

TITLE 18

WATER AND SEWERS¹

CHAPTER

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CHAPTER 1

SEWAGE AND HUMAN EXCRETA DISPOSAL²

SECTION

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¹Municipal code references

Building, utility and housing codes: title 12.
Refuse disposal: title 17.

²Municipal code reference

Plumbing code: title 12, chapter 2.

18-101. Definitions. The following definitions shall apply in the interpretation of this chapter:

(1) "Accessible sewer." A public sanitary sewer located in a street or alley abutting on the property in question or otherwise within two hundred (200) feet of any boundary of said property measured along the shortest available right-of-way.

(2) "Health officer." The person duly appointed to such position having jurisdiction, or any person or persons authorized to act as his agent.

(3) "Human excrete." The bowel and kidney discharges of human beings.

(4) "Sewage." All water-carried human and household wastes from residences, buildings, or industrial establishments.

(5) "Approved septic tank system." A watertight covered receptacle of monolithic concrete, either precast or cast in place, constructed according to plans approved by the health officer. Such tanks shall have a capacity of not less than 750 gallons and in the case of homes with more than two (2) bedrooms the capacity of the tank shall be in accordance with the recommendations of the Tennessee Department of Health and Environment as provided for in its 1967 bulletin entitled "Recommended Guide for Location, Design, and Construction of Septic Tanks and Disposal Fields." A minimum liquid depth of four (4) feet should be provided with a minimum depth of air space above the liquid of one (1) foot. The septic tank dimensions should be such that the length from inlet to outlet is at least twice but not more than three (3) times the width. The liquid depth should not exceed five (5) feet. The discharge from the septic tank shall be disposed of in such a manner that it may not create a nuisance on the surface of the ground or pollute the underground water supply, and such disposal shall be in accordance with recommendations of the health officer as determined by acceptable soil percolation data.

(6) "Sanitary pit privy." A privy having a fly-tight floor and seat over an excavation in earth, located and constructed in such a manner that flies and animals will be excluded, surface water may not enter the pit, and danger of pollution of the surface of the ground or the underground water supply will be prevented.

(7) "Other approved method of sewage disposal." Any privy, chemical toilet, or other toilet device (other than a sanitary sewer, septic tank, or sanitary pit privy as described above) the type, location, and construction of which have been approved by the health officer.

(8) "Watercourse." Any natural or artificial drain which conveys water either continuously or intermittently. (1982 Code, § 8-301)

18-102. Places required to have sanitary disposal methods. Every residence, building, or place where human beings reside, assemble, or are employed within the corporate limits shall be required to have a sanitary method for disposal of sewage and human excrete. (1982 Code, § 8-302)

18-103. When a connection to the public sewer is required. (1) Except as provided in subsection (2) below, wherever an accessible sewer exists and water under pressure is available, approved plumbing facilities shall be provided and the wastes from such facilities shall be discharged through a connection to said sewer made in compliance with the requirements of the official responsible for the public sewerage system. On any lot or premise accessible to the sewer no other method of sewage shall be employed except as provided in subsection (2) below.

(2) During the period commencing July 1, 1992, and ending on the date of termination of the Agreed Order entered in Case No. 90-3154, ADD DOC. NO. 17:30-D-90-1268A before the Tennessee Water Quality Control Board of the State of Tennessee, Department of Conservation, Division of Water Pollution Control, any owner of real property located within the Newbern town limits, which property would otherwise qualify under all applicable laws, rules and regulations for sewage disposal by septic tank and field line system, shall be entitled to construct, install and place in operation a lawfully constructed septic tank and field line system upon said property for use in the disposal of wastewater generated from improvements upon the property. Notwithstanding anything to the contrary stated hereinabove, the right and entitlement of any such owner to construct, install and place in operation any such septic tank and field line system shall cease and terminate, forever, as of the expiration of the period described above; and, thereafter, no use of any such septic tank and field line system accessible to a public sewer. (1982 Code, § 8-303, as amended by Ord. #92-3, June 1992)

18-104. When a septic tank shall be used. Wherever water-carried sewage facilities are installed and their use is permitted by the health officer, and an accessible sewer does not exist, the wastes from such facilities shall be discharged into an approved septic tank system.

No septic tank or other water-carried sewage disposal system except a connection to a public sewer shall be installed without the approval of the health officer or his duly appointed representative. The design, layout, and construction of such systems shall be in accordance with specifications approved by the health officer and the installation shall be under the general supervision of the department of health. (1982 Code, § 8-304)

18-105. Registration and records of septic tank cleaners, etc. Every person, firm, or corporation who operates equipment for the purpose of removing digested sludge from septic tanks, cesspools, privies, and other sewage disposal installations on private or public property must register with the health officer and furnish such records of work done within the corporate limits as may be deemed necessary by the health officer. (1982 Code, § 8-305)

18-106. Use of pit privy or other method of disposal. Wherever a sanitary method of human excreta disposal is required under § 18-102 and water-carried sewage facilities are not used, a sanitary pit privy or other approved method of disposal shall be provided. (1982 Code, § 8-306)

18-107. Approval and permit required for septic tanks, privies, etc. Any person, firm, or corporation proposing to construct a septic tank system, privy, or other sewage disposal facility, requiring the approval of the health officer under this chapter, shall before the initiation of construction obtain the approval of the health officer for the design and location of the system and secure a permit from the health officer for such system. (1982 Code, § 8-307)

18-108. Owner to provide disposal facilities. It shall be the duty of the owner of any property upon which facilities for sanitary sewage or human excreta disposal are required by § 18-102, or the agent of the owner to provide such facilities. (1982 Code, § 8-308)

18-109. Occupant to maintain disposal facilities. It shall be the duty of the occupant, tenant, lessee, or other person in charge to maintain the facilities for sewage disposal in a clean and sanitary condition at all times and no refuse or other material which may unduly fill up, clog, or otherwise interfere with the operation of such facilities shall be deposited therein. (1982 Code, § 8-309)

18-110. Only specified methods of disposal to be used. No sewage or human excreta shall be thrown out, deposited, buried, or otherwise disposed of, except by a sanitary method of disposal as specified in this chapter. (1982 Code, § 8-310)

18-111. Discharge into watercourses restricted. No sewage or excreta shall be discharged or deposited into any lake or watercourse except under conditions specified by the health officer and specifically authorized by the Tennessee Stream Pollution Control Board. (1982 Code, § 8-311)

18-112. Pollution of ground water prohibited. No sewage effluent from a septic tank, sewage treatment plant, or discharges from any plumbing facility shall empty into any well, either abandoned or constructed for this purpose, cistern, sinkhole, crevice, ditch, or other opening either natural or artificial in any formation which may permit the pollution of ground water. (1982 Code, § 8-312)

18-113. Enforcement of chapter. It shall be the duty of the health officer to make an inspection of the methods of disposal of sewage and human excreta as often as is considered necessary to insure full compliance with the terms of this chapter. Written notification of any violation shall be given by the health

officer to the person or persons responsible for the correction of the condition, and correction shall be made within forty-five (45) days after notification. If the health officer shall advise any person that the method by which human excreta and sewage is being disposed of constitutes an immediate and serious menace to health such person shall at once take steps to remove the menace. Failure to remove such menace immediately shall be punishable under the general penalty clause for this code. However such person shall be allowed the number of days herein provided within which to make permanent correction. (1982 Code, § 8-313)

18-114. Carnivals, circuses, etc. Whenever carnivals, circuses, or other transient groups of persons come within the corporate limits such groups of transients shall provide a sanitary method for disposal of sewage and human excreta. Failure of a carnival, circus, or other transient group to provide such sanitary method of disposal and to make all reasonable changes and corrections proposed by the health officer shall constitute a violation of this section. In these cases the violator shall not be entitled to the notice of forty-five (45) days provided for in the preceding section. (1982 Code, § 8-314)

18-115. Violations. Any person, persons, firm, association, or corporation or agent thereof, who shall fail, neglect, or refuse to comply with the provisions of this chapter shall be deemed guilty of a misdemeanor and shall be punishable under the general penalty clause for this code. (1982 Code, § 8-315)

CHAPTER 2

WATER AND SEWERS GENERALLY¹

SECTION

- 18-201. Application for service.
- 18-202. Deposit required.
- 18-203. Point of delivery.
- 18-204. Customer's plumbing system--standards.
- 18-205. Right of access.
- 18-206. Inspections.
- 18-207. Supply and resale of water.
- 18-208. Unauthorized use of water supply.
- 18-209. Illegal use of sewer.
- 18-210. Customer's responsibility.
- 18-211. Sewer service charges.
- 18-212. Interruption of service.
- 18-213. Cut-off failures.
- 18-214. Meter tests.
- 18-215. Billing.
- 18-216. Discontinuance of service.
- 18-217. Reconnection charge.
- 18-218. Termination of contract by customer.
- 18-219. Temporary service.
- 18-220. Rates.
- 18-221. Fluoridation of water.
- 18-222. Water service charge.

18-201. Application for service. Each prospective customer desiring water and/or sewer service will be required to sign a standard form of contract before service is supplied. (1982 Code, § 13-101)

18-202. Deposit required. A deposit must accompany each application for service. The amount of such deposit shall be as set out in the current "rate schedule." Upon termination of service, the deposit will be applied against any unpaid bill or account due the municipality and its departments. Any balance remaining shall be refunded. (1982 Code, § 13-102)

¹Municipal code references

Building, utility and housing codes: title 12.

Refuse disposal: title 17.

18-203. Point of delivery. The point of delivery for water service shall be the outlet of the water meter either located on or off the customer's premises as designated and required by the municipality. All facilities beyond said point of delivery shall be owned and maintained by the customer. The municipality is not responsible for water leaks beyond the point of delivery. The municipality shall charge a \$10.00 fee for service calls made to a premise when the problem is not the fault of the municipality. (1982 Code, § 13-103)

18-204. Customer's plumbing system--standards. The customer's water and sewer system and attachments thereto shall conform to the current municipal plumbing code and to all municipal ordinances pertinent to same. (1982 Code, § 13-104)

18-205. Right of access. Municipal employees shall have access to customer's premises at all reasonable times for the purpose of reading meters, testing, repairing, removing or exchanging any or all equipment of municipality and for inspecting customer's premises in order to assure compliance with these rules and regulations. (1982 Code, § 13-105)

18-206. Inspections. The municipality shall have the right, but shall not be obligated, to inspect any installation or plumbing system before water service is furnished or at any later date. The municipality reserves the right to refuse service or to discontinue service to any premises not meeting standards fixed by the municipal ordinances regulating building or plumbing. (1982 Code, § 13-106)

18-207. Supply and resale of water. All water shall be supplied within the municipality exclusively by the municipality and no customer shall, directly or indirectly, sell, sublet, assign, or otherwise dispose of the water or any part thereof. (1982 Code, § 13-107)

18-208. Unauthorized use of water supply. No person shall turn on or turn off any of the municipality's stop cocks, hydrants, spigots, fireplugs, or valves without permission or authority from the municipality. (1982 Code, § 13-108)

18-209. Illegal use of sewer. The customer shall not allow sewerage from other premises to be carried through his sewer service lines. No roof drains or other surface drains shall be connected to the sewer service lines. (1982 Code, § 13-109)

18-210. Customer's responsibility. All meters, service connections, and other equipment furnished by the municipality shall remain the property of the municipality. Each customer shall provide space for and exercise proper care to protect the property of municipality on his premises. Any damage to the

municipality's property arising from customer's intentional actions or neglect shall be the responsibility of and paid for by the customer. Municipality shall repair said damage or replace the damaged equipment and add the cost of same to customer's monthly bill rendered pursuant to § 18-215. Said cost shall be paid and collected together with all other monthly service fees pursuant to § 18-215. Municipality shall be responsible for connections made to the public sanitary sewer system and service lines from such point of connection to the outer side of the street curb or, if no curb exists, to the outer edge of the street pavement or surfacing. The customer shall install and maintain at his own expense all installations beyond this point. Customer shall also be responsible for any stoppage or other damage done to system by shrubbery, trees, or roots of same, owned by customer. (1982 Code, § 13-110, as amended by Ord. #90-__, May 1990)

18-211. Sewer service charges. Sewer service charges shall be collected from the person billed for water service to any premises with an accessible sanitary sewer. The sewer charge shall be as follows:

Class 22 - Residential and Class 35 - Small Commercial

<u>Gallons Per Month</u>		<u>Per 100 Gallons</u>
First	2,000 @	\$ 3.75 Minimum
Next	3,000 @ .001134	3.40
Next	5,000 @ .000908	4.54
Next	10,000 @ .000605	6.05
Over	20,000 @ .000378	7.56

Class 01 - Industrial

<u>Gallons Per Month</u>		<u>Per 100 Gallons</u>
First	2,000 @	\$ 7.04 Minimum
Next	3,000 @ .002128	6.38
Next	5,000 @ .001701	8.51
Next	10,000 @ .001135	11.35
Over	20,000 @ .000709	14.18

The sewer service charge shall be added to and combined with the water service charge, water service may be discontinued for non-payment of the combined bill. (1982 Code, § 13-111)

18-212. Interruption of service. The municipality will endeavor to furnish continuous water service, but does not guarantee to the customer any

fixed pressure or continuous service. The municipality can not be liable for any damages for any interruption of service, or for any damage caused by low pressure, high pressure, or fluctuations in pressure in the municipality's water mains. (1982 Code, § 13-112)

18-213. Cut-off failures. The customer must rely exclusively on privately owned cut-offs and not upon the municipality's cut-off. It is the responsibility of the customer to see that his plumbing is properly drained and is kept properly drained, after his water service has been cut off. (1982 Code, § 13-113)

18-214. Meter tests. Municipality will make periodical tests and inspections of its meters in order to maintain a high standard of accuracy. Municipality will make additional tests of its meters at the request of customer. If the meter is found to be correct within the following variance the customer will pay the proper meter testing charge:

<u>Meter Size</u>	<u>Variance</u>	<u>Testing Charge</u>
up to 2"	2%	\$ 5.00
3" or 4"	4%	10.00
6" or over	5%	20.00

(1982 Code, § 13-114)

18-215. Billing. Bills will be rendered monthly and shall be paid on or before the discount date in order to obtain the net rates, otherwise gross rates shall apply. Failure to receive a bill will not release a customer from payment obligation. A customer's failure to pay within five (5) days after discount date shall be deemed a request by customer that service be discontinued. The municipality shall not be liable for any damages resulting from discontinuing service under the provisions of this section, even though payment is made at any time on the day that service is actually discontinued. (1982 Code, § 13-115)

18-216. Discontinuance of service. The board of mayor and aldermen shall have the right to discontinue service for violation of any of its rules and regulations or of customer's contract for service.

Discontinuance of service for any cause shall not release customer from liability for service already received. (1982 Code, § 13-116)

18-217. Reconnection charge. Whenever service has been discontinued as provided above, or a trip is made for the purpose of discontinuing service, a charge of not less than one dollar (\$1.00) shall be collected before service is restored. (1982 Code, § 13-117)

18-218. Termination of contract by customer. Three (3) days written notice shall be given by customers wishing to discontinue service. Such notice prior to expiration of contract term will not relieve customer of any minimum or guaranteed payment under any contract or rate schedule. (1982 Code, § 13-118)

18-219. Temporary service. Customers requiring temporary service shall pay all costs of connection and disconnection incidental to the supplying and removing of service in addition to the regular charge for water used. (1982 Code, § 13-119)

18-220. Rates. The rates to be charged for water and sewer services shall be established by the board of mayor and aldermen, from time to time, by ordinance. (1982 Code, § 13-120)

18-221. Fluoridation of water. The water department of the Town of Newbern, Tennessee, is hereby authorized and instructed to make plans for the fluoridation of the water supply of the Town of Newbern, Tennessee, to submit such plans to the Department of Health and Environment of the State of Tennessee for approval, and upon approval to add such chemicals as fluoride to the water supply in accord with such approval as will adequately provide for the fluoridation of said water supply.

The cost of such fluoridation will be borne by the revenues of the water department of the Town of Newbern, Tennessee. (1982 Code, § 13-121)

18-222. Water service charge. Customers shall pay a service charge for water supplied to a premises by the municipality. The water service charge shall be as follows:

<u>METER SIZE</u>	<u>WATER RATE</u>
3/4" Meter	Base Charge \$6.60 Water Charge \$2.65 per 1000 Gallons
1" Meter	Base Charge \$9.80 Water Charge \$2.65 per 1000 Gallons
2" Meter	Base Charge \$12.10 Water Charge \$2.65 per 1000 Gallons
4" Meter	Base Charge \$16.50 Water Charge \$2.65 per 1000 Gallons
8" Meter	Base Charge \$30.80 Water Charge \$2.65 per 1000 Gallons

Change 9, January 18, 2005

18-11

(1982 Code, § 13-122, as replaced by Ord. #96-3, Aug. 1996, and amended by Ord. #2000-18, Jan. 2001; Ord. #2003-8, Sept. 2003; and Ord. #2004-3, July 2004)

CHAPTER 3

WATER AND SEWER EXTENSIONS¹

SECTION

- 18-301. Initial service.
- 18-302. Tapping fee required.
- 18-303. Installment payments.
- 18-304. Extension provided.
- 18-305. Additional main extensions.
- 18-306. Calculation points.
- 18-307. Credits allowed.
- 18-308. Group developments.
- 18-309. Separate projects.
- 18-310. Approval required.
- 18-311. Guarantee of payments.
- 18-312. Service refused.
- 18-313. Main locations.
- 18-314. Commencement of construction.
- 18-315. Municipal extensions.

18-301. Initial service. Persons desiring water and/or sewer service to premises not previously served by the municipality's systems, shall make written application for each service separately. Such application shall state ownership and location of property to be served, location of existing mains from which service is desired, and approved public street abutting the property to be benefitted. Applicant may be required to furnish such other information as would be essential in consideration of such service requests. (1982 Code, § 13-201)

18-302. Tapping fee required. At the time of application for new service, the prospective customer shall pay a tapping fee according to the following schedule:

For sewer service single family dwelling:

Line Side	\$200.00
Gravel Street	250.00
Asphalt Street	300.00
Concrete Street	350.00

For sewer service multi-family dwellings:

First tap same as above.
Next three taps \$75.00
Over five taps \$50.00

For sewer service commercial:

4" or 6" line \$400.00 each tap
Additional units added to tap \$100.00 each

For water service up to and not including 1" tap

Line Side \$350.00
Road Bore 500.00

For water service 1" tap additional \$100.00

For water service 2" tap or larger actual costs of materials used.

If larger taps are required the fee shall be increased by the amount of additional cost of materials required.

In the event service is refused for any reason, liability of the municipality shall be limited to return of any fee deposited by the applicant. (1982 Code, § 13-202, as amended by Ord. #94-5, July 1994, and Ord. #2002-8, Aug. 2002)

18-303. Installment payments. Charges for new service, at the discretion of the municipality if requested by the customer, will be levied in five equal parts, due and payable as follows: One-fifth cash at the time of application and one-fifth due and payable with each of the four next succeeding utility billings. Failure to pay any installment when due shall cancel the privilege for partial payments and the unpaid balance shall be due immediately. Water service shall be discontinued and not restored at such location until the initial tappage fee has been fully paid, notwithstanding the sale or transfer of title to such property. (1982 Code, § 13-203)

18-304. Extension provided. Upon approval of any application, the municipality shall, at its own expense, lay a service line from the system's main to customer's property line and in the case of water service, shall provide and install a meter. Extensions to the municipality's mains for a distance not exceeding 100 feet shall be made, if necessary. (1982 Code, § 13-204)

18-305. Additional main extensions. If an extension of the system's mains is required beyond the 100 foot allowance, the municipality will lay such

additional extensions, at its own expense, upon the customer obligating himself to pay a line amortization monthly fee for a period not exceeding ten (10) years. Such amortization fee shall be as follows:

For water service, each 50 feet or fraction - \$2.00

For sewer service, each 50 feet or fraction - -2.50

(1982 Code, § 13-205)

18-306. Calculation points. In calculating the footage of extensions made, all measurements will be made from a point in an approved public street, opposite the center of the lot frontage being served, measured along such public street to the closest end of an existing system main. (1982 Code, § 13-206)

18-307. Credits allowed. If during the amortization period, the municipality connects a permanent customer to that section of the main extension upon which amortization is being paid, a reduction of \$2.00 for water and \$2.50 for sewer contracts shall be made the following month in the amortization payments. Whenever the monthly payment amount has been reduced to 25% of the original monthly payment amount, the balance of the contract shall be cancelled by the municipality and no further payments need be made. (1982 Code, § 13-207)

18-308. Group developments. Whenever system extensions requested to serve subdivisions or areas only partially developed, the same policy of amortization payments may be applied, except no initial 100 foot extension allowance shall be made in calculating the main extension unless a permanent service-using customer is connected to the extension at time construction is completed. (1982 Code, § 13-208)

18-309. Separate projects. Each extension made under a separate contract shall be accounted for separately upon system's records. Further extensions of the mains and connecting of additional customers shall not affect the contract. However, in the discretion of the municipality, two or more continuous main extensions made to one person, although made at different times, may be grouped into a single contract. (1982 Code, § 13-209)

18-310. Approval required. Neither the board of mayor and aldermen, planning commission, or any other agency or person shall approve a subdivision plat for development by permitting water or sanitary systems other than those to be connected with the municipal system, unless application for such service has been made to the municipality and has been refused. (1982 Code, § 13-210)

18-311. Guarantee of payments. All service applications requiring amortization payments shall be reviewed by the board of mayor and aldermen

before approval. Security to assure performance of the contract may be required in the form of endorsement, bond, or a lien upon the property benefitted. (1982 Code, § 13-211)

18-312. Service refused. If it is found that such water or sewer service would not be feasible due to excessive costs or any other unusual factor, the municipality shall refuse such service application and its liability shall be limited to the return of any deposit previously made. (1982 Code, § 13-212)

18-313. Main locations. All water and sewer mains shall be installed in accepted public street rights-of-way. If it becomes necessary to cross private property, no lines shall be laid except within utility strips upon which legal easements or deeds have been properly executed and delivered. (1982 Code, § 13-213)

18-314. Commencement of construction. No construction shall be undertaken until all land preparation, fills, and excavations shall have been completed. (1982 Code, § 13-214)

18-315. Municipal extensions. Nothing in these sections shall prevent the municipality from making any extensions deemed necessary or desirable at its own expense, either to water or sewer systems. (1982 Code, § 13-215)

CHAPTER 4

ENFORCEMENT RESPONSE PLAN

SECTION

18-401. Introduction.

18-402. Provisions for enforcement in previous sewer use ordinance.

18-403. Provisions for enforcement in revised ordinance.

18-404. Enforcement response guide.

18-405. Enforcement responses.

18-401. Introduction. (1) The recently promulgated Domestic Sewage Study (DSS) amendments to the General Pretreatment Regulations (Federal Register, July 24, 1990) require all Publicly Owned Treatment Works (POTW) with approved pretreatment programs to develop and implement an enforcement response plan. The regulations require that the plan shall contain detailed procedures of how the POTW will respond to instances of industrial user noncompliance. At a minimum, the plan shall:

(a) Describe how the POTW will investigate instances of noncompliance;

(b) Describe the types of escalating enforcement responses the POTW will take in response to all anticipated types of industrial user violations and the time periods within which responses will take place;

(c) Identify by title the official(s) responsible for implementing each type of enforcement response;

(d) Adequately reflect the POTW's primary responsibility to enforce all applicable pretreatment requirements and standards as provided in 40 CFR 403.8(f)(1) and (2).

When properly developed and implemented, the enforcement response plan will provide the POTW with an efficient and objective means of responding to instances of industrial user noncompliance.

The following document details the steps to be taken by the City of Newbern to achieve compliance with all state and federal regulations and amendments. The primary document utilized in preparing this plan was the EPA publication "Guidelines for Developing Control Authority Enforcement Response Plans". Federal and State regulations (40 CFR Part 403 and Tennessee Code Annotated 69-3-101 through 129, respectively) were also used as reference documents.

(2) The available personnel along with the minimum responsibilities that will be required of each title needed to implement the enforcement response plan will consist of the following:

(a) Field inspector - Working closely with the pretreatment coordinator, will be responsible for coordination and collection of wastewater samples from both the industrial users and the wastewater

treatment plant (WWTP). Will assist in performing scheduled and unscheduled sampling and field inspection of IUs. Assists in compliance tracking and determination of level of noncompliance. Can make phone calls and/or issue notice of violation (NOV) in minor instances of noncompliance.

(b) Pretreatment coordinator - Person primarily responsible for day to day monitoring of compliance status of IUs. Will schedule sampling events for IUs and at WWTP. Will implement demand monitoring when deemed necessary. Primary responsibility for tracking IU information and for determining necessary levels of enforcement. Principle liaison between city and IUs. Will keep superintendent and apprised of all developments regarding IU compliance status and will be the primary source of reference for higher levels of enforcement. Issues NOV's for minor and moderate levels of noncompliance. Will issue administrative orders (AO) and/or fines after consultation with superintendent.

(c) Superintendent - At the request of the pretreatment coordinator, will institute higher degrees of enforcement (i.e., termination, criminal prosecution). Will inform upper level city officials of the background and need for such actions. Has authority to issue cease and desist orders and/or emergency termination of service when necessary. Has final authority on all levels of enforcement proceedings.

(d) Mayor/board of aldermen - Will be consulted on all enforcement proceedings involving civil penalties/actions, criminal investigation, show cause orders, and non-emergency termination of service.

(e) Attorney - Will assist POTW personnel and provide guidance on legality of chosen enforcement procedures against IUs. Reviews sewer use ordinance (SUO) other pertinent documents to assure conformance to state and federal law. Represents city in any court action resulting from enforcement actions.

(f) Consultant - At the request of the POTW, will provide guidance in all aspects of compliance tracking and monitoring of IUs. Will provide technical expertise when necessary to assure that enforcement actions follow generally accepted protocol. (as added by Ord. prepared February 1992, and passed second reading April 21, 1992)

18-402. Provisions for enforcement in previous sewer use ordinance. The previous sewer use ordinance 88-2 for the City of Newbern was adopted on first reading on March 1, 1988. Several sections of the SUO apply either directly or indirectly to conditions which can lead to enforcement proceedings. Section 8-800 of the SUO refers directly to enforcement actions.

Rather than reiterate whole or partial sections of the previous SUO as part of the enforcement response plan, the City of Newbern Sewer Use

Ordinance has been deleted and a revised and updated ordinance was submitted to the State of Tennessee in November 1990. A copy of Section 8-800 of the previous SUO dealing with specific enforcement actions and/or conditions which could possibly lead to enforcement proceedings has been included in Appendix 1 for reference.¹ The preparation of the new SUO will aid in expediting enforcement and will incorporate the most recent amendments to general pretreatment regulations and will be detailed in the next section. (as added by Ord. prepared February 1992, and passed second reading April 21, 1992)

18-403. Provisions for enforcement in revised ordinance. The previous sewer use ordinance for the City of Newbern was found to be insufficient in order to provide the city with the legal basis for effectively enforcing its pretreatment program. In addition, the SUO did not adequately address the changes and amendments to the general pretreatment requirements announced in the July 24, 1990 Federal Register (Domestic Sewage Study Survey).

It was therefore decided to delete the previous SUO and develop a new one. This ordinance was submitted to the city attorney in October 1990 and the draft was approved by the mayor and board of aldermen as required in the city charter. The draft ordinance was submitted to the State of Tennessee Department of Environment and Conservation (TDEC) along with the enforcement response plan in November 1990.

In a letter dated September 27, 1991, the City of Newbern received a program review of the Phase I, II, and ERP submittals from the TDEC. The recommendations in this letter have been addressed and the necessary changes made. The superintendent at the time chose to proceed with implementation of the pretreatment program and the adoption of the sewer use ordinance as submitted to the state. Industrial user permits were issued in February 1991 and the program has been in full operation since.

A complete and updated copy of the new SUO has been included as Appendix 2 to revision 2² of the Enforcement Response Plan. Items dealing specifically with enforcement actions against violators can be found in section 18-510. (as added by Ord. prepared February 1992, and passed second reading April 21, 1992)

18-404. Enforcement response guide. The City of Newbern pretreatment program has received tentative approval by the State of Tennessee. However, the city is responsible for the enforcement of all federal, state, and local wastewater discharge regulations, and has chosen to implement the program prior to receiving approval from the state. A semi-annual pretreatment report

¹These provisions are on file in the office of the recorder.

²The sewer use ordinance has been codified as chapter 5, to title 18, of this municipal code.

has already been submitted to the State covering the previous semi-annual period (April 1 thru September 30). Any modifications or changes suggested by the state are currently being incorporated into the program pending final approval.

The primary purpose of the enforcement response guide is to assure fair, consistent, and impartial enforcement. This section describes each type of violation and indicates a range of appropriate enforcement options.

For the purposes of this guide, insignificant non-compliance is considered a relatively minor or infrequent violation of pretreatment standards or requirements. These will usually be responded to with a notice of violation (NOV). Examples of violations which may be considered insignificant non-compliance are:

- Failure to file a permit renewal application but remaining in compliance with the expired permit.
- A reported spill with no adverse effects.
- Isolated, minor exceedences of discharge limits.
- Failure to properly sign or certify reports (1st instance).
- Missed interim or final compliance deadline by 30 days or less (good cause).
- Filing a late report (less than 5 days late).

Significant non-compliance has been defined by the Environmental Protection Agency (EPA) as violations which meet one or more of the following criteria:

(1) Chronic violations. Sixty-six percent or more of the measurements exceed the daily maximum limit or monthly average limit in a six month period (any magnitude of exceedence). Any violation of a pH limit is considered a significant violation.

(2) Technical review criteria (TRC) violations. Thirty-three percent or more of the measurements exceed the daily maximum limit or monthly average limit by more than the applicable TRC in a six-month period. (TRC =1.4 for BOD, TSS, and oil and grease; 1.2 for all other pollutants except pH).

(3) Any other violation of effluent limits that is believed to have caused, alone or in combination with other discharges, interference or pass-through or endangered the health of the sewage treatment personnel or the public.

(4) Any discharge of a pollutant that has caused immanent endangerment to human health/welfare or to the environment and has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.

(5) Violations of compliance schedule milestones contained in a local control mechanism or enforcement order, for starting construction, completing

construction, and attaining final compliance by 90 days or more after the schedule date.

(6) Failure to provide reports for compliance schedules, self-monitoring data, or categorical standards (baseline monitoring reports, 90-day compliance reports, and periodic reports) within 30 days from the due date.

(7) Failure to accurately report non-compliance.

(8) Any other violation or group of violations considered to be significant.

In general, an isolated instance of non-compliance can be met with an informal response or with a NOV. Any significant non-compliance should be responded to with an enforceable order that requires a return to compliance by a specific deadline along with the applicable monetary penalties.

In determining the proper response to a violation, whether significant or not, the following criteria should be considered:

- Magnitude of the violation
- Duration of the violation
- Impact of the violation on the receiving waters
- Impact of the violation on the POTW
- Compliance history of the industrial user
- Good faith of the industrial user

Since pretreatment enforcement is a matter of strict liability, the knowledge, intent, or negligence of the user should not be taken into consideration except when deciding to pursue criminal prosecution.

An administrative penalty is a monetary penalty assessed by the city for violations of pretreatment standards and requirements. Administrative penalties should be used as an escalated enforcement action and are punitive in nature and are not to be related to a specific cost born by the POTW. The amount of the penalty assessed should recapture any economic benefit gained by the non-compliance and/or act as a deterrent to future violations.

Determining the penalty amount which reflects the violation's significance is very important. If the penalty is too small, its deterrent value is lost and the violator may regard it as a tax or nominal charge to pollute. If the penalty is too great, it could bankrupt the user, making necessary investments in pretreatment equipment impossible and forcing unnecessary closure. In cases of extreme hardship, the superintendent or board may consider reducing or suspending the penalty as part of a consent decree or show cause hearing.

Each type of violation has been categorized and a range of penalties assigned to each category, thereby allowing the responsible designated official to apply an appropriate monetary assessment. All penalty assessments are to be assessed per violation per day unless otherwise noted.

Category 0	=	No penalty
Category 1	=	\$50.00 to \$500.00
Category 2	=	\$500.00 to \$1000.00
Category 3	=	\$1000.00 to \$5,000.00
Category 4	=	\$5000.00 to \$10,000.00 and/or direct legal action

Table IV.1 is the enforcement response guide which will be utilized by the City of Newbern to determine appropriate and objective responses to instances of noncompliance. This guide is basically identical to the one contained in the previously cited guidance document. Minor changes have been made in order to adapt it to conditions applicable to Newbern. A column has been added specifying the penalty category each violation falls under. Time frames for enforcement responses are included on the final page of the enforcement response guide.

The enforcement response guide is used as follows:

- (1) Locate the type of non-compliance in the first column and identify the most accurate description of the violation in column 2;
- (2) Assess the appropriateness of the recommended response(s) in columns 3 and 4 using the criteria of magnitude, duration, effects, compliance history, and good faith;
- (3) Apply the enforcement response to the industrial user, specifying corrective action(s) or other responses required of the IU. Column 5 indicates responsible POTW personnel;
- (4) Track IU's response and follow-up with escalated enforcement action if a response is not received within the specified time frame or the violation continues.

ABBREVIATIONS USED IN ENFORCEMENT RESPONSE GUIDE

PC	-	Pretreatment Coordinator
S	-	Superintendent
NOV	-	Notice of violation
AO	-	Administrative order
IU	-	Industrial user

Table IV.1 - Enforcement Response Guide
 City of Newbern Pretreatment Program

Unauthorized Discharges (no permit)				
Noncompliance	Nature of Violation	Category	Enforcement Response(s)	Personnel
Unpermitted discharges	IU unaware of requirement; no harm to POTW or environment	0	Phone call; NOV with application form	PC
	IU unaware of requirement; harm to POTW or environment (significant non-compliance)	3	- AO and fine - Civil action, termination of service	PC S
	Failure to apply continues after notification by POTW	4	- Civil action - Criminal investigation - Terminate service	S S S
Failure to renew permit	IU has not submitted application within 10 days of due date	0	Phone call; NOV	PC
Discharge Permit Violation				
Exceedance of local, state, or federal standard	Isolated, not significant	0	Phone call;NOV	PC
	Isolated, significant (no harm)	1	AO to develop spill prevention plan (if not previously submitted) and fine	PC
	Isolated, harmful to POTW or environment	3	- Show cause order - Civil action	PC, S S
	Recurring, no harm to POTW or environment	2	AO and fine	PC
	Recurring, significant (harm to POTW or environment)	4	- AO with fine - Show cause order - Civil action - Terminate service	PC PC, S S S

Table IV.1 (cont.) - Enforcement Response Guide
 City of Newbern Pretreatment Program

Monitoring and Reporting Violations				
Noncompliance	Nature of Violation	Category	Enforcement Responses	Personnel
Reporting violation	Report improperly signed or certified	0	Phone call; NOV	PC
	Report improperly signed or certified after notification by POTW	1	- AO - Show cause order	PC PC, S
	Isolated, not significant (5 days late)	0	Phone call; NOV	PC
	Significant (> 5 days late)	1	AO to submit with fine each additional day	PC
	Reports always late; failure to submit (significant non-compliance)	4	- AO with fine - Show cause order - Civil action	PC PC, S S
	Failure to report spill or discharge changes (no harm)	0	NOV	PC
	Failure to report spill or discharge changes (harm)	2	- AO with fine - Civil action	PC S
	Repeated failure to report spills	4	- Show cause order - Terminate service	PC, S S
	Falsification	4	- Criminal investigation - Terminate service	S S

Failure to monitor correctly	Failure to monitor all permit required pollutants	1	NOV or AO	PC
	Recurring failure to monitor	2	- AO with fine - Civil action	PC S
Improper sampling	No evidence of intent	0	NOV	PC
	Evidence of intent	4	- Criminal investigation - Terminate service	S S

Table IV.1 (cont.) - Enforcement Response Guide
 City of Newbern Pretreatment Program

Monitoring and Reporting Violations (cont.)				
Noncompliance	Nature of Violation	Category	Enforcement Responses	Personnel
Failure to install monitoring equipment	Delay of less than 30 days	0	NOV	PC
	Delay of more than 30 days	1	AO to install with fine for each additional day	PC
	Recurring, violation of AO	4	- Civil action - Criminal investigation - Terminate service	PC S S
Permit compliance schedule	Missed milestone less than 30 days, will not affect final milestone	0	NOV	PC
	Missed milestone more than 30 days, will affect final milestone (good cause)	1	AO and fine	PC
	Missed milestone more than 30 days, will affect final milestone (no good cause)	3	- Show cause order - Civil action - Terminate service	PC, S S S
	Recurring violation or violation of AO schedule	4	- Civil action - Criminal investigation - Terminate service	S S S

Table IV.1 (cont.) - Enforcement Response Guide
City of Newbern Pretreatment Program

Other Permit Violations				
Noncompliance	Nature of Violation	Category	Enforcement Responses	Personnel
Waste streams diluted in lieu of pretreatment	Initial violation	1	AO and fine	PC
	Recurring	2	- Show cause order - Terminate service	PC, S S
Failure to mitigate noncompliance or halt production	Does not result in harm	2	NOV	PC
	Does result in harm	4	- AO and fine - Civil action	PC S
Failure to properly operate and maintain facility	Does not result in harm	1	NOV	PC
	Does result in harm	3	- AO and fine - Civil action	PC S
Violations Detected During Site Visits				
Entry denial	Entry denied or consent withdrawn; copies of records denied	1	Obtain warrant and return to IU	PC
Illegal discharge (violation of general discharge prohibitions)	No harm to POTW or environment	2	AO with fine	PC
	Causes harm or evidence of intent and/or negligence	3	- Civil action - Criminal investigation	S S
	Recurring, violation of AO	4	Terminate service	S

Table IV.1 (cont.) - Enforcement Response Guide
 City of Newbern Pretreatment Program

Violations Detected During Site Visits (cont.)				
Noncompliance	Nature of Violation	Category	Enforcement Responses	Personnel
Improper sampling	Unintentional sampling at incorrect location	0	NOV	PC
	Unintentionally using incorrect sample type	0	NOV	PC
	Unintentionally using incorrect sampling techniques	0	NOV	PC
Inadequate record keeping Failure to mitigate noncompliance	Files incomplete or missing (no evidence of intent)	0	NOV	PC
	Recurring	2	AO and fine	PC
Failure to report additional monitoring	Inspection finds additional files (unintentional)	1	NOV	PC
	Recurring (considered falsification)	3	AO and fine	PC

Time Frames for Enforcement Responses

- A. All violations will be identified and documented within 5 days of receiving compliance information.
- B. Initial enforcement responses involving contact with the IU and requesting information on corrective or preventative action(s) will occur within 15 days of violation detected.
- C. Follow up actions for continuing or recurring violations will be taken within 60 days of initial enforcement response. For all continuing violations, the response will include a compliance schedule.
- D. Violations which threaten health, property or environmental quality are considered emergencies will receive immediate responses such as halting the discharge or terminating service.
- E. All violations meeting the criteria for significant noncompliance will be addressed with an enforceable order within 30 days of the identification of the significant noncompliance. (as added by Ord. prepared February 1992, and passed second reading April 21, 1992)

18-405. Enforcement responses. The following paragraphs describe the various types of enforcement response, procedures, and person(s) responsible for identifying and implementing each level of response, and the time frames for determining that a violation has occurred and for initiating the appropriate response action. Most of this information has already been provided in section 18-404 Table IV.1 (Enforcement Response Guide) and the written formats to be used in preparing the various responses will be taken from the previously cited guidance document.

Notice of violation - NOV's will be sent to any user found to be in violation of the SUO, IU permit, or any other applicable document. As a general rule, NOV's will be issued by the field inspector or the pretreatment coordinator for instances of minor noncompliance and will serve as an official notification to the user that a violation has occurred. Initial enforcement responses involving NOV's will occur within 15 days of violation detection. IU response to the NOV will commence within 10 days of receipt of the NOV and will include an explanation of the violation, a plan for satisfactory correction, and contingencies for prevention of future occurrences.

Consent orders - In certain instances, the superintendent or his designee will enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the IU responsible for the noncompliance. Such orders will also serve as compliance orders and/or schedules for the IU and failure to adhere to the conditions of the consent order will constitute significant noncompliance.

Show cause hearing - The superintendent or his designee may order any IU which violates conditions of the SUO or its permit to show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reason(s) for such action, and a request that the user show cause why the proposed enforcement action should not be taken. Notice of the meeting shall be served personally or by registered or certified mail at least 10 days prior to the hearing. If the IU fails to appear as noticed, immediate enforcement action will ensue.

Cease and desist order - If the POTW finds that an IU has violated or continues to violate the sewer use ordinance or its permit, the superintendent may issue an order to cease and desist all such violations and direct the party in noncompliance to do one of the following:

- (1) Comply with the order
- (2) Take appropriate remedial or preventive action needed to properly address a continued or threatened violation, including but not limited to halting operations and terminating the discharge.

Termination of service - The superintendent may suspend the wastewater treatment service and/or revoke an industrial user permit when necessary, if,

in the opinion of the POTW, the discharge presents or may present potential or actual danger to persons, the environment, causes interference to the POTW, or causes the POTW to violate conditions of its NPDES permit.

Civil penalties will be assessed based on the type and severity of violation outlined in the enforcement response guide found in section 18-404, Table VI.1. Penalties will be assessed in an amount not to exceed \$10,000 per day for each violation. The amount of penalty will be determined using the following factors:

- (1) Whether the penalty imposed will be a substantial economic deterrent to the noncompliance;
- (2) Any damages to the POTW due to the noncompliance, which also includes any penalties, costs, and attorney's fees incurred by the POTW as a result;
- (3) Cause of the discharge or violation;
- (4) The severity of the noncompliance and its effect on the POTW and upon the quality of the receiving waters;
- (5) Effectiveness of action taken by violator to rectify the problem;
- (6) The economic benefit gained by the violator.

The superintendent, at his discretion, may establish or adopt a schedule of the amount of civil penalty which can be assessed for certain specific violations or categories of violations. The methods used to determine penalty amounts are summarized in the enforcement response guide.

Tracking of enforcement related situations will primarily be the responsibility of the field inspector and the pretreatment coordinator. Compliance status worksheets will be updated on a weekly basis for each IU. These worksheets will provide instant updates of the compliance status of the IUs and allow personnel to flag noncompliance situations at a glance.

Currently, all permitted IUs are sampled semi-annually by the POTW and submit discharge self-monitoring reports on a regular basis to the POTW. Demand monitoring is instituted when warranted. A scheduled and an unscheduled IU facility inspection are performed semi-annually by the pretreatment coordinator. It is hoped that these actions will provide an effective means of tracking compliance status of IUs quickly and instituting necessary enforcement proceedings in a timely manner. The proposed time frames for initiating enforcement proceedings can be found in the enforcement response guide in section 18-404. (as added by Ord. prepared February 1992, and passed second reading April 21, 1992)

CHAPTER 5

SEWER USE ORDINANCE

SECTION

- 18-501. Purpose and policy.
- 18-502. Definitions.
- 18-503. Use of public sewers.
- 18-504. Building sewers, connections, and permits.
- 18-505. Private domestic wastewater disposal.
- 18-506. Prohibitions and limitations.
- 18-507. Control of prohibited pollutants.
- 18-508. Wastewater discharge permits.
- 18-509. Inspections, monitoring, and entry.
- 18-510. Enforcement.
- 18-511. Wastewater volume determination.
- 18-512. Wastewater charges and fees.
- 18-513. Administration.
- 18-514. Validity.

18-501. Purpose and policy. The purpose of this chapter is to set uniform requirements for users of the city'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 of wastewater discharged into the city's wastewater collection system and treatment works. This chapter establishes conditions for connection to the sanitary sewer system. Certain acts which may be detrimental to the sewer system are prohibited. This chapter provides a means for determining wastewater volumes, constituents and characteristics, the setting of charges and fees, and the issuance of permits to specific users. This chapter also 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 (POTW) which will interfere with the operation of the POTW, may cause environmental damage, interfere with the use or disposal of sewage sludge; and 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 the opportunities to recycle and reclaim the wastewater and/or sludge resulting from such treatment. This chapter provides measures for the enforcement of its provisions and abatement of violations thereof.

This chapter shall apply to the City of Newbern and to persons outside the city limits who are, by contract or agreement with the City of Newbern, users of the Newbern POTW. Except as otherwise provided herein, the

Superintendent of the Newbern POTW shall administer, implement, and enforce the provisions of this chapter. (Ord. #88-1, March 1988, as replaced by Ord. prepared February 1992, and passed second reading April 21, 1992)

18-502. Definitions. For the purposes of this chapter, the following phrases and words shall have the meaning defined below:

(1) "Act" or "the Act" - The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et. seq.

(2) "Approved pretreatment program" - A program administered by a POTW that meets the criteria established in Chapter 40 of the Code of Federal Regulations (40 CFR) 403.8 and 403.9, and which has been approved by the regional administrator or state director in accordance with 40 CFR 403.11.

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

(4) "Bypass" - The intentional diversion of waste streams from any portion of a treatment facility.

(5) "Categorical standards" - National pretreatment standards established by the EPA for specific industrial user Standard Industrial Classification (SIC) code categories.

(6) "City" - The City of Newbern, Tennessee.

(7) "Combined sewer" - A sewer which has been designed to carry both sanitary sewage and storm water runoff.

(8) "Composite sample" - Sample consisting of several sample portions collected during a specified period (usually 24 hours) and combined to form a representative sample. Composite samples can be collected on a flow proportional or timed basis, depending on the nature of the discharge.

(9) "Conventional pollutant" - Biochemical oxygen demand (BOD), total suspended solids (TSS), pH, fecal coliform, and oil and grease.

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

(11) "Discharge monitoring report" - A report submitted by an industrial user to the superintendent containing information regarding the nature and concentration of pollutants and flow characteristics of a discharge by the user to the POTW.

(12) "Environmental Protection Agency or EPA" - An agency of the United States or its duly authorized representative.

(13) "Grab sample" - A single sample of wastewater taken at neither set time or flow.

(14) "Holding tank waste" - Any waste from holding tanks, such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks. This specifically includes wastewater from industrial users conveyed to the POTW by any means other than by a standard sewer tie-on.

(15) "Indirect discharge" - The discharge or the introduction of pollutants from any source regulated under section 307(b) or (c) of the Act into the POTW for the treatment before direct discharge to state waters.

(16) "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. For the purposes of this chapter, an industrial user is a source of non-domestic wastes from industrial processes.

(17) "Infiltration" - Water other than wastewater that enters a sewer system from the ground through such means as defective pipes, pipe joints, connections, or manholes.

(18) "Inflow" - Water other than wastewater that enters a sewer system from sources such as roof leaders, cellar drains, yard drains, area drains, fountain drains, drains from springs and swamp areas, manhole covers, cross connections between storm and sanitary sewers, catch basins, storm water, surface runoff, street wash water, and drainage.

(19) "Interference" - A discharge which, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal, and is therefore a cause of a violation of any requirement of the POTW's National Pollutant Discharge Elimination System (NPDES) permit, or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations) Section 405 of the CWA, the Solid Waste Disposal Act (SWDA), including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including state regulations contained in any state sludge management plan pursuant to Subtitle D of the SWDA, the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research, and Sanctuaries Act.

(20) "Mass discharge rate" - The weight of material discharged to the community sewer during a given time interval, normally given in pounds per day.

(21) "Medical wastes" - Wastes capable of producing an infectious disease because they contain pathogens of sufficient virulence and quantity that exposure to the waste by a susceptible host could result in an infectious disease.

(22) "National pretreatment standard" - Any regulations containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the act which applies to industrial users. These terms also include prohibited discharges promulgated in 40 CFR 403.5 and local limits adopted as part of the city's pretreatment program.

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

(24) "National Pollutant Discharge Elimination System (NPDES)" - The program for issuing conditioning, and denying permits for the discharge of pollutants from point sources into navigable waters, the contiguous zone, and the oceans pursuant to Section 402 Act.

(25) "Normal wastewater" - Effluent which contains constituents and characteristics similar to effluent from a domestic premises, and specifically for the purpose of this chapter, does not contain these constituents in excess of the following concentrations:

BOD ₅	-	300 mg/l
COD	-	600 mg/l
TKN	-	60 mg/l
NH ₃ -N	-	30 mg/l
TSS	-	300 mg/l
Oil & grease	-	100 mg/l

(26) "Pass through" - A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with other discharges, is a cause of a violation of any requirement of the POTW's NPDES permit.

(27) "Person" - Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, government entity or any other legal entity, or their legal representatives, agents, or assigns.

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

(29) "Pretreatment" - The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration may be obtained by physical, chemical, or biological processes; process change or by other means, except as prohibited by 40 CFR 403.6(d). Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the POTW. Where wastewater from a regulated process is mixed with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with 40 CFR 403.6(e).

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

(31) "Publicly Owned Treatment Works" - A treatment works as defined by Section 212 of the Act, which is owned in this instance by the city. This definition includes any sewers that convey wastewater to such a treatment works and any devices and systems used in the storage, treatment, recycling,

and reclamation of municipal sewage or liquid industrial waste, but does not include pipes, sewers, or other conveyances not connected to a facility providing treatment.

(32) "Shall" is mandatory; "May" is permissive.

(33) "Significant industrial user" -

(a) All dischargers subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR Chapter 1, Subchapter N.

(b) All non-categorical dischargers that contribute a process waste stream which makes up 5 percent or more of the average dry weather capacity of the wastewater treatment plant (WWTP), or more than an average of 25,000 gallons per day of process wastewater to the WWTP.

(c) All non-categorical dischargers that, in the opinion of the Superintendent, have a reasonable potential to adversely affect the POTW's operations. This shall include but shall not be limited to all centralized waste treatment discharges, all tank and drum cleaning facilities, and all paint manufacturing facilities.

(d) All non-categorical discharges that contain more than 100 pounds per day of combined BOD₅ and TSS load above that level found in normal wastewater, or that contain more than 1,000 pounds in a month of combined BOD₅ and TSS load above that level found in normal wastewater.

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

(35) "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.

(36) "Superintendent" - The person designated by the city to supervise the operation of the POTW and who is charged with certain duties and responsibilities by this chapter, or his duly authorized representative.

(37) "Toxic pollutants" - Any pollutant or combination of pollutants listed as toxic in 40 CFR part 401 as promulgated by the Administrator of the EPA under the provisions of the Act.

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

(39) "Wastewater" - The liquid and water borne industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and

institutions, whether treated or untreated, which is contributed into or permitted to enter the POTW.

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

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

The following abbreviations shall have the following meanings:

- | | | | |
|------|------------------|---|--|
| (1) | BAT | - | Best available technology |
| (2) | BPT | - | Best practical technology |
| (3) | BOD ₅ | - | Biochemical oxygen demand (5-day) |
| (4) | CFR | - | Code of Federal Regulations |
| (5) | COD | - | Chemical oxygen demand |
| (6) | CWA | - | Clean Water Act |
| (7) | EPA | - | Environmental Protection Agency |
| (8) | GMP | - | Good management practices |
| (9) | MBAS | - | Methylene blue activated substances |
| (10) | mg/l | - | milligrams per liter |
| (11) | NPDES | - | National Pollutant Discharge Elimination System |
| (12) | POTW | - | Publicly owned treatment works |
| (13) | RCRA | - | Resource Conservation and Recovery Act |
| (14) | SIC | - | Standard Industrial Classification |
| (15) | SWDA | - | Solid Waste Disposal Act |
| (16) | TDEC | - | Tennessee Department of Environment and Conservation |
| (17) | TSS | - | Total suspended solids |
| (18) | USC | - | United States Code |
| (19) | WWTP | - | Wastewater treatment plant |

(Ord. #88-1, March 1988, as replaced by Ord. prepared February 1992, and passed second reading April 21, 1992)

18-503. Use of public sewers. (1) Connection with sanitary sewer required. (a) 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 segment there is a sanitary sewer which is within 500 feet of the building drain of the parcel shall be considered as being served by the city's sanitary sewer system.

All new buildings hereafter constructed on property which is served by the POTW 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 POTW shall cease to use

any other method for the disposal of sewage except as provided for direct discharge by the TDEC or by discharge to a properly functioning and approved septic tank. Septic tanks shall not be used where sewers are available. The superintendent shall make any decision as to the availability of sewers. Notwithstanding the above exceptions, all premises served by the POTW are subject to sewer use charges as described in section 8-512 of this chapter.

(b) Unconnected sewer service lines prohibited. Except for discharge to a properly functioning septic tank system or discharges permitted by an NPDES permit issued by the TDEC, the discharge of sewage into places other than the POTW is prohibited.

(c) Insufficient capacity, connection moratorium. In those parts of the sewer system where no additional capacity exists and a sewer moratorium has been established pursuant to orders of the TDEC, no new or additional sewer connections shall be permitted. Permits issued prior to the date of the moratorium may be completed. No new plumbing permits shall be issued for new buildings in a moratorium area after the effective date of the moratorium. A moratorium shall continue to be in effect until capacity restriction has been corrected.

(2) Adequate and minimum fixtures. (a) Minimum number of fixtures. A dwelling shall have at least one commode, one bathtub or shower, one lavatory, one kitchen-type sink, and an adequate source of hot water for each family unit to meet minimum basic requirements for health, sanitation, and personal hygiene. All other buildings, structures, or premises intended for human occupancy or use shall be provided with adequate sanitary facilities as may be required by any other law or regulation, but not less than one commode and one hand washing lavatory.

(b) Adequate water for disposal of waste. It shall be unlawful for any person in possession of premises into which a pipe or other connection with the sanitary sewers and drains have been laid to permit the same to remain without adequate fixtures attached to allow sufficient quantity of water to be so applied as to properly carry off all waste matter and keep the same unobstructed.

(3) Right to enter and inspect connection. The superintendent, building inspector, or their representative shall have free and unobstructed access to any part of the premises where house drains or other drains connected with or draining into the sanitary sewer are laid for the purpose of examining the construction, condition, and method of use of the same, upon cause of reasonable suspicion that there may be inadequate facilities, the facilities present may not be properly functioning, there is an improper discharge, or upon a periodic systematic inspection of a particular drainage basin or other large segment of the system through those facilities at any time of the day between the hours of 7:00 a.m. and 6:00 p.m. or at any other time in the event of an

emergency. If such entry is refused, the sewer service may be disconnected upon reasonable notice and an opportunity for a hearing. The service may be suspended immediately in the event of an emergency if there is reasonable cause to suspect that the discharge will endanger the public health or the environment, shall have the potential to disrupt the treatment process, or shall damage the POTW's lines or facilities, and a hearing shall thereafter be afforded the user as soon as possible.

(4) Demolished buildings. When a building is demolished, it shall be the responsibility of the owner to have the sewer service line plugged securely so that extraneous water will not enter the sewer. The owner of the premises or his representative shall notify the superintendent of such a plug and allow same to be inspected prior to covering any work. If such a line is to be reused, it must first undergo inspection by the superintendent and be in conformity with the existing standards.

(5) Temporary discharges. No person shall discharge any substance directly into a manhole or other opening in a sanitary sewer other than through an approved building sewer unless they have been issued a temporary permit by the superintendent. A temporary permit may be issued at the discretion of the superintendent to provide for discharges from portable facilities for festivals or public shows or for other reasonable purposes. The superintendent shall incorporate in such a temporary permit such conditions as he deems reasonably necessary to ensure compliance with provisions of this chapter. The user shall be required to pay reasonable charges and fees for the permit and service in an amount not less than the charges and fees for normal discharges. Any discharge other than through an approved building sewer or in accordance with a permit issued by the superintendent shall be unlawful.

(6) Vehicle wash racks. All gasoline stations, garages, self-service vehicle washers, and other public wash racks where vehicles are washed shall install catch basins in conformity with the plumbing code in accordance with a permit obtained from the building official. In the event any existing premises does not have a catch basin and the sewer line servicing the facility stops up due to grit or slime in the sewer lines, then the owner or operator of such premises shall be required to modify these facilities to construct a catch basin as a condition of continuing use of the system. If such users are industrial users as defined in section 15-508 of this chapter, a permit as specified therein will be required.

(7) Grease, grit, oil, and lint traps. Restaurants, laundries, wash racks, service stations, private multi-user systems, engine or machinery repair shops, and other facilities that produce grease, grit, oil, lint, or other materials which accumulate and cause or threaten to cause stoppages or impair the efficiency of the POTW sewers or threaten the safety of its employees, shall install and maintain a grease trap, grit trap, lint trap, oil interceptor, or other appropriate device of standard design and construction to prevent excess discharges of such materials. The design and construction of any such device

shall be subject to prior approval of the superintendent and constructed in accordance with applicable building codes.

(8) Multi-use private sewer systems. Excluding those industrial waste facilities with a permit issued pursuant to section 15-508, the owner or operator of a private sewer system such as, but not limited to, multi-tenant buildings, building complexes, and shopping centers shall be responsible for the quality of wastewater discharged at the point of connection to the POTW's sanitary sewer system and shall be responsible for any violations of the provisions of this chapter, including liability for the damage or injury caused to the POTW as a result of any discharge through the private system. (Ord. #88-1, March 1988, as replaced by Ord. prepared February 1992, and passed second reading April 21, 1992)

18-504. Building sewers, connections, and permits. (1) Installation, maintenance, repair of sewer service lines. (a) Definition. A standard sanitary sewer service line is a minimum 4 inch pipe extending from the sewer main or trunk location in a street, alley, or easement to the property served by the main trunk.

(b) Installation of sewer service lines. Four inch building sewers shall be laid on a grade greater than 1/8" per foot (at least 1%). Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least 2 feet per second. The slope and alignment of all building sewers shall be neat and regular.

Building sewers shall be constructed only of one of the following approved materials:

(i) cast iron soil pipe using rubber compression joints of approved type;

(ii) polyvinyl chloride pipe with rubber compression joints;

(iii) ABS composite sewer pipe with solvent welded or rubber compression joints of approved type; or

(iv) similar materials of equal or superior quality following superintendent approval. Under no circumstances will cement mortar joints be acceptable. Each connection to the sewer system must be made at a wye, or service line stubbed out, or in the absence of any other provision, by means of a saddle of a type approved by the city, attached to the sewer. No connection may be made by breaking into an existing sewer and inserting the service line.

The building sewer may be brought into the building below the basement floor when gravity flow from the building to the sewer is at a grade of 1 percent or more. In cases where basement or floor levels are lower than the ground levels at the point of connection to the sewer, adequate precautions through the installation of check valves or other

backflow prevention devices to protect against flooding shall be provided by the owner. In all buildings in which any building drain is too low to permit gravity flow to the sewer, wastes carried by such building drain shall be lifted by an approved means and discharged into the POTW sewer.

(c) Cleanouts. A cleanout shall be located 5 feet outside of the building, one as it taps on to the utility laterally and one at each change of direction of the building sewer greater than 45 degrees. Additional cleanouts shall be placed not more than 75 feet apart in horizontal building sewers of 4 inch diameter and not more than 100 feet apart for larger pipes. Cleanouts shall extend to or above the finished grade level directly above the place where the cleanout is installed. A "Y" (wye) and 1/8 bend shall be used for the cleanout base. Cleanouts shall not be smaller than four inches on a four inch pipe.

(d) Fees. All costs and expenses incident to the installation, connection, and inspection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. The city reserves the right to impose a sewer service line charge for every sanitary sewer service line installed where a lateral sewer connection has been provided for use by the applicant. The rate of charge will be established by the superintendent.

(e) Title and maintenance. When a property owner ties into a sanitary sewer service line and pays the appropriate sewer service line fees, the city, by appropriate instrument, shall convey and release to the property owner, all its right, title, and interest in the sanitary sewer service line so installed by the city. Thereafter, all repairs and maintenance of the sanitary sewer service line shall be the responsibility of the property owner or user of the sewer; provided, for all sanitary sewer service lines hereafter installed by developers in subdivisions and not by the utility, for which no sewer service line charge is charged to the property owner, all repairs, and maintenance of such sanitary sewer service lines shall be the responsibility of either the property owner, user of the sewer, or the developer, as the owner, user, and developer shall agree by separate contract between themselves.

(f) Location of sewer stub-out. The plumbing contractor is responsible for locating the sewer stub-out. POTW personnel will provide whatever information is available for this purpose. If no "Y" or tee exists within 3 feet of either side of the location shown on the sewer plats, then a tap will be provided by the POTW when the sewer main is exposed. If a manhole needed for locating a service line has been lost, then the POTW shall be responsible for locating the manhole.

(g) Taps on utility sewers. All taps made directly into the city's sewer lines shall be made by sewer maintenance personnel. The

plumbing contractor shall excavate to the city's sewer and expose the pipe in preparation for the tap. Only one service line shall be allowed to be installed in a trench. New taps shall be made using a "Y"-type connection.

(h) Manhole requirements. A new manhole will be required whenever a sewer service line larger than 6 inches is needed to tie into the city's sewer. The plumbing contractor shall excavate to the sewer and sufficiently expose the pipe for installation of the manhole. Sewer maintenance personnel shall install the manhole. The cost of the manhole, including labor and materials, shall be charged to the owner after construction is completed.

(i) Maintenance of service lines. (i) Duty to maintain sewer service line. All repairs and maintenance of the sewer service line, to include correction of excessive inflow and infiltration shall be the responsibility of the property owner or user of the sewer. The repairs and maintenance includes the repair or replacement of the sewer service line, as may be necessary in order to meet the specifications of the city. If smoke testing, or any other reliable method of inspection conducted by the superintendent, or his agent, identifies a sewer service line(s) which do not meet the specifications of the city, then the superintendent will undertake the following actions in the city's discretion:

(A) Notification procedures. The superintendent will notify the property owner and/or property user, via certified mail, return receipt requested, that the sewer service line is not in compliance with the specifications of the city, and the nature of the problems identified on the sewer service line. The notification shall also outline the steps which in the opinion of the superintendent, may be required in order to bring the sewer service line into compliance and shall notify the property owner that all actions necessary to bring the sewer service line into compliance with the city's specifications must be completed within 60 days from the date of the written notice, and shall be entirely at the property owner's expense. The notice shall also briefly describe the city's rights to undertake remedial action under Section (B) of this subsection and shall also outline the appeal rights of the property owner under Section (D).

(B) Remedial repairs undertaken by city. In the event that the property owner fails to bring the sewer service line into compliance with the city's specifications within 60 days from receipt of the notice, said failure will result in the appointment by the property owner of the city

superintendent as his or its agent, will full authority to arrange or undertake all remedial actions required in the opinion of the superintendent to bring the sewer service line into compliance with the city's specifications and shall entitle any person, firm or corporation performing such work at the behest of the city to claim any and all statutory liens on said real estate in accordance with the general laws of this state regarding mechanic's liens.

(C) Repair costs assessed as lien against real estate. In the event the superintendent finds it necessary to perform such work utilizing city employees, and/or equipment and/or materials, then the City of Newbern shall have a lien upon such real estate which shall be enforceable the same as liens for unpaid city taxes thereon, for the costs of the repairs.

(D) Appeal rights. Any property owner who may be aggrieved by the actions of the superintendent shall file a written appeal of the superintendent's decisions and findings, prior to the appointment of the superintendent as the property owner's agent, to the Board of Mayor and Aldermen of the City of Newbern, which shall have the full authority to resolve any dispute.

The city shall be responsible for the maintenance of collector lines only up to the point where the owner's service line connects to the city's lines.

(j) Methods of installation. The methods to be used in excavating, placing of pipe, jointing, testing, backfilling the trench, or other activities in the construction or repair of a building sewer which have not been described in this section shall conform to the requirements of the building or plumbing code or other applicable rules and regulations of the city or to the procedures set forth in appropriate specifications of the ASTM and Water Pollution Control Federation manuals. Any deviation from the prescribed procedures must be approved by the superintendent.

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

(l) Prohibitions. No person shall make connection of roof downspouts, exterior foundation drains, area drains, basement drains, or other sources of surface run-off or groundwater to a building sewer or drain which in turn is connected either directly or indirectly to the sanitary sewer.

(2) Service line to enter sewer at junction; exceptions. No service lines shall enter the sanitary sewer at any point except where a junction has been made unless special permission has been given by the superintendent. In any case where such permission has been given, the work shall be done under the inspection of the superintendent or his representative and at the risk and expense of the party making the connection.

(3) Application for discharge of domestic wastewater. All users or prospective users which generate domestic wastewater shall make application to the superintendent for written authorization to discharge to the sanitary sewer. Applications shall be required from all new dischargers as well as for existing dischargers desiring additional service. Connection to the sanitary sewer shall not be made until the application is received and approved by the superintendent, the building sewer is installed in accordance with section 18-504 of this chapter and an inspection has been performed by the superintendent or his representative.

Connections made without an approved application may be severed by order of the superintendent. Such unapproved connection may be allowed to remain active if inspected and accepted; however, the owner shall be required to pay an alternative fee in lieu of the permit application fee in an amount double the current fee.

The receipt by the city of a prospective customer's application for service shall in no way obligate the city to render the service. If the service applied for cannot be supplied in accordance with this chapter and the city's rules and regulations, the connection charge will be refunded in full, and there shall be no liability of the city to the applicant for such service, except that conditional waivers may be granted for additional services by the superintendent for interim periods if compliance may be assured within a reasonable period of time.

(4) Acceptance of work. All sewer construction involving interceptor lines, pump stations, metering stations, and appurtenances which shall become part of the city's sewer system shall not be constructed until the plans are approved and the construction inspected and approved by the superintendent. Any construction work where sewers are opened, uncovered, or undercut must also have the prior approval of the superintendent. (Ord. #88-1, March 1988, as replaced by Ord. prepared February 1992, and passed second reading April 21, 1992; and amended by Ord. #2003-4, June 2003)

18-505. Private domestic wastewater disposal. (1) Availability. Where a public sanitary sewer is not available under the provisions of section 18-503(1) of this chapter, the building sewer shall be connected to a private wastewater disposal system complying with the requirements of this section.

Where a public sewer shall become available, the building sewer shall be connected to said sewer within sixty days after official notification by the superintendent or his representative to do so.

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

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

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

(d) The type, capacity, location, and layout of a private sewage disposal system shall comply with all the recommendations of the TDEC, the Dyer County Health Department, and the city of Newbern. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(e) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city.

(f) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the city and/or the Dyer County Health Department. (Ord. #88-1, March 1988, as replaced by Ord. prepared February 1992, and passed second reading April 21, 1992)

18-506. Prohibitions and limitations. (1) Purpose and policy. This section establishes limitations and prohibitions on the quantity and quality of wastewater which may be legally discharged to the POTW. Pretreatment of some wastewater discharges will be required to achieve the goals established by this section and the Clean Water Act. The specific limitations set forth in this section are subject to change as necessary to enable the city to provide efficient wastewater treatment, to protect the public health and environment, and to enable the city to meet requirements contained in its NPDES permit. The superintendent shall review said limitations from time to time to ensure that they are sufficient to protect the health and safety of POTW personnel and the operation of the treatment works to enable the facility to comply with its NPDES permit, provide for a cost effective means of operating the treatment works, and protect the public health and environment. The superintendent shall recommend changes or modifications as necessary.

(2) Prohibited pollutants. No person shall introduce into the POTW any pollutant(s) which cause pass-through or interference. Additionally, the following specific prohibitions apply:

(a) Pollutants which create a fire or explosion hazard in the POTW, including but not limited to, pollutants with a closed-cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Centigrade), as determined by a Pensky-Martens closed-cup tester, using the test method specified in the American Society for Testing and Materials (ASTM) D-93-79 or D-93-80k, or a Setaflash closed-cup tester, using the test method specified in ASTM D-3278-78, or pollutants which cause an exceedance of 10 percent of the lower explosive limit (LEL) at any point within the POTW.

(b) Pollutants which cause corrosive structural damage to the POTW, but in no case discharges with a pH less than 6.0 or greater than 10.0.

(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 may cause damage to the POTW, including waxy or other materials which tend to clog and/or coat a sewer line or other related appurtenances.

(d) Any pollutant, including oxygen demanding pollutants (BOD, etc.), released in a discharge of such volume or strength (slug) so as to cause interference in the POTW or individual unit operations or cause adverse effects on its workers or the environment.

(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 104 degrees Fahrenheit (40 degrees Centigrade).

Unless a higher discharge temperature is specified in the user's wastewater discharge permit, no user shall discharge into a sewer line or other appurtenance of the POTW wastewater with a temperature exceeding 150 degrees Fahrenheit (65.5 degrees Centigrade).

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

(g) Any trucked or hauled pollutants, except at discharge points specified by the POTW.

(h) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that cause interference or pass-through.

(i) Any pollutant which causes a discoloration of the WWTP effluent resulting in a degradation of receiving water quality and/or NPDES permit violation.

(3) Affirmative defenses. A user shall have an affirmative defense in any action brought against it alleging a violation of the general prohibitions established in section 18-506(2) of this chapter where the user can demonstrate one of the following:

(a) It did not know or have reason to know that its discharge, alone or in conjunction with a discharge or discharges from other sources, would cause pass-through or interference.

(b) A local limit designed to prevent pass through and/or interference, as the case may be, was developed pursuant to sections 18-506(10) and 18-506(11) of this chapter for each pollutant in the user's discharge that caused pass-through or interference and the user was in compliance with each such local limit directly prior to and during the pass-through or interference.

(c) If a local limit designed to prevent pass-through and/or interference, as the case may be, has not been developed for the pollutant(s) that caused the pass-through or interference and the user's discharge directly prior to and during the pass-through or interference did not change substantially in nature of constituents from the user's prior discharge activity when the POTW was regularly in compliance with its NPDES permit requirements and, in the case of interference, applicable requirements for sewage sludge use or disposal.

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

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

(b) Wastewater causing a pass-through, discoloration, foam, floating oil and grease, or any other condition in the quality of the 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 Tennessee 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, reuse, causing interference with the reclamation process, or causing them to be unsuitable for disposal.

(f) Wastewater discharged at a point in the collection system that is upstream of any overflow, bypass, or combined sewer overflow and which may thereby cause special environmental problems or specific discharge limitations.

(g) Wastewater having constituents and concentrations in excess of those listed in section 18-506(10) or cause an exceedance of the limits in section 18-506(11).

(h) The capacity of existing sewer lines to carry the anticipated wastewater flow, particularly with respect to any problems, overflows, or overloads caused by heavy rain infiltration.

(i) The toxicity of each wastewater shall be evaluated by an appropriate biomonitoring technique to determine if a specific discharge may significantly affect the overall toxic level of the POTW influent.

The superintendent shall establish reasonable limitations, prohibitions, or monitoring requirements in addition to the limits established pursuant to sections 18-506(5) and 18-506(10) of this chapter in the wastewater discharge permit of any industrial user that discharges wastewater violating any of the above criteria or that has processes that generate wastewater that could violate any of the above criteria prior to pretreatment as shall be reasonably necessary to achieve the purpose and policy of this section.

(5) National pretreatment standards. Certain industrial users are now or hereafter shall become subject to National Pretreatment Standards promulgated by the EPA specifying quantities or concentrations of pollutants or pollutant properties which may be discharged into the POTW. All industrial users subject to such a standard shall comply with all requirements and with any additional or more stringent limitations contained in this chapter. Compliance with current or newly promulgated National Pretreatment Standards for existing sources shall be within 3 years following promulgation of the standards unless a shorter compliance time is specified. Compliance for new sources shall be required upon promulgation of the standard. New sources shall have in operating condition and shall start up all pollution control equipment required to meet applicable pretreatment standards before commencing discharge. New sources must meet applicable pretreatment standard within 90 days of commencement of discharge.

(6) Dilution. Except where expressly authorized by an applicable National Pretreatment Standard, no industrial user shall increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitution for adequate treatment to achieve compliance with such standard.

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

(a) When the person is authorized to use radioactive materials by the TDEC or the Nuclear Regulatory Commission (NRC).

(b) When the waste is discharged in strict conformity with applicable laws and regulations of the agencies having jurisdiction.

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

(8) Septic tank hauling, pumping, and discharge. No person owning vacuum or cesspool pump trucks or other liquid waste transport trucks shall discharge sewage directly or indirectly into the POTW, unless that person first

receives from the superintendent a septic tank discharge permit for each vehicle used in this manner. All applicants for a septic tank discharge permit shall complete the forms 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.

(a) The owners of such vehicles shall affix and display the permit number in 4 inch block figures on the side of each vehicle used for such purposes.

(b) The permit shall be valid for a period of 1 year from date of issuance, provided that the permit shall be subject to suspension or revocation by the superintendent for violation of any of the provisions of the chapter or other applicable laws or regulations. A revocation or suspension of the permit shall be for a period not to exceed 5 years. Such revocation for suspension shall bind the permittee, any member of the immediate family of the permittee, or any person who has purchased the business or a substantial amount of the assets of the permittee. Users found operating in violation of a permit issued under this section and whose permit is therefore revoked by the superintendent, shall be notified of the violation by certified mail or by notice personally delivered to the user.

(c) Septic tank discharge permits are not automatically renewed. Application for renewal must be made to the superintendent.

(d) Such permits shall be limited to the discharge of domestic sewage waste containing no industrial waste. All other hauled wastes shall be governed by section 18-506(9). Any user transporting, collecting, or discharging non-domestic industrial process wastewaters or a mixture of such wastewaters with domestic wastewaters shall obtain a holding tank discharge permit in accordance with section 18-506(9).

(e) The superintendent shall designate the locations and times where such trucks may be discharged and may refuse to accept any truckload of waste at 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, or where it appears that a truckload of waste contains industrial process waste or a mixture of domestic sewage and industrial process waste.

(f) The superintendent shall have authority to investigate the source of any hauled waste and to require testing the waste at the expense of the discharger prior to discharge.

(9) Other holding tank wastes. No user shall discharge any other holding tank wastes, including hauled industrial waste, into the POTW unless he has been issued a holding tank discharge 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. All applicants for a holding tank discharge permit shall complete forms 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. All such dischargers and transporters must show that they have complied with federal manifests and other regulations of the RCRA. The permit shall state the specific location of the discharge, the time of day the discharge is to occur, the volume of discharge, the source and character of the waste, and shall limit the wastewater constituents of the discharge. The user shall pay any applicable charges or fees and shall comply with the conditions of the permit.

(10) Criteria to protect the treatment plant. The POTW shall monitor the treatment plant influent for each pollutant in the following tables. Industrial users shall be subject to reporting and monitoring requirements as set forth in this section. In the event that the influent at the POTW reaches or exceeds the levels set forth in these tables, the superintendent shall initiate technical studies to determine the cause of the exceedance and shall recommend to the city the necessary remedial measures. The superintendent may also recommend changes to these criteria in the event that the POTW effluent standards are changed, there are changes in applicable laws or regulations, or changes are needed for more effective operation of the POTW.

The treatment facility consists of two separate wastewater treatment processes discharging into a combined effluent point. Protection criteria have been established for each process and are listed in Tables A1 and A2.

Table A1 - Plant Protection Criteria
Newbern Oxidation Ditch Influent

Parameter	Protection Criteria (mg/l)
Copper	0.419
Chromium	0.333
Nickel	0.240
Cadmium	0.0045
Lead	0.033
Mercury	0.003
Silver	0.020
Zinc	0.833
Cyanide	0.742
Toluene	0.214
Benzene	0.015
1,1,1 trichloroethane	0.200
Ethylbenzene	0.029
Carbon tetrachloride	0.075
Chloroform	0.258
Tetrachloroethylene	0.125
Trichloroethylene	0.091
1,2 trans dichloroethylene	0.0045
Methylene chloride	0.132
Phenol (total)	0.500
Naphthalene	0.0045
Total phthalates*	0.170

*The sum of bis (2-ethylhexyl) phthalate, butyl benzyl phthalate, di-n-butyl phthalate, and diethylphthalate.

Table A2 - Plant Protection Criteria
Rowe Oxidation Ditch Plant Influent

Parameter	Protection Criteria (mg/l)
Copper	0.419
Chromium	0.333
Nickel	0.240
Cadmium	0.0045
Lead	0.033
Mercury	0.003
Silver	0.020
Zinc	0.833
Cyanide	0.742
Toluene	0.214
Benzene	0.015
1,1,1 trichloroethane	0.200
Ethylbenzene	0.029
Carbon tetrachloride	0.075
Chloroform	0.258
Tetrachloroethylene	0.125
Trichloroethylene	0.091
1,2 trans dichloroethylene	0.0045
Methylene chloride	0.132
Phenol (total)	0.500
Naphthalene	0.0045
Total phthalates*	0.170

*The sum of bis (2-ethylhexyl) phthalate, butyl benzyl phthalate, di-n-butyl phthalate, and diethylphthalate.

(11) Storm drainage, ground, unpolluted and contaminated storm water. (a) No storm water, ground water, rain water, street drainage, rooftop drainage, basement drainage, subsurface drainage, foundation drainage, yard drainage, swimming pool drainage, process water drainage, cooling water, or other unpolluted or minimally polluted water shall be discharged into the city's sewer unless no other reasonable alternative is available, except with permission from the superintendent. Reasonable conditions shall be prescribed, and a sewer service charge will be issued based upon the quantity of water discharged as measured by a flow meter or a reasonable estimate accepted by the superintendent. All users shall be required to maintain their private sewer lines so as to prevent infiltration of ground or storm water as a condition of use of the system and shall immediately replace or repair any leaking or damaged lines.

(b) The POTW will accept discharge of contaminated storm water if the following criteria are met:

(i) all known and available technology will not prevent contamination or treat contaminated water to meet state standards for discharge to receiving waters or will cause unreasonable financial burden;

(ii) the contaminated storm water meets the POTW's discharge limits and all state and federal pretreatment requirements; and

(iii) the volume of discharge will not exceed the hydraulic loading in the collection system or the treatment plant.

(12) Use of garbage disposals. No waste from garbage disposals shall be discharged into the POTW's sewers except from private garbage disposals used in an individual residence or upon permit issued by the superintendent for preparation of food consumed on premises, and then only when applicable fees are paid. It shall be unlawful for any person to use a garbage disposal grinder connected to the sewer system for the purpose of grinding and discharging plastic, paper products, inert materials, or anything other than the waste products from normal food preparation and consumption.

(13) Hospital or medical waste. It shall be unlawful for any person to dispose of medical waste, surgical operating room waste, or delivery room waste into the sewer.

(14) Obstruction or damage to sewer. It shall be unlawful for any person to deposit or cause to be deposited any waste which may obstruct or damage storm or sanitary sewer lines or which may inhibit, disrupt, or damage either system, including the sewage treatment process and operations. This prohibition includes all substances, whether liquid, solid, gaseous, or radioactive and whether associated with human habitation, of human or animal origin, or from any producing, manufacturing, or processing. It shall be unlawful to block or obstruct any catch basin, sewer line, or other appurtenance; or to break, injure, or remove any portion from any part of a sewer, drain, or catch basin,

including plates covering manholes. (Ord. #88-1, March 1988; as replaced by Ord. prepared February 1992, and passed second reading April 21, 1992; as amended by Ord. #93-1, March 1993; and further amended by Ord. #96-7, Oct. 1996; and Ord. 97-1, April 1997)

18-507. Control of prohibited pollutants. (1) Pretreatment requirements. Industrial users of the POTW shall design, construct, operate, and maintain wastewater pretreatment facilities when necessary to reduce or modify the user's wastewater composition to achieve compliance with the limitations in wastewater strength set forth in sections 18-506(10) and 18-506(11) of this chapter, to meet applicable National Pretreatment Standards, to prevent slug discharges or to meet any other wastewater condition or limitation contained in the industrial user's wastewater discharge permit.

(2) Plans and specifications. Plans and specifications for wastewater monitoring and pretreatment facilities shall be prepared, signed, and dated and sealed by a registered engineer, and be submitted to the superintendent for review in accordance with accepted engineering practices. The superintendent shall review the plans within 30 days of receipt and recommend to the user any appropriate changes. Prior to beginning construction of a monitoring or pretreatment facility, the user shall submit a set of construction plans and specifications to be maintained by the superintendent. Prior to beginning construction, the industrial user shall also secure all necessary permits.

The user shall construct the pretreatment facility within the time frame specified in the compliance schedule of the wastewater discharge permit. Following completion of construction, the user shall provide the superintendent with as-built drawings to be maintained by the superintendent. The review of such plans and specifications will in no way relieve the user from the responsibility of modifying the facilities as necessary to produce effluent complying with the provisions of this chapter. Any subsequent changes in the pretreatment facilities or methods of operations shall be reported to and approved by the superintendent prior to implementation.

(3) Prevention of accidental discharges. All users shall provide such facilities and institute such procedures as are reasonably necessary to prevent or minimize the potential for accidental discharge into the POTW of waste regulated by this chapter from liquid or raw material storage areas, from truck and rail car loading and unloading areas, from in-plant transfer or processing and materials handling areas, and from diked areas or holding ponds of any waste regulated by this chapter. The wastewater discharge permit of any user who has a history of significant leaks, spills, or other accidental discharge of regulated waste 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 accidental discharge. Plans, specifications, and operating procedures shall be developed by the user and submitted to the superintendent for review.

(4) Oil and grease control program. Disposal of oil by discharge to the sewer system is not permitted. Oils include automotive lubricating oils, transmission and brake fluid, other industrial oils, and vegetable oils used in a restaurant or food processing facility. Dischargers of oil and grease waste shall be required to provide an equivalent of primary treatment based on gravity separation of visible and floating oil and grease sludge from wastewater discharges. Such treatment processes shall be subject to good management practices and approval by the superintendent. Discharges shall also be subject to monitoring, entry, inspection, reporting, and other requirements as determined by the superintendent. These dischargers may be required to apply for industrial waste discharge permits if it is determined that the dischargers are a source of prohibited pollutants, toxic pollutants, or are otherwise controlled by federal or state regulations. All dischargers of oil and grease as listed above are subject to all enforcement and penalty provisions of this chapter.

(5) Slug control program. (a) Each user shall provide protection from slug discharges of restricted materials or other substances regulated by this section. A slug is defined as any pollutants, including oxygen demanding pollutants, released in a discharge of such volume or strength as to cause interference in the POTW or individual unit operations or cause adverse effects upon its employees or the environment. No user shall be permitted to discharge into the system until the need for slug control plans or procedures has been reviewed by the superintendent.

(b) Certain users will be required to prepare spill response plans showing facilities and procedures for providing this protection. These plans shall be submitted to the superintendent for review and approval. All users required to have such a plan shall submit it within 30 days of notification by the superintendent and complete implementation within 90 days of notification.

(c) In the case of a slug discharge, it is the responsibility of the user to immediately notify the POTW of the incident by telephone or in person. Information concerning the location of the discharge, type of waste, concentration and volume, and corrective action shall be provided by the user.

Within 5 days following a slug discharge, the user shall submit a detailed written report describing the cause of the discharge and the measures being taken by the user to prevent future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, fish kills, or any other damage to persons or property, nor shall notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter or other applicable law.

(d) A notice shall be permanently posted on the user's premises advising employees of a contact to call in the event of a slug discharge.

The user shall ensure that all employees who may cause or allow such slug discharge to occur are advised of the proper emergency notification procedure.

(6) Prohibition of bypass. (a) Except as allowed in paragraph (c) below, bypass is prohibited, and the superintendent may take enforcement action against an industrial user for a bypass, unless:

(i) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage.

(ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed.

(iii) The user submitted notices as required in section 18-509(13).

(b) The superintendent may approve an anticipated bypass after considering its adverse effect if the superintendent determines that it will meet the 3 conditions listed in paragraph (a) of this section.

(c) An industrial user may allow a bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it is for essential maintenance to ensure efficient operation. These bypasses are not subject to the reporting provisions of section 18-509(13).

(7) Exceptions to wastewater limitations. (a) Applicability. This section provides a method for industrial users subject to the limitation on wastewater pollutants listed in sections 18-506(10) and 18-506(11) to apply for and receive a temporary exemption to the discharge level for one or more pollutants or parameters.

(b) Time of application. Applicants shall apply for a temporary exemption when they are required to apply for a wastewater discharge permit or renewal provided that the superintendent allows applications at any time unless the applicant has submitted the same or substantially similar application within the preceding year that was denied by the board.

(c) 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 superintendent pursuant to paragraph (d) of this section.

(d) Review by the 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 30 days following notification by the superintendent to correct such deficiencies. This 30 day period may be extended by the superintendent upon application and

for just cause. Upon receipt of a complete application, the superintendent shall evaluate it within 30 days and approve or deny the application based upon the following factors:

(i) The superintendent shall consider if the applicant is subject to a national pretreatment standard containing discharge limitations more stringent than those in sections 18-506(10) and 18-506(11) and grant an exception only if such exception is within limitations of applicable federal regulations.

(ii) The superintendent shall consider if the exception would apply to discharge of a substance classified as a toxic substance under regulations promulgated by the EPA under the provisions of section 307(a) of the Act, or similar state regulation, and then grant an exception only if such exception may be granted within the limitations of federal and state regulations.

(iii) The superintendent shall consider if the exception would create conditions or a hazard to city personnel that would reduce the effectiveness of the POTW taking into consideration the concentration of said pollutant in the treatment works' influent and the design capability of the treatment works.

(iv) The superintendent shall consider the possibility of the exception causing the POTW to violate its NPDES permit.

(v) The superintendent shall consider if the 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 POTW or which would cause the POTW to violate any regulation promulgated by EPA under the provisions of section 405 of the Act or similar state regulatory measure.

(vi) The superintendent 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.

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

(viii) The superintendent may consider the process employed by the user and process changes available which would affect the quality or quantity of wastewater discharge.

(ix) The superintendent 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.

(x) The superintendent may consider an application for exception based upon the fact that water conservation measures instituted 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 pollutants discharged. To be eligible for an exception under this subparagraph, the applicant must show that except for wastewater conservation measures, the applicant's discharge has been or would be in compliance with the limitations on wastewater strength set forth in section 18-506(10). No such exception shall be granted if the increased concentration of pollutants in the applicant's wastewater would have significant adverse impact upon the operation of the POTW.

(e) Review by board. The board shall review any appeal to a denial by the superintendent of an application for an exception and shall take into account the same factors considered by the superintendent. At such a hearing, the applicant and the superintendent shall have the right to present relevant proof by oral or documentary evidence. The procedure set forth in section 18-510(1) shall be applicable to such a hearing. The applicant shall bear the burden of proof in an appeal hearing.

(f) Good management practices. The superintendent or board shall not grant an exception unless the applicant demonstrates to the board that good management practices (GMP) are being employed to reduce or prevent the contribution of pollutants to the POTW. GMP's include, but are not limited to, preventive operating and maintenance procedures, schedule of activities, process changes, prohibiting activities, and other management practices to reduce the quantity or increase the quality of effluent discharged and to control plant site runoff, spillage, leaks, and drainage from raw material storage. (Ord. #88-1, March 1988, as replaced by Ord. prepared February 1992, and passed second reading April 21, 1992)

18-508. Wastewater discharge permits. (1) Applicability. The provisions of this chapter are applicable to all industrial users of the POTW. The city has an "approved POTW pretreatment program" as that term is defined in 40 CFR, Part 403.3(d) and any permits issued hereunder to industrial users who are subject to or who become subject to a National Categorical Pretreatment Standard shall be conditioned upon the industrial user also complying with all applicable substantive and procedural requirements promulgated by the EPA or the State of Tennessee regarding such categorical standards unless an exception for the city's program or for the specific industrial categories is authorized.

(2) Application and permit requirements. Prior to discharging non-domestic waste into the POTW, all significant industrial users of the POTW shall obtain a wastewater discharge permit. The industrial user shall request that the superintendent determine if the proposed discharge is significant as defined in section 18-502. If the discharge is determined not to be significant, the superintendent may still establish appropriate discharge conditions for the

user. Any noncategorical industrial user designated as significant may petition the superintendent to be deleted from the list as significant on the grounds that there exists no potential for adverse effect on the POTW's operation or violation of any pretreatment standard or requirement.

All significant industrial users shall obtain an industrial wastewater discharge permit and shall complete such forms as required by the superintendent, pay appropriate fees, and agree to abide by the provisions of this chapter and any specific conditions or regulation established by the superintendent. All original applications shall be accompanied by a report containing the information specified in section 18-508(3). All original applications shall also include a site plan, floor plan, and mechanical and plumbing plans with sufficient detail to show all sewers and appurtenances in the user's premises by size, location, and elevation. The industrial user shall also submit revised plans to the superintendent when alterations or additions to the user's premises affect said plans.

(3) Report requirements. The report required for all significant industrial users by section 18-508(2) or other provisions of this chapter shall contain in units and terms appropriate for evaluation the information listed in subparagraphs (a) through (e) below. Industrial users subject to national pretreatment standards shall submit to the superintendent a report which contains the information listed in subparagraphs (a) through (f) below within 180 days after the promulgation by the EPA of a National Pretreatment Standard under section 307(b) or (c) of the Act. This report is called the Baseline Monitoring Report (BMR). Industrial users who are unable to achieve a discharge limit set forth in section 6 without improved operation and maintenance procedures or pretreatment shall submit a report which contains the information listed in subparagraphs (a) through (g) of this section.

As specified, the report shall contain the following:

- (a) The name and address of the industrial user.
- (b) The location of the industrial user.
- (c) The nature, average rate of production, and standard industrial classification of the operation(s) carried out by the industrial user.
- (d) The average and maximum flow in gallons per day of discharge from the industrial user to the POTW.
- (e) The nature and concentration of pollutants in the discharge from each regulated process from 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 and as approved by standard methods approved by the superintendent. 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 that has been reviewed by an authorized representative of the industrial user and certified by an environmental professional indicating if pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance procedures or additional pretreatment is required for the industrial user to achieve compliance.

(g) If additional pretreatment or operation and maintenance procedures will be required to meet the pretreatment standards, the report shall contain the shortest schedule by which the industrial user will provide the additional pretreatment. The completion date in the schedule shall be no later than the compliance date established for the applicable pretreatment standard.

For purposes of this paragraph 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 industrial user's discharging any incompatible pollutant regulated by section 18-506. 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 18-506.

(4) Incomplete applications. The superintendent will act only on applications that are accompanied by a report which lists all the information required in section 18-508(3). Industrial users who have filed incomplete applications will be notified by the pretreatment coordinator that the application is deficient and the nature of the deficiency and will be given 30 days to correct such. If the deficiency is not corrected within that period or with such extended time as allowed by the superintendent, the superintendent shall deny the application and notify the applicant in writing of such action.

(5) Evaluation of application. Upon receipt of completed applications, the superintendent and pretreatment coordinator shall review and evaluate the applications and shall propose such special permit conditions as the superintendent deems advisable. All wastewater discharge permits shall be expressly subject to all the provisions of this chapter and all other applicable 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.
- (c) Limits on rate and time of discharge for flow equalization.
- (d) Requirements for installation of inspection and sampling facilities.
- (e) Specifications for self-monitoring procedures.
- (f) Requirements for submission of technical and/or discharge reports.
- (g) Requirements for records maintenance.

(h) Average and maximum mass emission rates, or other appropriate limits when toxic pollutants are proposed or present in the industrial user's wastewater discharge.

(i) Other conditions deemed appropriate by the superintendent to ensure compliance with the chapter or other applicable law or regulation.

(j) A reasonable compliance schedule, as determined by the superintendent, up to one year in duration 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 discharges 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) Notification of proposed permit conditions. (a) Upon completion of the evaluation, the superintendent shall notify the applicant of any special permit conditions proposed for inclusion in the wastewater discharge permit.

(b) The applicant shall have 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 conditions recommended. The superintendent may, but is not required, to schedule a meeting with applicant's authorized representative within 15 days following receipt of the applicant's objections, to 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.

(7) Board to establish permit conditions. (a) In the event that the superintendent cannot issue a permit pursuant to section 18-508(6) above, the superintendent shall submit to the board the proposed permit conditions and the applicant's written objections at the next regularly scheduled meeting of the board or at a specially convened meeting.

(b) The board shall schedule a hearing within 30 days following the meeting referred to above unless such time is 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 and the superintendent shall have the right to participate in the hearing and present any relevant evidence to the board concerning

proposed special permit conditions or other matters being considered by the board.

(d) Following the hearing or additional hearings deemed necessary and advisable by the board, the board shall establish special permit conditions deemed advisable to ensure the applicant's compliance with this chapter or other applicable laws or regulations 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 schedules required by section 18-508(5) of this chapter:

(a) Schedule components. 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.

(b) Schedule intervals. No such increment shall exceed 9 months.

(9) Duration of permits. Wastewater discharge permits shall be issued for a time period of 3 years. Permits issued to industrial users pursuant to section 18-508(7) shall be issued for a period of 1 year.

Industrial users subject to a national pretreatment standard shall apply for new permits on the effective date of such standards. The superintendent shall notify in writing any industrial user whom the superintendent has cause to believe is subject to a national pretreatment standard of the promulgation of such regulations, but any failure of the superintendent in this regard shall not relieve the user of the duty of complying with such standards. An industrial user must apply in writing for a renewal permit within a period of time not more than 90 days and not less than 30 days prior to expiration of the current permit.

Limitations or conditions of a permit are subject to modification or change as such changes become necessary due to changes in applicable water quality standards, changes in the city's NPDES permit, changes in section 18-506(10) or 18-506(11), changes in other applicable law or regulation, or for other just cause. Users will be notified of any proposed changes in their permit by the superintendent at least 30 days prior to the effective date of the change. Any change or new condition in the permit shall include a provision for a reasonable time schedule for compliance. The user may appeal the decision of the superintendent in regard to any changed permit conditions as otherwise provided for in this chapter.

(10) Transfer of permit. Wastewater discharge permits are issued to a specific industrial user for a specific operation. A wastewater discharge permit shall not be reassigned, transferred, or sold to a new owner, new user, different premises, or a new or changed operation, unless as approved by the superintendent.

(11) Revocation of a permit. Any permit issued under the provisions of this chapter is subject to modification, suspension, or revocation 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.

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

(d) Refusal of reasonable access to the user's premise for the purpose of inspection and monitoring. (Ord. #88-1, March 1988, as replaced by Ord. prepared February 1992, and passed second reading April 21, 1992)

18-509. Inspections, monitoring, and entry. (1) Inspections, monitoring, and entry. (a) When required to carry out the objective of this chapter, including but not limited to:

(i) developing or assisting in the development of any effluent limitation, or other limitation, prohibition, or effluent standard, pretreatment standard, standard of performance, or permit condition under this chapter;

(ii) 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;

(iii) any requirement established under this section.

(b) The superintendent shall require any industrial user to:

(i) establish and maintain records;

(ii) make reports;

(iii) install, use, and maintain monitoring equipment or methods, including biological monitoring methods when appropriate;

(iv) sample effluent in accordance with these methods, at such locations and intervals and in such a manner as the superintendent shall prescribe;

(v) provide such other information as the superintendent may reasonably require.

(c) Specific requirements under the provisions of paragraph (b) 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 industrial user's wastewater discharge permit. The nature of any requirement under this provision shall depend on the nature of the user's discharge, the impact of the discharge upon

the POTW, the volume of water discharged, and the technical feasibility of an economic reasonableness of any such requirement.

(d) The superintendent or his authorized representative, employees of the State of Tennessee, and employees of the Environmental Protection Agency shall, upon presentation of credentials:

(i) Have a right of entry to, upon, or through any user's premises in which an effluent source is located or in which any records required to be maintained under this chapter are located.

(ii) Have access at reasonable times to and copy any records, inspect any monitoring equipment or method required of the user, and sample any discharge which the owner or operator of such source is required to sample.

(e) In the event any user denies authorized personnel the right of entry for inspection, sampling, inspecting and copying records, or verifying that a user is not discharging industrial wastes or performing other duties as shall be imposed upon the superintendent by this chapter, the superintendent shall seek a warrant or use such other legal procedures as advisable and reasonably necessary to perform the duties of this chapter.

(f) Any user failing or refusing to perform any duty imposed upon the user under the provisions of this section, or who denies the right to enter the user's premises for purposes of inspection, sampling, inspecting and copying records, or other such duties as may be imposed upon the user by this section, shall be deemed to have violated the conditions of the wastewater discharge permit and such permit shall be subject to modification, suspension, or revocation under the procedures established in this chapter. A user who does not have an industrial waste discharge permit and denies the right to inspect as described herein is subject to having the sewer service in question terminated by the superintendent.

(2) Reports. (a) Progress reports. No later than 14 days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the superintendent, including as a minimum, whether it complied with the increment of progress to be met on such a 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 user to return the construction to the schedule established. In no event shall more than 9 months elapse between such progress reports to the superintendent.

(b) 90 day compliance report. Within 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 superintendent a report

containing the information described in section 18-508(3), paragraphs (d) through (f).

(c) Self-monitoring reports. (i) All significant industrial users shall submit to the superintendent during the months of June and December, unless required more frequently in the pretreatment standard or in the industrial user's permit, a report indicating the nature and concentration of pollutants in the effluent which are limited by their permit. In addition, this report shall include a record of average and maximum daily flows. At the discretion of the superintendent and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the superintendent may agree to alter the months during which the above reports are submitted.

(ii) The superintendent, as applicable, may impose limitations on industrial users employing 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 paragraph (a) of this section shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user.

(d) The reports required in this section shall contain the results of sampling and analysis of the discharge, including the flow and nature and concentration or production rates and mass limits where requested by the superintendent, as applicable, of pollutants contained therein which are limited by the applicable pretreatment standards or industrial permit. For industrial users subject to equivalent mass or concentration limits established by the superintendent as alternative standards, the report shall contain a reasonable measure of the user's long-term production rate. For all other industrial users subject to categorical pretreatment standards expressed only in terms of allowable pollutant discharge per unit of production (or other measured operation), the report shall include the user's actual average production rate for the reporting period. The frequency of monitoring shall be prescribed in the applicable treatment standard.

(3) Monitoring facilities. (a) All significant industrial users shall install a monitoring station of a standard design or one satisfactory to the superintendent by June 30, 1992.

All users who propose to discharge or who in the judgement of the POTW could now or in the future discharge wastewater with constituents and characteristics different from that produced by a domestic premise may be required to install a monitoring facility.

(b) Installation. Required monitoring facilities shall be constructed, operated, and maintained at the user's expense. The purpose of the facility is to allow inspection, sampling, and flow

measurement of wastewater. If sampling or metering equipment is also required by the POTW, it shall be provided, installed, and operated at the user's expense. The monitoring facility will normally be required to be located on the user's premises outside the building. The POTW may, however, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street right-of-way with the approval of the public agency having jurisdiction of that right-of-way and located so that it will not be obstructed by landscaping or parked vehicles.

(c) Access. If the monitoring facility is inside the user's fence, there shall be accommodations to allow safe and immediate access for POTW, State of Tennessee, or EPA personnel. There shall be ample room in or near such a facility to allow accurate sampling and compositing of samples for analysis. The entire facility and any sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition by and at the expense of the user.

(d) The industrial user shall be required to design any necessary facility and to submit according to the permit compliance schedule an engineering report, including detailed design plans and operating procedures to the superintendent for review in accordance with accepted engineering practices. The superintendent shall review the plans and other documents within 30 days and shall recommend any change deemed appropriate.

(e) Upon approval of plans and other documents, the industrial user shall secure all building, electrical, plumbing, and other permits required and proceed to construct any necessary facility and establish required operating procedures within the time provided in the industrial user's wastewater discharge permit.

(4) Sampling and analysis. (a) All collected samples must be of such nature that they provide a true and accurate representation of the industry's normal workday effluent quality.

(b) Chain-of-custody procedures, sample preservation techniques, and sample holding times recommended by the EPA shall be followed in all self-monitoring activities. Grab samples must be used for pH, cyanide, phenols, oil and grease, sulfide, and volatile organics. All other samples shall be 24-hour flow proportional composite samples.

(c) Monitoring shall be performed at the approved monitoring station on the effluent sewer. Location and design of the monitoring station shall be subject to the review and approval of the superintendent. Any change in monitoring location will be subject to the approval of the superintendent.

(d) All analyses shall be performed in accordance with procedures established by the EPA under the provisions of section 304(h) of the Act and contained in 40 CFR Part 136 and its amendments or with

any other test procedures approved by the EPA or the superintendent. Sampling shall be performed in accordance with the techniques approved by EPA or the superintendent.

(5) Dangerous discharge notification. (a) Telephone notification. Any person or user causing or suffering any discharge, whether accidental or not, which presents or may present an imminent or substantial endangerment to human health and welfare or 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 POTW employee then in charge of the treatment works. Such notification will not relieve the user from any expense, loss, liability, fines, or penalty which may be incurred as a consequence of the discharge.

(b) Written report. Within 5 days following such an 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 persons 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.

(c) Notice to employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees of a contact 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.

(6) Slug reporting. The industrial user shall notify the POTW immediately by telephone of any slug loading, as defined by section 18-507(5) by the industrial user.

(7) Notification of hazardous waste discharge. (a) On or before January 20, 1991, the user shall notify the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities of any discharge into the POTW of a substance which is a listed or characteristic waste under section 3001 of RCRA. Such notification must include a description of any such wastes discharged, specifying the volume and concentration of such wastes and the type of discharge (continuous, batch, or other), identifying the hazardous constituents contained in the listed wastes and estimating the volume of hazardous wastes expected to be discharged during the following 12 months. The notification must take place within 180 days after the July 24, 1990 promulgation date of the Domestic Sewage Study amendments to the Pretreatment Regulations. This requirement shall not apply to

pollutants already reported under the self-monitoring requirements of section 18-509(2).

(b) Dischargers are exempt from the requirements of this paragraph during a calendar month in which they generate no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.5(2), (f), (g), and (j). Generation of more than 15 kilograms of hazardous waste do not require additional notification, except for the acute hazardous wastes specified in 40 CFR 261.5(3), (f), (g), and (j).

(c) In the case of new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the POTW of the discharge of such substance within 90 days of the effective date of such regulations, except for the exemption in paragraph (b) of this section.

(d) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of wastes generated to the degree it has determined to be economically practicable and that it has selected the method of treatment, storage, or disposal currently available which minimizes the present and future threat to human health and the environment.

(8) Notification of changed discharge. All industrial users shall promptly notify the POTW in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes, for which the user has submitted initial notification under section 18-509(7).

(9) Provisions governing fraud and false statements. The reports required to be submitted under this section shall be subject to the provisions of 18 U.S.C. 1001 relating to fraud and false statements and the provisions of sections 309(c)(4) and (6) of the Act, as amended, governing false statements, representation, or certifications in reports required by the Act.

(10) Signatory requirements. The reports required by this section shall include a certification statement as follows:

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

The reports shall be signed as follows:

(a) By a responsible corporate officer if the industrial user submitting the reports required by this section is a corporation. For the purpose of this paragraph, a responsible corporate officer is (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principle business function, or any other person who performs similar policy or decision making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) By a general partner or proprietor if the industrial user submitting reports required by this section is a partnership or sole proprietorship, respectively.

(c) By a duly authorized representation of the individual designated in paragraph (a) of this section if:

(i) The authorization is made in writing by the responsible corporate officer.

(ii) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates, such as the position of plant manager, operator of a well, well field superintendent, or a person in position of equivalent responsibility or with overall responsibility for environmental matters for the company.

(iii) The written authorization is submitted to the control authority.

(d) If an authorization under paragraph (c) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of paragraph (c) of this section must be submitted to the superintendent prior to or in conjunction with any reports to be signed by an authorized representative.

(11) Reporting of violation. If sampling performed by an industrial user indicates a violation, the user shall notify the superintendent within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the superintendent within 30 days after becoming aware of the violation. The industrial user is not required to resample if one of the following criteria is met:

(a) The POTW performs sampling at the industrial user at a frequency of at least once per month.

(b) The POTW performs sampling at the user between the time when the user performs its initial sampling and the time when the user receives the results of this sampling.

(12) Reporting of all monitoring. If an industrial user subject to the reporting requirements in section 18-508(3) of this chapter monitors any pollutant more frequently than required by the superintendent using approved procedures prescribed in this chapter, the results of this monitoring shall be included in the report.

(13) Notice of bypass. (a) If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the superintendent.

(b) An industrial user shall submit oral notice to the superintendent of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time the user becomes aware of the bypass. A written submission shall also be provided within 5 days of the time the industrial user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times; and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The superintendent may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(14) 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.

(e) The results of the analyses.

(15) Retention period. Any industrial user subject to the reporting requirement established in this section shall be required to retain for a minimum of 3 years any records of monitoring activities and results (whether or not such monitoring activities are required by this section) and shall make these records available for inspection and copying by the superintendent, TDEC Director of the Division of Water Pollution Control, and EPA. The retention period shall be extended during the course of any unresolved litigation regarding the user or upon request from the superintendent, the Director, or the EPA.

(16) Confidential information. Any records, reports, or information obtained under this section shall

(a) in the case of effluent data, be related to any applicable effluent limitations, toxic, pretreatment, or permit condition, and

(b) be available to the public to the extent provided by 40 CFR, part 2.302. If, upon showing to the superintendent by any person that, if made public, records, reports, information, or particular parts (other than effluent data) to which the superintendent has access under this section, would divulge methods or processes entitled to protection as trade secrets of such person, the superintendent shall consider such record, report, or information, or particular portion thereof confidential in accordance with the purposes of this section. Such record, report, or information may be disclosed to officers, employees, or authorized representatives of the United States or the State of Tennessee concerned with carrying out the provisions of the Act or when relevant in any proceeding under this section or other applicable laws. (Ord. #88-1, March 1988, as replaced by Ord. prepared February 1992, and passed second reading April 21, 1992)

18-510. Enforcement. (1) Hearings. (a) Any hearing or re-hearing brought before the mayor and board of aldermen shall be conducted in accordance with following:

(i) Upon receipt of a written petition from the alleged violator pursuant to this section, the superintendent shall give the petitioner 10 days written notice of the time and place of the hearing.

(ii) The hearing provided may be conducted by the mayor and board of alderman at a regular or special meeting. A quorum of the board must be present at the regular or special meeting in order to conduct the hearing.

(iii) A verbatim record of the proceedings of the hearings shall be made and filed with the board in conjunction with the findings of fact and conclusions of law made pursuant to section 18-510(1)(a)(vi). The transcript shall be made available to the petitioner or any party to a hearing upon payment of a charge set by the superintendent to cover preparation fees.

(iv) In connection with the hearing, the chairperson of the board shall issue subpoenas in response to any reasonable request by any party to the hearing requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. In the case of refusal to obey a notice of hearing or subpoena issued under this section, the chancery court of Dyer County shall have the jurisdiction upon the application of the superintendent to issue an order requiring such person to appear and testify or produce evidence as the case may

require. Failure to obey such an order of the court is punishable by the court as contempt.

(v) On the basis of the evidence produced at the hearing, the board shall make findings of fact and conclusions of law and enter such decisions and orders as in its opinion will best further the purposes of the pretreatment program and shall give written notice of such decisions and orders to the alleged violator. The order issued under this subsection shall be issued no later than 30 days following the close of the hearing by the person or persons designated by the chairperson.

(vi) The decision of the board shall become final and binding on all parties unless appealed to the courts as provided in section 18-510(1)(b).

(vii) Any person to whom an emergency order is directed shall comply therewith immediately, but on petition to the board shall be afforded a hearing as soon as possible, but in no case shall such a hearing be held later than 3 days from the receipt of such a petition by the board.

(viii) 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 chairperson to rule on such matters as would require a ruling by the court under said rules.

(ix) The superintendent shall first call witnesses, which shall be followed by witnesses called by the other party. Rebuttal witnesses shall be called in the same order. The chairperson shall rule on any evidentiary questions arising during such hearing and shall make other rulings necessary or advisable to facilitate an orderly hearing subject to approval of the board. The board, the superintendent, 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.

(x) Any person aggrieved by an order or determination of the superintendent where an appeal is not otherwise provided by this section may appeal said order or determination to be reviewed by the board under the provisions of this section. A written notice of appeal shall be filed with the superintendent, and said notice shall set forth with particularity the action or inaction of the superintendent complained of and the relief being sought by the person filing said appeal. A special meeting of the board may be called by the chairperson upon the filing of such an appeal, and the board may, at member's discretion, suspend the operation of the

order or determination of the superintendent on which is based the appeal until such time as the board has acted upon the appeal.

(xi) The vice chairperson or the chairperson pro tem shall possess all the authority delegated to the chairperson by this section when acting in their absence or place.

(b) An appeal may be taken from any final order or other final determination of the superintendent or board by any party who is or may be adversely affected thereby to the chancery court pursuant to the common law writ of certiorari set in Tennessee Code Annotated (T.C.A.) 27-8-101, within 60 days from the date such order or determination is made.

(2) Civil penalty. (a) (i) Any person or user who does any of the following acts or omissions shall be subject to a civil penalty of up to \$10,000 per day for each day during which the act or omission continues or occurs:

(A) Violates any effluent standard or limitation imposed by a pretreatment program.

(B) Violates the terms or conditions of a permit issued pursuant to a pretreatment program.

(C) Fails to complete a filing requirement of a pretreatment program.

(D) Fails to allow or perform an entry, inspection, monitoring, or reporting requirement of a pretreatment program.

(E) Fails to pay user or cost recovery charges imposed by a pretreatment program.

(F) Violates a final determination or order of the board.

(ii) Any civil penalty shall be assessed in the following manner:

(A) The superintendent may issue an assessment against any person or user responsible for the violation.

(B) Any person or user against whom an assessment has been issued may secure a review of such assessment by filing with the superintendent a written petition setting forth the grounds and reasons for his objections and asking for a hearing on the matter involved before the mayor and board of aldermen. If a petition for review of the assessment is not filed within 30 days of the date the assessment is served, the violator shall be deemed to have consented to the assessment and it shall become final.

(C) When any assessment becomes final because of a person's failure to appeal the superintendent's

assessment, the superintendent may apply to the appropriate court for a judgement and seek execution of such judgement and the court, in such proceedings, shall treat a failure to appeal such assessment as a confession of judgement in the amount of the assessment. Civil penalties will be assessed based on the following criteria:

(1) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity.

(2) Damages to the POTW, including compensation for the damage or destruction of the facilities of the POTW, which also includes any penalties, costs, and attorney's fees incurred by the POTW as the result of the illegal activity, as well as the expenses involved in enforcing this section and the costs involved in rectifying any damage.

(3) Cause of the discharge or violation.

(4) The severity of the discharge and its effect upon the facilities of the POTW and upon the quality and quantity of the receiving waters.

(5) Effectiveness of action taken by the violator.

(6) The technical and economic feasibility of reducing or eliminating the discharge.

(7) The economic benefit gained by the violator.

(D) The superintendent may institute proceedings for assessment in the name of the City of Newbern in the chancery court of the county in which all or part of the violation occurred.

(iii) The mayor and board may establish by regulation a schedule of the amount of civil penalty which can be assessed by the superintendent for certain specific violations or categories of violations.

(b) Any civil penalty assessed to a violator pursuant to this section may be in addition to any civil penalty assessed by the Commissioner of Environment and Conservation for violations of T.C.A. 69-3-115(a)(a)(F). Provided, however, the sum of the penalties imposed by this section and by 69-3-115(a) shall not exceed \$10,000 per day for each day during which the act or omission continues to occur.

(3) Assessment of noncompliance. (a) The superintendent may assess the liability of any polluter or violator for damages to the pretreatment agency resulting from any person(s) or user(s) pollution or violation,

failure, or neglect in complying with any permits or orders issued pursuant to the provisions of the pretreatment program.

(b) If an appeal from such assessment is not made to the superintendent by the polluter or violator within 30 days of notification of such assessment, he shall be deemed to have consented to such assessment and it shall become final.

(c) Damages may include any expenses incurred in investigating and enforcing the pretreatment program or any other sections of the chapter, in removing, correcting, and terminating any pollution, and also compensation for actual damages caused by the violation to the POTW. The superintendent shall assess the expenses and damages incurred by the POTW to clear the obstruction, repair damage to the POTW, and otherwise rectify any impairment caused by the violation.

(d) Whenever any assessment has become final because of a person's failure to appeal within 30 days, the superintendent shall bill the person responsible for the damage for reimbursement of all expenses and damages suffered by the POTW. If the person responsible refuses to pay, the superintendent may apply to the appropriate court for a judgement and seek execution on such judgement. The court, in such proceedings, shall treat the failure to appeal such assessment as a confession of judgement in the amount of assessment.

(4) Judicial proceedings and relief. The superintendent may initiate proceedings in the chancery court of the county in which the activities occurred against any person or user who is alleged to have violated or is about to violate the pretreatment program, its industrial user permit, any section of this chapter, or any order of the superintendent and/or board. In such action, the superintendent may seek, and the court may grant, injunctive relief and any other relief available in law or equity.

(5) Administrative enforcement remedies. (a) Notification of violation. When the superintendent finds that any user has violated or is violating this section, or a wastewater permit or order issued hereunder, the superintendent or his agent may serve upon the user a written notice of violation (NOV). Within 10 days of receipt of the NOV, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the superintendent. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the NOV.

(b) Consent orders. The superintendent is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the user responsible for the noncompliance. Such orders will include specific action to be taken by the user to correct the noncompliance within a time frame also

specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to paragraph (d) below.

(c) Show-cause hearing. The superintendent may order any user which causes or contributes to a violation of this chapter, its wastewater permit, or any order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why 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 10 days prior to the hearing. Such notice may be served on any principle executive, general partner, or corporate officer. Whether or not a duly notified user appears as noticed, immediate enforcement action may be pursued.

(d) Compliance order. When the superintendent finds that a user has violated or continues to violate this chapter or a permit or order issued thereunder, he may issue an order to the user responsible for the discharge directing that, following a specified time period, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances have been installed and are properly operated. Orders may also contain such other requirements deemed reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring, and management practices.

(e) Cease and desist orders. When the superintendent finds that a user has violated or continues to violate this chapter or any permit or order issued hereunder, the superintendent may issue an order to cease and desist all such violations and direct those persons in noncompliance to do one of the following:

(i) Comply with the order.

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

(f) Emergency termination of service. When the superintendent finds that an emergency exists in which immediate action is required to protect public health, safety, or welfare, the health of animals, fish, or aquatic life, a public water supply, or the facilities of the POTW, the superintendent may, without prior notice, issue an order reciting the existence of such an emergency and requiring that certain action(s) be taken as the superintendent deems necessary to meet the emergency.

If the violator fails to respond or is unable to respond to the superintendent's order, the superintendent may take such emergency action as deemed necessary or contract with a qualified person to carry

out the emergency measures. The superintendent may assess the person(s) responsible for the emergency condition for actual costs incurred by the superintendent in meeting the emergency.

If the emergency action adversely affects the user, the superintendent shall provide the user an opportunity for a hearing as soon as possible thereafter to consider restoration of service upon abatement of the condition or other reasonable conditions. Following the hearing, the superintendent may take any such authorized should the proof warrant such action.

(6) Disposition of damage payments and penalties. All damages and/or penalties assessed and collected under the provisions of this section shall be placed in a special fund by the city and allocated and appropriated to the sewer system for the administration of its pretreatment program.

(7) Vandalism. Any and all damages incurred by the POTW due to acts of vandalism will be prosecuted to the full extent of the law. (Ord. #88-1, March 1988, as replaced by Ord. prepared February 1992, and passed second reading April 21, 1992)

18-511. Wastewater volume determination. (1) Metered water supply. Charges and fees related to the volume of wastewater discharged to the POTW shall be based upon the user's total water consumption from all water supply sources. The total amount of water used shall be determined from public meters installed and maintained by the city and/or private meters installed and maintained at the expense of the user and approved by the city.

(2) Wastewater volume. When charges and fees based upon water usage and/or discharge and where, in the opinion of the POTW, a significant portion of the water received from any metered source does not flow into the sewer because of the principle activity of the user or removal by other means, the charges and fees will be applied only against the volume of water discharged from such premises into the sanitary sewer. Written notification and proof of the diversion of water must be provided by the user and approved by the city.

The users may install a meter of a type and at a location approved by the city to measure either the amount of sewage discharged or the amount of water diverted. Such meters shall be maintained at the expense of the user and be tested for accuracy at the expense of the user when deemed necessary by the superintendent.

(3) Estimated wastewater volume. For users where, in the opinion of the city, it is unnecessary or impractical to install meters, charges and fees may be based upon an estimate of the volume to be discharged. The estimate shall be prepared by the user and approved by the superintendent or his representative. The number of fixtures, seating capacity, population equivalent, annual production of goods and services, and other such factors as deemed rational by the POTW shall be used to estimate the wastewater discharge volume.

(4) Domestic flows. For the separate determination of the volumes of domestic and process flows from users for the purposes of calculating charges based on process wastewater flows alone, users shall install a meter of a type and at a location approved by the POTW. For users where, in the opinion of the POTW, it is unnecessary or impractical to install such a meter, the volume of the domestic and process wastewater shall be based upon an estimate prepared by the user and approved by the POTW. (Ord. #88-1, March 1988, as replaced by Ord. prepared February 1992, and passed second reading April 21, 1992)

18-512. Wastewater charges and fees. (1) Purpose of charges and fees. A schedule of charges and fees shall be adopted by the city which will enable it to comply with the revenue requirements of the Federal Water Pollution Control Act Amendments. Charges and fees shall be determined in a manner consistent with regulations of the Federal Grant Program in order that sufficient revenues are collected to defray the POTW's cost of operating and maintaining adequate wastewater collection and treatment systems and to provide sufficient funds for equipment replacement, capital outlay, bond service costs, capital improvements, and depreciation.

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

- Sewer service line charges
- Tap fees
- User charges
- Fees for monitoring requested by the user
- Fees for permit applications
- Fees based on wastewater characteristics and constituents
- Fees for discharge of holding tank wastes
- Inspection fees
- Industrial user permit fees
- Pretreatment program operating fees

(3) Determination of charges. Charges and fees shall be based upon a minimum basic charge for each premise, computed on the basis of normal wastewater from a domestic premise with the following characteristics:

BOD ₅	-	300 mg/l
COD	-	600 mg/l
Suspended Solids	-	300 mg/l
Ammonia-Nitrogen	-	30 mg/l
Oil and Grease	-	100 mg/l

The charges and fees for all users other than the basic domestic premise shall be based upon the relative difference between the average wastewater constituents and characteristics of that user as related to those of a domestic premise.

The charges and fees established for permit users shall be based upon the measured or estimated constituents and characteristics of the wastewater discharge of that user which may include, but not be limited to, BOD, COD, suspended solids, oil and grease, and flow volume.

(4) User charges. Each user of the POTW's sewer system will be levied a charge for payment of indebtedness of the city and for the user's proportionate share of the operation, maintenance, and replacement costs of the sewer system. A surcharge may be levied against those users with wastewater that exceeds the strength of normal wastewater as defined in this chapter.

The user charge will be computed from a base charge plus applicable surcharge. The base charge will be the user's proportionate share of the costs of operation, maintenance, and replacement for handling its periodic volume of normal wastewater plus the user's share of any bond amortization costs of the city.

(a) Operation, maintenance, and replacement (OM&R) user charges. Each user's share of OM&R costs will be computed by the following formula:

$$C_u = \frac{C_t}{V_t}(V_u)$$

Where:

C_u = User's charge for OM&R per unit time.

C_t = Total OM&R costs per unit of time, less costs recovered from surcharges.

V_t = Total volume contribution from all users per unit time.

V_u = Volume contribution from individual user per unit time.

(b) Bonded indebtedness charges. Each user's share of bonded indebtedness costs will be based on a schedule which reflects the user's volumetric and/or waste strength contribution to the system.

(c) User surcharges. The surcharge will be the user's proportionate share of the OM&R costs for handling its periodic volume

of wastewater which exceeds the strength of BOD₅, suspended solids, and/or other pollutants in normal wastewater as listed in section 18-512(3) of this chapter. The amount of surcharge will be determined by the following formula:

$$C_s = (B_c \times B + S_c \times S + P_c \times P) 8.34 V_u$$

Where:

- C_s = Surcharge for wastewater exceeding the strength of normal wastewater expressed in dollars per billing period.
- B_c = OM&R cost for treatment of a unit of BOD₅ expressed in dollars per pound.
- B = Concentration of BOD₅ from a user above the base level of 300 mg/l expressed in mg/l.
- S_c = OM&R costs for treatment of a unit of SS expressed in dollars per pound.
- S = Concentration of SS from a user above the base level of 300 mg/l, expressed in mg/l.
- P_c = OM&R costs for treatment of a unit of any pollutant which the POTW is committed to treat by virtue of an NPDES permit or other regulatory requirement, expressed in dollars per pound.
- P = Concentration of any pollutant from a user above a base level. Base levels for pollutants subject to surcharge will be established by the superintendent.
- V_u = Volume contribution of a user per billing period in million gallons based on a 24 hour average for a billing period.

The values of parameters used to determine user charges may vary from time to time. Therefore, the POTW is authorized to modify any parameter or value as often as is necessary. Review of all parameters and values shall be undertaken at least annually.

(d) Pretreatment program charges. Industrial users may be required to pay a separate pretreatment program charge. This charge will be based on the user's proportional share of the costs of administering the POTW pretreatment program, which includes costs incurred by the POTW for verification monitoring, analysis, and reporting. Each user's share of the pretreatment program costs will be computed by the following formula:

$$C_u = \frac{C_t}{V_t} (V_u)$$

Where:

- C_u = User's charge for POTW pretreatment program per unit time.
- C_t = Total POTW pretreatment program costs per unit time.
- V_t = Total volume contribution of permitted industrial users per unit of time.
- V_u = Volume contribution from a permitted industrial user per unit of time.

(5) Review of OM&R charges. The POTW shall review at least annually the wastewater contribution by users, the total costs of OM&R of the treatment works, and its approved user charge system. The POTW shall revise the user charges to accomplish the following:

- Maintain the proportionate distribution of OM&R costs among users or classes of users.
- Generate sufficient revenue to pay the total OM&R costs of the treatment works.
- Apply any excess revenues collected to the costs of OM&R for the next year and adjust rates accordingly.

(6) Charges for extraneous flows. The costs of operation and maintenance for all flow not directly attributable to users, e.g., infiltration/inflow, will be distributed proportionally among all users of the treatment works.

(7) Notification. Each user will be notified, at least annually, in conjunction with a regular bill of the rate and that portion of the user charges which are attributable to OM&R charges.

(8) Billing. Wastewater charges imposed by this chapter shall be added to, included in, and collected with the monthly water service bills, and shall be due and payable monthly. This shall not affect the right of the POTW to collect wastewater charges from customers who utilize private or public water supplies from other utilities and who discharge wastewater to the POTW.

(9) Collection. Wastewater charges and fees imposed by this chapter shall be collected by the city in a manner established by the superintendent.

(10) Delinquent accounts. The city may discontinue water service to any customer who has a delinquent wastewater charge until such wastewater charge has been paid, except as provided by state or local law.

(11) Adjustments. The city shall make appropriate adjustments in the wastewater charge of sewer customers for over or under registration of utility meters, leaks, or other recognized adjustments. (Ord. #88-1, March 1988, as replaced by Ord. prepared February 1992, and passed second reading April 21, 1992)

18-513. Administration. (1) Board of aldermen and mayor. In addition to any other duty or responsibility otherwise conferred upon the board by this chapter, the mayor and board of aldermen shall have the duty and power as follows:

(a) To recommend amendments or modifications to the provisions of this chapter.

(b) To grant exceptions pursuant to the provisions of sections 18-507 -- 18-508, and to determine such issues of law and fact as are necessary to perform this duty.

(c) To hold hearings upon appeals from orders of actions of the superintendent as may be provided under the provisions of this chapter.

(d) To hold hearings related to the suspension, revocation, or modification of a wastewater discharge permit and issue appropriate orders relating hereto.

(e) To hold other hearings that may be required in the administration of this chapter and to make determinations and issue orders necessary to effectuate the purposes of this chapter.

(f) To request assistance from any officer, agent, or employee of the city and to obtain any necessary information or other assistance.

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

(h) The chairperson shall be authorized to administer oaths to people giving testimony.

(2) Superintendent. (a) Superintendent and staff. The superintendent and his/her staff shall be responsible for the administration of all parts of this section.

(b) Authority of superintendent. The superintendent shall have the authority to enforce all sections of this chapter. He/she shall be responsible and have the authority to maintain and operate the various treatment works, sewer lines, pump stations, and other appurtenances of the POTW. The superintendent shall be responsible for preparation of operating budgets subject to the normal budgetary processes of the city.

(c) Records. The superintendent shall keep in his office or at an appropriate storage facility all applications required under this chapter a complete record thereof, including a record of all wastewater discharge permits.

(d) Notice of national pretreatment standard. The superintendent shall notify users identified in 40 CFR, Part 403.8(f)(2) of any applicable pretreatment standards or other applicable requirements promulgated by the EPA 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, 3304, or 4004 of the Solid Waste Disposal Act. Failure of the superintendent to notify users shall not relieve the users from the responsibility of complying with these regulations.

(e) Public participation notice. The superintendent shall comply with the public participation requirements of 40 CFR, Part 25 in the enforcement of National Pretreatment Standards. The superintendent shall at least annually provide public notification in the largest local newspaper of all significant industrial users which, during the previous 12 months, significantly violated applicable pretreatment standards or other pretreatment requirements. For the purposes of this provision, a significant industrial user is in significant violation if its violations meet one or more of the following criteria:

(i) Chronic violations of wastewater discharge limits, defined as those in which 66 percent or more of all of the measurements taken during a 6-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter.

(ii) Technical review criteria (TRC) violations, defined as those in which 33 percent or more of all of the measurements taken during a 6-month period equal or exceed the product of the daily average maximum limit or average limit times the applicable TRC (TRC=1.4 for BOD, TSS, and oil and grease; and 1.2 for all other pollutants except pH).

(iii) Any other violation of a pretreatment effluent limit (daily maximum or longer term average) that the superintendent believes has caused, alone or in combination with other discharges,

interference, or pass-through, including endangering the health of the POTW personnel and the general public.

(iv) Any discharge of a pollutant that has caused imminent endangerment to human health and welfare or to the environment and has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.

(v) Violation by 90 days or more after the schedule date of a compliance schedule milestone contained in a permit or enforcement order for starting construction, completing construction, or attaining final compliance.

(vi) Failure to provide required reports, such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules within 30 days of the due date.

(vii) Failure to accurately report noncompliance.

(viii) Any other violation or group of violations which the superintendent considers to be significant.

(f) Regulations and standards. The superintendent may promulgate rules, regulations, and design criteria not inconsistent with this chapter and have them printed for distribution. These rules may include requirements for performing wastewater characterizations, analysis, and other measurements by standard methods approved by the superintendent.

(g) Sewer credits. The superintendent shall approve secondary meters and determine other kinds of sewer use charge credits.

(h) Approves new construction. The superintendent shall give approval in acceptance of newly constructed sanitary sewer lines, pump stations, and other appurtenances. (as added by Ord. prepared February 1992, and passed second reading April 21, 1992)

18-514. Validity. (1) Conflict. All ordinances or parts of ordinances inconsistent with any part of this chapter are hereby repealed to the extent of such inconsistency or conflict.

(2) Savings clause. If any provision, paragraph, word, section, or article of this chapter is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and articles shall not be affected and shall continue in full force. (as added by Ord. #96-7, Oct. 1996)

CHAPTER 6

USER CHARGE SYSTEM

SECTION

18-601. Charges and fees.

18-601. Charges and fees. (1) Purpose of charges and fees. A schedule of charges and fees shall be adopted by the Town of Newbern which will enable it to comply with the revenue requirements of Section 204 of the Clean Water Act. Charges and fees shall be determined in a manner consistent with regulations of the Federal Grant Program to ensure that sufficient revenues are collected to defray the cost of operating and maintaining, including replacement, adequate wastewater collection and treatment systems. Specific charges and fees shall be adopted by a separate ordinance, this section describes the procedure to be used in calculating the charges and fees. Additional charges and fees to recover funds for capital outlay, bond service costs, and capital improvements may be assessed by the Town of Newbern. These charges and fees shall be recovered through the user classification established below.

(2) Classification of user. All users shall be classified by the superintendent either by assigning each one to a "user classification" category according to the principal activity conducted on the user's premises, by individual user analyzation, or by a combination thereof. The purpose of such collective and/or individual classification is to facilitate the regulation of wastewater discharges based on wastewater constituents and characteristics.

(3) Types of charges and sewer fees. The charges and fees as established in treatment works schedule of charges and fees, may include, but not be limited to:

- (a) User classification charges;
- (b) Fees for monitoring requested by user;
- (c) Fees for permit applications;
- (d) Appeal fees;
- (e) Charges and fees based on wastewater constituents and characteristics;
- (f) Fees for use of garbage grinders;
- (g) Fees for holding tank wastes.

(4) Basis of determination of charges. Charges and fees may be based upon a minimum basic charge for each premise, computed on the basis of "normal wastewater" from a domestic premise with the following characteristics:

BOD ₅	300 milligrams per liter
COD	600 milligrams per liter
TKN	60 milligrams per liter
NH ₃ -N	30 milligrams per liter

Suspended Solids	300 milligrams per liter
Fats, Oil and Grease	100 milligrams per liter

The charges and fees for all classifications of users other than the basic domestic premise shall be based upon the relative difference between the average wastewater constituents and characteristics of that classification as related to those of a domestic premise.

The charges and fees established for permit users shall be based upon the measured or estimated constituents and characteristics of the wastewater discharge of that user which may include, but not be limited to, BOD, COD, SS, NH₃ as N, chlorine demand, and volume.

(5) User charges. Each user shall be levied a charge for payment of bonded indebtedness of the treatment system and for that user's proportionate share of the operations and maintenance costs of the system. A surcharge will be levied against those users with wastewater that exceeds the strength of "normal wastewater."

The user charge will be computed from a base charge plus a surcharge. The base charge will be the user's proportionate share of the costs of operation and maintenance (O&M) including replacement for handling its periodic volume of "normal wastewater."

(a) Operation and maintenance user charges: Each user's share of operation and maintenance costs will be computed by the following formula:

$$C_u = \frac{C_t \times (V_u)}{V_t}$$

Where: C_u = User's charge for O & M per unit of time.
 C_t = Total O & M cost per unit of time.
 V_t = Total volume contribution from all users per unit of time.
 V_u = Volume contribution from a user per unit of time.

Operation and maintenance charges may be established on a percentage of water use charge only in the event that water use charges are based on a constant cost per unit of consumption.

(b) Surcharges: The surcharge will be the user's proportionate share of the O & M costs for handling its periodic volume of wastewater which exceeds the strength of BOD₅, suspended solids, and/or other elements in "normal wastewater" including "toxic wastes." The amount of the surcharge shall be determined by the following formula:

$$C_s = ((B_c \times B) + (S_c \times S) + (P_c \times P))V_u$$

- Where:
- Cs = Surcharge for wastewaters exceeding the strength or "normal wastewater" expressed in dollars per billing period.
 - Bc = O & M cost for treatment of a unit of BOD₅ expressed in dollars per pound.
 - B = Concentration of BOD₅ from a user above the base level of 2.50 lbs/1,000 gallons expressed in pounds per 1,000 gallons.
 - Sc = O & M costs 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 2.50 lbs/1,000 gallons expressed in pounds per 1,000 gallons.
 - Pc = O & M cost for treatment of a unit of any pollutant which the publicly-owned treatment works is committed to treat by virtue of an NPDES permit or other regulatory requirement expressed in dollars per pound.
 - P = Concentration of any pollutant from a user above base level. Base levels for pollutants subject to surcharges will be established by the superintendent.
 - Vu = Volume contribution of a user per billing period. (Expressed in thousands of gallons).

The values of parameters used to determine user charges may vary from time to time. Therefore, the superintendent is authorized to modify any parameter or value as often as necessary. Review of all parameters and values shall be undertaken whenever necessary; but in no case less frequently than annually.

(6) Notification. Each user shall be notified, at least annually, in conjunction with a regular bill, of the rate and that portion of the user charges which are attributable to wastewater treatment services.

(7) Biennial review of operation and maintenance charges. The Town of Newbern shall review not less often than every two (2) years the waste water contribution of users and user classes, the total costs of operation and maintenance of the treatment works and its approved user charge system. The town shall revise the charges for users or user classes to accomplish the following:

- (a) Maintain the proportionate distribution of operation and maintenance costs among users and user classes as required herein;
- (b) Generate sufficient revenue to pay the total operation and maintenance costs necessary to the proper operation and maintenance (including replacement) of the treatment works; and
- (c) Apply excess revenues collected from a class of users to the

costs of operation and maintenance attributable to that class for the next year and adjust the rate accordingly. (Ord. #88-1, March 1988)

CHAPTER 7

CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.¹

SECTION

- 18-701. Definitions.
- 18-702. Standards.
- 18-703. Construction, operation, and supervision.
- 18-704. Inspections required.
- 18-705. Right of entry for inspections.
- 18-706. Correction of existing violations.
- 18-707. Use of protective devices.
- 18-708. Installation criteria.
- 18-709. Unpotable water to be labeled.
- 18-710. Statement required.
- 18-711. Violations.
- 18-712. Grievances and hearings.

18-701. Definitions. The following definitions and terms shall apply in the interpretation and enforcement of this chapter:

(1) "Cross-connection." Any physical arrangement whereby a public water supply is connected, directly or indirectly, with any other water supply system, sewer, drain, conduit, pool, storage reservoir, plumbing fixture, or other waste or liquid of unknown or unsafe quality which may be capable of imparting contamination to the public water system as a result of backflow. Bypass arrangements, jumper connections, removable sections, swivel or changeover devices through which, or because of which, backflow could occur are considered to be cross-connections.

(2) "Public water system." The Newbern Water Department, which furnishes water to the public for general use and which is recognized as the public water system by the Tennessee Department of Environment and Conservation.

(3) "Department." The Newbern Water Department.

(4) "Potable water." Water which meets the criteria of the Tennessee Department of Environment and Conservation and the Environmental Protection Agency for Human Consumption.

(5) "Backflow." The reversal of the intended direction of flow in a piping system.

¹Municipal code references

Plumbing code: title 12.

Water and sewer system administration: title 18.

Wastewater treatment: title 18.

(6) "Backsiphonage." The flow of water or other liquids, mixtures or substances into the potable water system from any source other than its intended source, caused by the reduction of pressure in the potable water system.

(7) "Auxiliary intake." Any water supply, on or available to a premises, other than that directly supplied by the public water system.

(8) "By-pass." Any system of piping or other arrangement whereby water from the public water system can be diverted around a backflow prevention device.

(9) "Air gap." A vertical, physical separation between a water supply and the overflow rim of a non-pressurized receiving vessel. An approved air gap separation must be at least twice the inside diameter of the supply line, but not less than two (2") inches. Where a discharge line serves as receiver, the air gap separation must be at least twice the diameter of the discharge line, but not less than two (2") inches.

(10) "Reduced pressure principle backflow prevention device". An assembly consisting of two independently operating approved check valves with an automatically operating differential relief valve located between the two check valves, tightly closing shut-off valves on each side of the check valves plus properly located test cocks for the testing of the check valves and the relief valve.

(11) "Double check valve assembly." An assembly of two independently operating spring loaded check valves with tightly closing shut-off valves on each side of the check valves, plus properly located test cocks for testing each check valve.

(12) "Double check detector assembly." An assembly of two independently operating spring loaded check valves with a water meter (protected by another check valve or a reduced pressure backflow prevention device, depending upon degree of hazard) connected across the check valves, and with tightly closing shut-off valves on each side of the check valves, plus properly located test cocks for testing each of the assembly.

(13) "Atmospheric vacuum breaker." A device which prevents backsiphonage by creating an atmospheric vent when it is either a negative pressure or subatmospheric pressure in the water system.

(14) "Pressure vacuum breaker." An assembly consisting of a device containing one or two independently operating spring loaded check valves and an independently operating spring loaded air inlet valve located on the discharge side of the check valve(s), with tightly closing shut-off valves on each side of the check valves and properly located test cocks for the testing of the check valves and relief value.

(15) "Approved." The device or method is accepted by the Tennessee Department of Environment and Conservation and the Superintendent as meeting specifications suitable for the intended purpose.

(16) "Superintendent." The Superintendent of the Newbern Water Department or his authorized deputy, agent or representative.

(17) "Fire protection systems." (a) Class 1 shall be those with direct connections from the public water mains only; no pumps, tanks, or reservoirs; no physical connection from other water supplies; no antifreeze or other additives of any kind; all sprinkler drains discharging to the atmosphere, dry wells or other safe outlets.

(b) Class 2 shall be the same as Class 1 except that booster pumps may be installed in the connections from the street mains.

(c) Class 3 shall be those with direct connection from public water supply mains, and having storage tanks filled from the public water system, with the water maintained in potable condition.

(d) Class 4 shall be those with direct connection from the public water mains having an auxiliary water supply dedicated to fire protection and available to the premises.

(e) Class 5 shall be those with direct connection from the public water mains and interconnected with auxiliary supplies, such as pumps taking suction from reservoirs exposed to contamination, or from rivers, ponds, wells, or industrial water systems; or where antifreeze or other additives are used.

(f) Class 6 shall be those with combined industrial and fire protective systems supplied from the public water mains only, with or without gravity storage or pump suction tanks. (1982 Code, § 8-401, as replaced by Ord. #97-4, June 1997)

18-702. Standards. The water department of the City of Newbern is to comply with Sections 68-221-101 through 68-221-109 of the Tennessee Code Annotated, as well as the Rules and Regulations for Public Water Systems, legally adopted in accordance with this code, which pertain to cross-connections, auxiliary intakes, bypasses, and interconnections, and establish an effective on-going program to control these undesirable water uses. (1982 Code, § 8-401, as replaced by Ord. #97-4, June 1997)

18-703. Construction, operation and supervision. It shall be unlawful for any person to cause a cross-connection to be made; or allow one to exist for any purpose whatsoever unless the construction and operation of same have been approved by the Tennessee Department of Environment and Conservation, and the operation of such cross-connection, auxiliary intake, bypass or interconnection is at all times under the direction of the superintendent of the Newbern Water Department.

If, in the judgment of the superintendent or his designated agent, an approved backflow prevention device is required at the public water service connection to the customer's premises to protect the potable water supply, the

superintendent shall complete the installation and maintenance of said device at the owner's expense.

For new installations, the department shall inspect the site and/or review plans in order to determine the type of backflow prevention device, if any, that will be required, and notify the owners in writing of the required device. All required devices must be installed and operable prior to initiation of water service. (1982 Code, § 8-403, as replaced by Ord. #97-4, June 1997)

18-704. Inspections required. The superintendent shall inspect all properties served by the public water supply where cross-connections with the public water supply are deemed possible. The frequency of inspections and reinspection based on potential health hazards involved shall be established by the superintendent in accordance with guidelines acceptable to Tennessee Department of Environment and Conservation. The expense of such inspection shall be borne by the owner or occupant of the property. (1982 Code, § 8-404, as replaced by Ord. #97-4, June 1997)

18-705. Right of entry for inspections. The superintendent or authorized representative shall have the right to enter, at any reasonable time, any property served by a connection to Newbern Water Department for the purpose of inspecting the piping system therein for cross-connections, auxiliary intakes, bypasses, or interconnections, or for the testing of backflow prevention devices. On request, the owner, lessee, or occupant of any property so served shall furnish any pertinent information regarding the piping system on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross-connections. (1982 Code, § 8-405, as replaced by Ord. #97-4, June 1997)

18-706. Correction of existing violations. Any person found to have cross connections, auxiliary intakes, bypasses, or interconnections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with the provisions of this chapter. After a thorough investigation of existing conditions and an appraisal of the time required to complete the work, the amount of time shall be designated by the superintendent, but in no case shall the time for correction exceed 90 days.

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

The failure to correct conditions threatening the safety of the public water system as prohibited by this chapter and the Tennessee Code Annotated, section

68-221-107, within the time limits set by the City of Newbern, shall be grounds for denial of water service. If proper protection has not been provided after a reasonable time, the superintendent shall give the customer legal notification that water service is to be discontinued, and physically separate the public water system from the customer's on-site piping system in such a manner that the two systems cannot again be connected by an unauthorized person. (1982 Code, § 8-406, as replaced by Ord. #97-4, June 1997)

18-707. Use of protective devices. Where the nature of use of the water supplied a premises by the water system is such that it is deemed:

- (1) Impractical to provide an effective air-gap separation;
- (2) The owner and/or occupant of the premises cannot, or is not willing, to demonstrate to the director or his designated representative that the water use and protective features of the plumbing are such as to pose no threat to the safety or potability of the water system;
- (3) The nature and mode of operation within a premises are such that frequent alterations are made to the plumbing;
- (4) The nature of the premises is such that the use of the structure may change to a use wherein backflow prevention is required;
- (5) There is a likelihood that protective measures may be subverted, altered, or disconnected; or
- (6) The plumbing from a private well enters the building served by the public water supply,

the superintendent shall require the use of an approved protective device on the service line serving the premises to assure that any contamination that may originated in the customer's premises is contained therein. The protective device shall be of the type approved by the Tennessee Department of Environment and Conservation and the superintendent as to manufacture, model, size and application. The method of installation of backflow protective devices shall be approved by the superintendent prior to installation and shall comply with the criteria set forth by the Tennessee Department of Environment and Conservation and with the installation criteria set forth in 18-708 below. The installation shall be at the expense of the owner or occupant of the premises.

Applications requiring backflow prevention devices include, but are not limited to, service and/or fire flow connections for most commercial and educational buildings, construction sites, all industrial, institutional, and medical facilities, all fountains, lawn irrigation systems, swimming pools, softeners and other point of use treatment systems, and on all fire hydrant connections other than by the fire department in combating fires.

- (1) Class 1, Class 2, and Class 3 fire protection systems generally shall require a double check detector assembly, except a reduced pressure backflow prevention device shall be required where:

(a) Underground fire sprinkler pipelines are parallel to and within ten feet horizontally of pipelines carrying sewage or significantly toxic wastes;

(b) Premises have unusually complex piping systems;

(c) Pumpers connection to the system have corrosion inhibitors or other chemicals added to the tanks of the fire trucks.

(2) Class 4, Class 5, and Class 6 fire protection systems shall require reduced pressure backflow prevention devices.

(3) Wherever the fire sprinkler system piping is not an acceptable potable water system material, or chemicals such as liquid foam concentrates are used, a reduced pressure backflow prevention device shall be required.

Plumbing for commercial and educational buildings wherein backflow prevention devices are not immediately required shall be designed to accommodate such devices in conformance with standards for such devices, including the required drains.

Additionally, the superintendent may require internal and/or additional backflow prevention devices wherein it is deemed necessary to protect potable water supplies within the premises.

Personnel of the Newbern Water Department shall have the right to inspect and test the device on an annual basis or whenever deemed necessary by the superintendent. The tester shall be certified in accordance with the criteria as set forth by the Tennessee Department of Environment and Conservation. Water service shall not be disrupted to test the device without the knowledge of the occupant of the premises.

Where the use of water is critical to the continuance of normal operations or protection of life, property, or equipment, duplicate units shall be provided to avoid the necessity of discontinuing water service to test or repair the protective device. Where it is found that only one unit has been installed and the continuance of service is critical, the superintendent shall notify, in writing, the occupant of the premises of plans to interrupt water service and arrange for a mutually acceptable time to test or repair the device. In such cases, the superintendent may require the installation of a duplicate unit. The superintendent shall require the occupant of the premises to make all repairs indicated promptly, and to keep any protective device working properly. The expense of such repairs shall be borne by the owner or occupant of the premises. Repairs shall be made by qualified personnel, acceptable to the superintendent. The failure to maintain a backflow prevention device in proper working order shall be grounds for discontinuance of water service to a premises. Likewise the removal, bypassing, or altering of a protective device or the installation thereof so as to render a device ineffective shall constitute grounds for discontinuance of water service. Water service to such premises shall not be restored until the customer has corrected or eliminated such conditions or defects to the satisfaction of the superintendent. (1982 Code, § 8-407, as replaced by Ord. #97-4, June 1997)

18-708. Installation criteria. Minimum acceptable criteria for the installation of reduced pressure zone type backflow prevention devices, double check valve assemblies, pressure vacuum breakers, or other devices requiring regular inspection and testing shall include the following:

(1) All required devices must be installed by a person certified by the Tennessee Department of Environment and Conservation, Division of Drinking Water, or its successor. Evidence of current certification at the time of installation will be required.

(2) All devices shall be installed in accordance with the Tennessee Department of Environment and Conservation instructions, and shall possess all test cocks and fittings required for testing the device. All fittings shall permit direct connection to department test devices.

(3) The entire device including test cocks and valves shall be easily accessible for testing and repair.

(4) Reduced Pressure Backflow Prevention devices shall be located a minimum of twelve (12") inches plus the nominal diameter of the device above the floor surface. Maximum height above the floor surface shall not exceed sixty (60") inches.

(5) Clearance of device from wall surfaces or other obstructions shall be a minimum of six (6") inches.

(6) Devices shall be protected from freezing, vandalism, mechanical abuse, and from any corrosive, sticky, greasy, abrasive, or other damaging environment.

(7) Devices shall be positioned where discharge from relief port will not create undesirable conditions.

(8) An approved airgap shall separate the relief port from any drainage system.

(9) An approved strainer, fitted with a test cock, shall be installed immediately upstream of the backflow device or shut-off valve before strainer.

(10) Devices shall be located in an area free from submergence or flood potential.

(11) A gravity drainage system is required on all installations. Generally, below ground installations will not be permitted. On certain slopes where installations below ground level may be permitted, a single or multiple gravity drain system may be used provided that the single drain line is at least four (4) times the area of the relief port or that the multiple drain lines are at least two and one-half (2 1/2) times the area. (1982 Code, § 8-408, as replaced by Ord. #97-4, June 1997)

18-709. Unpotable water to be labeled. The potable water system made available to premises served by the public water system shall be protected from possible contamination as specified herein. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable

system must be labeled in a conspicuous manner as: WATER UNSAFE FOR DRINKING.

The minimum acceptable sign shall have black letters at least one inch (1") high located on a red background. Color coding of pipelines in accordance with Occupational Safety and Health Act guidelines may be required in locations where, in the judgment of the superintendent, such color coding is necessary to identify and protect the potable water supply. (1982 Code, § 8-409, as replaced by Ord. #97-4, June 1997)

18-710. Statement required. Any person whose premises are supplied with water from the public water supply, and who also has on the same premises a well or other separate source of water supply, or who 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 a statement of the non-existence of unapproved or unauthorized cross-connections, auxiliary intakes, bypasses, or interconnections. Such statement shall also contain an agreement that no cross connection, auxiliary intake, bypass, or interconnection will be permitted upon the premises. (1982 Code, § 8-410, as replaced by Ord. #97-4, June 1997)

18-711. Violations. The requirements contained herein shall apply to all premises served by the City of Newbern Water Department whether located inside or outside the corporate limits and are hereby made a part of the conditions required to be met for the system to provide water services to any premises. Such action, being essential for the protection of the water distribution system against the entrance of contamination which may render the water unsafe for consumption, or otherwise undesirable, shall be enforced rigidly without regard to location of the premises, whether inside or outside the City of Newbern corporate limits.

Any person who neglects or refuses to comply with any of the provisions of this chapter may be deemed guilty of a misdemeanor, and subject to the maximum fine provided for under the City of Newbern Municipal Code. Each day of continued violation after conviction shall constitute a separate offense.

Independent of and in addition to fines and penalties, the superintendent may 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 in violation of this chapter, and service shall not be restored until such cross-connection, auxiliary intake, by-pass or interconnection has been discontinued. (As added by Ord. #97-4, June 1997)

18-712. Grievances and hearings. Any person aggrieved by the action of the superintendent or other personnel of the City of Newbern Water Department in the enforcement of this chapter is entitled to a hearing before the board of

mayor and aldermen. Any hearing or re-hearing brought before the board of mayor and aldermen shall be conducted in accordance with the following:

(1) Upon receipt of a written petition from the alleged violator pursuant to this section, the superintendent shall give the petitioner (10) days written notice of the time and place of the hearing.

(2) The hearing provided may be conducted by the board of mayor and aldermen at a regular or special meeting. A quorum of the board must be present at the regular or special meeting in order to conduct the hearing.

(3) A verbatim record of the proceedings of the hearings shall be made and filed with the board in conjunction with the board's findings of fact and conclusions of law made on the basis of the record. The transcript shall be made available to the petitioner or any party to a hearing upon payment of a charge set by the superintendent to cover preparation fees.

(4) In connection with the hearing, the Mayor or, in his absence, the chairperson of the board shall issue subpoenas in response to any reasonable request by any party to the hearing requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. In the case of refusal to obey a notice of hearing or subpoena issued under this section, the chancery court of Dyer County shall have the jurisdiction upon the application of the Superintendent to issue an order requiring such person to appear and testify or produce evidence as the case may require. Failure to obey such an order of the court is punishable by the court as contempt.

(5) On the basis of the evidence produced at the hearing, the board shall make findings of fact and conclusions of law and enter such decisions and orders as in its opinion will best further the purposes of this chapter and shall give written notice of such decisions and orders to the alleged violator. The order issued under this subsection shall be issued no later than thirty (30) days following the close of the hearing by the person or persons designated by the mayor.

(6) The decision of the Board shall become final and binding on all parties unless appealed to the courts as provided hereinafter.

(7) Any person to whom an emergency order is directed shall comply therewith immediately, but on petition to the Board shall be afforded a hearing as soon as possible, but in no case shall such a hearing be held later than 3 days from the receipt of such a petition by the board.

(8) 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 mayor to rule on such matters as would require a ruling by the court under said rules.

(9) The Superintendent shall first call witnesses, which shall be followed by witnesses called by the other party. Rebuttal witnesses shall be called in the same order. The mayor shall rule on any evidentiary questions

arising during such hearing and shall make other rulings necessary or advisable to facilitate an orderly hearing, subject to approval of the board. The board, the superintendent, 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.

(10) The chairperson shall possess all the authority delegated to the mayor by this section when acting in the mayor's absence or place.

(11) An appeal may be taken from any final order or other final determination of the superintendent or Board by any party who is or may be adversely affected thereby to the Chancery Court pursuant to the common law writ of certiorari set in Tennessee Code Annotated (T.C.A.) 27-8-101, within 60 days from the date such order or determination is made. (As added by Ord. #97-4, June 1997)

CHAPTER 8

FIRE AND FLUSHING HYDRANTS

SECTION

18-801. Adoption of ordinance.

18-802. Terms and provisions.

18-801. Adoption of ordinance. An ordinance relating to the installation, use and classification of fire and flushing hydrants on the municipal water system of the Town of Newbern and on the rural water system of the Town of Newbern shall be and is hereby adopted by the Board of Mayor and Aldermen of the Town of Newbern. (Ord. No. 94-6, § 1, July 1994)

18-802. Terms and provisions. The express terms and provisions of said ordinance shall be: (1) All fire and flushing hydrants at any time installed or located on or upon either of the Town of Newbern's municipal water system or its rural water system shall be classified by the town as either fire hydrants or flushing hydrants. Such classification shall occur as soon as practicable after the installation of each such hydrant. The basis for determination of classification shall be the ability of each such hydrant to produce a flow equal to or greater than 500 gallons per minute at 20 PSI residual pressure. All hydrants which, upon testing, do produce a flow equal to or greater than the aforesaid criteria shall be classified as fire hydrants. All hydrants which, upon testing, do not produce a flow equal to or greater than the aforesaid criteria shall be classified as flushing hydrants.

(2) All hydrants classified as fire hydrants shall be painted the color red or orange or green in accordance with the color standards of the American Water Works Association, to reflect the fire hydrant classification.

(3) All hydrants classified as flushing hydrants shall be painted the color medium blue to reflect the flushing hydrant classification.

(4) Written notice of the classification of hydrants as fire hydrants and flushing hydrants shall be furnished by the town to all organized fire departments within the Town of Newbern or County of Dyer which include within their regular fire service territories, locations served by either of the town's municipal water system or its rural water system. Such notice shall expressly prohibit the connection of any pumper fire truck or similar fire fighting equipment to any hydrant other than a fire hydrant classified in accordance with the terms of this ordinance. (Ord. No. 94-6, § 1, July 1994)