

**TITLE 18**

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

**CHAPTER**

1. WATER.
2. SEWER USE ORDINANCE.
3. SEWER RATES, FEES AND CHARGES.
4. STORMWATER MANAGEMENT.
5. STORMWATER UTILITY ORDINANCE.
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**CHAPTER 1**

**WATER**

**SECTION**

18-101. To be furnished under franchise.

**18-101. To be furnished under franchise.** Water service shall be furnished for the municipality and its inhabitants under such franchise as the governing body shall grant.<sup>2</sup> The rights, powers, duties, and obligations of the municipality, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned.

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<sup>1</sup>Municipal code references

Building, utility and housing codes: title 12.

Refuse disposal: title 17.

<sup>2</sup>The agreements are of record in the office of the city recorder.

## CHAPTER 2

### SEWER USE ORDINANCE

#### SECTION

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**18-201. Definitions.** The following words, terms, and phrases, wherever used in this Ordinance, shall have the meanings respectively ascribed to them in this Section unless the context plainly indicates otherwise or that a more restricted or extended meaning is intended.

(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) "Accidental discharge." Any release of wastewater that, for any unforeseen reason, fails to comply with any prohibition or limitation in this ordinance.

(3) "Approval authority." The director and/or the Division of Water Pollution Control of the Tennessee Department of Environment and Conservation (TDEC) or his designee.

(4) "Authorized representative of a user." An authorized representative of an industrial/commercial user shall be:

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

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

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

(5) "Best Management Practices (BMPs)." Consistent maintenance practices to insure that the grease trap and/or grease interceptor effluent and structure are in compliance with this ordinance. Such practices include, but are not limited to, regular cleanout schedules, posted cleanout procedures, and grease reduction guidelines.

(6) "Biochemical Oxygen Demand (BOD)." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five (5) days at 20° C (68° F) expressed in terms of weight and volume (mg/L).

(7) "Building sewer." The connecting pipe from a building, beginning five (5) feet outside the inner face of the building wall, to a sanitary sewer.

(8) "Bypass." The intentional or unintentional diversion of wastestreams from any portion of a user's facility.

(9) "City." The City of White House, Tennessee.

(10) "City administrator." The City Administrator of the City of White House or his authorized deputy, agent, or representative.

(11) "Commercial user." Any user of the wastewater system who discharges commercial waste, as that term is defined in (12), into the wastewater system.

(12) "Commercial waste." The liquid and waterborne wastes resulting from processes or operations generated by commercial establishments.

(13) "Compatible pollutant." BOD, suspended solids, pH, fecal coliform bacteria, and additional pollutants as are now, or may be in the future, specified and controlled in the city's NPDES permit for its wastewater treatment plant.

(14) "Composite sample." A sample made by combining a number of grab samples collected over a defined period of time. A composite sample may be either a:

(a) Flow proportional composite sample. A sample composed of sample aliquots combined in proportion to the amount of flow occurring at the time of their collection. Such samples may be composed of equal aliquots being collected after equal predetermined volumes of flow pass the sample point or of flow proportional grab sample aliquots being collected at predetermined time intervals so that at least eight (8) aliquots are collected per twenty-four (24) hours; or

(b) Time proportional composite sample. A sample composed of equal sample aliquots taken at equal time intervals of not more than two (2) hours over a defined period of time.

(15) "Connection." The actual physical connection to the public sewer system of all sanitary sewer lines from the building that is to be served on a property. At the time that the physical connection is completed, inspected and approved, billing will begin.

(16) "Control authority." The City of White House, Tennessee.

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

(18) "Delinquent account." Delinquency occurs when a full payment for services that have been provided by the City of White House is not made before the due date. Past due accounts may result in disrupted services until the account balance is paid in full.

(19) "Director." The director of the wastewater system of the city or his duly authorized agent or representative.

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

(21) "Domestic waste." The liquid and waterborn pollutants from the noncommercial preparation, cooking, and handling of food; or containing human excrement and similar matter from the sanitary conveniences of dwellings, commercial establishments, industrial facilities, and institutions.

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

(23) "Flammable." Shall be defined in §§ 18-205(1) and 18-205(2).

(24) "FOG." Fats, oils, grease, and related substances of similar characteristics.

(25) "Food service establishment." A commercial or institutional facility discharging kitchen or food preparation wastewaters, such as restaurants, motels, hotels, cafeterias, delicatessens, meat cutting or preparation facilities, bakeries, hospitals, schools, bars, or any other facility that, in the city's discretion, may require a grease trap or interceptor installation by virtue of its operation.

(26) "Grab sample." A sample that is taken from a wastestream on a one-time basis and collected over a period of time not to exceed fifteen (15) minutes with no regard to the flow in the wastestream and without consideration of time.

(27) "Grease interceptor." A device utilized to effect the separation of grease and oils in wastewater effluent from a food service establishment. An interceptor is a vessel of the outdoor or underground type, normally of one thousand (1,000) gallon capacity or more, constructed of concrete, steel, or fiberglass.

(28) "Grease trap." A device utilized to effect the separation of grease and oils in wastewater effluent from a food service establishment. A trap is an under-the-counter or floor package unit, which is typically less than one hundred (100) gallons, constructed of steel or fiberglass.

(29) "Holding tank waste." Any waste from holding tanks, including by way of example but not limitation, vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trunks.

(30) "Incompatible pollutant." Any pollutant that is not a compatible pollutant, as defined in (13).

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

(32) "Industrial user." Any user of the wastewater system who discharges industrial waste, as that term is defined in (31), into the wastewater system.

(33) "Industrial waste." The liquid and waterborne wastes resulting from processes or operations generated by industrial facilities.

(34) "Infiltration." The water entering sanitary sewers and building sewers from the soil through defective joints, broken or cracked pipe, improper connections, manhole walls, or other defects in sanitary sewers as defined in (51) or building sewers as defined in (7). Infiltration does not include and is distinguished from inflow.

(35) "Inflow." The water discharged into sanitary sewers and building sewers from such sources as downspouts, roof leaders, cellar and yard area drains, commercial and industrial discharges of unpolluted wastewater as defined in (67), drains from springs and swampy areas, etc. It does not include and is distinguished from infiltration.

(36) "Interference." The inhibition or disruption of the city's wastewater treatment processes or operations, or acts or discharges that may cause damage to any portion of the wastewater system or that contribute to a violation of any requirement of the city's NPDES permit. The term includes interference with wastewater sludge use or disposal in accordance with state or federal criteria, guidelines, or regulations, or any state or federal sludge management plan applicable to the method of disposal or use employed by the wastewater system, such as, but not limited to, section 405 of the Act, the Solid Waste Disposal Act (42 U.S.C. 6901, et seq.), and the Clean Air Act.

(37) "May." Permissive.

(38) "Medical waste." Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and other wastes that may cause Interference.

(39) "National Pollutant Discharge Elimination System Permit (NPDES permit)." A permit issued pursuant to section 402 of the Act (33 U.S.C. § 1342) by the state under delegation from EPA.

(40) "Natural outlet." Any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

(41) "New source." Any discharge or proposed discharge of industrial/commercial waste for the first time into the wastewater system or a proposed significant change, as defined in § 18-206(3), in the character or volume of any industrial/commercial waste currently being discharged into the wastewater system.

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

(43) "Non-residential." Non-residential shall mean anything other than except those defined under "residential."

(44) "Normal sewage." A waste having average concentrations of 300 mg/L of BOD or less and 300 mg/L of Total Suspended Solids (TSS) or less as determined by samples taken before entering the wastewater system.

(45) "Pass through." A discharge that exits the wastewater treatment plant into waters of the state in quantities or concentrations that, alone or with discharges from other sources, causes a violation, including an increase in the magnitude or duration of a violation, of the NPDES permit.

(46) "Person." Any individual, firm, company, partnership, corporation, association, group, or society, and includes the State of Tennessee and agencies, districts, commissions, and political subdivisions created by or pursuant to state law. Where used herein, the masculine gender shall include the feminine; the singular shall include the plural where indicated by the context.

(47) "pH." A measure of the acidity or alkalinity of a substance, expressed as standard units, and calculated as the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter (g/L) of solution.

(48) "Pollutant." Any "waste" such as dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

(49) "Pretreatment." The reduction in the amounts of pollutants, the elimination of pollutants, the alteration of the nature of pollutants, or the alteration in the nature of pollutant properties in wastewater to a less harmful state prior to discharging or otherwise introducing such pollutants into the wastewater system.

(50) "Pretreatment standard." Prohibited discharge standards.

(51) "Properly shredded garbage." The organic waste resulting from the preparation, cooking, and dispensing of foods that have been shredded to such degree that all particles will be carried freely under flow conditions normally prevailing in sanitary sewers with no particle being greater than one-half inch (1/2") in any dimension.

(52) "Public sewer." A sewer that is controlled by the city.

(53) "Receiving stream." That body of water, stream, or watercourse receiving the discharge from a wastewater treatment plant.

(54) "Residential." Residential shall include single or multiple family dwelling units up to and including apartment complexes, condominiums, or trailer parks.

(55) "Sanitary sewer." A public sewer controlled by the city that carries liquid and waterborne waste from residences, commercial establishments, industrial facilities, or institutions, together with minor quantities of ground and surface waters that are not intentionally admitted.

(56) "Septage." Liquid and solid waste pumped from a sanitary sewage septic tank or cesspool.

(57) "Sewer." A pipe or conduit for carrying wastewater.

(58) "Sewer System Overflow (SSO)." An unintentional occurrence where wastewater discharges from the wastewater system to the surrounding ground surface or to the waters of the state.

(59) "Shall." Mandatory.

(60) "Significant Industrial User (SIU)." Any industrial user discharging to the sewerage system who:

(a) Has an average daily process wastewater flow of twenty-five thousand (25,000) gallons or more

(b) Has a wastewater discharge that is greater than five percent (5%) of the capacity (i.e., allowable load) of the city's wastewater treatment plant;

(c) Is required to meet a federal categorical pretreatment standard; or

(d) Is found by the city, the approval authority, or EPA to have significant impact, either singly or in combination with other contributing industries, on the wastewater system, the quality of sludge, the system's effluent quality, or air emissions generated by the wastewater system.

(61) "Slug." Any discharge of wastewater for any duration during which the rate of flow or concentration of any constituent increases to such magnitude so as to adversely affect the operation of the wastewater system or the ability of the wastewater treatment plant to meet applicable water quality objectives and NPDES permit compliance.

(62) "Standard methods." The analytical procedures set forth in the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, or "EPA Methods for Chemical Analysis of Water and Wastes." All procedures must conform to 40 CFR Part 136.

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

(64) "Storm sewer or storm drain." A sewer that carries storm and surface waters and drainage, but that excludes wastes.

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

(66) "Strength of waste" The concentration of pollutants or substances contained in a wastewater.

(67) "Total Suspended Solids (TSS)." The total solid matter that either floats on the surface of or is suspended in wastewater and that is removable by laboratory filtration.

(68) "Toxic pollutant." Any pollutant or combination of pollutants listed as toxic in federal or state law or regulations promulgated by EPA or the state.

(69) "Twenty-five percent (25%) rule." All grease traps and grease interceptors shall be cleaned when the accumulation of floatable FOG has reached a depth no greater than twenty-five percent (25%) of the total operating vessel depth.

(70) "Unpolluted wastewater." Wastewater not containing any pollutants limited or prohibited by the effluent standards in effect, or wastewater that will not cause any violation of receiving water quality standards when discharged.

(71) "Upset of pretreatment facilities." An exceptional incident in which there is an unintentional and temporary noncompliance with the effluent limitations of the user's permit because of factors beyond the reasonable control of the user. An upset does not include noncompliance caused by operational error, improper design or inadequate treatment facilities, lack of preventive maintenance, or careless or improper operations.

(72) "User." Any person or facility that discharges, causes, or permits the discharge of wastewater into the wastewater system.

(73) "Waste." Any physical, chemical, biological, radioactive, or thermal material, which may be a solid, liquid, or gas, and that may be discarded from any industrial, municipal, agricultural, commercial, institutional, or domestic activity.

(74) "Wastewater." The liquid and water-carried commercial, industrial, institutional, or domestic wastes from dwellings, commercial establishments, industrial facilities, and institutions together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which is discharged into or permitted to enter the city's wastewater system.

(75) "Wastewater system." All facilities for collecting, pumping, transporting, treating, and disposing of wastewater.

(76) "Wastewater treatment plant." The facilities of the city for treating and disposing of wastewater.

(77) "Waters of the state." All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, that are contained within, flow through, or border upon the state of any portion thereof. (1979 Code, § 8-401, as replaced by Ord. #06-51, Jan. 2007, and amended by Ord. #15-10, June 2015, Ord. #15-22, Oct. 2015, Ord. #16-02, Feb. 2016, Ord. #16-19, Oct. 2016, and Ord. #17-05, April 2017)

**18-202. Use of public sewers required.** (1) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the city or in any area under the jurisdiction of the city, any wastewater, human or animal excrement, garbage, or other objectionable waste.

(2) It shall be unlawful to discharge to any natural outlet within the city, or any area under the jurisdiction of the city, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with the provisions of this ordinance.

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

(4) The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the city and abutting on any street, alley, property, or right-of-way in which there is now located or may in the future be located a public sewer of the City of White House, is hereby required at his expense to install suitable sanitary facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this ordinance, within ninety (90) days after the date of official notice from the city to do so, provided that said public sewer abuts the real property. (1979 Code, § 8-402, as replaced by Ord. #06-51, Jan. 2007)

**18-203. Private wastewater disposal.** (1) Where any residence, office, commercial, industrial, or recreational facility, or other establishment used for human activity is not accessible to a public sewer, the property owner shall provide a private sewage disposal system.

(2) Where the building drain of any residence, office, commercial or recreational facility, or other establishment used for human activity is below the elevation to obtain a one percent (1%) grade in the building sewer, but is otherwise accessible to a public sewer, the property owner shall provide a private sewage pumping station, unless the property is located in an area where the city is providing pumping stations as part of its wastewater system.

(3) A private wastewater disposal system may not be constructed within the city limits unless and until a certificate is obtained from the director stating that a public sewer is not accessible to the property and no such sewer is proposed for construction in the immediate future.

(4) Any private wastewater disposal system must be constructed in accordance with the requirements of the state, the appropriate county health department, and the city and must be inspected and approved by the authorized representative of the appropriate county health department.

(5) The property owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times.

(6) When a public sewer becomes available, the building sewer shall be connected to such public sewer within ninety (90) days of the date of notice from the city to do so, and the private wastewater disposal system shall be abandoned by cleaning the sludge from the tank, cracking or drilling the tank bottom foundation, and filling the tank with suitable compacted material, such as soil or gravel.

(7) Holding tank waste, septage, and any other waste from private wastewater disposal systems within the city shall be discharged into the wastewater system only under the following conditions:

(a) Persons owning or operating vacuum-pump trucks or trucks hauling septage or other liquid waste transport trucks shall not discharge wastewater directly or indirectly from such trucks into the wastewater system unless such persons shall have first applied for and received a permit for such discharge from the city. All applicants for such permit shall complete such forms as required by the city, pay appropriate fees, and agree in writing to abide by the provisions of this ordinance and any special conditions or regulations established by the city. The owners or operators of such vehicles shall affix and display their permit number on the sides of vehicles used for such purposes. Such permit shall be valid for a period of five (5) years from date of issuance, provided that such permit shall be subject to revocation by the city for violation of any provision of this ordinance or reasonable regulation established by the city. Such permit shall be limited to the discharge of wastewater containing waste from private disposal systems. The director shall designate the locations and times where such trucks may discharge, and may refuse to accept any truckload of waste in his absolute discretion where he determines that the waste could cause interference with the effective operation of the wastewater system.

(b) No person shall discharge any other holding tank waste or any other waste, including industrial waste, into the wastewater system unless he shall have applied for and been issued a permit by the city. Unless otherwise allowed under the terms and conditions of the permit, a separate permit must be secured for each separate discharge. The permit shall state the specific location of discharge, the time of day the discharge is to occur, the volume of the discharge, the limitations of wastewater constituents, and characteristics of the permit issued by the city. The discharge of hazardous waste, as defined in section 1004 of RDRA as codified in 40 CFR part 261, into a public sewer or to the headworks of the wastewater treatment plant is prohibited.

(c) Notwithstanding any of the foregoing, no holding tank waste, septage, or any other waste from outside the city shall be discharged directly or indirectly into the wastewater system from vacuum-pump, septage hauling trucks, or other liquid waste transport trucks, provided, however, that the director may, in his absolute discretion, permit the discharge of such waste by agreement and in accordance with §§ 18-203(7)(a) or 18-203(7)(b).

(d) No person shall operate a dumping station for the discharge of Wastewater from recreation vehicles into the wastewater system unless the user of the dumping station shall have first applied for and received a permit from the city. All applicants for such permits shall

complete such forms as required by the city, pay appropriate fees, and agree in writing to abide by the provisions of this ordinance and any special conditions or regulations established by the city. These permits shall be issued only for approved facilities designed to receive wastewater only.

(8) Nothing in this section shall be construed to free waste haulers from additional requirements that may be imposed by other local or state agencies. (1979 Code, § 8-403, as replaced by Ord. #06-51, Jan. 2007)

**18-204. Building sewers and connections.** (1) No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb a public sewer or appurtenances thereof without first obtaining written approval from the director.

(2) The person requesting any action described in § 18-204(1) shall make application on the appropriate form furnished by the city. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the director. An application fee shall be paid by all new applicants, including transferals. The application fee shall be nonrefundable. Applicants for industrial building sewer permits shall provide a description of the constituents of the wastewater and all other information that may be requested by the city.

(3) All residential, commercial, and industrial users to whom a public sewer is accessible shall connect to the sewer as provided in § 18-202(4) following payment of all fees and charges associated with such connection. Residential, commercial, and industrial users will be charged based on the number of individual units to be served, regardless of whether the complex is to be used as apartments, retail shops, duplexes, or multiple businesses. There will be one (1) sewer bill for each individual unit to be served. The user charge for monthly sewer use shall be based on the sewer rate schedule adopted and current as of the date of the connection. In addition, the city shall not be responsible for any cost that a developer may incur in the installation of public sewers.

(4) All costs and expenses incident to the installation and connection of the building sewer shall be borne by the user; provided, that upon a determination by the board of mayor and aldermen that such is in the best interests of the city and where such does not violate the public purpose doctrine, then the city may bear some or all of these costs. The user shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. Connection to public sewers shall be made only by a plumber, contractor, or individual duly licensed and authorized in writing by the director. Such authorization will in no way waive any requirement of this ordinance, nor is such approval by the city to be construed as a guarantee of performance for said plumber, contractor, or individual.

(5) Old building sewers may be used in connection with new buildings only when they are found, on examination by the director, to meet all requirements of this ordinance.

(6) The building sewer may be brought into the building below the basement floor when gravity flow from the building to the public sewer at a grade of one percent (1%) or more is possible. In cases where basement or floor levels are lower than the ground elevation at the point of connection to the public sewer, adequate precautions, by installation of check valves or other backflow prevention devices, to protect against flooding shall be provided by the owner of said building. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, wastewater carried by such building drain shall be pumped to the building sewer as approved by the director at the expense of the owner of the building.

(7) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer that in turn is connected directly or indirectly to a public sewer.

(8) No person shall cover, construct, build, or erect any structure that will interfere with the accessibility, service, or removal of any sewer appurtenance that is maintained by the city. If an obstruction is found upon inspection by city personnel, the responsible party shall be notified immediately that the obstruction is to be removed permanently within a specified time limit as determined by the director. The responsible part includes, but is not restricted to, owner, leaseholder, contractor, developer, and person(s) who are using or causing a discharge into the public sewer. A violation of this subsection shall be punishable by fine, upon conviction as authorized by law, and each day shall constitute a separate offense.

(9) The connection of a building sewer into the public sewer shall conform to the rules, regulations, policies, and standards of the city. All such connections shall be made gas-tight and watertight as verified by proper testing.

(10) The applicant for the building sewer shall notify the director when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the director or his authorized representative.

(11) At least one (1) cleanout shall be provided for each building sewer. The cleanout shall be located as near to the building as possible. Additional cleanouts are recommended at any horizontal change in direction in the building sewer requiring a forty-five degree (45°) or greater bend.

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

(13) Destruction or malice to any city-owned appurtenances, pumps, or lines shall be the responsibility of the owner. A charge for replacement of said equipment and associated labor shall be rendered.

(14) Upon review by the city and director, a service charge may be imposed on any residential, commercial or industrial user for foreign material, such as, but not limited to plastic, cloth, metal, wood, etc., or breakage of the pump station.

(15) A service charge may be imposed if the director determines that abuse or neglect of a wastewater disposal device has occurred by the owner, whether it be the cleaning or repair of a pit or other appurtenance of the city that was taken out of service or abused by the owner of said property.

(16) Upon the inspection of property, if the city finds breakage, abuse, or leakage of service lines from buildings to the city equipment or lines, the city shall give the owner time to correct the problem as determined by the director. If the problem is not corrected within a specified period, the city shall have the right to repair and charge the owner for corrections or discontinue water service. (1979 Code, § 8-404, as amended by Ord. #95-08, June 1995, Ord. #96-08, May 1996, Ord. #98-10, May 1998, Ord. #00-16, June 2000, Ord. #01-08, April 2001, Ord. #02-09, May 2002, Ord. #03-09, July 2003, Ord. #05-36, Nov. 2005, and Ord. #05-40, Dec. 2005, replaced by Ord. #06-51, Jan. 2007, and amended by Ord. #13-09, Nov. 2013)

**18-205. Excluded wastes.** (1) General prohibitions. The following general prohibitions apply to all users of the wastewater system:

(a) All users shall take all reasonable steps to prevent any discharge in violation of the user's permit and this ordinance. Pollutants, substances, wastewater, or other wastes prohibited by this ordinance shall not be processed or stored in such a manner that they could be discharged to the wastewater system.

(b) No user shall increase the use of potable or process water or in any other way attempt to dilute the discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the user's permit.

(c) No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater that causes interference or pass through with the operation or performance of the wastewater system.

(d) All users operating food service establishments may, at the discretion of the director, be required to provide fats, oils, and grease (FOG) interceptors or traps for the proper handling of liquid waste containing FOG or other harmful ingredients. All interceptors or traps shall be of a type and capacity approved by the city, and shall be located so as to be readily and easily accessible for cleaning and inspection. All interceptors or traps shall be supplied and properly maintained for

continuous, satisfactory, and effective operation by the user at his expense.

(e) The discharge of any hazardous material, listed in 40 CFR part 261, is expressly forbidden.

(f) All users shall comply with the general prohibitive discharge standards in 40 CFR part 403.5 (a) and (b) of the federal pretreatment regulations.

(g) No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, cooling water, or unpolluted industrial process waters in any public sewer.

(2) Prohibited wastes. No user shall discharge or deposit any of the following materials, waste materials, waste gases, or liquids into any public sewer forming a part of the city's wastewater system, except where these may constitute occasional, intermittent inclusions in the wastewater discharged from residential premises:

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

(b) Visible floatable fats, oils, or grease (FOG) of animal or vegetable origin in concentrations greater than 50 mg/L or in amounts that, in the discretion of the director, may cause interference or pass through.

(c) Visible floatable petroleum oil, cutting oil, or products of mineral origin in amounts that, in the discretion of the director, may cause interference or pass through.

(d) Substances that will solidify or become viscous at temperatures between 0° C (32° F) and 60° C (140° F).

(e) Any garbage that has not been properly shredded so that no particles are any greater than one-half (½) inch in any dimension.

(f) Any waste capable of causing abnormal corrosion, abnormal deterioration, damage, or hazard to structures or equipment of the wastewater system or to humans or animals, or cause interference with proper operation of the wastewater treatment plant. All waste discharged to the wastewater system must have a pH value in the range of six (6) to ten (10) standard pH units. Prohibited materials include, but are not limited to, concentrated acids and alkalis; high concentrations of compounds of sulfur, chlorine, and fluorine; and substances that may react with water to form strongly acidic or basic products.

(g) Any waste having a color that is not removable by the existing wastewater treatment processes and that would cause the plant

effluent to exceed color requirements of the State of Tennessee for discharge to the receiving stream, if applicable.

(3) Specific prohibited wastes. No user shall discharge or deposit any of the following materials, waste materials, waste gases, or liquids into any public sewer forming part of the city wastewater system.

(a) Pollutants that create a fire or explosive hazard, including, but not limited to, wastestreams with a closed cup flashpoint of less than 60° C (140° F) using the test methods specified in 40 CFR 261.21.

(b) Any liquids, solids, or gases that by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any way to the wastewater system or to the operation of the wastewater system. At no time shall two (2) successive readings (15 to 30 minutes between readings) on an explosion hazard meter at the point of discharge into the wastewater system be more than five percent (5%), nor any single reading over ten percent (10%), of the Lower Explosive Limit (LEL) of the meter. Prohibited materials covered by this subsection include, but are not limited to, gasoline, kerosene, naphtha, benzene, fuel oil, motor oil, mineral spirits, commercial solvents, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, and hydrides.

(c) Any trucked or hauled pollutants, except at discharge point(s) designated by the director in accordance with § 18-203.

(d) Any solid or viscous substances in quantity or character capable of causing obstruction to flow in public sewers, interference with proper operation of the city's wastewater system, or risks to the health and safety of the city's personnel. Prohibited materials covered by this subsection include, but are not limited to, eggshells from egg processors, ashes, cinders, ceramic waste, stone or marble dust, sand, mud, straw, shavings, grass clippings, thread, glass, glass grinding or polishing wastes, rags, metal, feathers, bones, tar, plastics, wood, paunch manure, insulation materials, fibers of any kind, stock or poultry feeds, processed grains, spent hops, animal tissues, hair, hides, or fleshings, entrails, whole blood, viscera or other fleshy particles from processing or packing plants, lime or similar sludges, and residues from refining or processing of fuel or lubricating oils.

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

(f) Any pollutants that result in the presence of toxic gases, vapors, or fumes within the wastewater system in a quantity that may cause worker health and safety problems.

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

(h) Any wastewater containing pollutants, including oxygen demanding pollutants (BOD, etc.), in sufficient quantity, flow, or concentration (either singly or by interaction with other pollutants) to cause interference with the wastewater treatment plant.

(i) Any substance that will cause the sewerage system to violate its NPDES Permit or water quality standards of the receiving stream.

(j) Any waste that, by interaction with other waste in the wastewater system, may release obnoxious gases, form suspended solids that cause interference with operation of the public sewer, or create conditions deleterious to structures and wastewater treatment processes.

(k) Any form of inflow as defined by § 18-201(33), including stormwater.

(l) Infiltration determined to be excessive by the director.

(m) Any unpolluted wastewater as defined by § 18-201(66), except as specifically permitted by the director.

(4) Specific pollutant limitations. No user shall discharge into any public sewer forming part of the city wastewater system any of the following materials in concentrations exceeding the limits stated below:

(a) Any wastes that contain more than ten (10) mg/L of hydrogen sulfide, sulfur dioxide, or nitrous oxide.

(b) Any toxic or poisonous substance or any other materials in sufficient quantity to cause interference with the operation of the city's wastewater treatment plant, to constitute a hazard to humans or animals, or to cause a violation of the water quality standards or effluent standards for the watercourse receiving the effluent from the wastewater treatment plant, or to exceed limitations established by the director or set forth in applicable pretreatment standards as referenced in the code of federal regulations 40 CFR 403.

(c) Any waste containing suspended solids of such character and quantity that unusual provisions, attention, or expense is required to handle such materials at the city's wastewater treatment plant.

(d) Any waste containing quantities of radium or naturally occurring or artificially produced radioisotopes in excess of presently existing or subsequently accepted limits for drinking water as established by current drinking water regulations promulgated by EPA.

(e) No person shall discharge wastewater containing concentrations of the constituents listed below in excess of the upper limits listed below.

(i) No person with a permit to discharge industrial/commercial waste shall discharge in excess of the following limits unless such discharge is specifically authorized in a duly issued permit to discharge industrial/commercial waste. If more stringent standards are established in a city permit to discharge industrial/commercial waste or have been promulgated by the state or EPA in applicable categorical pretreatment standards, those standards shall supersede the following standards.

Protection Criteria		
	Monthly Average	Daily Maximum
Parameter	mg/L*	mg/L*
Chromium, hexavalent	1.0	70
Chromium, trivalent	N/A	2200
Nickel	56	1100
Cyanide	3.5	52
Zinc	47	180
Cadmium	0.012	1.5
Copper	20	30
Iron	1500	3000
Antimony	1600	9000
Arsenic	40	440
Lead	0.75	74
Mercury	0.02	4.1
Selenium	35	260
Silver	0.6	1.2
Phenols	N/A	300
*Milligram/Liter		

These limits are established to comply with published thresholds or ranges for inhibitory effects on the unit operations of the treatment plant. Limits on the concentrations of other metallic constituents and/or toxic substances that may have a detrimental effect on the wastewater treatment plant may be established by the director and/or the state, unless the prospective discharger can prove to the aforementioned parties that such substances are amenable to treatment at the treatment plant. The concentrations listed for the specific pollutants in this paragraph are daily average maximum concentrations in mg/L based on twenty-four (24) hour flow proportional composite samples. The city shall monitor the wastewater treatment plant for each parameter in the above table. In the event that the influent of the wastewater treatment plant reaches or exceeds the level established by this table, the director shall initiate technical studies to determine the cause of the violation and shall recommend to the city the necessary legal measures, including, but not limited to, recommending the establishment of new or revised pretreatment levels.

(ii) Unless specifically authorized by a permit to discharge industrial/commercial waste, no person shall discharge wastewater continuing concentrations of the constituents listed in § 18-205(4)(e) in excess of levels currently established for wastewater in the city. Such concentration levels shall be established by the director.

(f) The admission into the wastewater system of any waste having a Biochemical Oxygen Demand (BOD) in excess of three hundred (300) mg/L on a twenty-four (24) hour composite basis or any single grab sample having a BOD concentration in excess of one thousand three hundred (1,300) mg/L may be subject to review by the director. Where necessary, in the discretion of the director, the user shall provide and operate, at his own expense, such pretreatment facilities as may be required to reduce the BOD to meet requirements specified by the director.

(g) The admission into the wastewater system of any waste having a Total Suspended Solids (TSS) concentration in excess of three hundred (300) mg/L on a twenty-four (24) hour composite basis or for any single grab sample having a TSS concentration in excess of one thousand three hundred (1,300) mg/L will be subject to review by the director. Where necessary, in the discretion of the director, the user shall provide and operate, at his own expense, such pretreatment facilities as may be required to reduce the TSS content to meet requirements specified by the director.

(h) The admission into the wastewater system of any waste having a total oil and grease (combined polar and non-polar) content in excess of one hundred twenty-five (125) mg/L. If the wastestream is of mineral hydrocarbons (non-polar), the content shall not exceed one hundred (100) mg/L. If the wastestream is of biological lipids (polar), the content shall not exceed one hundred fifty (150) mg/L. Where necessary, in the discretion of the director, the user shall provide and operate, at his own expense, such pretreatment facilities as may be required to reduce the oil and grease (polar and non-polar) content to meet requirements specified by the director.

(i) The admission into the wastewater system of any waste in volumes or with constituents such that existing conditions in the public sewer or at the city's wastewater treatment plant would be affected to the detriment of the wastewater system will be subject to review by the director. Where necessary, in the discretion of the director, pretreatment or equalizing units may be required to bring constituents or volumes of flow within the limits previously prescribed or to an otherwise acceptable level and to hold or equalize flows so that no peak flow conditions may hamper the operation of any unit of the wastewater system. Said equalization or holding unit shall have a capacity suitable to serve its intended purpose and be equipped with acceptable outlet control facilities to provide flexibility in operation and accommodate changing conditions in the waste flow.

(j) In any federal categorical pretreatment standards are more stringent than limitations imposed by this ordinance, the federal categorical pretreatment standards shall immediately supersede the limitations imposed under this ordinance. All affected users shall notify the director of the applicable reporting and monitoring requirements imposed by the federal standards within thirty (30) days of passage.

(k) State requirements and limitations shall apply in any case where they are more stringent than federal requirements and limitations or those of this ordinance.

(l) The city reserves the right to establish more stringent limitations or requirements on discharges to the wastewater system.

(5) Standards and requirements for food service establishments. Food service establishments, as defined in § 18-201(23), shall provide means of preventing grease and oil discharges to the wastewater system. Where a grease and oil interceptor currently exists or is required by the city, it shall be maintained for continuous, satisfactory, and effective operation by the owner, leaseholder, or operator at his expense. Grease and oil interceptors shall be of a type and capacity approved by the city and shall be located as to be readily accessible for cleaning and inspection.

(a) All food service establishments shall have grease-handling facilities approved by the city. Establishments whose grease-handling

facilities or methods are not adequately maintained to prevent fats, oils, or grease (FOG) from entering the wastewater system shall be notified in writing by the director of any noncompliance and required to provide a schedule whereby corrections will be accomplished.

(b) All food service establishments' grease-handling facilities shall be subject to review, evaluation, and inspection by the city's representatives during normal working hours. Results of inspections will be made available to the owner or operator. The city may make recommendations for correction and improvement.

(c) Each facility will be issued a grease interceptor/trap maintenance log upon initial inspection. Failure to maintain a log shall constitute a violation of this ordinance.

(d) Food service establishments receiving two (2) consecutive unsatisfactory evaluations or inspections shall be subject to penalties or other corrective actions as provided for in this ordinance. Two (2) consecutive satisfactory inspections need to be conducted to bring the facility into compliance.

(e) Food service establishments that continue to violate the city's grease standards and requirements shall be subject to additional enforcement action, including termination of service.

(f) Food service establishments whose operations cause or allow excessive FOG to discharge or accumulate in the city's collection system shall be liable to the city for costs related to city service calls for line blockages, line cleanings, line and pump repairs, etc., including all labor, materials, and equipment. If the blockage results in a Sewer System Overflow (SSO), and the city is penalized for the SSO, the penalty shall be passed along to the food service establishment.

(g) Regularly scheduled maintenance of grease-handling facilities is required to insure adequate operation. In maintaining the grease interceptors and/or grease traps, the owner, leaseholder, or operator shall be responsible for the proper removal and disposal of grease by appropriate means and shall maintain an on-site record of dates and means of disposal.

(h) All grease traps and/or grease interceptors shall be cleaned based on the twenty-five percent (25%) rule or when the discharge exceeds 50 mg/L.

For example: If the total depth (TD) of the grease interceptor (GI) is forty (40) inches, the maximum allowable depth (d) of floatable grease equals forty (40) inches multiplied by 0.25 or  $d=TD \times 0.25=10$  inches. Therefore, the maximum allowable depth of floatable grease of the vessel should not exceed ten (10) inches.

(i) The exclusive use of enzymes, grease solvents, emulsifiers, etc., is not considered acceptable grease trap maintenance practice.

(j) Any food service establishment whose effluent discharge to the wastewater system is determined by the city to cause interference in the conveyance or operation of the wastewater system shall be required to sample the grease interceptor and/or grease trap discharge and have it analyzed for FOG at the expense of the owner, leaseholder, or operator. The city shall approve the sampling plan and shall witness the taking of the samples. The analyses shall be performed by a certified laboratory and the report of such analyses shall be provided to the city.

(k) All grease interceptors and/or grease traps shall be designed and installed to allow for complete access for inspection and maintenance of the inner chamber(s) and viewing and sampling of effluent wastewater discharged to the public sewer. These chambers shall not be visually obscured with soil, mulch, floorings, or pavement of any material.

(l) Food service establishments shall adopt Best Management Practices (BMPs) for handling sources of floatable FOG originating within their facility. A notice shall be permanently posted at a prominent place in the facility advising employees of the BMPs to be followed. The city may render advice regarding the minimization of waste.

(m) Food service establishments shall develop and implement a waste minimization plan pertaining to the disposal of FOG and food particles. The city may render advice or make suggestions regarding the minimization of waste.

(6) Construction standards for new food service establishments. All new food service establishments shall be required to install an outdoor grease interceptor, the design and location of which must be approved in writing by the city prior to installation.

(a) Grease interceptors shall be adequately sized, with no interceptor less than one thousand (1,000) gallons total capacity unless otherwise approved by the city.

(b) The inlet chamber of the vessel will incorporate a PVC open sanitary tee that extends equal to or greater than twelve (12) inches below the water surface. The outlet chamber of the vessel will incorporate a PVC open sanitary tee that extends two-thirds (2/3) below the water surface. The sanitary tees (both inlet and outlet) will not be capped, but opened for visual inspection of the waste stream.

(c) All grease interceptors, whether singular or two (2) tanks in series, must have each chamber directly accessible from the surface to provide means for servicing and maintaining the interceptor in working and operating condition.

(d) All pot and pan wash, pre-rinse sinks, and scullery and floor drains will connect and discharge to the grease interceptor.

(e) Where automatic dishwashers are not installed, the discharge from those units will discharge directly into the building

drainage system without passing through a grease trap, unless otherwise directed by the city.

(f) Where automatic dishwashers are installed, the discharge from those units will discharge directly into the grease interceptor, before entering the building drainage system.

(g) The pre-rinse sink of the automatic dishwasher will discharge directly into the grease interceptor and/or grease traps.

(h) Where food waste grinders are installed, the waste from those units shall discharge directly into the building drainage system without passing through grease interceptor and/or grease traps.

(i) The grease trap is to be installed at least fifteen (15) feet from the last drainage fixture, except as may be approved by the director.

(j) The grease interceptor is installed at least nine (9) feet from the exterior wall, except as may be approved by the director.

(k) The grease interceptor is not to be installed within a drive-thru pick-up area, underneath menu boards, or in the vicinity of menu boards.

(l) A grease trap may be installed in lieu of a grease interceptor, at the discretion of the city. This determination will be based on engineering concepts that dictate the grease interceptor installation is not feasible. The design and location of the grease trap must be approved in writing prior to installation by the city.

(m) The gallonage capacity of a grease trap shall be equal to or greater than double the gallonage capacity of all drainage fixtures discharging to the grease trap. These fixtures and other potentially grease-containing drains connecting to the grease trap will be determined and approved by the city prior to installation.

(n) No new food service establishments will be allowed to initiate operations until all grease-handling facilities are approved, installed, and inspected by the city.

(o) A basket, screen, or other intercepting device shall prevent passage into the drainage system of solids one-half ( $\frac{1}{2}$ ) inch or larger in size. The basket or device shall be removable for cleaning purposes.

(7) Construction standards for existing food service establishments. All existing food service establishments shall have grease-handling facilities. Food service establishments without any grease-handling facilities will be given a compliance schedule to have grease-handling equipment installed. Failure to do so will be considered a violation of this ordinance and shall subject the establishment to penalties and/or corrective actions.

(a) In the event that an existing food service establishment's greasehandling facilities are either under-designed or substandard in accordance with this ordinance, the owner(s) will be notified in writing of the deficiencies and required improvements and given a compliance schedule.

(b) For cases in which outdoor grease interceptors are infeasible to install, existing food service establishments will be required to install approved under-the-counter grease traps.

(c) Factory-installed flow control fittings must be provided to the inlet side of all under-the-counter grease traps to prevent overloading of the grease trap and to allow for proper operation.

(d) City approval of grease trap design will be obtained prior to installation.

(e) The location of under-the-counter units must be determined and approved by the city prior to installation.

(f) Wastewater from garbage grinders should not be discharged to grease interceptors.

(g) Wastewater from automatic dishwashers should be discharged to grease interceptors.

(h) Wastewater from the pre-rinse sink of the automatic dishwasher shall discharge directly into grease interceptors.

(i) In maintaining grease interceptors, the owner(s) shall be responsible for the proper removal and disposal of captured material and shall maintain records of the dates and means of disposal.

(j) The exclusive use of enzymes, grease solvents, emulsifiers, etc., is not considered acceptable grease trap maintenance practice. All grease interceptors must be cleaned based on the twenty-five percent (25%) rule. (1979 Code, § 8-405, as replaced by Ord. #06-51, Jan. 2007)

**18-206. Industrial/commercial wastewater discharge permits.**

(1) Unauthorized connections to sewerage system. No person(s) shall uncover, make any connections with or opening into, use, alter, or disturb the wastewater system without first obtaining written approval from the city.

(2) Permits to discharge industrial/commercial waste for new sources. Any person who proposes to originate the discharge of any industrial waste or commercial waste for the first time into the wastewater system or who proposes to make a significant change in the character or volume of any industrial waste or commercial waste theretofore discharged into the wastewater system:

(a) Shall apply to the city for a permit to discharge industrial/commercial waste on a form furnished by the city a minimum of one hundred eighty (180) days prior to the proposed date to originate this discharge into the city wastewater system;

(b) Shall supplement the application, signed by the authorized representative as specified in § 18-201(4), with any information that may have been furnished by the applicant to any other governmental agency and any other plans or data as the director may require for purposes of determining whether conditions are met as specified in § 18-206(6); and

(c) Shall not discharge into the wastewater system until a permit to discharge industrial/commercial waste has been issued by the city for the proposed new source.

(3) Significant changes in waste discharge. A significant change in the character or volume of waste, for purposes of § 18-206(2), shall be deemed to be proposed if:

(a) Substances, compounds, and elements not previously constituting any part of a user's waste are to be introduced into such waste;

(b) If the average concentration of any substance, compound, or element in the waste or average volume proposed to be discharged will increase by twenty-five percent (25%) or more over that for which the permit had been issued;

(c) If the change in character or volume of the waste will change the user's classification from industrial user to significant industrial user as defined in § 18-201(56).

(4) Permits to discharge industrial/commercial waste for existing industrial users. Any user, who is operating within the city and is classified an industrial user or commercial user, within the meaning of §§ 18-201(12) or 18-201(31), may continue such discharge until notified by the director in writing that a permit will be required and until an application has been submitted to and denied by the director in accordance with the following provisions:

(a) The director shall issue written notices to existing industrial/commercial users specifying in each such notice the time within which an existing industrial/commercial users shall file an application for a permit.

(b) Within the time limit specified in § 18-206(4)(a), the existing industrial/commercial user shall file the required application, signed by the authorized representative as specified in § 18-201(4), together with any other information as described in § 18-206(6). Failure to file within the specified time shall constitute an unauthorized use of the wastewater system. The director, within one hundred eighty (180) days, must deny the required application or issue a draft of the proposed permit.

(c) The existing industrial/commercial user shall have thirty (30) days in which to comment on the draft permit after which the permit will be issued or denied.

(d) An existing industrial/commercial user may continue to discharge, only after complying with the requirement to file an application for a permit, unless and until receipt by the applicant of a written notice specifying the reasons for denial of a permit and specifying what remedial action, if any, must be taken to qualify the applicant for a permit.

(e) In the event that the applicant is denied a permit or feels that the conditions of a permit are unacceptable, the applicant shall have

the right to contest the denial or the conditions of the permit in accordance with the provisions of § 18-215(3).

(5) Discharge prohibited where permits denied. In any case where a final determination has been made denying a permit, it shall be unlawful for any person so denied a permit to discharge industrial/commercial waste into the wastewater system.

(6) Conditions for issuing or renewing permits. A permit to discharge industrial/commercial waste will be issued or renewed by the city only when it has been determined that:

(a) Wastewater capacity is available at the proposed point of discharge for receiving the industrial/commercial waste;

(b) The waste being discharged, or proposed to be discharged, is amenable to treatment by the processes employed in the city's wastewater treatment plant and will not impair the ability of the city to comply with the water quality standards and effluent limitations established by the state and federal regulatory agencies;

(c) The waste being discharged or proposed to be discharged will not cause damage to the wastewater system or create a public nuisance or threaten public health;

(d) The concentrations of substances, compounds, and elements in the waste being discharged or proposed to be discharged do not exceed the limits established by the city or state or federal authorities; and

(e) Where the wastewater contains or may contain any substances, compounds, or elements controlled or limited by this ordinance, an adequate program of self-monitoring of flow and wastewater characteristics will be established and maintained by the user affected by this ordinance to assure that the discharge meets the requirements of this ordinance and any permit conditions. The frequency and nature of the analyses shall be commensurate with the nature and volume of the waste discharged, and shall be as specified in the permit to discharge industrial/commercial waste.

(7) Permits for industries subject to national categorical pretreatment standards. Any user subject to a newly promulgated national categorical pretreatment standard shall reapply for a permit to discharge industrial waste within one hundred eighty (180) days after the effective date of the applicable national categorical pretreatment standard. Permits to discharge industrial waste of users subject to such standards shall be issued or reissued in compliance with such standards within the time frames prescribed by such standards.

(8) Permit provisions. A permit to discharge industrial/commercial waste shall be expressly subject to all provisions of this ordinance. Permits may contain the following:

(a) Limits on average and maximum wastewater constituents and characteristics. The director may impose mass limitations on users

who are using dilution to meet applicable pretreatment standards, as defined in § 18-201(48), or requirements or in other cases where the composition or mass limitations are appropriate;

(b) Limits on average and maximum rates and time of discharge or requirements for flow regulation and equalization;

(c) Requirements for installing and maintaining inspection and sampling facilities;

(d) Specifications for monitoring programs that may include sampling locations, frequency of sampling, number, types, and standards for tests and reporting schedules;

(e) Compliance schedules;

(f) Requirements for submitting technical reports or discharge reports to the director pursuant to § 18-211;

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

(h) Requirements for notifying the city of any new introduction of wastewater constituents or any significant change in the volume or character of the wastewater constituents being introduced into the wastewater system;

(i) Requirements for notifying the city of accidental discharges and slug discharges pursuant to §§ 18-207 and 18-208; and

(j) Other conditions as deemed appropriate by the city to ensure compliance with this ordinance and applicable law and regulations.

(9) Permit conditions and duration. A permit to discharge industrial/commercial waste shall be issued as follows:

(a) An application for permit to discharge industrial/commercial waste and all reports or information submitted pursuant to the requirements of such permit must be signed and certified by an authorized representative of the user.

(b) A permit to discharge industrial/commercial waste for an industrial/commercial user, not classified as a Significant Industrial User (SIU) in accordance with § 18-201(56), shall remain in effect for a specified time period, not to exceed five (5) years.

(c) A permit to discharge industrial/commercial waste for an SIU shall be issued for a specified time period, not to exceed five (5) years. The user shall apply for a permit re-issuance a minimum of one hundred eighty days (180) prior to the expiration of the user's existing permit.

(d) The terms and conditions of a permit may be modified by the city during the term of the permit. A user shall be informed of any modifications in his permit at least thirty (30) days prior to the effective dates of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(e) A permit to discharge industrial/commercial waste does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations.

(f) The provisions of a permit to discharge industrial/commercial waste are severable, and, if any provision of such permit or the application of any provision of such permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of such permit shall not be affected thereby.

(10) Permit transfers. A permit to discharge industrial/commercial waste is issued to a specified user for a specific operation. A permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the written approval of the city. Any succeeding owner or user shall also agree in writing to comply with the terms and conditions of the existing permit. (1979 Code, § 8-406, as replaced by Ord. #06-51, Jan. 2007)

**18-207. Pretreatment.** (1) Responsibility for pretreatment. Each user shall provide wastewater treatment as necessary to comply with this ordinance and wastewater permits issued under § 18-206 and shall achieve compliance with all national categorical pretreatment standards, local limits, and the prohibitions set out in § 18-204 within time limitations as specified by EPA, the state, or the director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense.

(2) Authorization to construct. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the director for review and shall be approved by the director before construction of the facility.

(a) Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the director prior to the user's initiation of the changes.

(b) The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent discharge acceptable to the director under the provisions of this ordinance.

(3) Maintenance of pretreatment facilities. If pretreatment or control of industrial/commercial wastewater is required, such pretreatment or control facilities shall be constructed and maintained in good working order and properly operated as efficiently as possible by the owner or user at his cost and expense, subject to the requirements of this ordinance and all other applicable codes, ordinances, regulations, and laws.

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

(a) The director may require any person discharging into the wastewater system to install and maintain, on their property and at their expense, a suitable storage and flow control facility to ensure equalization of flow. An industrial/commercial wastewater discharge permit may be issued solely for flow equalization.

(b) Grease, oil, and sand interceptors shall be provided when, in the discretion of the director, they are necessary for the proper handling of wastewater containing excessive amounts of grease, oil, or sand, except that such interceptors shall not be required for residential users. All interceptors or traps shall be of a type and capacity approved by the director and shall be so located as to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense.

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

(5) Pretreatment for accidental discharge. To provide protection from accidental discharges as defined in § 18-201(2):

(a) Pollutants, substances, wastewater, or waste prohibited by this ordinance shall not be stored in such a manner that they could be discharged to the wastewater system.

(b) Each industrial/commercial user shall provide protection from accidental discharge of prohibited materials or other waste regulated by this ordinance. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner's or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection may be required to be submitted to the director upon request for review and approval. Review and approval of such plans and operating procedures shall not relieve the user of the responsibility to modify his facility as necessary to meet the requirements of this ordinance.

(c) If, after taking action as provided in § 18-207(5)(a), an industrial/commercial user fails to comply with any prohibition or limitation in this ordinance, the user responsible for such accidental discharge shall immediately notify the director so that any feasible corrective action may be taken to protect the wastewater system or to

minimize adverse effects thereon. In addition, a written report, addressed to the director, shall be filed by an authorized representative of the user within five (5) days of the occurrence of the accidental discharge detailing the date, time, and cause of the accidental discharge, the quantity and characteristics of the accidental discharge, and corrective action taken to prevent future accidental discharges.

(d) A notice shall be permanently posted at a prominent place in the facility for which the permit has been issued advising employees whom to call in the event of an accidental discharge. Users shall ensure that all employees who observe or who may cause or suffer such an accidental discharge to occur are advised of the emergency notification procedure. (1979 Code, § 8-407, as replaced by Ord. #06-51, Jan. 2007)

**18-208. Flow and concentration control.** (1) Discharge of slugs prohibited. No user shall discharge into the city wastewater system any waste or wastewater that constitutes a slug as defined in § 18-201(57).

(2) Control of discharge rates. Any user now discharging or proposing to discharge waste that may include slugs may be required to provide facilities or adopt procedures for regulating, controlling, or equalizing the concentrations of any constituents or the rate of waste discharge.

(3) Spill control response plan/slug discharge plan. The city shall periodically evaluate whether each industrial/commercial user needs a spill control response plan or a discharge slug plan. The city may require any user to develop, submit for approval, and implement such a plan. Each plan shall address, at a minimum, the following:

- (a) Description of discharge practices, including non-routine batch discharges;
- (b) Description of stored chemicals;
- (c) Procedures for immediately notifying the city of any accidental discharge or slug discharge, as required by § 18-207(5)(c); and
- (d) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response. (1979 Code, § 8-408, as replaced by Ord. #06-51, Jan. 2007)

**18-209. Measurement of flow.** (1) Determination of wastewater volumes. The volume or quantity of waste discharged by any user into the city's wastewater system may be measured by one (1) of more of the following methods:

(a) If the volume of water used by any user in industrial, commercial, or process operations is substantially the same as the volume secured from the public water system, then the volume of water purchased shall be considered to be the volume of waste discharged.

(b) If a substantial portion of the water secured from the public water system is not used in a user's facility or is not returned to the wastewater system, the quantity of waste shall be determined by one (1) or more of the following methods:

(i) By a flow meter(s) on the water supply line(s) to a process operation(s) or use;

(ii) By a flow meter(s) on the waste line(s) from an operation(s); or

(iii) If flow meters, as required under §§ 18-209(1)(b)(i) and 18-209(1)(b)(ii) above, shall not have been installed, the volume of water purchased shall be considered to be the volume of waste discharged unless the city approves an alternate method of determining the amount of water discharged into the wastewater system.

(c) If any user now discharging or proposing to discharge waste into the wastewater system does not secure the entire water supply from the public water system, such user shall install and maintain a flow meter(s) on the waste line(s) from process operations or shall install such additional flow meters on the private water supply as required to permit determination of the total quantity discharged to the wastewater system from all sources under procedures comparable to §§ 18-209(1)(a) or 18-209(1)(b) above.

(2) Provision, calibration, and certification of flow meters. If flow meter(s) are installed to fulfill requirements of §§ 18-209(1)(b) or 18-209(1)(c) above:

(a) Such flow meter(s) shall be installed at user expense;

(b) Such flow meter(s) shall be calibrated by the supplier at the time of installation and thereafter at the discretion of the director;

(c) Such flow meter(s) are to be of the non-resettable style;

(d) Such flow meter(s) shall be calibrated by the supplier at the time of installation and thereafter at the discretion of the director;

(e) Annual certification of calibration shall be provided to the director within fifteen (15) days of each calibration for flow meters; and

(f) The director, at his discretion, may require calibration by an independent testing laboratory. If the meter is found to be in calibration, the city will pay for testing service. However, if the meter is found to be out of calibration, the user shall be required to pay for testing service.

(3) Identification of all flows required. All sources of water supply and all discharges of wastewater into the wastewater system must be identified in accordance with the provisions of § 18-209(1). Any omissions shall be considered

as unauthorized use of the city wastewater system. (1979 Code, § 8-409, as replaced by Ord. #06-51, Jan. 2007)

**18-210. Monitoring facilities.** (1) General requirements for monitoring facilities. Any user who is discharging or proposes to discharge waste into the city wastewater system may be required to provide, operate, and maintain at the user's expense monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and internal drainage systems. These industrial/commercial monitoring facilities shall be as specified in the user's permit to discharge waste. The monitoring facilities should normally be situated on the user's premises, but the city may, when such a location would be impractical or cause undue hardship on the user, allow the facilities to be constructed in a public street or sidewalk area and located so that they will not be obstructed.

(2) Maintenance of monitoring facilities. There shall be ample room in or near such monitoring facilities to allow accurate sampling and preparation of samples for analysis. The monitoring facilities shall be maintained at all times in a safe, accurate, and proper operating condition at the expense of the user.

(3) Continuous recording and sampling equipment. When deemed necessary by the director, continuous recording and sampling equipment shall be installed and maintained.

(4) Construction periods. Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with city requirements and all applicable local construction standards and specifications. Construction of said facilities shall be completed within ninety (90) days following written notification by the city. Additional construction time may be granted at the discretion of the director.

(5) Additional facilities for present users. The director shall review monitoring facilities of present users and may require additional monitoring facilities as required for compliance with §§ 18-210(1), 18-210(2), and 18210(3) above.

(6) Monitoring facilities for new users. New users may be required to provide monitoring facilities as specified in their permits to discharge industrial/commercial waste prior to start up. (1979 Code, § 8-410, as replaced by Ord. #06-51, Jan. 2007)

**18-211. Inspections, monitoring, reporting, and records.**

(1) Periodic inspections. The waste and other pollutants being discharged into the city wastewater system by users shall be subject to periodic inspection, sampling, records examination, and copying. Determinations of character and strengths of said waste may be made annually or more often as may be deemed necessary by the director or his authorized representatives and as indicated in the user's permit to discharge industrial/commercial waste to

ascertain whether the purposes of this ordinance are being met, to determine whether all requirements are being complied with, and to determine strength of waste.

(2) Reporting requirements for applicable categorical standards. Pretreatment standards, as defined in § 18-201(46), are as follows:

(a) Baseline monitoring reports: within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the city wastewater system shall submit to the director a report that contains the information listed in § 18-211 (2)(b) below. At least ninety (90) days prior to commencement of their discharge, new sources, as defined in § 18-201(39), and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the director a report that contains the information listed in § 18-211(2)(b) below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(b) Baseline monitoring reports shall include:

(i) The name and address of the facility, including the name of the operator and owner;

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

(iii) A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by a user. This description should include a schematic process diagram that indicates points of discharge to the wastewater system from the regulated processes;

(iv) Information showing the measured average daily and maximum daily flow, in gallons per day, to the wastewater system from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(c);

(v) The categorical pretreatment standards applicable to each regulated process;

(vi) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the director, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of

daily operations and shall be analyzed in accordance with procedures set out in § 18-211(9);

(vii) Sampling must be performed in accordance with procedures set out in § 18-211;

(viii) A certification statement, reviewed by the user's authorized representative and certified by a qualified professional engineer, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements;

(ix) Compliance schedule: If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in § 18-211(3); and

(x) All baseline monitoring reports must be signed and certified by an authorized representative of an industrial/commercial user as defined in § 18-201(4).

(3) Compliance schedule progress reports. (a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation).

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

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

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

(4) Reports on compliance with categorical pretreatment standards deadline. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or, in the case of a new source following commencement of the introduction of wastewater into the wastewater system, any user subject to such pretreatment standards and requirements shall submit to the director a report containing the information described in

§ 18-211(2)(b). For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with § 18-201(4).

(5) Periodic compliance reports for significant industrial users.

(a) Significant industrial users may, at a frequency determined by the director, be required to submit a report indicating the nature and concentration of pollutants in the discharge that are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with § 18-201(4);

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

(c) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the director, using the procedures prescribed in § 18-211(9), the results of this monitoring shall be included in the report.

(6) Reports of changed conditions. Each user must notify the director of any planned significant changes to the user's operation or system that might alter the nature, quality, or volume of its wastewater at least ninety (90) days before the change. The director may require the user to submit such information as may be deemed necessary to evaluate the changed condition.

(7) Reports of potential problems. (a) In the case of any discharge, including, but not limited to, accidental discharge; discharge of a non-routine, episodic nature; a noncustomary batch discharge; a slug load; and/or a discharge of any prohibited wastes as defined in § 18-205(3) that may cause potential problems for the wastewater system, the user shall immediately telephone and notify the director of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(b) Within five (5) days following such discharge, the user shall, unless the requirement is waived by the director, submit a detailed written report describing the cause(s) of the discharge and the 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 that may be incurred as a result of damage to the sewerage

system, natural resources, or any other damage to other person or property; nor shall such notification relieve the user of any fines, penalties, or other liability that may be imposed pursuant to this ordinance; and

(c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in § 18-211(7)(a) above.

(8) Notice of violation/repeat sampling and reporting. If sampling performed by a user indicates a violation, the user must notify the city within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the director within thirty (30) days after becoming aware of the violation.

(9) Sampling, analyses, and reporting for all users. Samples shall be collected manually or mechanically over such periods of time and composited in such a manner as to be representative of the waste being discharged in accordance with requirements specified in the user's permit to discharge industrial/commercial waste. Sampling techniques and laboratory methods followed in the examination of said waste shall be in accordance with those set forth in 40 CFR part 136, unless otherwise specified in applicable categorical pretreatment standard. Reports of the analyses shall be submitted in accordance with requirements specified in the user's permit to discharge industrial/commercial waste. If 40 CFR part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.

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

(b) Splitting of samples. when so requested by the industrial/commercial user, samples collected by the city will be split with the industrial/commercial user for verification of analytical results. However, determination of the character, strength, or quantity of the waste as made by the director or his authorized representatives, shall be conclusive as a basis for computation of charges or for actions by the city.

(c) Timing. Written reports will be deemed to have been submitted on the date postmarked. For reports that are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt shall govern.

(d) Record keeping. Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s)

taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the city, or where the user has been specifically notified of a longer retention period by the director.

(10) Notification of discharge of hazardous material.

(a) Section 18-205(1)(e) prohibits the discharge of hazardous material. Any user who may accidentally discharge hazardous material shall immediately notify the director, the EPA regional waste management division director, and the state division of solid waste management.

(b) The use of any new hazardous materials or hazardous waste in a user's facility must be immediately reported to the director, the EPA regional waste management division director, and the state division of solid waste management.

(c) In the case of any notification made under this section, the user shall certify that it has a program in place to prevent the discharge of a toxic or hazardous material. (1979 Code, § 8-414, modified, as amended by Ord. #96-25, Jan. 1997, Ord. #04-07, May 2004, and Ord. #05-36, Nov. 2005, as replaced by Ord. #06-51, Jan. 2007)

**18-212. Authority for inspection.** (1) Right of entry. The director and his duly authorized representatives shall be permitted to enter upon the property of the user for the purpose of inspection, observation, flow measurement, sampling, and testing of industrial/commercial waste and other pollutants in accordance with this ordinance.

(2) Ready access. Users or occupants of premises where wastewater is generated or discharged shall allow the city or its representative(s) immediate access to all points on their premises where waste is generated or discharged into a public sewer for the purposes of inspection, sampling, records examination, or in the performance of any of their duties.

(3) Monitoring access. The city, the approval authority, and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring, and flow metering operations.

(4) Security arrangements. Where a user has security measures in force that would require proper identification and clearance before entry onto the user's premises, the user shall make necessary arrangements with the user's security guards so that upon presentation of suitable identification, personnel from the city, the approval authority, and EPA will be permitted to enter without delay for the purposes of performing their specific responsibilities.

(1979 Code, § 8-415, as amended by Ord. #96-25, Jan. 1997, Ord. #04-07, May 2004, and Ord. #05-36, Nov. 2006, as replaced by Ord. #06-51, Jan. 2007)

**18-213. Confidential information.** (1) Information and data on a user obtained from reports, questionnaires, permit applications, permits, and monitoring programs, and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the director that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets of the user.

(2) When requested by the person furnishing a report, the portions of a report that might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this ordinance, the National Pollutant Discharge Elimination System (NPDES) permit; provided, however, that such portions of a report shall be available for the use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

(3) All records relating to compliance with pretreatment standards shall be made available to officials of the approval authority and EPA upon request. (1979 Code, § 8-416, as replaced by Ord. #06-51, Jan. 2007)

**18-214. Protection of equipment.** No person shall maliciously, willfully, or negligently break, damage, destroy, deface, tamper with, or remove any equipment or materials that are a part of the city's wastewater system or that are used by the city for the purposes of making waste examinations and waste flow measurements or monitoring. Only persons authorized by the director will be allowed to uncover, adjust, maintain, and remove such equipment and materials. (as added by Ord. #06-51, Jan. 2007)

**18-215. Enforcement.** (1) Enforcement action. Any user who violates any provision of this ordinance, a condition of a permit or applicable state or federal laws or regulations may be subject to enforcement action by the city as follows:

(a) Notice of violation. Whenever the director determines that a user has violated or is violating this ordinance, a permit, or any prohibition, limitation, or requirement contained in this ordinance, or any other pretreatment requirement, the director may serve upon the user a written notice of violation that shall be addressed to the authorized representative of the user and shall set forth the date and the nature of the violation. Within thirty (30) days of the date of the notice of violation, the user shall submit a written account of the reason for the violation and a plan for the satisfactory correction thereof to the director, and shall

schedule a meeting with the director or his designee. Submission of the plan does not relieve the user from liability for any violations occurring either before or after receipt of the notice of violation.

(b) Consent agreements. The director is authorized to enter into consent agreements or other similar documents establishing agreements with users not in compliance. Such agreements or documents will include specific actions to be taken by a user to correct noncompliance within a specific time period and may be titled "consent order" or "consent agreement." Similar documents shall have the same force and effect as consent orders and administrative orders issued pursuant to § 18-215(1)(c).

(c) Administrative order. If the director finds that a user has violated or continues to violate this ordinance, a permit, or other applicable state or federal law or regulation, the director may issue an administrative order to cease and desist all such violations and direct the user to do any or all of the following:

(i) Immediately comply with all pretreatment requirements;

(ii) Comply with all pretreatment requirements in accordance with a time schedule set forth in the administrative order;

(iii) Take appropriate action to prevent a continuing or threatened violation; and/or

(iv) Disconnect the user's connection to the wastewater system unless the user's discharge can be adequately treated to bring it into compliance.

(d) Emergency suspension. (i) The director may revoke a user's permit or right to discharge to the wastewater system if, in the discretion of the director, such a revocation or suspension is necessary in order to stop an actual or threatened discharge that presents or may present an imminent or substantial endangerment to the public health, welfare, or to the environment, or that interferes or may interfere with the operation of the water treatment plant, or that causes or may cause the wastewater treatment plant to violate any condition of its NPDES permit.

(ii) A notice of suspension shall be sent to an authorized representative of the user by certified and regular mail or may be hand delivered to the user's facility. A user so notified shall immediately stop or eliminate the discharge. Within fifteen (15) days of the notice of suspension or revocation, a hearing will be held to determine whether the suspension may be lifted or the permit terminated.

(e) Termination of permits. Any of the following may subject a user to having its permit terminated:

(i) Failure to accurately monitor and report the wastewater constituents and characteristics of the discharge;

(ii) Failure to report significant changes in operations or wastewater constituents;

(iii) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or

(iv) Violation of conditions of the permit. Users whose permits are subject to revocation under this section may be notified of the proposed termination and may be offered an opportunity to show cause why the proposed action should not be taken.

(2) Civil penalties. (a) Any user who is in violation of any provision of this ordinance, a consent agreement, administrative order, a rule, regulation, law, or permit condition may be fined up to fifty dollars (\$50.00) per day per violation.

(b) Each day the violation continues may be considered a separate violation.

(c) In determining the amount of a civil penalty, the director may consider the following:

(i) The degree and extent of the harm done to the natural resources of the state, to the public health, or to public or private property as a result of the violation;

(ii) The duration and gravity of the violation;

(iii) The effect on ground or surface water quality, or on air quality;

(iv) The cost of repairing the damage to the wastewater system, to property, and to the natural resources of the state;

(v) The amount of money saved, if any, by noncompliance, including the cost of continuing to discharge in noncompliance instead of stopping operations;

(vi) Whether the violation was committed negligently, grossly negligently, recklessly negligently, willfully, or intentionally.

(vii) The prior record of a user in complying or failing to comply with the conditions of its permit, this ordinance, or other environmental laws and regulations, in effect in the city, other parts of Tennessee, or other states in the United States;

(viii) The cost to the wastewater treatment plant, including attorney's fees, sampling costs, cost of additional laboratory analysis, and the cost of engineering and consulting fees necessary, in the discretion of the city, to determine the nature and extent of damage, prevent further damage, and repair any damage.

(d) Notice of civil penalty. An assessment of civil penalty ("the civil penalty assessment") shall be made by written notice from the

director to the authorized representative of the user. The notice shall be sent by certified and regular mail to the address of the user's facility.

(3) Other remedies. The director may use other available remedies to attempt to bring users into compliance including, but not limited to:

(a) Criminal violations. Upon recommendation of the board of mayor and aldermen, the director may request that the city attorney for the appropriate judicial district prosecute users not in compliance with the provisions of applicable Tennessee General Statutes, or that the United States Attorney prosecute users not in compliance with the Clean Water Act and regulations promulgated thereunder.

(b) Injunctive relief. Whenever a user is in violation of the provisions of this ordinance, a permit issued hereunder or any provision thereof, or applicable law or regulation, the director may file a lawsuit in the superior court of the appropriate county for the issuance of a restraining order, or preliminary or permanent injunction restraining the activity by the user in violation of the permit or ordinance.

(c) Water supply severance. Whenever a user is in violation of the provisions of this ordinance, a permit issued hereunder, or provision thereof or applicable law or regulation, the director may request that the public water supplier or other entity providing water to the user, sever the user's water supply and reconnect the water supply only after satisfactory compliance with the user's permit or the provisions of this ordinance.

(4) Remedies nonexclusive. The remedies provided for in this ordinance are not exclusive. The director may take any, all, or any combination of these actions against a user not in compliance. The director is specifically empowered to take more than one enforcement action against any noncompliant user.

(5) Affirmative defenses to discharge violations. (a) An upset shall constitute an affirmative defense to an action brought for noncompliance with this ordinance, a permit to discharge industrial/commercial waste, or any other pretreatment standard, if the requirements set forth below are met.

(b) A user wishing to establish the affirmative defense of upset, as defined in § 18-201(67), shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(i) An upset occurred and the user can identify the cause of the upset;

(ii) The facility was, at the time, being operated in a prudent and workmanlike manner and in compliance with applicable operating and maintenance procedures;

(iii) The user has submitted the following information to the director within twenty-four (24) hours of becoming aware of the upset:

(A) A description of the discharge and cause of noncompliance;

(B) The period of noncompliance, including exact dates and times, or, if not corrected, the anticipated time the noncompliance is expected to continue; and

(C) The steps being taken and planned to reduce, eliminate, and prevent recurrence of the noncompliant discharge.

(c) In any enforcement proceeding, the user seeking to establish the affirmative defense of an upset shall have the burden of proving an upset by the greater weight of the evidence.

(d) Users will have an opportunity for an adjudicatory hearing in accordance with § 18-215(3) on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(e) Whenever there is a loss of power to a facility, the user shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of power at a facility until power is restored to the facility or an alternative method of treatment is provided.

(f) Bypass, as defined in § 18-201(8), is prohibited, and the director may take an enforcement action against the user for bypass, unless:

(i) Bypass is 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, cessation of operations at the facility, or maintenance during normal periods of equipment downtime. (This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance); and

(iii) The user submitted notice of the bypass to the director.

(g) In an enforcement proceeding, the user seeking to establish the defense of bypass will have the burden of proof.

(6) Annual publication of significant noncompliance. At least annually, the director shall publish in the largest daily newspaper circulated in the service area, a list of those industrial/commercial users that were found to be in significant noncompliance with applicable pretreatment standards and requirements, during the previous twelve (12) months. (as added by Ord. #06-51, Jan. 2007)

**18-216. Extension of sewer service.** Extensions or modifications of the wastewater system shall be accomplished in accordance with the sewer service extension policy of the city, as may be amended from time to time. (as added by Ord. #06-51, Jan. 2007)

**18-217. Severability.** If any section, clause, provision, or portion of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this ordinance. (as added by Ord. #06-51, Jan. 2007)

**18-218. Conflict.** (1) Conflict with other ordinances and regulations. All other ordinances and regulations and parts of other ordinances and regulations inconsistent or conflicting with any part of this ordinance are hereby repealed to the extent of such inconsistency or conflict. This ordinance shall not affect any litigation or other proceedings pending at the time of its adoption.

(2) Conflict with federal, state, or local law. Nothing in this ordinance is intended to affect any requirements, including standards or prohibitions established by federal, state, or local law, so long as federal, state, or local requirements are not less stringent than the requirements set forth in this ordinance. (as added by Ord. #06-51, Jan. 2007)

**18-219. Amendments.** The city reserves the right to amend the ordinance. (as added by Ord. #06-51, Jan. 2007)

**CHAPTER 3**

**SEWER RATES, FEES AND CHARGES**

**SECTION**

18-301. Rates.

18-302. Fees and charges.

18-303--18-315. [Deleted.]

**18-301. Rates.** (1) Free service prohibited. Wastewater service shall not be furnished or rendered free of charge to any person or user, as defined in subsection (2).

(2) Wastewater usage rates. Wastewater service shall be charged at rates established by the City of White House. Users will be charged a fixed amount based on the number of water meters installed unless one (1) water meter is used to serve multiple units. In such cases, each unit will be charged at least the fixed rate for each individual unit served. The monthly wastewater rate schedule shall be as follows:

City of White House  
Wastewater Rate Schedule  
Exhibit A

	<u>Residential</u>	<u>Non-residential</u>
Fixed Rate	\$17.96	\$39.30
Consumption	\$7.75 per 1,000 gallons	\$7.75 per 1,000 gallons

City of White House  
Wastewater Rate Schedule  
Single Meter With Multiple Units  
Exhibit B

	<u>Residential</u>	<u>Non-residential</u>
Fixed Rate	\$17.96	\$39.30
Consumption	\$7.75 per 1,000 gallons	\$7.75 per 1,000 gallons

(3) Wastewater consumption adjustments. Users may be entitled to an adjustment to their wastewater consumption charges for the use of water not being discharged into the wastewater system. Users wishing to have their wastewater consumption charges adjusted must fill out a wastewater

adjustment request form and submit it to the City of White House Finance Department. Each adjustment will be reviewed on a case-by-case basis by the finance director, then the user will be notified in writing of the city's decision. When an adjustment is granted, the user charges will be changed to reflect an average consumption based on the previous twelve (12) months of water consumption billing, or the water consumption billing that is available if it is less than twelve (12) months, or the average consumption for all residential users that month if requested by customers who do not meet the other criteria. Wastewater user rates in effect at the time of the adjustment request will be applied to the adjusted consumption figure. Wastewater consumption adjustments may be granted according to the following schedule:

<b>Time frame</b>	<b>Situation</b>
Once per calendar year	Filling of swimming pool.
Anytime	Water leak that does not enter the municipal sewer system in the sole judgment of the city

(4) Delinquent payments. Wastewater usage charges shall be paid by the due date. The city may discontinue utility service to any wastewater user who fails or refuses to pay the wastewater charges. The city may discontinue utility services for (i) wastewater user accounts with no payment activity for ninety (90) days or (ii) wastewater user accounts with total combined utility charges (wastewater, stormwater, sanitation) in excess of five hundred dollars (\$500.00) if such combined utility charges are thirty (30) days past due. The City of White House shall be entitled to recover costs incurred in collecting delinquent wastewater usage charges. Utility service can only be re-established on closed accounts through the application process for such utility service. (1979 Code, § 8-301, as replaced by Ord. #06-51, Jan. 2007, Ord. #07-21, July 2007, Ord. #08-01, Feb. 2008, and Ord. #08-22, Dec. 2008, and amended by Ord. #10-11, July 2010, Ord. #12-12, Oct. 2012, Ord. #15-11, June 2015, Ord. #16-03, Feb. 2016, Ord. #16-11, June 2016, Ord. #16-18, Oct. 2016, and Ord. #17-04, March 2017)

**18-302. Fees and charges.** (1) Application fee. A non-refundable application fee in the amount of fifty-five dollars (\$55.00) shall be paid by the applicant for wastewater service at the time the application is filed with the city. Existing users will only be required to pay thirty dollars (\$30.00) if all current charges are paid in full.

(2) Administrative fees. Fees to cover the various administrative costs of obtaining wastewater service for multiple service residential and commercial developments and for any industrial facilities shall be as follows:

(a) Wastewater availability fee in the amount of five hundred dollars (\$500.00) shall be paid at the time of application for service if the

wastewater director deems that an assessment of system capacity is needed to determine the service availability.

(b) Wastewater plans review fee in the amount of five hundred dollars (\$500.00) shall be paid at the time plans are submitted for review.

(c) Field inspection fee in the amount of three hundred dollars (\$300.00) minimum shall be paid prior to beginning construction of the wastewater system facilities to be completed by the applicant. Additional fees shall be paid at the rate of fifty dollars (\$50.00) per every ten (10) lots or units, or partial increment thereof, to be served above the initial ten (10) lots or units. This fee may be waived at the sole discretion of the wastewater director for individual connections to the wastewater system.

(3) Capital cost recovery fee. A non-refundable fee shall be paid prior to connection to the wastewater system, including individual service connections, to recover a portion of the capital cost expended by the city for the extension of the sewer system that will serve the applicant's request for sewer service. The appropriate fee amount will be a prorated portion of the total capital expenditures by the city for such extension, including all principal and interest on debt at the time of fee payment, with the proration based on the amount of system extension capacity to be utilized by the applicant relevant to the total capacity of the extension.

(4) Capacity fee. A non-refundable fee in the amount appropriate in the following table shall be paid to beginning construction of the individual service connections, to cover the value of the wastewater system capacity to be consumed by the applicant. The only exception allowed to this table will be made for:

(a) Written agreements between the city and the property owners/developers made prior to September 20, 2012. It is the sole responsibility of the property owner/developer to provide proof of this agreement, and;

(b) Facilities where the description of service changes between the time the capacity fee is paid and time the facility goes on-line, or when the property is redeveloped as a different use, the capacity fee in effect at the time the facility goes on-line will prevail when there has been a change in the description of service.

<b>Table of capacity fees</b>		
	<u>Description of service</u>	<u>Amount</u>
(a)	Single family residence (base fee)	\$2,500.00
(b)	Multi-family residence/mobile home parks	\$2,500.00 per unit
(c)	Motels, hotels and similar type units	Base fee + \$115.00 per unit

(d)	Restaurants	Base fee + \$30.00 per seat
(e)	Day care, child care centers, and schools	Base fee + \$15.00 per student
(f)	Car wash/truck wash	Base fee + \$750.00 per bay
(g)	Self-service laundries	Base fee + \$150.00 per washer
(h)	Retail commercial stores	Base fee + \$30.00 per 1,000 square ft under roof
(i)	Multiple-unit shopping centers	Base fee per unit
(j)	Assisted care/nursing homes	Base fee + \$125.00 per bed
(k)	Hospitals	Base fee + \$150.00 per bed
(l)	Service stations	Base fee + \$225.00 per pump
(m)	Movie theaters	Base fee + \$10.00 per seat
(n)	Other facilities	Base fee + add-on to be determined by the city

(5) Connection fee. A fee of one hundred fifty dollars (\$150.00) to cover the costs of field inspection and approval of the physical tap or connection to the city's wastewater system, such connection to be performed on behalf of and at the expense of the applicant by a contractor or plumber approved by the city.

(6) Commercial food preparation fee. A fee of two hundred dollars (\$200.00) per year for all users who engage in commercial food preparation requiring the inspection of grease traps and interceptors and other specialty appurtenances preventing the discharge of prohibited fats, oils and grease into the wastewater system.

(7) Industrial permit fee. A fee of one thousand two hundred dollars (\$1,200.00) per year for all users who have a pretreatment discharge permit issued by the city to discharge their wastewater into the city's wastewater system under the conditions and provisions of such permit.

(8) Deposits. Refundable deposits shall be required as follows prior to service being connected or reconnected after service disconnection to the wastewater system:

(a) A maximum deposit of one hundred fifty dollars (\$150.00) shall be required for residential property (the "maximum residential deposit"), and

(b) A maximum deposit of two hundred fifty dollars (\$250.00) shall be required on all commercial property (the "maximum commercial deposit").

Customers requesting connection or reconnection shall have the option of authorizing the city to check such customer's prior utility payment history through a third party provider. Based on the results of such inquiry,

(i) Residential and commercial customers designated by the third party provider as having a minimum risk of non-payment will not be charged a deposit;

(ii) Residential customers who are designated by the third party provider as having a moderate risk of non-payment shall pay a refundable deposit of seventy-five dollars (\$75.00) for residential property, and commercial customers who are designated by the third party provider as having a moderate risk of non-payment shall pay a refundable deposit of one hundred fifty dollars (\$150.00) for commercial property; and

(iii) Residential and commercial customers designated by the third party provider as having a high risk of non-payment shall pay the maximum residential deposit and/or the maximum commercial deposit, as applicable. Upon termination of service, any existing deposit will be applied against any unpaid balance of the customer. If any portion of the deposit remains after the payment of any such unpaid balance, such amount shall be refunded to the customer.

(9) Returned payment charge. A charge of twenty dollars (\$20.00) or the amount of the payment, whichever is lesser will be applied to any user or potential user whose payment of any rates, fees, or charges related to wastewater service is returned to the city due to insufficient funds. If a payment is returned for any other reason, charging of this fee will be determined by the city's finance director on a case by case basis.

(10) Emergency service charges. When the wastewater system sustains damages due to the actions of a party other than the city, the wastewater department may repair such damages if such repairs are needed immediately, in the sole opinion of the city, to protect the operational integrity of the city's wastewater system. The costs of such repairs shall be charged to the party responsible for the damages, such costs to be determined by the city's wastewater director. (1979 Code, § 8-302, as replaced by Ord. #06-51, Jan. 2007, Ord. #07-21, July 2007, Ord. #08-01, Feb. 2008, and Ord. #08-22, Dec. 2008, and amended by Ord. #09-03, April 2009, Ord. #10-11, July 2010, Ord. #12-12, Oct. 2012, Ord. #14-07, May 2014, Ord. #15-11, June 2015, Ord. #16-07, March 2016, Ord. #16-18, Oct. 2016, and Ord. #17-04, March 2017)

**18-303--18-315. [Deleted.]** (as deleted by Ord. #06-51, Jan. 2007)

## CHAPTER 4

### STORMWATER MANAGEMENT

#### SECTION

- 18-401. General provisions.
- 18-402. Jurisdiction.
- 18-403. Definitions.
- 18-404. Waivers.
- 18-405. Stormwater system design: construction and permanent stormwater management.
- 18-406. Permanent stormwater management: operation, maintenance, and inspection.
- 18-407. Existing locations and ongoing developments.
- 18-408. Illicit discharges.
- 18-409. Enforcement.
- 18-410. Penalties.
- 18-411. Appeals.

**18-401. General provisions.** (1) Purpose. It is the purpose of this chapter to:

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

(b) Enable the city to comply with the National Pollution Discharge Elimination System permit (NPDES) and applicable regulations, 40 C.F.R. 122.26 for stormwater discharges;

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

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

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

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

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

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

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

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

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

(2) Administering entity. The city's public services director shall administer the provisions of this chapter.

(3) Stormwater management chapter. The intended purpose of this chapter is to safeguard property and public welfare by regulating stormwater drainage and requiring temporary and permanent provisions for its control. It should be used as a planning and engineering implement to facilitate the necessary control of stormwater. (as added by Ord. #14-28, Dec. 2014)

**18-402. Jurisdiction.** (1) This stormwater management chapter shall govern all properties within the corporate limits of the City of White House, Tennessee.

(2) Exemptions from article. The following development activities shall be exempt from the provisions of this chapter and requirements of providing stormwater management:

(a) Agricultural land management activities.

(b) Additions or modifications to existing detached single-family dwellings that disturb less than five thousand (5,000) square feet of additional land use.

(c) Developments that do not disturb more than five thousand (5,000) square feet of land use. This exception may not be applied for contiguous properties that may have been subdivided and/or are attributed to multiple separate owners. This exemption does not apply to any discharge of sediment or other form of water pollution that may leave a small site. (as added by Ord. #14-28, Dec. 2014)

**18-403. Definitions.** For the purpose of this chapter, the following definitions shall apply: words used in the singular shall include the plural, and the plural shall include the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary.

The word "may" is permissive. Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

(1) "Active channel" means the portion of the stream channel that is subject to frequent flows (approximately once every two (2) years) and the portion of the channel below the floodway.

(2) "Active construction sites" means any site that has a permit for grading and other activities (even if actual construction is not proceeding) and any site where construction is occurring regardless of permits required.

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

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

(5) "Base flood" means the flood having a one percent (1%) chance of being equaled or exceeded in any given year. While this statistical event may occur more frequently, it may also be known as the "100-year flood event."

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

(7) "Borrow pit" is an excavation from which erodible material (typically soil) is removed to be fill for another site. There is no processing or separation of erodible material conducted at the site. Given the nature of activity and pollutants present at such excavation, a borrow pit is considered a construction activity for the purpose of this permit.

(8) "Buffer zone" means a setback from the top of a watercourse's bank of undisturbed vegetation, including trees, shrubs and herbaceous vegetation; enhanced or restored vegetation; or the re-establishment of native vegetation bordering streams, ponds, wetlands, springs, reservoirs or lakes, which exists or is established to protect those water bodies. The goal of the water quality buffer is to preserve undisturbed vegetation that is native to the bodies by providing structural integrity and canopy cover, as well as stormwater infiltration, filtration and evapotranspiration. Buffer width depends on the size of a drainage area. Streams or other waters with drainage areas less than one (1) square mile will require buffer widths of thirty feet (30') minimum. Streams or other waters with drainage areas greater than one (1) square mile will require buffer widths of sixty feet (60') minimum. The sixty feet (60') criterion for the width of the buffer zone can be established on an average width basis at

a project, as long as the minimum width of the buffer zone is more than thirty feet (30') at any measured location. Every attempt should be made for development and redevelopment activities not to take place within the buffer zone. A determination that water quality buffer widths cannot be met on site may not be based solely on the difficulty or cost of implementing measures, but must include multiple criteria, such as: type of project, existing land use and physical conditions that preclude use of these practices.

(9) "Buffer zone requirements." (a) "Construction" applies to all watercourses adjacent to construction sites, with an exception for streams designated as impaired or exceptional Tennessee waters, as designated by the Tennessee Department of Environment and Conservation. A thirty foot (30') natural riparian buffer zone adjacent to all jurisdictional water features at the construction site shall be preserved, to the maximum extent practicable, during construction activities at the site. The water quality buffer zone is required to protect waters of the state located within or immediately adjacent to the boundaries of the project, as identified using methodology from standard operating procedures for hydrologic determinations (see rules to implement a certification program for qualified hydrologic professionals, TN Rules Chapter 0400-40-17). Buffer zones are not primary sediment control measures and should not be relied on as such. Rehabilitation and enhancement of a natural buffer zone is allowed, if necessary, for improvement of its effectiveness of protection of the waters of the state. The buffer zone requirement only applies to new construction sites. The riparian buffer zone should be preserved between the top of stream bank and the disturbed construction area. The thirty foot (30') criterion for the width of the buffer zone can be established on an average width bases at a project, as long as the minimum width of the buffer zone is more than fifteen feet (15') at any measured location.

(b) Buffer zone requirements for discharges into impaired or exceptional waters: A sixty foot (60') natural riparian buffer zone adjacent to the receiving stream designated as impaired or exceptional waters shall be preserved, to the maximum extent practicable, during construction activities at the site. The water quality buffer zone is required to protect waters of the state (e.g., perennial and intermittent streams, rivers, lakes, wetlands) located within or immediately adjacent to the boundaries of the project, as identified on a 7.5-minute USGS quadrangle map, or as determined by the director. Buffer zones are not sediment control measures and should not be relied upon as primary sediment control measures. Rehabilitation and enhancement of a natural buffer zone is allowed, if necessary, for improvement of its effectiveness of protection of the waters of the state. The buffer zone requirement only applies to new construction sites. The riparian buffer zone should be established between the top of stream bank and the disturbed

construction area. The sixty feet (60') criterion for the width of the buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer zone is more than twenty-five feet (25') at any measured location.

(c) "Permanent" new development and significant redevelopment sites are required to preserve water quality buffers along waters within the MS4. Buffers shall be clearly marked on site development plans, grading permit applications, and/or concept plans. Buffer width depends on the size of a drainage area. Streams or other waters with drainage areas less than one (1) square mile will require buffer widths of thirty feet (30') minimum. Streams or other waters with drainage area greater than one (1) square mile will require buffer widths of sixty feet (60') minimum. The sixty feet (60') criterion for the width of the buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer zone is more than thirty feet (30') at any measured location.

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

(11) "Common plan of development or sale" is broadly defined as any announcement or documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating construction activities may occur on a specific plot. A common plan of development identifies a situation in which multiple areas of disturbance are occurring on contiguous areas. This applies because the activities may take place at different times, on different schedules, by different operators.

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

(13) "Design storm event" means a hypothetical storm event, of a given frequency interval and duration, used in the analysis and design of stormwater facility. The estimated design rainfall amounts, for any return period interval (i.e., 2-year, 5-year, 25-year, etc.) in terms of either twenty-four (24) hour depths or intensities for any duration, can be found by accessing the following NAA National Weather Service Atlas 14 data for Tennessee: [http://hdsc.nws.noaa.gov/hdsc/pfds/pfds\\_map\\_cont.html?bkmrk=tn](http://hdsc.nws.noaa.gov/hdsc/pfds/pfds_map_cont.html?bkmrk=tn). Other data sources may be acceptable with prior written approval by the city engineer.

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

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

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

(17) "Erosion Prevention and Sediment Control Plan (EPSCP)" means a written plan (including drawings or other graphic representations) that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.

(18) "Flood or flooding" means water from a river, stream, watercourse, lake or other body of standing water that temporarily overflows and inundates adjacent lands and which may affect other lands and activities through increased surface water levels and/or increased groundwater level.

(19) "Floodplain" means the relatively flat or lowland area adjoining a river, stream, watercourse, lake, or other body of standing water, which has been or may be covered temporarily by floodwater. For the purposes of this chapter the floodplain is defined as the 100-year floodplain having a one percent (1%) chance of being equaled or exceeded in any given year.

(20) "Floodway" means that portion of the stream channel and adjacent floodplain required for the passage or conveyance of a 100-year flood discharge. The floodway boundaries are placed to limit encroachment in the floodplain so that a discharge can be conveyed through the floodplain without materially increasing (less than one foot (1')) the water surface elevation at any point and without producing hazardous velocities or conditions. This is the area of significant depths and velocities and due consideration should be given to effects of fill, loss of cross sectional flow area, and resulting increased water surface elevations.

(21) "Floodway fringe" means that portion of the floodplain lying outside the floodway.

(22) "Hotspot" means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater. The following land uses and activities are deemed stormwater hotspots, but that term is not limited to only these land uses:

- (a) Vehicle salvage yards and recycling facilities;
- (b) Vehicle service and maintenance facilities;
- (c) Vehicle and equipment cleaning facilities;
- (d) Fleet storage areas (bus, truck, etc.);
- (e) Industrial sites (included on Standard Industrial Classification code list);
- (f) Marinas (service and maintenance);
- (g) Public services storage areas;
- (h) Facilities that generate or store hazardous waste materials;
- (i) Commercial container nursery;

(j) Restaurants and food service facilities;

(k) Other land uses and activities as designated by an appropriate review authority.

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

(24) "Illicit discharge" means any discharge to the municipal separate storm sewer system that is not composed entirely of stormwater and not specifically exempted under § 18-408(2).

(25) "Impervious surface" means a term applied to any ground or structural surface that water cannot penetrate or through which water penetrates with great difficulty.

(26) "Improved sinkhole" is a natural surface depression that has been altered in order to direct fluids into the hole opening. An improved sinkhole is a type of injection well regulated under TDEC's Underground Injection Control (UIC) program. Underground injection constitutes an intentional disposal of wastewaters in natural depressions, open fractures, and crevices (such as those commonly associated with weathering of limestone).

(27) "Inspector." An inspector is a person that has successfully completed (has a valid certification from) the "Fundamentals of Erosion Prevention and Sediment Control Level I" course or equivalent course. An inspector performs and documents the required inspections, paying particular attention to time-sensitive permit requirements such as stabilization and maintenance activities. An inspector may also have the following responsibilities:

(a) Oversee the requirements of other construction-related permits, such as Aquatic Resources Alteration Permit (ARAP) or a corps of engineers permit for construction activities in or around waters of the state;

(b) Update field SWPPPs;

(c) Conduct pre-construction inspection to verify that undisturbed areas have been properly marked and initial measures have been installed; and

(d) Inform the permit holder of activities that may be necessary to gain or remain in compliance with the Construction General Permit (CGP) and other environmental permits.

(28) "Intermittent stream" means streams that have flowing water under normal weather conditions. During the dry season and throughout minor drought periods, these streams will not exhibit flow. Geomorphologic characteristics are not well defined and are often inconspicuous. In the absence of external limiting factors (pollution, thermal modifications, etc.) biology is scarce and adapted to the wet and dry conditions of the fluctuating water level.

(29) "Land disturbing activity" means any activity on property that results in a change in the existing soil cover (both vegetative and

non-vegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to, development, redevelopment, demolition, construction, reconstruction, clearing, grading, filling, and excavation.

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

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

(32) "Municipal Separate Storm Sewer System (MS4)" means the conveyances owned or operated by the city for the collection and transportation of stormwater, including the roads and streets and their drainage systems, catch basins, curbs, gutters, ditches, man-made channels, and storm drains, and where the context indicates, it means the municipality that owns the separate storm sewer system.

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

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

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

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

(37) "Perennial stream" means streams that have flowing water continuously recharged by groundwater or surface runoff regardless of weather conditions. It exhibits well defined geomorphologic characteristics and in the absence of pollution, thermal modifications, or other man-made disturbances has the ability to support aquatic life. During hydrological drought conditions, the flow may be impaired.

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

(39) "Riparian zone" means areas adjacent to river, lakes, ponds, streams, and other natural water resources with a differing density, diversity, and productivity of plant and animal species relative to nearby uplands. This zone provides a transition from an aquatic ecosystem to a terrestrial ecosystem.

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

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

(42) "Sedimentation" means soil particles suspended in stormwater that can settle in stream beds.

(43) "Sediment Control Measure (SCM)" means any structural or nonstructural strategy, practice, technology, process, program, or other method intended to control or reduce stormwater runoff and associated pollutants, or to induce or control the infiltration or groundwater recharge of stormwater or to eliminate illicit or illegal non-stormwater discharges into stormwater conveyances.

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

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

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

(47) "Stormwater coordinator" means the entity designated by the city to administer the stormwater management ordinance under the public services director, and other stormwater rules and regulations adopted by the city.

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

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

(50) "Stormwater management plan" means the set of drawings and other documents that comprise all the information and specifications for the programs, drainage systems, structures, BMPs, concepts and techniques intended to maintain or restore quality and quantity of stormwater runoff as prescribed by the ordinance.

(51) "Stormwater Pollution Prevention Plan (SWPPP)" means a written plan that includes site map(s), an identification of construction/contractor activities that could cause pollutants in the stormwater, and a description of measures or practices to control these pollutants. It must be prepared and approved before construction begins. In order to effectively reduce erosion and sedimentation impacts, Best management Practices (BMPs) must be designed, installed, and maintained during the disturbing activities. The SWPPP should be prepared in accordance with the current Tennessee Erosion and Sediment

Control Handbook. The handbook is intended for use during the design and construction of projects that require erosion and sediment controls to protect waters of the state. It also aids in the development of SWPPPs and other reports, plans, or specifications required when participating in Tennessee's water quality regulations. All SWPPPs shall be prepared and updated in accordance with section 3 of the general NPDES permit for discharges of stormwater associated with construction activities.

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

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

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

(55) "Waste site" means an area where waste material from a construction site is deposited. When the material is erodible, such as soil, the site must be treated as a construction site.

(56) "Water quality buffer" see "buffer."

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

(58) "Watershed" means all the land area that contributes runoff to a particular point along a waterway.

(59) "Waters" or "waters of the state" means any and all waters, public or private, on or beneath the surface of the ground, which are confined within, flow through, or board upon Tennessee or any portion thereof except those bodies of water confined to and retained within the limits of private property in single ownership which do not combine or effect a junction with natural surface or underground waters.

(60) "Wetlands" means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted to life in saturated soil conditions. Wetlands include, but are not limited to, swamps, marshes, bogs, and similar areas.

(61) "Wet weather conveyances" are man-made or natural watercourses, including natural watercourses that have been modified by channelization, that flow only in direct response to precipitation runoff in their immediate locality and whose channels are above the groundwater table and are not suitable for drinking water supplies; and in which hydrological and biological analyses indicate that, under normal weather conditions, due to naturally occurring ephemeral or low flow, there is not sufficient water to support fish or multiple populations of obligate lotic aquatic organisms whose life cycle includes an aquatic phase of at least two (2) months. (Rules and Regulations of the State of Tennessee, chapter 1200-4-3-.04(3)). (as added by Ord. #14-28, Dec. 2014)

**18-404. Waivers.** (1) General. No waivers will be granted on any construction or site work project. All construction and site work shall provide for stormwater management as required by this chapter. However, alternatives to the latest NPDES general permit for discharges from small municipal separate storm sewer systems primary requirement for on-site permanent stormwater management may be considered, it:

(a) Management measures cannot be designed, built and maintained to infiltrate, evapotranspire, harvest and/or use, at a minimum, the first inch of every rainfall event preceded by seventy-two (72) hours of no measurable precipitation. This first inch of rainfall must be one hundred percent (100%) managed with no discharge to surface waters.

(b) It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this chapter. Alternative minimum requirements for on-site management of stormwater discharges shall be established in a stormwater management plan that has been approved by the city.

(2) Adverse downstream conditions prohibited. In order to receive consideration, the applicant must demonstrate to the satisfaction of the city engineer that the proposed alternative will not lead to any of the following conditions downstream:

(a) Deterioration of existing culverts, bridges, dams, and other structures;

(b) Degradation of biological functions or habitat;

(c) Accelerated streambank or streambed erosion or siltation;

(d) Increased threat of flood damage to public health, life or property.

(3) Grading permit not to be issued where alternatives requested. No grading permit shall be issued where an alternative has been requested until the alternative is approved. If no alternative is approved, the plans must be resubmitted with a stormwater management plan that meets the primary requirement for on-site stormwater management. (as added by Ord. #14-28, Dec. 2014)

**18-405. Stormwater system design: construction and permanent stormwater management.** (1) MS4 stormwater BMP manuals.

(a) Adoption. The city adopts as its MS4 stormwater design and Best Management Practices (BMP) manuals, further written as MS4 BMPs, for stormwater management, construction and permanent, the following publications, which are incorporated by reference in this chapter as if fully set out herein:

(i) TDEC Erosion Prevention and Sediment Control Handbook; most current edition.

(ii) TDEC Permanent Stormwater Management Manual; most current edition.

(iii) The Nashville-Davidson County Metro Stormwater Management Manual (Best Management Practices (BMP) Manual - Volume 4); most current edition.

(iv) The Nashville-Davidson County Metro Stormwater Management Manual (Low Impact Development - Volume 5); most current edition.

(b) The city's BMP manual(s) include a list of acceptable BMPs including the specific design performance criteria and operation and maintenance requirements for each stormwater practice. These include city approved BMPs for permanent stormwater management including green infrastructure BMPs.

(c) The city manual(s) may be updated and expanded from time to time, at the discretion of the governing body of the city, upon the recommendation of the stormwater coordinator or city engineer, based on improvements in engineering, science, monitoring and local maintenance experience, or changes in federal or state law or regulation. Stormwater facilities that are designed, constructed and maintained in accordance with these BMP criteria will be presumed to meet the minimum water quality performance standards.

(2) Submittal of a copy of the NOC, SWPPP and NOT to the local MS4. Permittees who discharge stormwater through an NPDES-permitted Municipal Separate Storm Sewer System (MS4) who are not exempted in section 1.4.5 (Permit Coverage through Qualifying Local Program) of the Construction General Permit (CGP) must provide proof of coverage under the Construction General Permit (CGP); submit a copy of the Stormwater Pollution Prevention Plan (SWPPP); and at project completion, a copy of the signed Notice of Termination (NOT) to the stormwater coordinator. Permitting status of all permittees covered (or previously covered) under this general permit as well as the most current list of all MS4 permits is available at the TDEC's DataViewer website.

Any discharge of stormwater or other fluid to an improved sinkhole or other injection well, as defined, must be authorized by permit or rule as a Class V underground injection well under the provisions of Tennessee Department of Environment and Conservation (TDEC) Rules, chapter 1200-4-6.

Copies of additional applicable local, state or federal permits (i.e., ARAP, TMSP, etc.) must also be provided upon request. If requested, these permits must be provided before the issuance of any permit or other equivalent construction authorization.

(3) Stormwater Pollution Prevention Plan (SWPPP) for construction stormwater management. The applicant must prepare a stormwater pollution prevention plan for all construction activities that complies with subsection (4) below. The purpose of this plan is to identify construction/contractor activities

that could cause pollutants in the stormwater, and to describe measures or practices to control these pollutants during project construction.

(4) Stormwater pollution prevention plan requirements. The erosion prevention and sediment control plan component of the SWPPP shall accurately describe the potential for soil erosion and sedimentation problems resulting from land disturbing activity and shall explain and illustrate the measures that are to be taken to control these problems. The length and complexity of the plan is to be commensurate with the size of the project, severity of the site condition, and potential for off-site damage. If necessary, the plan shall be phased so that changes to the site during construction that alter drainage patterns or characteristics will be addressed by an appropriate phase of the plan. The plan shall be sealed by a registered professional engineer or landscape architect licensed in the State of Tennessee. The plan shall also conform to the requirements found in the MS4 BMP manual, and shall include at least the following:

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

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

(c) All existing drainage ways, including intermittent and wet-weather. Include any designated floodways or flood plains from FEMA information and/or flood studies.

(d) A general description of existing land covers. Individual trees and shrubs do not need to be identified.

(e) Stands of existing trees as they are to be preserved upon project completion, specifying their general location on the property. Differentiation shall be made between existing trees to be preserved, trees to be removed and proposed planted trees. Tree protection measures must be identified, and the diameter of the area involved must also be identified on the plan and shown to scale. Information shall be supplied concerning the proposed destruction of exceptional and historic trees in setbacks and buffer strips, where they exist. Complete landscape plans may be submitted separately. The plan must include the sequence of implementation for tree protection measures.

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

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

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

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

(j) Existing and proposed drainage network.

(k) Proposed drain tile or waterway sizes.

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

(m) The projected sequence of work represented by the grading, drainage and sedimentation and erosion control plans as related to other major items of construction, beginning with the initiation of excavation and including the construction of any sediment basins or retention/detention facilities or any other structural BMPs.

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

(o) Specific details for: the construction of stabilized construction entrance/exits, concrete washouts, and sediment basins for controlling erosion; road access points; eliminating or keeping soil, sediment, and debris on streets and public ways at a level acceptable to the city. Soil, sediment, and debris brought onto streets and public ways must be removed by the end of the work day to the satisfaction of the city. Failure to remove the sediment, soil or debris shall be deemed a violation of this chapter.

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

(q) A description of on-site measures to be taken to recharge surface water into the groundwater system through runoff reduction practices.

(r) Specific details for construction waste management. Construction site operators shall control waste such as discarded building materials, concrete truck washout, petroleum products and petroleum related products, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality. When the material is erodible, such as soil, the site must be treated as a construction site.

(5) General design performance criteria for permanent stormwater management. The following performance criteria shall be addressed for permanent stormwater management at all development sites:

(a) Site design standards for all new and redevelopment require, in combination or alone, management measures that are designed, built and maintained to infiltrate, evapotranspire, harvest and/or use, at a minimum, the first inch of every rainfall event preceded by seventy-two (72) hours of no measurable precipitation. This first inch of rainfall must be one hundred percent (100%) managed with no discharge to surface waters.

(b) Limitations to the application of runoff reduction requirements include, but are not limited to:

(i) Where a potential for introducing pollutants into the groundwater exists, unless pretreatment is provided;

(ii) Where pre-existing soil contamination is present in areas subject to contact with infiltrated runoff;

(iii) Presence of sinkholes or other karst features.

(c) Pre-development infiltrative capacity of soils at the site must be taken into account in selection of runoff reduction management measures.

(d) Incentive standards for re-developed sites: a ten percent (10%) reduction in the volume of rainfall to be managed for any of the following types of development. Such credits are additive such that a maximum reduction of fifty percent (50%) of the standard in the paragraph above is possible for a project that meets all five (5) criteria:

(i) Redevelopment;

(ii) Brownfield redevelopment;

(iii) High density (>7 units per acre);

(iv) Vertical density (Floor to Area Ratio (FAR) of 2 or >18 units per acre); and

(v) Mixed use and transit oriented development (within one-half (1/2) mile of transit).

(e) For projects that cannot meet one hundred percent (100%) of the runoff reduction requirement unless subject to the incentive standards, the remainder of the stipulated amount of rainfall must be treated prior to discharge with a technology documented to remove eighty percent (80%) Total Suspended Solids (TSS) unless an alternative provided under this chapter is approved. The treatment technology must be designed, installed and maintained to continue to meet this performance standard.

(f) For projects that cannot meet one hundred percent (100%) of the runoff reduction requirements, the stormwater coordinator may allow runoff reduction measures to be implemented at another location within the same USGS twelve (12) digit Hydrologic Unit Code (HUC) as the original project and within the city's MS4 jurisdiction. Off-site mitigation must be a minimum of 1.5 times the amount of water not managed on-site. The off-site mitigation location (or alternative location

outside the twelve (12) digit HUC) and runoff reduction measures must be approved by the stormwater coordinator. The stormwater coordinator shall identify priority areas within the watershed in which mitigation projects can be completed. The stormwater coordinator will have an inventory of appropriate mitigation projects, and develop appropriate institutional standards and management systems to value, evaluate and track transactions. Mitigation can be used for retrofit or redevelopment projects, but should be avoided in areas of new development.

(g) To protect stream channels from degradation, specific channel protection criteria shall be provided as prescribed in the MS4 BMP manual.

(h) Stormwater discharges to critical areas with sensitive resources (i.e., cold water fisheries, shellfish beds, swimming beaches, recharge areas, water supply reservoirs) may be subject to additional performance criteria, or may need to utilize or restrict certain stormwater management practices.

(i) Stormwater discharges from hot spots may require the application of specific structural BMPs and pollution prevention practices. In addition, stormwater from a hot spot land use may not be infiltrated.

(j) Prior to or during the site design process, applicants for land disturbance permits shall consult with the stormwater coordinator to determine if they are subject to additional stormwater design requirements.

(k) The calculations for determining peak flows as found in the MS4 BMP manual shall be used for sizing all stormwater facilities.

(6) Minimum volume control requirements. In accordance with § 18-401(1)(c)(iii) the MS4 establishes standards to regulate the quantity of stormwater discharged, therefore:

(a) Stormwater designs shall meet the multi-stage storm frequency storage requirements as identified in the MS4 BMP manual. Stormwater detention facilities shall be designed to address the rate at which flow is released over the entire runoff discharge period and the volume of discharge per rational method, SCS Tr-55 method, or USGS regional regression equations. The appropriate method shall be applied using two (2), five (5), ten (10), twenty-five (25), fifty (50), and one hundred (100) year design storm events. Typically, twenty-four (24) hour duration events will be required, but designers are encouraged to consider other critical design storm events for comparison. Alternative methods of hydrologic analysis may be used with prior written approval by the City of White House Engineer.

(b) If hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the city

engineer may impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.

(c) New developments shall also meet a stormwater quantity level of service defined by:

(i) Designing road catch basins and connecting culverts to convey the ten (10) year design storm runoff.

(ii) Designing bridges, culverts, channels and cross-drains to pass at a minimum the twenty-five (25) year design storm runoff.

(iii) Designing bridges, culverts, channels and cross-drains to pass the fifty (50) year design storm runoff for flows greater than or equal to five thousand (5,000) cfs.

(7) Floodplains. Floodplain alterations or filling shall not cause a new decrease in flood storage capacity below the projected one hundred (100) year flood elevation unless it is shown that the proposed alteration or filling will not cause an increase in the high water level, increase velocities, or aggravate flooding on other properties and will not unduly restrict flood flows. Compensatory cut shall at least be applied in equal amount (1:1) for all fill in the floodplain. Compensatory cut shall at least be applied to one hundred fifty percent (150%) (1.5:1) for all fill in floodplains with waterway reaches determined to be impacted by localized flooding not dominated by waterway backwater effects, as determined by studies accepted or performed by the city. Floodplain may be used for application of water quality devices. This may only be permitted provided EP&SC, water quality, and cut-fill policies are adequately addressed as determined by the city according to the provisions in § 18-411 of this chapter. Detention/retention volumes in the floodplain shall count as fill if applied in a manner where floodplain storage is lost. This section shall in no way provide justification on any level for waiver or modification of buffer zone requirements as stated in other sections of this chapter.

(8) Permanent stormwater management plan requirements. The stormwater management plan shall include sufficient information to allow the stormwater coordinator to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project site. To accomplish this goal the stormwater management plan shall include the following:

(a) Topographic base map. Topographic base map of the site which extends a minimum of one hundred feet (100') beyond the limits of the proposed development and indicates:

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

- (ii) Current land use including all existing structures, locations of utilities, roads, and easements;
- (iii) All other existing significant natural and artificial features;
- (iv) Proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns; locations of utilities, roads and easements; the limits of clearing and grading.
- (b) Proposed structural and non-structural BMPs;
- (c) A written description of the site plan and justification of proposed changes in natural conditions may also be required;
- (d) Calculations. Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in the MS4 BMP manual. These calculations must show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with this chapter. Such calculations shall include:
  - (i) A description of the design storm frequency, duration, and intensity where applicable;
  - (ii) Time of concentration;
  - (iii) Soil curve numbers or runoff coefficients including assumed soil moisture conditions;
  - (iv) Peak runoff rates and total runoff volumes for each watershed area;
  - (v) Infiltration rates, where applicable;
  - (vi) Culvert, stormwater sewer, ditch and/or other stormwater conveyance capacities;
  - (vii) Flow velocities;
  - (viii) Data on the increase in rate and volume of runoff for the design storms referenced in the MS4 BMP manual; and
  - (ix) Documentation of sources for all computation methods and field test results.
- (e) Soils information. If a stormwater management control measure depends on the hydrologic properties of soils (e.g., infiltration basins), then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles and soil survey reports. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure.
- (f) Maintenance and repair plan. The design and planning of all permanent stormwater management facilities shall include detailed maintenance and repair procedures to ensure their continued performance. These plans will identify the parts or components of a stormwater management facility that need to be maintained and the

equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.

(g) Maintenance easements. The applicant shall ensure access to the site for the purpose of inspection and repair by securing all the maintenance easements needed. These easements shall be binding on the current property owner and all subsequent owners of the property and shall be properly recorded with the appropriate Sumner or Robertson County Register of Deeds in perpetuity.

(h) Maintenance agreements. Where the stormwater facility is located on property that is subject to a development agreement, and the development agreement provides for a permanent stormwater maintenance agreement that runs with the land, the owners of property must execute an inspection and maintenance agreement that shall operate as a deed restriction binding on the current property owners and all subsequent property owners and their lessees and assigns, including but not limited to, homeowner associations or other groups or entities. The maintenance agreement shall:

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

(ii) Provide for a periodic inspection by the property owners in accordance with the requirements of subsection (v) below for the purpose of documenting maintenance and repair needs and to ensure compliance with the requirements of this chapter. The property owners will arrange for this inspection to be conducted by a registered professional engineer licensed to practice in the State of Tennessee, who will submit a signed written report of the inspection to the stormwater coordinator. It shall also grant permission to the city to enter the property at reasonable times and to inspect the stormwater facility to ensure that it is being properly maintained.

(iii) Provide that the minimum maintenance and repair needs include, but are not limited to: the removal of silt, litter and other debris, the cutting of grass, cutting and vegetation removal, and the replacement of landscape vegetation, in detention and retention basins, and inlets and drainage pipes and any other stormwater facilities. It shall also provide that the property owners shall be responsible for additional maintenance and repair needs consistent with the needs and standards outlined in the MS4 BMP manual.

(iv) Provide that maintenance needs must be addressed in a timely manner, on a schedule to be determined by the stormwater coordinator.

(v) Provide that if the property is not maintained or repaired within the prescribed schedule, the stormwater coordinator shall perform the maintenance and repair at its expense, and bill the same to the property owner. The maintenance agreement shall also provide that the stormwater coordinator's cost of performing the maintenance shall be a lien against the property.

(i) The City of White House shall have the discretion to accept the dedication of any existing or future stormwater management facility, provided such facility meets the requirements of this chapter, and includes adequate and perpetual access and sufficient areas, by easement or otherwise, for inspection and regular maintenance. Any stormwater facility accepted by the City of White House must also meet the city's construction standard and any other standards and specifications that apply to the particular stormwater facility in question.

(9) Buffers and buffer zones. Buffer and buffer zones shall be those buffers and buffer zones as those terms are defined in § 18-403(7) and (8), above, and shall meet the requirements contained in those provisions.

(a) Construction. (i) Construction requires buffer zone widths of a minimum of thirty feet (30'). The thirty foot (30') criterion for the width of the buffer zone can be established in an average width basis. As long as the minimum width of the buffer zone is fifteen feet (15'). The buffer zone shall meet all the other applicable requirements of § 18-403(5) and (6).

(ii) Construction on impaired or exceptional waters. The width of the buffer zone shall be a minimum of sixty feet (60'). The sixty feet (60') criterion for the width of the buffer zone can be established on an average basis at a project as long as the minimum width of the buffer is more than thirty feet (30') at any measured location. The buffer zone shall meet all the other applicable requirements of § 18-403(7) and (8).

(b) Permanent. (i) More than one (1) square mile drainage area will require buffer zones of a minimum of sixty feet (60'). The sixty foot (60') criterion for the width of the buffer zone can be established on an average width basis, as long as the minimum width of the buffer zone is more than thirty feet (30') at any measured location.

(ii) Less than one (1) square mile drainage area. Less than one (1) square mile drainage area will require buffer zones of a minimum of thirty feet (30'). The thirty foot (30') criterion for the

width of the buffer zone can be established on an average width basis, as long as the minimum width of the buffer zone is more than thirty feet (30') at any measured location. The buffer zone shall meet all the other applicable requirements of § 18-403(5) and (6). (as added by Ord. #14-28, Dec. 2014)

**18-406. Permanent stormwater management: operation, maintenance, and inspection.** (1) As built plans. All applicants are required to submit actual as-built plans for any structures located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be sealed by a registered professional engineer licensed to practice in Tennessee and confirm the resultant conditions meet the original design intent and functionality and reveal specifically any differentiation from approved plans. A final inspection by the city is required before any performance security or performance bond will be released. The city shall have the discretion to adopt provisions for a partial pro-rata release of the performance security or performance bond on the completion of various stages of development. In addition, occupation permits shall not be granted until corrections to all BMPs have been made and accepted by the city.

(2) Landscaping and stabilization requirements. (a) Any area of land from which the natural vegetative cover has been either partially or wholly cleared by development activities shall stabilize. Stabilization measures shall be initiated as soon as possible in portions of the site where construction activities have temporarily or permanently ceased. Temporary or permanent soil stabilization at the construction site (or a phase of the project) must be completed no later than fifteen (15) days after the construction activity in that portion of the site has temporarily or permanently ceased. In the following situations, temporary stabilization measures are not required:

(i) Where the initiation of stabilization measures is precluded by snow cover or frozen ground conditions or adverse soggy ground conditions, stabilization measures shall be initiated as soon as practicable; or

(ii) Where construction activity on a portion of the site is temporarily ceased, and earth disturbing activities will be resumed within fifteen (15) days.

(b) Permanent stabilization with perennial vegetation (using native herbaceous and woody plants where practicable) or other permanently stable, non-eroding surface shall replace any temporary measures as soon as practicable. Unpacked gravel containing fines (silt and clay sized particles) or crusher runs will not be considered a non-eroding surface.

(c) The following criteria shall apply to revegetation efforts:

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

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

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

(iv) In addition to the above requirements, a landscaping plan must be submitted with the final design describing the vegetative stabilization and management techniques to be used at a site after construction is completed. This plan will explain not only how the site will be stabilized after construction, but who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved.

(3) Inspection of stormwater management facilities. Periodic inspections of facilities shall be performed, documented, and reported in accordance with this chapter, as detailed in § 18-407. The owners and/or the operators of stormwater management practices shall abide by any legal maintenance agreement's specific requirements and at a minimum:

(a) Perform routine inspections to ensure that the BMPs are properly functioning. These inspections shall be conducted on an annual basis, at a minimum. These inspections shall be conducted by a person familiar with control measures implemented at a site. Owners or operators shall maintain documentation of these inspections. The stormwater coordinator may require submittal of this documentation.

(b) Perform comprehensive inspection of all stormwater management facilities and practices. These inspections shall be conducted once every five (5) years, at a minimum. Such inspections must be conducted by either a professional engineer or landscape architect, licensed in the State of Tennessee. Complete inspection reports for these five (5) year inspections shall include:

- (i) Facility type,
- (ii) Inspection date,
- (iii) Latitude and longitude and nearest street address,

(iv) BMP owner information (e.g. name, address, phone number, fax, and email),

(v) A description of BMP condition including: vegetation and soils; inlet and outlet channels and structures; embankments, slopes, and safety benches; spillways, weirs, and other control structures; and any sediment and debris accumulation,

(vi) Photographic documentation of BMPs, and

(vii) Specific maintenance items or violations that need to be corrected by the BMP owner along with deadlines and reinspection dates.

(c) Owners or operators shall maintain documentation of these inspections. The stormwater coordinator will require submittal of this documentation for confirmation of appropriate maintenance.

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

(5) Failure to meet or maintain design or maintenance standards. If a responsible party fails or refuses to meet the design or maintenance standards required for stormwater facilities under this chapter, the city, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition.

(6) Danger to public safety or health. In the event that any stormwater management facility becomes a danger to public safety or public health, the city shall notify in writing the party responsible for maintenance of the stormwater management facility. Upon receipt of that notice, the responsible person shall have thirty (30) days to effect maintenance and repair of the facility in an approved manner. In the event that corrective action is not undertaken within that time, the city may take necessary corrective action. The cost of any action by the city under this section shall be charged to the property owner which shall be paid within thirty (30) days or the city shall take action to place a lien on the subject property. (as added by Ord. #14-28, Dec. 2014)

#### **18-407. Existing locations and ongoing developments.**

(1) Requirements for all existing location and ongoing developments. The following requirements shall apply to all locations and development at which land disturbing activities have occurred prior to the enactment of this chapter:

(a) Denuded areas must be vegetated or covered under the standards and guidelines specified in § 18-406(2)(c)(i), (ii), (iii) and on a schedule acceptable to the stormwater coordinator.

(b) Cuts and slopes must be properly covered with appropriate vegetation and/or retaining walls constructed.

(c) Drainage ways shall be properly covered in vegetation or secured with rip-rap, channel lining, or other approved methods to prevent erosion.

(d) Trash, junk, rubbish, etc. shall be cleared from drainage ways.

(e) Stormwater runoff shall, at the discretion of the stormwater coordinator be controlled to the maximum extent practicable to prevent its pollution. Such control measures may include, but are not limited to, the following:

- (i) Ponds
  - (A) Detention pond
  - (B) Extended detention pond
  - (C) Wet pond
  - (D) Alternative storage measures
- (ii) Constructed wetlands
- (iii) Infiltration systems
  - (A) Infiltration/percolation trench
  - (B) Infiltration basin
  - (C) Drainage (recharge) well
  - (D) Porous pavement
- (iv) Filtering system
  - (A) Catch basin inserts/media filter
  - (B) Sand filter
  - (C) Filter/absorption bed
  - (D) Filter and buffer strips
- (v) Open channel
  - (A) Swale

(2) Requirements for existing problem locations -- no maintenance agreement. The stormwater coordinator shall in writing notify the owners of existing locations and developments of specific drainage, erosion or sediment problems affecting or caused by such locations and developments, and the specific actions required to correct those problems. The notice shall also specify a reasonable time for compliance.

(3) Inspection of existing facilities. The city may, to the extent authorized by state and federal law, enter and inspect private property for the purpose of determining if there are illicit non-stormwater discharges, and to establish inspection programs to verify that all stormwater management facilities are functioning within design limits. These inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants;

inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of the city's NPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other BMPs.

(4) Corrections of problems subject to appeal. Corrective measures imposed by the stormwater coordinator under this section are subject to appeal under § 18-411 of this chapter. (as added by Ord. #14-28, Dec. 2014)

**18-408. Illicit discharges.** (1) Scope. This section shall apply to all water generated on developed or undeveloped land entering the city's separate storm sewer system.

(2) Prohibition of illicit discharges. No person shall introduce or cause to be introduced into the municipal separate storm sewer system any discharge that is not composed entirely of stormwater or any discharge that flows from a stormwater facility that is not inspected in accordance with § 18-407 shall be an illicit discharge. Illicit discharges are defined above in § 18-403 and further consist of non-stormwater discharges including, but shall not be limited to, sanitary wastewater, car wash wastewater, radiator flushing disposal, spills from roadway accidents, carpet cleaning wastewater, effluent from septic tanks, improper oil disposal, laundry wastewater/gray water, improper disposal of auto and household toxics. The commencement, conduct or continuance of any non-stormwater discharge to the municipal separate storm sewer system is prohibited except as described as follows:

- (a) Uncontaminated discharges from the following sources:
  - (i) Water line flushing or other potable water sources;
  - (ii) Landscape irrigation or lawn watering with potable water;
  - (iii) Diverted stream flows;
  - (iv) Rising groundwater;
  - (v) Groundwater infiltration to storm drains;
  - (vi) Pumped groundwater;
  - (vii) Foundation or footing drains;
  - (viii) Crawl space pumps;
  - (ix) Air conditioning condensation;
  - (x) Springs;
  - (xi) Non-commercial washing of vehicles;
  - (xii) Natural riparian habitat or wetland flows;
  - (xiii) Swimming pools (if dechlorinated - typically less than one (1) PPM chlorine);
  - (xiv) Firefighting activities;

- (xv) Any other uncontaminated water source.
- (b) Discharges specified in writing by the city as being necessary to protect public health and safety.
- (c) Dye testing is an allowable discharge if the city has so specified in writing.
- (d) Discharges authorized by the Construction General Permit (CGP), which comply with section 3.5.9 of the same:
  - (i) Dewatering of work areas of collected stormwater and groundwater (filtering or chemical treatment may be necessary prior to discharge);
  - (ii) Waters used to wash vehicles (of dust and soil, not process materials such as oils, asphalt or concrete) where detergents are not used and detention and/or filtering is provided before the water leaves the site;
  - (iii) Water used to control dust in accordance with CGP section 3.5.5;
  - (iv) Potable water sources including waterline flushings from which chlorine has been removed to the maximum extent practicable;
  - (v) Routine external building washdown that does not use detergents or other chemicals;
  - (vi) Uncontaminated groundwater or spring water; and
  - (vii) Foundation or footing drains where flows are not contaminated with pollutants (process materials such as solvents, heavy metals, etc.).
- (3) Prohibition of illicit connections. The construction, use, maintenance or continued existence of illicit connections to the municipal separate storm sewer system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (4) Reduction of stormwater pollutants by the use of best management practices. Any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, shall be required in accordance with applicable laws, to implement, at the person's expense, the BMPs necessary to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section. Discharges from existing BMPs that have not been maintained and/or inspected in accordance with this chapter shall be regarded as illicit.
- (5) Notification of spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for

emergency response for a facility or operation has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into the municipal separate storm sewer system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, the person shall notify the city in person or by telephone, fax, or email, no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the city within three (3) business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

(6) No illegal dumping allowed. No person shall dump or otherwise deposit outside an authorized landfill, convenience center or other authorized garbage or trash collection point, any trash or garbage of any kind or description on any private or public property, occupied or unoccupied, inside the city. (as added by Ord. #14-28, Dec. 2014)

**18-409. Enforcement.** (1) Enforcement authority. The stormwater coordinator shall have the authority to issue notices of violation and citations, and to impose the civil penalties provided in summary in this section. Further details on enforcement shall be as defined in the city's enforcement response plan as approved by the board of mayor and aldermen. Measures authorized include:

(a) Verbal warnings. At minimum, verbal warnings must specify the nature of the violation and required corrective action.

(b) Written notices. Written notices must stipulate the nature of the violation and the required corrective action, with deadlines for taking such action.

(c) Citations with administrative penalties. The MS4 has the authority to assess monetary penalties, which may include civil and administrative penalties.

(d) Stop work orders. Stop work orders that require construction activities to be halted, except for those activities directed at cleaning up, abating discharge, and installing appropriate control measures.

(e) Withholding of plan approvals or other authorizations. Where a facility is in noncompliance, the MS4's own approval process affecting the facility's ability to discharge to the MS4 can be used to abate the violation.

(f) Additional measures. The MS4 may also use other escalated measures provided under local legal authorities. The MS4 may perform work necessary to improve erosion control measures or eliminate illicit discharges and collect the funds from the responsible party in an appropriate manner, such as collecting against the project's bond or directly billing the responsible party to pay for work and materials.

(2) Notification of violation. (a) Verbal warning. Verbal warning may be given at the discretion of the inspector when it appears the condition can be corrected by the violator within a reasonable time, which time shall be approved by the inspector.

(b) Written notice. Whenever the stormwater coordinator finds that any permittee or any other person discharging stormwater has violated or is violating this chapter or a permit or order issued hereunder, the stormwater coordinator may serve upon such person written notice of the violation. Within ten (10) days of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the stormwater coordinator. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation.

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

(d) Show cause hearing. The stormwater coordinator may order any person who violates this chapter or permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the person specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the violator show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing.

(e) Compliance order. When the stormwater coordinator finds that any person has violated or continues to violate this chapter or a permit or order issued thereunder, he may issue an order to the violator directing that, following a specific time period, adequate structures or devices be installed and/or procedures implemented and properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance,

including the construction of appropriate structures, installation of devices, self-monitoring, and management practices.

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

(i) Comply forthwith; or

(ii) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation; including halting operations except for terminating the discharge and installing appropriate control measures.

(g) Suspension, revocation or modification of permit. The stormwater coordinator may suspend, revoke or modify the permit authorizing the land development project or any other project of the applicant or other responsible person within the city. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated upon such conditions as the stormwater coordinator may deem necessary to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

(h) Conflicting standards. Whenever there is a conflict between any standard contained in this chapter, other city ordinances or in the BMP manuals adopted by the city under this chapter, the strictest standard shall prevail. (as added by Ord. #14-28, Dec. 2014)

**18-410. Penalties.** (1) Violations. Any person who shall commit any act declared unlawful under this chapter, who violates any provision of this chapter, who violates the provisions of any permit issued pursuant to this chapter, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by the stormwater coordinator, shall be guilty of a civil offense.

(2) Penalties. Under the authority provided in Tennessee Code Annotated, § 68-221-1106, the city declares that any person violating the provisions of this chapter may be assessed a civil penalty by the city of not less than fifty dollars (\$50.00) and not more than five thousand dollars (\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation. Further definition of said penalties will be as described in the official city enforcement response plan as approved by the board of mayor and aldermen.

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

- (a) The harm done to the public health or the environment;
- (b) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;
- (c) The economic benefit gained by the violator;
- (d) The amount of effort put forth by the violator to remedy this violation;
- (e) Any unusual or extraordinary enforcement costs incurred by the city;
- (f) The amount of penalty established by ordinance or resolution for specific categories of violations; and
- (g) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

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

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

(5) Referral to TDEC. Where the city has used progressive enforcement to achieve compliance with this chapter, and in the judgment of the city has not been successful, the city may refer the violation to TDEC. For the purposes of this provision, "progressive enforcement" shall mean verbal warnings, written notices citations and other measures defined in § 18-409 and in the city's enforcement response plan. In addition, enforcement referrals to TDEC must include, at a minimum, the following information:

- (a) Construction project or industrial facility location;
- (b) Name of owner or operator;
- (c) Estimated construction project or size or type of industrial activity (including SIC code, if known);
- (d) Records of communications with the owner or operator regarding the violation, including at least two (2) follow-up inspections, two (2) warning letters or notices of violation, and any response from the owner or operator.

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

(7) Remedies cumulative. The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or

criminal, that one (1) or more of the remedies set forth herein has been sought or granted. (as added by Ord. #14-28, Dec. 2014)

**18-411. Appeals.** Pursuant to Tennessee Code Annotated, § 68-221-1106(d), any person aggrieved by the imposition of a civil penalty or damage assessment as provided by this chapter may appeal said penalty or damage assessment to the stormwater advisory board.

(1) Appeals to be in writing. The appeal shall be in writing and filed with the city recorder within fifteen (15) days after the civil penalty and/or damage assessment is served in any manner authorized by law.

(2) Public hearing. Upon receipt of an appeal, the city's stormwater advisory board established by the city's governing body shall hold a public hearing within thirty (30) days. Ten (10) days' prior notice of the time, date, and location of said hearing shall be published in a daily newspaper of general circulation. Ten (10) days' notice by registered mail shall also be provided to the aggrieved party, such notice to be sent to the address provided by the aggrieved party at the time of appeal. The decision of the governing body of the city shall be final.

(3) Appealing decisions of the city's stormwater advisory board. Any alleged violator may appeal a decision of the stormwater advisory board pursuant to the provisions of Tennessee Code Annotated, title 27, chapter 8. (as added by Ord. #14-28, Dec. 2014)

## CHAPTER 5

### STORMWATER UTILITY ORDINANCE

#### SECTION

- 18-501. Title and purpose.
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- 18-512. Billing procedures and penalties for late payment.
- 18-513. Appeals of fees.
- 18-514. Stormwater user fee credit and adjustment policy.
- 18-515. Effective date.

**18-501. Title and purpose.** This chapter shall be known as the "Stormwater Utility Ordinance" for the City of White House, Tennessee.

(1) **Introduction.** The City of White House finds, determines and declares that the stormwater system, which provides for the collection, treatment, storage and disposal of stormwater, provides benefits and services to all property within the city's MS4 jurisdiction. Such benefits include, but are not limited to: the provision of adequate systems of collection, conveyance, detention, retention, treatment and release of stormwater, the reductions of hazards to property and life resulting from stormwater runoff, improvements in general health and welfare through reduction of undesirable stormwater conditions, and improvements to water quality in the stormwater and surface water system and its receiving waters.

(2) **Purpose.** In accordance with Tennessee Code Annotated, § 68-221-1101, et seq., the City of White House desires to develop a stormwater utility in order to provide a funding mechanism to operate and maintain the City of White House's Stormwater Management Program and finance the necessary stormwater repairs, replacements, improvements, and extensions necessary to protect the health, safety and welfare of the public. The stormwater utility purpose is to:

- (a) Administer and enforce the City of White House Stormwater Management Ordinance;

(b) Administer, plan, and implement stormwater projects to protect, maintain, and enhance the environment of the City of White House;

(c) Implement activities necessary to maintain compliance with the National Pollutant Discharge Elimination System (NPDES) permit and applicable regulations, 40 CFR section 122.26 for stormwater discharges;

(d) Annually analyze the cost of services and benefits provided, and the system and structure of fees, charges, civil penalties and other revenues of the utility; and

(e) Advise the board of mayor and aldermen and other City of White House departments on matters relating to the utility.

(3) Administering entity. The stormwater utility shall be part of the public services department. The stormwater utility, under the direction and supervision of the director of public services or his designee, shall administer the provisions of this stormwater utility ordinance as approved by the city administrator. (as added by Ord. #14-28, Dec. 2014)

**18-502. Jurisdiction.** The stormwater utility ordinance shall govern all properties within the corporate limits of the City of White House. (as added by Ord. #14-28, Dec. 2014)

**18-503. Definitions.** For the purpose of this chapter, the following definitions shall apply:

(1) "Agricultural property." Property which is zoned agricultural and/or property which yields an annual minimum, or in which the annual minimum has been met in two (2) of the last five (5) years, of one thousand dollars (\$1,000.00) of agricultural products produced and/or sold from the operation of the property. Agricultural production shall include agricultural, forest, and/or livestock production as defined by the United States Department of Agriculture, Natural Resources Conservation Service, Environmental Quality Incentive Program. Proof of agricultural producer status may include IRS from 1040 Schedule F or other accounting records certified by a tax preparer.

(2) "Base rate." The stormwater user fee for a detached single-family residential property in the City of White House.

(3) "Best Management Practices" or "BMPs." The physical, structural, and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of water, that have been approved by the City of White House, and that have been incorporated by reference into the stormwater management ordinance as if fully set out therein.

(4) "Construction." The erection, building, acquisition, alteration, reconstruction, improvement or extension of stormwater facilities; preliminary planning to determine the economic and engineering feasibility of stormwater facilities; the engineering, architectural, legal, fiscal and economic investigations

and studies, surveys, designs, plans, working drawings, specifications, procedures, and other action necessary in the construction of stormwater facilities; and the inspection and supervision of the construction of stormwater facilities.

(5) "Deficient property." Real property that does not have adequate stormwater facilities as required in the latest edition of the City of White House stormwater regulations.

(6) "Developed property." Real property which has been altered from its natural state by the creation or addition of impervious areas, by the addition of any buildings, structures, pavement, drives or other improvements.

(7) "Equivalent Residential Unit" or "ERU." The average of the total square footage of the impervious surface areas from a representative sample of developed single-family residential property within the City of White House as approved by the board of mayor and alderman.

(8) "Exempt property." All public rights-of-way, public streets and public roads, public alleys, public sidewalks and public greenways, public "park and ride" facilities and bus stops within the City of White House. For purposes of this definition, "public" shall mean that which is maintained by or is or is to be dedicated to the City of White House and/or the State of Tennessee or the government of the United States.

(9) "Fiscal year." July 1 of a calendar year to June 30 of the next calendar year, both inclusive.

(10) "Impervious surface." A surface which is compacted or covered with material that is resistant to infiltration by water, including, but not limited to, most conventionally surfaced streets, roofs, sidewalks, patios, driveways, parking lots, and any other oiled, graveled, graded, compacted, or any other surface which impedes the natural infiltration of surface water.

(11) "Impervious surface area." The number of square feet of horizontal surface covered by buildings, and other impervious surfaces.

(12) "Other developed property." Developed property other than single-family residential property. Such property shall include, but not be limited to, commercial properties, industrial properties, parking lots, hospitals, schools, recreational and cultural facilities, hotels, offices, and churches. Such property shall also include single-family dwellings which are attached to or otherwise a part of a building housing a commercial enterprise. Any single-family residential structure which contains more than two (2) attached dwelling units is specifically included in this definition.

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

(14) "Property owner." The property owner of record as listed in the county's tax assessment roll. A property owner includes any individual, corporation, firm, partnership, or group of individuals acting as a unit, and any trustee, receiver, or personal representative.

(15) "Single-family residential property." A developed property which serves the primary purpose of providing a permanent dwelling unit to a single family. A single-family detached dwelling, a townhouse, an accessory apartment or second dwelling unit, a duplex, a condominium, a villa, or a garden home is included in this definition. A single-family dwelling which is attached to, or otherwise a part of, a building housing a commercial enterprise is not included in this definition.

(16) "Stormwater." Stormwater runoff, snow melt runoff, surface runoff, infiltration, and drainage.

(17) "Stormwater management." The programs to manage quality and quantity of stormwater runoff.

(18) "Stormwater system." The natural or manmade system that collects, conveys, stores, treats or otherwise affects stormwater or surface water.

(19) "Stormwater user fee" or "fee." The utility service fee established under this chapter and levied on owners or users of parcels or pieces of real property to fund the costs of stormwater management and of operating, maintaining, and improving the stormwater system in the City of White House. The stormwater user fee is in addition to other fees that the City of White House has the right to charge under any other rule or regulation of the City of White House.

(20) "Stormwater utility." A management structure that is responsible solely and specifically for the stormwater management program and system.

(21) "Stormwater utility management fund" or "fund." The fund created by this chapter to operate, maintain, and improve the City of White House's stormwater system.

(22) "Surface water." Waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other watercourses, lakes, ponds, wetlands, marshes and sinkholes.

(23) "User." The owner or customer of record of property subject to the stormwater user fee imposed by this chapter.

(24) "Vacant/undeveloped property." Property on which there is no structure for which a certificate of occupancy has been issued.

Words used in the singular shall include the plural, and the plural shall include the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary. (as added by Ord. #14-28, Dec. 2014)

**18-504. Funding of stormwater utility.** Funding for the stormwater utility's activities may include, but not be limited to, the following:

- (1) Stormwater user fees;

(2) Civil penalties and damage assessments imposed for or arising from the violation of the City of White House Stormwater Management Ordinance and City of White House Stormwater Utility Ordinance;

(3) Stormwater permit and inspection fees if so separated from the grading permit process; and

(4) Other funds or income obtained from federal, state, local, and private grants, or revolving funds, and from the Local Government Public Obligations Act of 1986 (Tennessee Code Annotated, title 9, chapter 21). (as added by Ord. #14-28, Dec. 2014)

**18-505. Stormwater utility management fund.** All revenues generated by or on behalf of the stormwater utility shall be deposited in a stormwater utility management fund and used to fulfill the purposes of the stormwater utility. (as added by Ord. #14-28, Dec. 2014)

**18-506. Operating budget.** The board of mayor and aldermen shall adopt, based on a recommendation from the stormwater utility, an operating budget for the stormwater utility management fund each fiscal year. The operating budget shall set forth for such fiscal year the estimated revenues and the estimated costs for operations and maintenance, extension and replacement and debt service. (as added by Ord. #14-28, Dec. 2014)

**18-507. Stormwater user fee established.** There shall be imposed on each and every developed property in the City of White House, except exempt property, a stormwater user fee, which shall be set from time to time by ordinance as adopted by the board of mayor and aldermen, and in the manner and amount prescribed by this chapter. Prior to amending the stormwater user fee, the City of White House shall advertise its intent to do so by publishing notice in a newspaper of general circulation in the City of White House at least thirty (30) days in advance of the meeting of the board of mayor and aldermen which shall consider the adoption of the fee or its amendment. The initial base rate for each ERU as established with this chapter is hereby set at eight dollars ninety-nine cents (\$8.99) per month. (as added by Ord. #14-28, Dec. 2014, and amended by Ord. #16-12, June 2016, and Ord. #17-15, June 2017)

**18-508. Equivalent Residential Unit (ERU).** (1) Establishment. There is established for purposes of calculating the stormwater user fees the Equivalent Residential Unit (ERU) as a method of measurement.

(2) Definition. The ERU is the average of the total square footage of the impervious surface areas of developed single-family residential property within the City of White House as approved by the board of mayor and aldermen.

(3) Setting the ERU. The ERU shall be modified as necessary by the board of mayor and aldermen in future years where adjustment seems required by changes in local conditions. The initial stormwater utility study concerning the ERU in the municipal city limits and hereby established by this chapter is three thousand nine hundred thirty-six (3,936) square feet.

(4) Source of ERU. The board of mayor and aldermen shall have the discretion to determine the source of the data from which the ERU is established, taking into consideration the general acceptance and use of such source on the part of other stormwater systems, and the reliability and general accuracy of the source including but not limited to property tax assessor's rolls, site examination, mapping information, aerial photographs, and other reliable information.

(5) Evaluation of ERU. The ERU shall be evaluated by the stormwater utility as necessary, but the ERU shall be evaluated at least every five (5) years. (as added by Ord. #14-28, Dec. 2014)

**18-509. Property classification for stormwater user fees.**

(1) Property classifications. For purposes of determining the stormwater user fee, all properties in the City of White House are classified into one of the following categories:

- (a) Single-family residential property;
- (b) Other developed property;
- (c) Vacant/undeveloped property;
- (d) Agricultural property; or
- (e) Exempt property.

(2) Single family residential fee. The board of mayor and aldermen finds that the intensity of development of most parcels of real property in the City of White House classified as single-family residential is similar and that it would be excessively and unnecessarily burdensome on the taxpaying citizens of the city to determine precisely the square footage of the impervious surface on each such parcel. Therefore, all single-family residential properties in the City of White House shall be charged the same stormwater user fee, equal to the ERU base rate, regardless of the size of the parcel or the impervious surface area of the improvements, except as provided herein. Single-family residential property in which the impervious surface exceeds ten thousand (10,000) square feet, including any detached accessory structures, shall be charged the same as the fee for other developed property.

(3) Other developed property fee. The fee for other developed property (i.e., non-single-family residential property) in the City of White House shall be the base rate multiplied by the numerical factor obtained by dividing the total impervious area (square feet) of the property by the standard ERU area and rounded up to the next whole number. The minimum stormwater user fee for other developed property shall equal the base rate for a single-family residential property.

(4) Vacant/undeveloped property fee. The fee for vacant/undeveloped property in the City of White House shall be as follows:

(a) If the property contains less than one thousand eight hundred (1,800) square feet of impervious surface, then no stormwater user fee shall be charged;

(b) If the property contains one thousand eight hundred (1,800) square feet or more of impervious surface as other developed property, with the minimum charge being the single-family residential fee.

(5) Agricultural property. The fee for agricultural property in the City of White House shall be as follows, except as exempted under Tennessee Code Annotated, § 68-221-1107 where the property owner or operator is conducting activities satisfying the requirements as a qualified farmer or nurseryman:

(a) If the property contains impervious surface in an amount equal to or less than ten thousand (10,000) square feet, then the minimum stormwater user fee for such property shall equal the base rate for a single-family residential property;

(b) If the property contains impervious surface in an amount greater than ten thousand (10,000) square feet, then the property shall be charged in the same manner as other developed property.

(6) Exempt property. There shall be no stormwater user fee for exempt property as defined in this chapter or as otherwise provided by state law. (as added by Ord. #14-28, Dec. 2014)

**18-510. Base rate.** The board of mayor and aldermen shall, by ordinance as adopted by the board of mayor and aldermen, establish the base rate for the ERU. The base rate shall be calculated to insure adequate revenues to fund the costs of stormwater management and to provide for the operation, maintenance, and capital improvements of the stormwater system in the City of White House. (as added by Ord. #14-28, Dec. 2014)

**18-511. Property owners to pay charges.** The owner of each property shall be obligated to pay the stormwater user fee as provided in this chapter, provided however, that if no sewer or solid waste disposal service is being provided at the property to the owner as a customer of record and such service is being provided to a customer of record other than the owner, it shall be presumed that the owner and such customer of record have agreed that the customer of record shall be obligated to pay such stormwater user fee. If the customer of record other than the owner refuses to pay the stormwater user fee, the owner of each developed property shall be obligated to pay the stormwater user fee as defined in this chapter.

Non-residential multi-tenant properties shall be billed according to the placement of sewer meters. For example, if the property contains individual unit meters, then billing for the stormwater user fee shall be billed to individual units based on the unit's pro rata percentage of impervious surface. If the

multi-tenant property contains a master meter, then the stormwater user fee for the entire impervious surface area shall be billed to the customer of record for such master meter.

Each unit of a multi-tenant residential building shall be billed a minimum charge, the same being the single-family residential fee, to the customer of record for the unit. If an individual unit is not individually billed for any solid-waste or sewer service, (i.e. sewer service is billed to a master meter) then the customer of record for the master meter shall be billed as other developed property based on the total impervious surface area. (as added by Ord. #14-28, Dec. 2014)

**18-512. Billing procedures and penalties for late payment.**

(1) Rate and collection schedule. A stormwater user fee shall be set at a rate as set forth and adopted by the board of mayor and aldermen ordinance, collected at a location and on a schedule, established in accordance with this chapter. The stormwater user fee shall be billed and collected monthly with the monthly utility services bill for those properties within the corporate limits. The stormwater user fee for those properties utilizing city utilities is part of a consolidated statement for utility customers, which is generally paid by a single payment to the City of White House. All bills for the stormwater user fee shall become due and payable in accordance with the rules and regulations of the applicable utilities department pertaining to the collection of the stormwater user fees. Adjustments to the applied rate and collection on any property or user may be initially addressed with the public service director having authority to correct billings strictly in accordance with this regulation. Any formal appeals of the public service director decisions shall be as described and in accordance with the appeals section of this chapter.

(2) Delinquent bills. The stormwater user fee shall be considered delinquent if not received by the City of White House by the due date stated in the utility statement.

(3) Failure to pay. The City of White House shall be entitled to recover costs, including but not limited to attorney's fees, incurred in collecting delinquent stormwater user fees. The city may discontinue utility service to any stormwater user who fails or refuses to pay the stormwater user fees.

(4) Mandatory statement. Pursuant to Tennessee Code Annotated, § 68-221-1112, each bill that shall contain stormwater user fees shall contain the following statement in bold: "**THIS TAX HAS BEEN MANDATED BY CONGRESS.**" Although the mandatory statement will be placed on each bill, the City of White House Board of Mayor and Aldermen hereby finds and declares that the stormwater user fee is a utility service fee and not a tax. (as added by Ord. #14-28, Dec. 2014, and amended by Ord. #17-06, April 2017)

**18-513. Appeals of fees.** Any person who disagrees with the calculation of the stormwater user fee, as provided in this chapter, may appeal such fee

determination to the stormwater advisory board within ten (10) days after the date the payment is due. Any appeal not filed within the time permitted by this section shall be deemed waived.

All appeals shall be filed in writing addressed to the director of public services and shall state the grounds for the appeal and the amount of the stormwater user fee the appellant asserts is appropriate and inappropriate. The appeal shall provide such information and documentation supporting the basis of the appeal. The appeal shall be accompanied by an appeal review fee of three hundred dollars (\$300.00). The appeal review fee shall be refunded to any party who prevails in an appeal of the calculation of the stormwater user fee. As a condition to maintaining an appeal, the appellant shall pay all charges billed under protest prior to or at the time of the filing of the appeal.

The stormwater advisory board shall review the appeal and determine whether the challenged determination is consistent with the provisions of this chapter. Appeals related to the stormwater user fee shall be decided based on substantiated evidence with a sound engineering and factual basis. All appeal determinations shall be applied utilizing a strict interpretation of the stormwater utility ordinance. At any hearing related to an appeal or credit determination, the city shall be allowed to present evidence, findings, and recommendations; appealing parties and applicants shall be given an opportunity to present evidence, findings, and recommendations. The stormwater advisory board may request additional information from the appealing party; the board may defer the determination of an appeal one (1) time to the next regularly scheduled meeting of the stormwater advisory board. Each appeal shall be placed on the stormwater advisory board agenda for the next regularly scheduled meeting, which meeting is at least twenty (20) days after the director of public services receives the written appeal. The director of public services shall notify the appellant customer of the date of the appeal review hearing in writing; such written notice shall be given at least ten (10) days prior to the hearing by regular mail at the address provided in the written appeal document. The decision of the stormwater advisory board shall be final and conclusive with no further administrative review.

If a refund is due, the director of public services shall authorize the refund which will be provided as a credit against the customer's stormwater user fee billings until such credit is exhausted. (as added by Ord. #14-28, Dec. 2014)

**18-514. Stormwater user fee credit and adjustment policy.** Stormwater user fee credits and adjustments are available to other developed property (i.e. non-single-family residential property) with exception to a small homes credit, which is available exclusively for single-family residential property as outlined in the Stormwater Utility Credit and Adjustment Policy Manual. (as added by Ord. #14-28, Dec. 2014)

**18-515. Effective date.** This chapter shall become effective as of the date of passage of the ordinance comprising this chapter on second reading by the board of mayor and aldermen. Stormwater user fees shall be charged as a utility billing for all customers within the corporate city limits no beginning January 1, 2015 at one (1) ERU for all users. The final ERU billing rates for each of the specific fee classifications will take full effect for all users beginning July 1, 2015. (as added by Ord. #14-28, Dec. 2014)

## CHAPTER 6

### STORMWATER ADVISORY BOARD

#### SECTION

18-601. Established.

18-602. Composition; terms; filling vacancies.

18-603. General duties of the stormwater advisory board.

18-604. Variances.

18-605. Meetings, quorum.

**18-601. Established.** There is hereby established a board of seven (7) members to be known as the "stormwater advisory board." (as added by Ord. #14-28, Dec. 2014)

**18-602. Composition; terms; filling vacancies.** The seven (7) members of this board shall be appointed by the mayor, subject to the approval of the board of mayor and aldermen. The mayor shall appoint members with the following representations: one (1) representative from the planning department, one (1) representative from public services, one (1) representative from the city administration at large, one (1) representative from the finance department, one (1) representative employed or retired from a business establishment regulated by this article, one (1) citizen residing within the city limits of White House, and one (1) representative that is a current member of the board of mayor and aldermen. The stormwater coordinator and city engineer will not be appointed members of the stormwater advisory board but shall attend the meetings of the stormwater advisory board on behalf of the city. All members shall serve until their successor is appointed. In the event of a vacancy, the mayor shall appoint a member to fill the unexpired term subject to approval by the board of mayor and aldermen. The stormwater advisory board shall select its own chair and vice chair. All officers shall serve for terms of one (1) year. (as added by Ord. #14-28, Dec. 2014)

**18-603. General duties of the stormwater advisory board.** In addition to any other duty or responsibility otherwise conferred upon the stormwater advisory board by chapters 4 and 5 of this title, the stormwater advisory board shall have the duty and power as follows:

(1) To recommend from time to time to the board of mayor and aldermen that it amend or modify the provisions of chapters 4 through 6 of this title;

(2) To hold hearings relating to the suspension, revocation, or modification of a permit due to stormwater related infractions and issue appropriate orders relating thereto;

(3) To hold hearings relating to an appeal from a user concerning the accuracy of any fees imposed upon the same stormwater management system user;

(4) To hold such other hearings as may be required in the administration of this title and to make such determinations and issue such orders as may be necessary to effectuate the purposes of this title;

(5) To request assistance from any officer, agent, or employee of the City or the White House Municipal Planning Commission and to obtain such information or other assistance as the stormwater advisory board might need;

(6) To provide guidance to the stormwater coordinator concerning community initiatives, community involvement, public interface and public projects as may from time to time be required to improve the water quality within the jurisdiction in accordance with the intent of this title. (as added by Ord. #14-28, Dec. 2014)

**18-604. Variances.** (1) The stormwater advisory board may grant a variance from the requirements in this title, provided to do so would not result in the violation of any state or federal law or regulation and if exceptional circumstances applicable to the site exist such that strict adherence to the provisions of this title will result in unnecessary hardship and will not result in a condition contrary to the intent of the title.

(2) The appellant shall submit a written request containing specific justifications, and any other information necessary to the stormwater coordinator for the variance request. The stormwater coordinator shall conduct a review of the request for a variance within twenty-five (25) working days after receipt and may either support the petition or may object to the petition. The stormwater coordinator shall receive coordination and review comments from the city engineer on variances and may require additional information or an independent third party study or design analysis. If the stormwater coordinator objects to the variance, the reasons therefore shall be stated. Once the stormwater coordinator's review is complete or the twenty-five (25) working days for review have expired, the petition shall be subject to stormwater advisory board action at the next regularly scheduled meeting or at a special meeting called at the discretion of the chair.

(3) Variance requests shall be reviewed by the stormwater advisory board and may be granted using the following criteria:

(a) Those projects or activities where it can be demonstrated that strict compliance with the ordinance would result in severe practical difficulty. Each of the following criteria must be satisfied to show practical difficulty:

(i) The problem is not self-created.

(ii) The situation of the landowner is due to the unique conditions of the property. A unique condition is a condition that

is peculiar to the subject property that relates to a physical aspect of the subject property.

(iii) Compliance with the strict letter of the restrictions governing physical requirements such as lot area, setbacks, and lot coverage unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.

(b) Those projects or activities serving a public need where no feasible alternative is available.

(c) The repair and maintenance of public improvements where avoidance and minimization of adverse impacts to wetlands and associated aquatic ecosystems have been addressed.

(d) Other considerations, such as:

(i) The proximity of the facility to a waterfront location, in the case of a functionally dependent facility.

(ii) The relationship of the proposed use to the White House Zoning Ordinance, Comprehensive Land Use Plan, and other community master planning documents for that area.

(iii) The safety of access to the property in times of flood for ordinary and emergency vehicles.

(iv) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(v) Whether issuance of a variance is the minimum necessary so as not to destroy the character and design of a historic building or feature.

(e) In approving a variance, the stormwater advisory board may impose conditions on the approval. The conditions shall be identified in the variance approval.

(f) The decisions of the stormwater advisory board shall be final and conclusive.

(4) Effect of a variance. The issuance of a variance shall authorize only the particular variation that is approved. A variance, including any conditions, shall run with the land and shall not be affected by a change in ownership.

(5) Subsequent development. Development authorized by the variance shall not be carried out until the applicant has secured all other approvals required by this title or any other applicable local, state or federal law or regulation. A variance shall not ensure that the development feature approved as a variance shall receive subsequent approval for other applications for development approval unless the relevant and applicable portions of this title's other applicable provisions are met.

(6) Time limit. Unless otherwise specified in the variance, an application for a permit (related to this stormwater variance) shall be applied

for and approved within one (1) year of the date of the variance approval; otherwise the variance shall become invalid. Permitted time frames do not change with successive owners. (as added by Ord. #14-28, Dec. 2014)

**18-605. Meetings, quorum.** (1) The stormwater advisory board shall hold regular monthly meetings as needed, but no less than once per quarter and such special meetings as the stormwater advisory board may find necessary.

(2) Four (4) members of the stormwater advisory board shall constitute a quorum. A concurring vote of a majority of the voting members present shall be necessary to deny or grant any appeal or other action of the board.

(3) The stormwater advisory board meetings, deliberations, and records shall be open to the public. The stormwater advisory board may elect to provide for public comment on relevant issues. (as added by Ord. #14-28, Dec. 2014)