to be established by superintendent. Whenever required to carry out the objective of this chapter, including but not limited to developing or assisting in the development of any effluent limitation or other limitations, prohibition or effluent standards, pretreatment standard, standard of performance, or permit condition under this chapter; determining whether any person is in violation of

any such effluent limitation or other limitation, prohibition or effluent standard, pretreatment standard, standard of performance or permit condition; any requirement established under this section:

(a) The superintendent shall require any nondomestic user to establish and maintain records; make such reports; install, use and maintain such monitoring equipment or methods (including, where appropriate, biological monitoring methods); sample such effluents (in accordance with such methods, at such locations, at such intervals, and in such manner as the superintendent shall prescribe); and provide such other information as he may reasonably require; and

(b) The superintendent or his authorized representative, upon presentation of his credentials shall have a right of entry to, upon or through any premises in which an effluent source is located or in which any records required to be maintained under clause (a) of this subsection are located; and may at reasonable times have access to and copy any records, inspect any monitoring equipment or method required under clause (a), and sample any effluents which the owner or operator of such source is required to sample under such clause.

(2) Access to records. Any records, reports or information obtained under this section shall, in the case of effluent data, be related to any applicable effluent limitations, toxic, pretreatment or permit condition, and shall be available to the public, except that upon a showing satisfactory to the superintendent by any person that records, reports or information, or a particular part thereof (other than effluent data), to which the superintendent has access under this section, if made public would divulge methods or processes entitled to protection as trade secrets of such person, the superintendent shall consider such record, report or information, or a particular portion thereof confidential in accordance with the purposes of this chapter, except that such record, report of information may be disclosed to officers, employees or authorized representatives of the State of Tennessee or the United States concerned with carrying out the provisions of the Clean Water Act or when relevant in any proceeding under this chapter or other applicable laws.

(3) Specific testing procedures to be prescribed. Specific requirements under the provisions of subsection (1)(a) of this section shall be established by the superintendent or the board, as applicable, for each industrial user, and such requirements shall be included as a condition of the user's wastewater discharge permit. The nature or degree of any requirement under this provision shall depend upon the nature of the user's discharge, the volume of water discharged and the technical feasibility of an economic reasonableness of any such requirement imposed. The user shall be required to design any necessary facility and to submit detailed design plans and operating procedures to the superintendent for review in accordance with accepted engineering practices. The superintendent shall review said plans within forty-five (45) days and shall recommend to the user any change he deems appropriate.

(4) Start of construction, procedures. Upon approval of plans as specified in subsection (3), the user shall secure such building, electrical, plumbing or other permits as may be required by this Code and proceed to construct any necessary facility and establish such operating procedures as are required within the time provided in the user's wastewater discharge permit.

(5) Enforcement of right of entry. In the event any user denies the superintendent or his authorized representative the right of entry to or upon the user's premises for purposes of inspection, sampling effluents or inspecting and copying records, or performing such other duties as shall be imposed upon him by this section, the superintendent shall seek a warrant or use such other legal procedures as shall be advisable and reasonably necessary to discharge his duties under this section.

(6) User's failure to discharge duty deemed a violation of permit. Any user failing or refusing to discharge any duty imposed upon him under the provisions of this section, or who denies the superintendent the right to enter upon the user's premises for purposes of inspection, sampling effluents, inspecting and copying records, or such other duties as may be imposed upon him by this section, shall be deemed to have violated the conditions of his wastewater discharge permit, and such permit shall be subject to modification, suspension, or revocation under the procedures established in this chapter. (1977 Code, § 8-605)

18-506. Dangerous discharge notification requirements. (1) Telephone notification. Any person causing or suffering any discharge, whether accidental or not, which presents or may present an imminent or substantial endangerment to the health and welfare of persons or to the environment, or which is likely to cause interference with the POTW, shall notify the superintendent immediately by telephone. In the absence of the superintendent, notification shall be given to the city employee then in charge of the treatment works.

(2) Written report. Within five (5) days following such occurrence, the user shall provide the superintendent with a detailed written report describing the cause of the dangerous discharge and measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, 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 other applicable law.

(3) 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. (1977 Code, § 8-606)

18-507. Enforcement and abatement. (1) Unauthorized discharge a public nuisance. Discharge of wastewater in any manner in violation of this chapter or of any condition of a wastewater discharge permit is hereby declared a public nuisance and shall be corrected or abated as provided herein.

(2) Superintendent to notify user of violation. Whenever the superintendent determines or has reasonable cause to believe that a discharge of wastewater has occurred in violation of the provisions of this chapter, the user's wastewater discharge permit or any other applicable law or regulation, he shall notify the user of such violation. Failure of the superintendent to provide notice to the user shall not in any way relieve the user from any consequences of a wrongful or illegal discharge.

(3) Conciliation meetings. The superintendent may, but shall not be required to, invite representatives of the user to a conciliation meeting to discuss the violation and methods of correcting the cause of the violation. Such additional meetings as the superintendent and the user deems advisable may be held to resolve the problem. If the user and the superintendent can agree to appropriate remedial and preventative measures, they shall commit such agreement to writing with provisions for a reasonable compliance schedule, and the same shall be incorporated as a supplemental condition of the user's wastewater discharge permit. If an agreement is not reached through the conciliation process within sixty (60) days, the superintendent shall institute such other actions as he deems advisable to ensure the user's compliance with the provisions of this chapter or other laws or regulations.

(4) Show cause hearing. The superintendent may issue a show cause notice to the user directing the user to appear before the wastewater regulations board at a specified date and time to show cause why the user's wastewater discharge permit should not be modified, suspended or revoked for causing or suffering violation of this chapter or other applicable laws or regulations, or conditions in the wastewater discharge permit of the user. If the superintendent seeks to modify the user's wastewater discharge permit to establish wastewater strength limitations or other control techniques to prevent future violation, he shall notify the user of the general nature of the recommendations he shall make to the board. If the superintendent seeks to suspend or revoke the user's wastewater discharge permit, he shall notify the user of the nature of the violation for which revocation or suspension is sought with sufficient specificity as to the character of the violation and the dates at which such violation occurred to enable the user to prepare his defense. Such notice shall be mailed to the user by certified mail, return receipt requested, or shall be personally delivered to the user at least twenty (20) days prior to the scheduled hearing date.

(5) Citation to city court. The superintendent may cite the user to Collegedale City Court for violation of any provision of this chapter or other ordinance. A violation of any condition of the user's wastewater discharge permit shall be deemed to be a violation of this chapter.

(6) Injunctive relief. Upon resolution of the board of commissioners approving same the superintendent shall in the name of the City of Collegedale file in Circuit or Chancery Court of Hamilton County, Tennessee, or such other courts as may have jurisdiction, a suit seeking the issuance of an injunction, damages or other appropriate relief to enforce the provisions of this chapter or other applicable law or regulation. Suit may be brought to recover any and all damages suffered by the city as a result of any action or inaction of any user or other person who causes or suffers damage to occur to the POTW or for any other expense, loss or damage of any kind or nature suffered by the city.

(7) Assessment of damages to users. When a discharge of waste causes an obstruction, damage or any other impairment to the facilities, or any expense of whatever character or nature of the city, the superintendent shall assess the expenses incurred by the city to clear the obstruction, repair damage to the facility, and any other expenses or damages incurred by the city. The superintendent shall file a claim with the user or any other person causing or suffering said damages to occur, seeking reimbursement for any and all expenses or damages suffered by the city. If the claim is ignored or denied, the superintendent shall notify the city attorney to take such measures as shall be appropriate to recover any expense or other damages suffered by the city.

(8) Superintendent may petition for federal or state enforcement. In addition to other remedies for enforcement provided herein, the superintendent may petition the State of Tennessee or the Environmental Protection Agency, as appropriate, to exercise such methods or remedies as shall be available to such government entities to seek criminal or civil penalties, injunctive relief, or such other remedies as may be provided by applicable federal or state laws to ensure compliance by industrial users of applicable pretreatment standards, to prevent the introduction of toxic pollutants or other regulated pollutants into the POTW, or to prevent such other water pollution as may be regulated by state or federal law.

(9) Emergency termination of service. In the event of an actual or threatened discharge to the POTW of any pollutant which in the opinion of the superintendent presents or may present an imminent and substantial endangerment to the health or welfare of persons or cause interference with the POTW, the superintendent or in his absence the person then in charge of the treatment works shall immediately notify the mayor of the nature of the emergency. The superintendent shall also attempt to notify the industrial user or other person causing the emergency and request their assistance in abating same. Following consultation with the aforementioned official of the city, or in his absence, such elected officials of the city as may be available, the superintendent shall temporarily terminate the service of such user or users as is necessary to abate the condition when such action appears reasonably necessary. Such service shall be restored by the superintendent as soon as the emergency situation has been abated or corrected.

(10) Notice to board. The superintendent shall report to the board his intent to institute any action under the provisions of subsection (5), (6) and (8) hereof and seek the advise of the board in regard thereto, unless he shall determine that immediate action is advisable. (1977 Code, § 8-607)

18-508. Wastewater regulations board. (1) Established. There is hereby established a board of five (5) members to be known as the wastewater regulations board.

(2) Composition; terms; filling vacancies. The five (5) members of this board shall be appointed by the mayor, subject to the approval of the board of commissioners. The mayor shall appoint one member each with the following qualifications: one environmental engineer or environmental scientist, one attorney, one person employed in an industrial or commercial establishment regulated by this chapter, and one person who is experienced in the science or practice of finance. The remaining member shall be an officer, agent or employee of the city. The initial members of this board shall be appointed for terms as follows: one member for a term of one year, two (2) members for a term of two (2) years, and two (2) members for a term of three (3) years. Thereafter, all members shall be appointed for a term of five (5) years. All members shall serve until their successor is appointed, and all members shall serve at the pleasure of the board of commissioners. In the event of a vacancy, the mayor shall appoint a member to fill the unexpired term. The board shall organize and select its own chairman, vice-chairman and secretary, who shall serve in said offices for terms of one year. The members shall serve without compensation, but shall receive their actual expenses incurred in attending meetings of the board and the performance of any duties as members of the board.

(3) General duties of the board. In addition to any other duty or responsibility otherwise conferred upon the board by this chapter, the board shall have the duty and power as follows:

(a) To recommend from time to time to the board of commissioners that it amend or modify the provisions of this chapter;

(b) To grant exceptions pursuant to the provisions of section 18-503 hereof, and to determine such issues of law and fact as are necessary to perform this duty;

(c) To hold hearings upon appeals from orders or actions of the superintendent as may be provided under any provision of this chapter;

(d) To hold hearings relating to the suspension, revocation or modification of a wastewater discharge permit as is provided in this chapter and issue appropriate orders relating thereto;

(e) To hold such other hearings relating to any aspect or matter in the administration of this chapter and to make such determinations and issue such orders as may be necessary to effectuate the purposes of this chapter;

(f) To request assistance from any officer, agent or employee of the city or the Chattanooga-Hamilton County Regional Planning Commissioner to obtain such information or other assistance as the board might need;

(g) The board acting through its chairman, shall have the power to issue subpoenas requiring attendance and testimony of witnesses and the production of documentary evidence relevant to any matter properly heard by the board;

(h) The chairman, vice-chairman or chairman pro tem shall be authorized to administer oaths to those persons giving testimony before the board;

(i) The board shall hold regular meetings, normally once per calendar month, and such special meetings as the board may find necessary;

(j) Four (4) members of the board shall constitute a quorum, but a lesser number may adjourn the meeting from day to day. (1977 Code, § 8-608)

18-509. Superintendent. (1) Superintendent and staff. The superintendent and his staff shall be responsible for the administration of all sections of this chapter. Administratively, he shall report to the mayor and the commissioners.

(2) Authority of superintendent. The superintendent shall have the authority to enforce all sections of this chapter. He shall be responsible for and have the authority to operate the various treatment works. He shall be responsible for the preparation of operating budgets and recommendations to the mayor concerning activities within his responsibility and authority.

(3) Records. The superintendent shall keep in his office all applications required under this chapter and a complete record thereof, including a record of all wastewater discharge permits. He shall also maintain the minutes and other records of the wastewater regulations board.

(4) Superintendent to assist board. The superintendent shall attend all meetings of the wastewater regulations board, or whenever it is necessary for him to be absent he shall send a designated representative, and shall make such reports to and assist said board in the administration of this chapter.

(5) Notice to users of standards. The superintendent shall notify industrial users identified in 40 C.F.R. 403.8(f) (2) (i) of any applicable pretreatment standards or other applicable requirements promulgated by the Environmental Protection Agency under the provisions of Section 204(b) of the Act (33 U.S.C. 1284), Section 405 of the Act (33 U.S.C. 1345), or under the provisions of Sections 3001 (42 U.S.C. 6921), 3004 (42 U.S.C. 6924) or 4004 (42 U.S.C. 6944) of the Solid Waste Disposal Act. Failure of the superintendent to so notify industrial users shall not relieve said users from the responsibility of complying with said requirements.

(6) Public participation. The superintendent shall comply with all applicable public participation requirements of Section 101(e) of the Act (33 U.S.C. 1251(e)) and 40 C.F.R. Part 105 in the enforcement of national pretreatment standards. The superintendent shall at least annually provide public notification, in the largest daily newspaper published in Chattanooga, of industrial users during the previous twelve (12) months which at least once were not in compliance with the applicable pretreatment standards or other pretreatment requirements. The notification shall summarize enforcement actions taken by the control authorities during the same twelve (12) months. An industrial user shall be deemed to be in compliance with applicable pretreatment standards or other pretreatment requirements if he has completed applicable increments of progress under the provisions of any compliance schedule in the user's wastewater discharge permit or if the user has been granted an exception under the provisions of section 18-503. (1977 Code, § 8-609)

18-510. Wastewater regulations board hearing procedure; judicial review.

(1) When to be held. The wastewater regulations board shall schedule an adjudicatory hearing to resolve disputed questions of fact and law whenever provided by any provision of this chapter.

(2) Record of hearing. At any such hearing, all testimony presented shall be under oath or upon solemn affirmation in lieu of oath. The board shall make a record of such hearing, but the same need not be a verbatim record. Any party coming before the board shall have the right to have said hearing recorded stenographically, but in such event the record need not be transcribed unless any party seeks judicial review of the order or action of the board by common law writ of certiorari, and in such event the parties seeking such judicial review shall pay for the transcription and provide the board with the original of the transcript so that it may be certified to the court.

(3) Subpoenas. The chairman may issue subpoenas requiring attendance and testimony of witnesses or the production of evidence, or both. A request for issuance of a subpoena shall be made by lodging with the chairman at least ten (10) days prior to the scheduled hearing date a written request for a subpoena setting forth the name and address of the party to be subpoenaed and identifying any evidence to be produced. Upon endorsement of a subpoena by the chairman, the same shall be delivered to the chief of police for service by any police officer of the city, if the witness resides within the city. If the witness does not reside in the city, the chairman shall issue a written request that the witness attend the hearing.

(4) Depositions. Upon agreement of all parties, the testimony of any person may be taken by deposition or written interrogatories. Unless otherwise agreed, the deposition shall be taken in a manner consistent with Rules 26 through 33 of the Tennessee Rules of Civil Procedure, with the chairman to rule on such matters as would require a ruling by the court under said rules.

(5) Hearing procedure. The party at such hearing bearing the affirmative burden of proof shall first call his witnesses, to be followed by witnesses called by other parties, to be followed by any witnesses which the board may desire to call. Rebuttal witnesses shall be called in the same order. The chairman shall rule on any evidentiary questions arising during such hearing and shall make such other rulings as may be necessary or advisable to facilitate any orderly hearing subject to approval of the board. The board, the superintendent, or his representative, and all parties shall have the right to examine any witness. The board shall not be bound by or limited to rules of evidence applicable to legal proceedings.

(6) Appeal to board of superintendent's orders. Any person aggrieved by any order or determination of the superintendent may appeal said order or determination to the board and have said order or determination reviewed by the board under the provisions of this section. A written notice of appeal shall be filed with the superintendent and with the chairman, and said notice shall set forth with particularity the action or inaction the superintendent complained of and the relief sought by the person filing said appeal. A special meeting of the board may be called by the chairman upon the filing of such appeal, and the board may in its discretion suspend the operation of the order or determination of the superintendent appealed from until such time as the board has acted upon the appeal. Provided, however, that actions and determinations of the superintendent under the provisions of section 18-507(5) through (9) inclusive shall not be subject to review under this section.

(7) Absence of chairman. The vice-chairman or the chairman pro tem shall possess all the authority delegated to the chairman by this section when acting in his absence or in his stead.

(8) Review of board's decision. Any person aggrieved by any final order of determination of the board hereunder shall have judicial review by common law writ of certiorari. (1977 Code, § 8-610)

19-511. Industrial users sewer surcharge. (1) Levy of industrial user surcharge. There shall be and is hereby levied upon industrial users which discharge wastewater in concentrations in excess of normal wastewater a surcharge as set forth in this section.

(2) Definitions. For the purpose of this section, the following words and phrases shall have the meanings assigned below, except in those instances where content clearly indicates a different meaning.

"Discharge monitoring report." A report submitted by an industrial user to the superintendent pursuant to Section 18-504 or other applicable provisions of this chapter containing information relating to the nature and concentration of pollutants and flow characteristics of the discharge from the industrial user to the POTW.

"Normal wastewater." Effluent which contains constituents and characteristics similar to effluent from a domestic premise and,

specifically for the purposes of this section, does not contain BOD, COD or suspended solids in concentrations in excess of the following:

BOD--Three hundred (300) milligrams per liter.

COD--Six hundred (600) milligrams per liter.

Suspended solids--Four hundred (400) milligrams per liter.

(3) Charge formula. This industrial user surcharge is based upon an estimate of the increased operation and maintenance cost and other increased expenses incurred in the handling of such wastewater as determined by the following formula:

$$Cs = ((Bc \times B) + (Sc \times S) + (Dc \times D) + (Pc \times P)) Vu \times 8.34$$

WHERE:

CS = Surcharge for wastewaters exceeding the strength of normal wastewater expressed in dollars per billing period.

BC = Operation and maintenance (O & M) cost for treatment of a unit of BOD₅ from a user above the base level of 300 mg/l expressed in mg/l.

Sc = Operation and maintenance (O & M) cost for treatment of a unit of suspended solids expressed in dollars per pound.

S = Concentration of suspended solids from a user above the base level of 400 mg/l, expressed in mg/l.

D = Concentration of COD from a user above the base level 600 mg/l, expressed in mg/l.

Dc = Operation and maintenance (O & M) cost for treatment of a unit of COD expressed in dollars per pound.

Pc = Operation and maintenance (O & M) cost for treatment of a unit of any pollutant which the city is committed to treat by virtue of its NPDES permit or other regulatory requirement expressed in dollars per pound.

P = Concentration of any pollutant from a user above the base level. Base levels for pollutants subject to surcharges as may be hereafter established by the city expressed in mg/l.

Vu = Volume contribution of a user per billing period. Expressed in million gallons.

8.34 = Conversion factor to make units cancel. Expressed as (pounds/million gallons) / mg/l.

(4) Rates. Based upon the current estimated cost of treating wastewater containing constituents with concentrations in excess of normal wastewater, numerical rates are hereby established for Bc, Sc and Dc as follows:

Bc = \$0.0105124 per pound of BOD for concentrations in excess of 300 milligrams per liter.

Sc = \$0.0143145 per pound of suspended solids for concentrations in excess of 40 milligrams per liter.

Dc = \$0.0066148 per pound of COD for concentrations in excess of 600 milligrams per liter.

(5) Billing. The superintendent shall notify and in conjunction with a normal bill charge each industrial user within sixty (60) days following the semiannual periods ending on December 31 and June 30, and said surcharges shall be payable no later than April 1 and October 1 respectively.

(6) Data concerning concentration. The concentrations of any pollutant of an industrial user and the volume contribution of that user shall be calculated from discharge monitoring reports submitted by the industrial user subject to verification by inspection and monitoring and undertaken by the superintendent pursuant to section 18-505, from records maintained by the industrial user pursuant to section 18-504, and from reliable information obtained from any other source.

(7) User charge studies. The superintendent shall, based upon a documented study, recommend to the board of commissioners no less frequently than biannually an equitable rate structure for purposes of establishing a basic user charge computed on the basis of normal wastewater and a surcharge for industrial users which discharge effluent in concentrations in excess of normal wastewater. The superintendent shall consider in his report the amount of revenue needed for the purposes specified in section 18-501, consistent with all applicable Federal and State laws and regulations. Said recommendation shall be based upon the premise that each user (or user class) pays his proportionate share of the operation and maintenance (including replacement) costs of the treatment works, based upon the user's proportionate contribution to the total wastewater loading from all users (or user classes). The superintendent shall also recommend as warranted that surcharges be placed upon specific wastewater constituents, including a surcharge for all users which discharge any toxic pollutant which causes an increase in the cost of managing the effluent or the sludge of the city's treatment works, so as to recover such increased costs. In making his recommendation relative to changes in user charges or surcharges, the superintendent may recommend that any excess revenues or any deficiency in revenues collected from a class of users in the preceding period be applied to the operation and maintenance cost attributed to that class for the next period and that the rate for that class of users be adjusted accordingly.

(8) Appeal. An industrial user may contest the accuracy of a user sewer surcharge bill by paying said bill under protest and within thirty (30) days following the date of the bill lodging with the superintendent a notice of appeal to the wastewater regulation board. No particular form of notice of appeal is required, but it shall set forth with particularity the nature of any errors alleged committed in the computation of said bill. Unless the superintendent shall agree to correct any error or enter into a reasonable compromise concerning same, he shall notify the board at its next regularly scheduled meeting of the pendency of an appeal. The board shall, upon notice

to the industrial users, schedule a hearing to receive evidence relating to the matters and shall render such determinations and issue such orders as the law and facts of the case may require. (1977 Code, § 8-611)

18-512. Industrial cost recovery charge. (1) Purpose. There shall be and is hereby levied upon each industrial user of the city's treatment works an industrial cost recovery charge as set forth in this section. The amount of the charge for an individual industrial user is to be calculated to insure that each industrial user pays an annual amount equal to its share of the total amount of Environmental Protection Agency Step 1, Step 2 and Step 3 grants, including any grant amendments awarded under the provisions of applicable federal regulations relating to same, divided by the number of years in a recovery period. Each industrial user's share shall be based on factors which significantly influence the cost of the treatment works. The volume of flow shall be a factor in determining the industrial user's share; other factors shall include strength, volume and delivery flow characteristics to insure that all industrial users of the treatment works pay a proportionate distribution of the grant assistance allocable to industrial use.

(2) Definitions. For the purpose of this section, the following words and phrases shall have the meanings assigned below, except in those instances where content clearly indicates a different meaning:

(a) "Combined sewer." A sewer intended to serve as a sanitary sewer and a storm sewer or as an industrial sewer and a storm sewer.

(b) "Discharge monitoring reports." A report submitted by an industrial user to the superintendent pursuant to section 18-504 or other applicable provisions of this chapter containing information relating to the nature and concentration of pollutants and flow characteristics of the discharge from the industrial user to the POTW.

(c) "Industrial user." (i) Any nongovernmental, nonresidential user of the city's publicly owned treatment works which discharges more than the equivalent of twenty-five thousand (25,000) gallons per day (gpd) of sanitary wastes and which is identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented, under one of the following divisions:

Division A--Agriculture, forestry and fishing.

Division B--Mining.

Division D--Manufacturing.

Division E--Transportation, communications, electric, gas and sanitary services.

Division I--Services; or

(ii) Any nongovernmental user of the city's publicly owned treatment works which discharges wastewater to the treatment works which contains toxic pollutants or poisonous

solids, liquids or gases in sufficient quantity either singly or by interaction with other waste to contaminate the sludge of the system or to injure or to interfere with any sewage treatment process, or which constitutes a hazard to humans or animals, creates a public nuisance or creates any hazard in or has an adverse effect on the waters receiving any discharge from the treatment works.

(iii) Provided, however, that for the purpose of determining the amount of a user's discharge for purposes of industrial cost recovery, the amount of the user's discharge from sanitary conveniences and other domestic waste will be excluded. Provided further, that after applying the aforementioned sanitary waste exclusion, discharges in Divisions A through I that have a volume exceeding twenty-five thousand (25,000) gpd of sanitary waste are considered industrial users. Sanitary wastes, for the purpose of the calculation of equivalency, are deemed to be wastes equivalent to wastes discharged from industrial users. The strength of residential discharges in terms of the parameters including COD are as set forth for normal wastewater as defined in section 18-511(2).

(d) "Infiltration." Water other than wastewater that enters a sewerage system (including sewer service connections) from sources such as roof leaders, cellar drains, yard drains, area drains, foundations drains, drains from springs and swampy areas, manhole covers, cross-connections between storm sewers and sanitary sewers, catch basins, cooling towers, storms waters, surface run-off, street wash waters or drainage. Inflow does not include, and is distinguished from, infiltration.

(e) "Step 1, Step 2, and Step 3 Grants." Grant monies received by the city from the Environmental Protection Agency under the authority of the Clean Water Act to assist in the construction of the city's treatment works. The construction of federally financed waste treatment works is generally accomplished in three steps. Step 1, facility plans and related elements; step 2, preparation of construction drawings and specifications; and step 3, building of a treatment works.

(f) "Useful life." Estimated period during which a treatment works will be operated. For purposes of this section, this period shall be thirty (30) years.

(3) Basis of industrial cost recovery. The amount of the industrial cost recovery charge will be based upon the total dollar amount of federal grant monies received by the city after March 1, 1973, for the purpose of constructing additions or improvements to the city's treatment works and appurtenances under the provisions of Section 204 (b) of the Act, as amended (33 U.S.C. 1284),

and regulations promulgated thereunder, specifically 40 C.F.R. Part 35. The period of industrial cost recovery shall be thirty (30) years.

(4) Reserve capacity. If an industrial user enters into an agreement with the city to reserve a certain capacity in the treatment works, that user's industrial cost recovery payment shall be based on the total reserve capacity in relation to the design capacity of the treatment works. If the discharge of an industrial user exceeds the reserve capacity in volume, strength or delivery flow characteristics, the user's industrial cost recovery payment shall be increased to reflect the actual use. If there is no reserve capacity agreement between the industrial user and the city, and a substantial change in the strength, volume or delivery flow rate characteristics of an industrial user's discharge share occurs, the user's share shall be adjusted proportionately.

(5) Upgrading and expansion. (a) If the treatment works are upgraded, each existing industrial user's share shall be adjusted proportionately.

(b) If the treatment works are expanded, each industrial user's share shall be adjusted proportionately except that a user with a reserve capacity under subsection (2) of this section shall incur no additional industrial cost recovery charges unless the user's actual use exceeded its reserve capacity.

(6) Charge formula. The charge for industrial cost recovery shall be computed according to the following formula.

$$CR = \frac{1}{n} (C_v \times \frac{V_u}{V_t} + C_b \times \frac{B_u}{B} + C_s \times \frac{S_u}{S} + C_d \times \frac{D_u}{D})$$

WHERE:

Cr = Recovery cost to user per billing period.

N = Number of billing periods per useful life of improvements, expansions, and facilities covered by grant funds.

Vu = Average daily flow of industrial user during billing period.

Vt = Total average daily flows of all users during billing period.

Bu = Average daily BOD load of industrial user during billing period.

B = Total average daily loading of BOD from all users during billing period.

Su = Average daily load of suspended solids of industrial user during billing period.

S = Total average daily loading of suspended solids from all users during billing period.

D = Total average daily loading of COD from all users during billing period.

Du = Average daily COD load of industrial user during billing period.

Cv = Cost attributable to flow intreatment.

Cb = Cost attributable to BOD treatment.

Cs = Cost attributable to SS treatment.

Cd = Cost attributable to COD treatment.

WHERE: Cv, Cb, Cd and Cs are determined as follows:

$$C = C_v + C_b + C_s + C_d$$

C = Amount of federal grants for improvements, expansions, and new facilities, excluding those portions of the grant attributable to.

(a) Infiltration or inflow correction or treatment.

(b) Correction of combined sewer overflow and collection or treatment of storm waters.

(c) Projects which will not initially serve industrial users.

These projects will be included in "C" when the first industrial user begins to use them.

(d) Unreserve excess capacity of the treatment works. This amount will be adjusted when existing or new industrial users begin to use some of the unreserved excess capacity.

AND WHERE those portions of "C" which are not directly attributable to flow, BOD, COD, or SS treatment will be spread among the costs associated with treating these characteristics in the following manner:

$$C_v = C_x \times M$$

$$C_b = C_y \times M$$

$$C_s = C_z \times M$$

$$C_d = C_w \times M$$

Cw = That portion of "C" which is directly attributable to COD treatment

Cx = That portion of "C" which is directly attributable to flow treatment

Cy = That portion of "C" which is directly attributable to BOD treatment.

Cz = That portion of "C" which is directly attributable to SS treatment.

$$M = \frac{C}{C_w + C_x + C_y + C_z} \text{ (Multiplier)}$$

(7) Rates. Based upon current estimates, numerical rates are hereby established for N, Vt, B, S, D, Cv, Cb, Cd and Cs, as follows:

$$N = 30 \text{ years}$$

Cv = \$93,990.00
Cb = 0
Cs = 0
Cd = 0
Vt = 15.809449 MGD
B = 97,529.9 pounds/day
S = 51,155.3 pounds/day
D = 196,541.4 pounds/day

(8) Billing. The superintendent shall annually bill each industrial user for the industrial cost recovery charge within sixty (60) days following June 30.

(9) Data concerning loading. The average daily loading of all users shall be calculated from records relating to same maintained by the superintendent. The average daily load of an industrial user shall be calculated from discharge monitoring reports submitted to the industrial user subject to verification by inspection and monitoring undertaken by the city pursuant to section 18-505 and from records maintained by the industrial user pursuant to section 18-504 and from reliable information obtained from any other source.

(10) Annual study. The superintendent shall, based upon a documented study, recommend to the board of commissioners no less than annually adjustments to the formula contained in this section taking into consideration the total amount of grant monies received, the costs of operation of the treatment works and its appurtenances, factors relating to determining the industrial user's share of costs, and other factors specified in this section and in other applicable laws and regulations.

(11) Moratorium. The city shall, pursuant to applicable regulations issued by the Environmental Protection Agency, defer the date for collecting industrial cost recovery payments to December 1, 1979, or such later date as shall be authorized by law. During the period of deferral in industrial cost recovery payments, the superintendent shall implement and continue operations relating to industrial cost recovery payments as specified hereinabove, including monitoring flows, calculating payments due and submitting bills to industrial users informing them of their deferred obligations. Upon the end of the deferral, the superintendent shall bill for collection the deferred payments in equal annual installments prorated from July 1, 1979, over the remaining industrial cost recovery period.

(12) Appeal. An industrial user may contest the accuracy of an industrial cost recovery bill by paying said bill under protest and within thirty (30) days following the due date of the bill lodging with the superintendent a notice of appeal to the wastewater regulations board. No particular form of notice of appeal is required, but it shall set forth with particularity the nature of any errors allegedly committed in the computation of said bill. Unless the superintendent shall agree to correct any error or enter into a reasonable

compromise concerning same, he shall notify the board at its next regularly scheduled meeting of the pendency of an appeal. The board shall, upon notice to the industrial users, schedule a hearing to receive evidence relating to the matter, and shall render such determinations and issue such orders as the law and facts of the case may require. (1977 Code, § 8-612)

18-513. Miscellaneous fees. (1) Applicability. There shall be and is hereby authorized the levy and collection of miscellaneous fees by the superintendent for various purposes relating to this chapter as set forth in this section.

(2) Fees for garbage grinders. Any user of a garbage grinder, except users in a premises used exclusively for an individual residence, shall be charged at the rate of fifty dollars (\$50.00) per month. The superintendent shall bill said users on a bimonthly basis, and the bills shall be due and payable within thirty (30) days following the last day of the billing period.

(3) Truck discharge operation fee. The superintendent shall charge and collect the sum of ten dollars (\$10.00) per truck per year for a truck discharge operation permit as authorized pursuant to section 18-502. The holders of such permits shall also be charged a fee set forth in subsections (4) and (5) of this section. Such additional fees shall be collected by the superintendent at the time of the discharge, or in his discretion he may enter into an agreement with the holder of such a permit to bill and collect the fees on a monthly basis.

(4) Fees for septic tank discharge. All persons discharging domestic sewage waste from a truck under the provisions of section 18-502(10) shall be charged at the rate of six dollars (\$6.00) per one thousand (1,000) gallons of such waste.

(5) Holding tank wastes. All persons discharging any other holding tank waste authorized pursuant to section 18-502 shall be charged at the rate of one dollar twenty and nine-tenths cents (\$1.209) per one thousand (1,000) gallons of such discharge, plus any surcharge rate authorized by section 18-511 for concentrations of pollutants in excess of normal wastewater without regard to the definition of industrial user or other limitations set forth in said section. The superintendent may also require a chemical analysis of such waste and charge the user therefor.

(6) Monitoring requested by user. The superintendent shall charge and collect from any user requesting the collection of effluent samples and the analysis of same a sum of money sufficient to pay for the personnel, equipment and materials needed to collect and analyze same. He shall publish no less frequently than yearly a schedule of such fees, and shall charge all persons uniformly according to said schedule of charges. No such monitoring requested by user shall be performed unless the user shall agree in advance to payment of charges according to said schedule. The superintendent shall bill for such monitoring reports within one week following the completion thereof, said bills

to be payable within thirty (30) days following the date of the bill. The superintendent shall not perform for a user routine self-monitoring required under the provisions of an industrial discharge permit. (1977 Code, § 8-613)

18-514. Penalties for violations of chapter, permit conditions or order.

(1) Violation a misdemeanor. Any person who violates any provision of this chapter, including but not limited to the following violations:

- (a) Violates an effluent standard of limitation;
- (b) Violates the terms or conditions of a wastewater discharge permit;
- (c) Fails to complete a filing or report requirement;
- (d) Fails to perform or properly report any required monitoring;
- (e) Violates a final order or determination of the wastewater regulations board or the superintendent; or
- (f) Fails to pay any established sewer service charge or industrial cost recovery charge; shall be guilty of a misdemeanor and, upon conviction, is punishable by a fine in an amount not to exceed fifty dollars (\$50.00).

(2) Violations deemed separate offenses. Each separation violation shall constitute a separate offense and upon conviction, each day of violation shall constitute a separate offense.

(3) Civil penalties. An industrial user of a publicly owned treatment works who violates the provisions of Section 69-3-115, Tennessee Code Annotated, is subject to a civil penalty of ten thousand dollars (\$10,000.00) per day for each day during which acts or omissions set forth therein continue or occur. (1977 Code, § 8-614)

CHAPTER 6

STORMWATER POLLUTION CONTROL

SECTION

- 18-601. General provisions.
- 18-602. Definitions.
- 18-603. Best management practices (BMP) manual.
- 18-604. Land disturbance permits required.
- 18-605. Runoff management permits.
- 18-606. Non-storm water discharge permits.
- 18-607. Program remedies for permittee's failure to perform.
- 18-608. Existing locations and developments.
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- 18-610. Conflicting standards.
- 18-611. Program fees.
- 18-612. Penalties.
- 18-613. Appeals.
- 18-614. Implementation schedule.
- 18-615. Overlapping jurisdiction.

18-601. General provisions. (1) Program area. This chapter 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 Storm Water Control Program (hereinafter called the program) and enact the ordinance comprising this chapter 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 5-5-123. Applicable terms and provisions of said interlocal agreement and the Standard Operating Procedures for the Hamilton County Storm Water interlocal agreement, are hereby incorporated into and made a part of this chapter by reference and shall be as binding as if reprinted in full herein.

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

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

(b) Maintain and improve the quality of the receiving waters into which the storm water 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 storm water discharges. Compliance shall include the following six (6) minimum storm water pollution controls as defined by US 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.
- (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 storm water 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 storm water contaminants as may be necessary to protect water quality.
- (iv) Review and approve plans and plats for storm water management in proposed subdivisions or commercial developments.
- (v) Issue permits for storm water discharges or for the construction, alteration, extension, or repair of storm water facilities.
- (vi) Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit.
- (vii) Regulate and prohibit discharges into storm water 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 the ordinance comprising this chapter or which may come into existence after the adoption of the ordinance comprising this chapter.

- (4) Goals of the program. The primary goals of the program are to:
- (a) Raise public awareness of storm water issues.
 - (b) Generate public support for the program.
 - (c) Teach good storm water practices to the public.
 - (d) Involve the public to provide an extension of the program's enforcement staff.
 - (e) Support public storm water pollution control initiatives.
 - (f) Increase public use of good storm water 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.
 - (n) Provide a model for good storm water practices to the public through municipal operations impacting storm water (i.e., municipalities should "lead by example").

(5) Administering entity. The program staff shall administer the provisions of this chapter 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 chapter and to use its judgment in interpreting the various provisions of this chapter, 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. (as added by Ord. #622, Oct. 2005)

18-602. Definitions. (1) Program-specific terminology. 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 chapter, to be interpreted as described hereinbelow:

- (a) "Best management practices (BMPs)" means schedules of activities, prohibitions of practices, maintenance procedures, and other

management practices to prevent or reduce the pollution of storm water 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.

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

(c) "First flush" is defined as the initial storm water runoff from a contributing drainage area which carries the majority of the contributed pollutants.

(d) "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 storm water. Examples might include operations producing concrete or asphalt, auto repair shops, auto supply shops, large commercial parking areas, and restaurants.

(e) "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.

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

(g) "Management committee" is 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.

(h) "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.

(i) "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.

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

(k) "Program" refers to a comprehensive program to manage the quality of storm water discharged in or from the program area's municipal separate storm sewer system (MS4).

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

(m) "Program service area" shall consist of the entire physical area within the corporate limits of each participating city together with the urbanized unincorporated area of the county.

(n) "Program manager" - See "Storm water manager."

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

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

(q) "Runoff" - See "Storm water runoff."

(r) "Runoff quality objectives" refer to the "performance criteria for runoff management" adopted by the management committee in conformance with applicable provisions of § 18-605(5) hereinafter in accordance with the "goals of the program" as outlined under § 18-601(4) hereinbefore.

(s) "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.

(t) "Storm water" means storm water runoff, snow melt runoff, and surface runoff and discharge resulting from precipitation.

(u) "Storm water manager" is 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.

(v) "Storm water runoff" means flow on the surface of the ground, resulting from precipitation. (as added by Ord. #622, Oct. 2005)

18-603. Best management practices (BMP) manual.¹ Storm water design or BMP manual (1) The program will adopt a storm water design and best management practices (BMP) manual (hereafter referred to as the BMP manual), which is incorporated by reference in this chapter as if fully set out herein.

(2) This manual will include a list of acceptable BMPs including the specific design performance criteria and operation and maintenance requirements for each storm water practice. The manual may be updated and

¹The stormwater design or BMP manual is of record in the office of the city recorder.

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. Storm water facilities that are designed, constructed, and maintained in accordance with these BMP criteria will be presumed to meet the minimum water quality performance standards. (as added by Ord. #622, Oct. 2005)

18-604. 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 chapter, 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 to this chapter.

(c) The land disturbance permit application fee shall be as 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 storm water 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 chapter. 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

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 a 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. (as added by Ord. #622, Oct. 2005)

18-605. 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;

(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 chapter, 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) Storm water 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 fee as described in Appendix A to this chapter.

(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 chapter, 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 § 18-605(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 storm water.

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

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

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

(e) Prepare and implement a storm water 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 storm water 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 storm water design requirements.

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

(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 chapter. 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 storm water 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;
- (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. (as added by Ord. #622, Oct. 2005)

18-606. Non-storm water 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-storm water into the storm water collection system. As allowed by Tennessee Department of Environment and Conservation (TDEC) regulations, certain non-storm water discharges may be released without a permit. A listing of such allowed discharges is included in § 18-609 which follows. Except for these discharges, a permit for all nonpolluting non-storm water discharges shall be required in addition to any permits required by the State of Tennessee for storm water discharges associated with industrial or construction activity.

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

(a) If the facilities are to be covered under the TDEC general NPDES permit for storm water discharges associated with industrial activity, a general NPDES permit for storm water 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-storm water discharge under this article shall include the specific items listed in the program's BMP manual.

(c) Each application for a non-storm water discharge permit shall be accompanied by payment of a non-storm water discharge permit fee as described in Appendix A to this chapter. Said fee shall be established under the provisions of the standard operating procedures for the program.

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

(a) Approval of the permit application;

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

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

(4) Permit duration. Every non-storm water 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-storm water discharge covered by the permit. (as added by Ord. #622, Oct. 2005)

18-607. 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 storm water 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 storm water manager, the deficiency or deficiencies described hereinbefore 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 paragraph.

(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 chapter.

(2) Failure to meet or maintain design or 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 chapter, 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 storm water 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 a subsequent section of this chapter. (as added by Ord. #622, Oct. 2005)

18-608. Existing locations and development. (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 the ordinance comprising this chapter 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 storm water management facilities, including those built both before and after the adoption of the ordinance comprising this chapter, 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 storm water 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 a subsequent section of this chapter.

(4) Corrections of problems subject to appeal. Corrective measures imposed by the storm water utility under this section are subject to appeal under § 18-613 of this chapter. (as added by Ord. #622, Oct. 2005)

18-609. 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 storm water except as permitted under § 18-606 of this chapter or allowed as described below. The commencement, conduct, or continuance of any non-storm water 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 storm water 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
- (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 storm water 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 storm water 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 storm water conveyances of the municipal separate storm sewer system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup 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 storm water 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 storm water manager finds that any permittee or any other person discharging non-storm water has violated or is violating this chapter or a permit or order issued hereunder, the storm water 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 storm water 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 storm water 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 paragraphs (iv) and (v) below.

(iii) Show cause hearing. The storm water manager may order any person who violates this chapter 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 storm water manager finds that any person has violated or continues to violate this chapter 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 storm water manager finds that any person has violated or continues to violate this chapter or any permit or order issued hereunder, the storm water 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 storm water manager in the preceding paragraphs to address illicit discharge violations, the storm water manager may, in accordance with the provisions of § 18-612 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 § 18-613 of this chapter. (as added by Ord. #622, Oct. 2005)

18-610. Conflicting standards. Whenever there is a conflict between any standard contained in this chapter, any BMP manual adopted by the program under this chapter, or any applicable state or federal regulation, the strictest standard shall prevail. (as added by Ord. #622, Oct. 2005)

18-611. Program fees. (1) Annual program fees. The program shall be financed primarily through an annual fee charged to all residential, commercial, and industrial storm water dischargers located within the program service area.

(a) Initial annual program fees:

(i) Residential properties. A single residential annual fee of eight dollars and fifty cents (\$8.50) 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 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 seven dollars (\$107.00) per impervious acre of development on the property but not less than the annual residential program 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 storm water 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 storm water 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 storm water manager's recommendation, examine the annual financial review and the storm water 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 storm water 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 storm water manager shall prepare a draft resolution incorporating the recommendation for action by the Hamilton County Commission. The storm water 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 storm water fee. Nothing contained herein shall prohibit or restrict any participating municipality from enacting and collecting an annual storm water 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 storm water fee to address storm water 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 tax¹. Should the owner of 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 storm water 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

¹State law reference

Tennessee Code Annotated, § 67-1-801

with program requirements for storm water 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 non-compliance 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-storm water discharge permit review. Commercial and industrial facilities located within the program service area may be allowed to discharge non-polluting wastewater into the storm water 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-storm water 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 to this chapter.

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

(i) The storm water 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 storm water 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 storm water manager believes should be adjusted.

(ii) Once the storm water manager has submitted his or her recommendations, revisions of the special program fees shall comply with the procedures for management committee review and county commission action identified under the "annual fee revision procedures" described hereinbefore. (as added by Ord. #622, Oct. 2005)

18-612. Penalties. (1) Violations. Any person who shall commit any act declared unlawful under this chapter, who violates any provision of this chapter, who violates the provisions of any permit issued pursuant to this chapter, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action 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 chapter 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 of this chapter.

(3) Measuring civil penalties. In assessing a civil penalty, the storm water 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 penalty 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 chapter, or any other actual damages caused by the violation.
- (b) The costs of maintenance of storm water facilities when the user of such facilities fails to maintain them as required by this chapter.

(5) Other remedies. The program or any participating municipality may bring legal action to enjoin the continuing violation of this chapter, 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. (as added by Ord. #622, Oct. 2005)

18-613. 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 storm water manager. The storm water manager shall review the record of the situation and, if the storm water manager is not satisfied that both of the following

conditions have been met, the storm water manager shall notify the appellant of the finding and grant the relief or a portion of the relief, as determined by the storm water 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 storm water manager determines that both items (a) and (b) immediately above have been satisfied, the storm water 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 storm water 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 storm water 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 storm water 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 storm water 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 paragraph, may appeal the management committee's decision by filing an appropriate request for judicial review to the Chancery Court of Hamilton County. (as added by Ord. #622, Oct. 2005)

18-614. 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 (§ 18-609)	January 1, 2006
Prohibition of the release of sediments and erosion products from a land disturbance site (§ 18-604(3))	January 1, 2006
Implementation of the land disturbance permit program (§ 18-604)	January 1, 2008
Implementation of the runoff management permit program (§ 18-605)	January 1, 2008
Implementation of the non-storm water discharge permit program (§ 18-606) (as added by Ord. #622, Oct. 2005)	January 1, 2008

18-615. 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 storm water pollution issues in ways which appear to overlap the goals and requirements of the program described by this chapter. 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 chapter. (as added by Ord. #622, Oct. 2005)

APPENDIX A
SPECIAL PROGRAM FEES

1. Each application for a Land Disturbance Permit shall be accompanied by a minimum nonrefundable fee of \$100 plus an additional \$5 per each additional disturbed acre, or part thereof, in excess of one (1) acre.
2. Each application for a Runoff Management Permit shall be accompanied by a minimum nonrefundable fee of \$100 plus an additional \$5 per each additional disturbed acre, or part thereof, in excess of one (1) acre.
3. If an inspector returns to a specific site out of the normal inspection sequence, an Erosion Control Non-Compliance Re-inspection Fee of \$50 will be assessed for each inspection visit prompted by erosion control measures found to be out of compliance with permit requirements.
4. Each application for a Non-Storm Water Discharge Permit shall be accompanied by a minimum nonrefundable fee of \$150 per facility.
5. Residential developments containing a common retention/detention facility shall be charged a Lifetime Operation and Maintenance Fee based on total pond volume computed from the design water level associated with a 25-year storm event:
 - a. Dry detention basin: \$2,500 per acre-foot of pond volume.
 - b. Retention (wet)/detention basin: \$5,000 per acre-foot of pond volume. Under this fee neither Hamilton County nor the Program accepts responsibility for the upkeep, maintenance, and/or operation of basin amenities such as retaining walls, shoreline treatments, walkways, boardwalks, docks, fountains, mechanical aeration devices, lighting, and other aesthetic enhancements. Provisions for the maintenance and operation of such amenities must be included in the facility's Runoff Management Plan. (as added by Ord. #622, Oct. 2005)

APPENDIX B
STORM WATER MANAGEMENT
ENFORCEMENT PROTOCOL

The following protocol shall be employed in enforcement of this ordinance, subject to the authority of the Management Committee to make reasonable adjustments to the civil penalties mandated hereinafter to reflect the specifics of each enforcement action.

At any time, a show cause hearing may be ordered if this protocol is unclear or inadequate to address specific violations of the ordinance. This protocol does not in any way deter the Storm Water Manager from entering into a consent order to eliminate illicit discharges in lieu of other enforcement actions.

This protocol may be adjusted and amended from time to time by action of the Management Committee and approval by the Hamilton County Commission.

1. Land Disturbing Activities Without Obtaining Necessary Land Disturbing Permit
 - (a) First Offense (Property Owner and Contractor) - Cease and desist order; notice of violation; obtain required permit including payment of associated fee; civil penalty equal to cost of permit.
 - (b) Second Offense (Property Owner and Contractor) - Cease and desist order; notice of violation; obtain required permit including payment of associated fee; issuance of civil penalty of \$500.00 plus damages consisting of cost of permit and costs to the Program associated with the enforcement of article.
 - (c) Each Additional Offense (Property Owner and Contractor) - Cease and desist order; notice of violation; obtain required permit including payment of associated fee; issuance of civil penalty of \$1,000.00 plus damages consisting of cost of permit and three times the costs to the Program associated with the enforcement of article.
 - (d) Failure to Properly Transfer Land Disturbing Permit - Cost of new permit.
 - (e) Failure to Request Extension of Permit - Cost of new permit.
- Note: Enforcement under this guidance is contractor- and property owner-specific, not site-specific. For instance, if Contractor A receives a notice of violation for a first offense, a civil penalty is to be issued against Contractor A for the second offense occurring within three (3) years of the previous notice of an offense, regardless of the property owner or location.

2. Failure to Comply with Required Sediment and Erosion Control Procedures (These protocols are enforceable on all land disturbance sites, including sites which are not required to obtain a Land Disturbance Permit).
 - (a) Failure to Install, Maintain, or Use Proper Construction Entrance (Tracking Mud on Street)
 - (1) First Offense - Notice of violation issued to permit applicant (or responsible party, if no permit is required) including a directive to remove mud, debris, or construction materials deposited in a public roadway. If the Program Manager determines that the deposited materials represent an immediate danger to the public health or welfare, the Program will have said materials removed as quickly as practical without notice to any party. Costs for such removal by the Program will be assessed against the permit applicant or responsible party as deemed appropriate by the Program Manager.
 - (2) Second Offense - Issuance of civil penalty against permit applicant (or responsible party, if no permit is required) of \$100.00 per day; issuance of a directive to remove mud, debris, or construction materials deposited in a public roadway. If the Program Manager determines that the deposited materials represent an immediate danger to the public health or welfare, the Program will have said materials removed as quickly as practical without notice to any party. Costs for such removal by the Program will be assessed against the permit applicant or responsible party as deemed appropriate by the Program Manager.
 - (3) Each Additional Offense - Issuance of civil penalty against permit applicant (or responsible party, if no permit is required) of \$250.00 per day; issuance of a directive to remove mud, debris, or construction materials deposited in a public roadway. If the Program Manager determines that the deposited materials represent an immediate danger to the public health or welfare, the Program will have said materials removed as quickly as practical without notice to any party. Costs for such removal by the Program, including any costs sustained by the affected municipality, will be assessed against the permit applicant or responsible party as deemed appropriate by the Program Manager. The Program Manager may, at his discretion, issue a cease and desist order to the project effective until the deficiencies with the construction entrance are rectified.

Note: Failure to Act as Directed - Failure of the permit applicant (or responsible party, if no permit is required) to remove any mud, debris, or construction material that is deposited in a public roadway, within the time period specified in the directive included in the notice of violation, will lead to an additional civil penalty of \$250.00 per incident plus three times the cost of the Program's expenses to have the material removed to protect the safety of the public.

(b) Failure to Install, Maintain, or Use Proper Structural Erosion or Sediment Controls During the Conduct of a Land Disturbance Activity (Sediment Discharge)

(1) First Offense - Notice of violation issued to permit applicant (or responsible party, if no permit required). Notice of violation will require the immediate clean-up of sediment discharged into streets, rights-of-way, or storm water structures. Notice of violation will also require the correction of all erosion and sediment control deficiencies within a specified time frame. If the Program Manager determines that the discharged sediments or the deficient erosion and sediment controls represent an immediate danger to the public health or welfare or an imminent threat to the water environment, the Program will have the sediments removed and/or the required controls installed as quickly as practical without notice to the responsible party. Costs for such actions by the Program will be assessed against the permit applicant or responsible party as deemed appropriate by the Program Manager.

(2) Second Offense - Notice of Violation issued to land disturbing permit applicant (or responsible party, if no permit is required); "stop work order" enforced until necessary erosion and sedimentation controls are installed or maintained. Formerly permit-exempt projects will be required to obtain land disturbing permit. Notice of Violation will require the immediate clean-up of sediment discharged into streets, rights-of-way, or storm water structures or conveyances. Notice of violation will also require the correction of all erosion and sediment control deficiencies within a specified time frame. If the Program Manager determines that the discharged sediments or the deficient erosion and sediment controls represent an immediate danger to the public health or welfare or an imminent threat to the water environment, the Program will have the sediments removed and/or the required controls installed as quickly as practical without notice to

any party. Costs for such actions by the Program will be assessed against the permit applicant or responsible party as deemed appropriate by the Program Manager.

- (3) Each Additional Offense - Issuance of civil penalty of \$500.00 per discharge point per discharge to permit applicant; notice of violation issued to land disturbing permit applicant; "stop work order" enforced until necessary erosion and sedimentation controls are installed or maintained. Notice of violation will require the immediate clean-up of sediment discharged into streets, rights-of-way, or storm water structures or conveyances. Notice of violation will also require the correction of all erosion and sediment control deficiencies within a specified time frame. If the Program Manager determines that the discharged sediments and/or the deficient erosion and sediment controls represent an immediate danger to the public health or welfare or an imminent threat to the water environment, the Program will have the sediments removed and/or the required controls installed as quickly as practical without notice to any party. Costs for such actions by the Program will be assessed against the permit applicant.

Note: Failure to Act as Directed - Failure of the permit applicant or responsible party (if no permit is required) to remove any discharged sediments and/or install erosion and sediment control measures within the time period specified in the directive included in the notice of violation will lead to an additional civil penalty of \$250.00 per incident plus three times the cost of the Program's expenses to have the material removed and/or install the required measures.

- (c) Failure to Install, Maintain, or Use Proper Structural Erosion or Sediment Controls Following Completion of a Land Disturbance Activity (Sediment Discharge)

- (1) Site Requiring a Land Disturbance Permit - Issuance against property owner of notice of violation for the release of unacceptable amounts of sediments from the site following the submission to the Program of a "Notice of Termination" of temporary site erosion and sediment controls. Notice of violation will require the immediate clean-up of sediment discharged into streets, rights-of-way, or storm water structures and conveyances. Notice of violation will also require the correction of all erosion and sediment control deficiencies within a specified time frame. Mandatory correction measures may include the installation of temporary erosion and sediment controls. If the Program

Manager determines that the discharged sediments represent an immediate danger to the public health or welfare or an imminent threat to the water environment, the Program will have the sediments removed as quickly as practical without notice to the property owner. Costs for such actions by the Program will be assessed against the property owner.

- (2) Site Not Requiring a Land Disturbance Permit - Issuance of notice of violation requiring the immediate clean-up of sediment discharged into streets, rights-of-way, or storm water structures or conveyances. Notice of violation will also require the correction of all erosion and sediment control deficiencies within a specified time frame. Mandatory correction measures may include the installation of temporary erosion and sediment controls. If the Program Manager determines that the discharged sediments represent an immediate danger to the public health or welfare or an imminent threat to the water environment, the Program will have the sediments removed as quickly as practical without notice to the property owner. Costs for such actions by the Program will be assessed against the property owner.

Note: Failure to Act as Directed - Failure of the property owner to remove any discharged sediments and/or install erosion and sediment control measures within the time period specified in the directive included in the notice of violation will lead to an additional civil penalty of \$250.00 per incident plus three times the cost of the Program's expenses to have the material removed and/or install the required measures.

3. Failure to Comply with Approved Runoff Management Plan
 - (a) Upon Discovery of Variation with Approved Plan - Written notification to the permit applicant that construction does not match approved plans and that if modifications are to be accepted, revised plans must be submitted for review and approval. Submittal of revised plans shall require payment of an additional permit review fee.
 - (b) Failure to Conform with Approved Plan - Program Inspectors shall not authorize issuance of a "Certificate of Occupancy" or "Final Plat Approval" until runoff management measures complying with an approved plan are fully operational.
4. Failure to Satisfy Minimum Runoff Quality Objectives (Permitted and/or Previously Occupied Sites)

- (a) Upon Discovery of Runoff Quality Violation - A notice of violation and compliance order shall be issued to the property owner giving a minimum of 14 calendar days up to a maximum of 60 calendar days, at the discretion of the Program Manager, to submit a remedial Runoff Management Plan describing the measures proposed to bring the site into compliance with runoff quality objectives. Conformance with a previously approved Runoff Management Plan shall not relieve a site from the requirement to meet runoff quality objectives. Submittal of the remedial plan shall require payment of a permit review fee.
- (b) Resubmittal of Remedial Runoff Management Plans - The remedial plan may be rejected or contingently approved with additions, deletions, and/or revisions mandated by the Program staff. The property owner shall have 14 calendar days to revise and resubmit a rejected or contingently approved remedial plan. Failure to resubmit an acceptable plan within this time limit shall constitute a violation of the compliance order.
- (c) Upon Approval of the Remedial Runoff Management Plan - Concurrently with the approval of a remedial Runoff Management Plan, a compliance order shall be issued to the property owner giving a maximum of 120 calendar days to install the improvements required to bring the site into compliance with runoff quality objectives. If the Program Manager determines that the site poses an imminent threat to the water environment, the time allowed in the compliance order to install the runoff management measures will be reduced, but said time limit shall not be less than 14 calendar days.

Note: Failure to Meet Compliance Order Dates - Issuance of civil penalty against the property owner of \$100.00 per day for each day compliance directives are not met. Should the compliance date be exceeded by more than 60 calendar days, the Program Manager may increase the civil penalty to \$1,000.00 per day for each day compliance directives are not met. After 120 calendar days, the Program Manager may increase the civil penalty to \$5,000.00 per day for each day compliance directives are not met.

- 5. Failure to Properly Operate and/or Maintain a Storm Water Retention/Detention Basin Constructed as Part of an Accepted Runoff Management Plan
 - (a) Notice of Violation and Compliance Order - A notice of violation and compliance order shall be issued to the property owner giving a maximum of 30 days to restore a retention/detention basin to an acceptable level of maintenance and/or effective operation.

- (b) Failure to Meet Compliance Order Date - Issuance of a civil penalty against the property owner of \$1,000.00 per occurrence for each day during which storm water is discharged from the retention/detention basin between the expiration of the restoration period allowed by the compliance order and the date of completion of the restoration of the retention/detention basin as determined by the Program Manager.
6. **Illicit Discharges (Non-residential, Non-accidental)**
- (a) First Offense - Notice of violation issued to responsible party for non-storm water discharge. A copy of the notice of violation will be sent to the Tennessee Department of Environment and Conservation (TDEC) for separate civil and/or criminal enforcement action.
 - (b) Second Offense - Issuance of notice of violation and civil penalty against responsible party of \$1,000.00. A copy of the notice of violation will be sent to the TDEC for separate civil and/or criminal enforcement action. The amount of the civil penalty assessed by the Program will be reduced by the amount of any penalty imposed by TDEC up to the full amount of the Program's civil penalty.
 - (c) Each Additional Offense - Issuance of notice of violation and civil penalty against responsible party of \$2,500.00. A copy of the notice of violation will be sent to TDEC for separate civil and/or criminal enforcement action. The amount of the civil penalty assessed by the Program will be reduced by the amount of any penalty imposed by TDEC up to the full amount of the Program's civil penalty.
 - (d) Additional Damages - Additional damages consisting of Program expenses to clean up illicit discharge will be passed on to violator starting with the first offense. Additional damages may include other items such as the costs avoided by not properly using the sanitary sewer system or other disposal method.
7. **Illicit Discharges (Non-residential, Accidental)**
- (a) Accidental Illicit Discharges - An accidental illicit discharge, properly reported as such to the Program not later than 4:00 p.m. of the business day immediately following the incident, will not subject to enforcement as an illicit discharge. However, the responsible party may be held liable for clean-up costs and other damages to the Program. Failure to report an accidental discharge as described above shall subject such discharge to the enforcement actions described hereinbefore for non-accidental illicit discharges. The Program staff will notify TDEC of all reported accidental discharges.

8. Illicit Discharges (Residential Other than Wastewater Discharge)
 - (a) Each Offense - Enforcement action based on individual action. Examples: Deliberate dumping of pesticide, used motor oil, or other hazardous or dangerous chemical into storm drainage system would result in issuance of civil penalty including damages. The amount of the assessed civil penalty shall be not less than \$50.00 or more than \$500.00 as determined by the Program Manager. The Program staff will notify TDEC of all illicit discharges. (as added by Ord. #622, Oct. 2005)