

The Sewer Use Ordinance is the legal authority upon which an industrial pretreatment program is built upon. Regulators may say “legal authority” instead of saying “Sewer Use Ordinance.” It is important that your legal authority to control permitted users is correct.

An ordinance is a local law. Cities and Towns receive the authority to pass ordinances from their charters and the Tennessee Code or the Tennessee Constitution. A city will pass many ordinances on a variety of subjects. These should be kept in chronological order in an Ordinance Book. But over time it becomes hard to locate a specific ordinance. So, at some regular interval this accumulation of ordinances should be organized by subject into a Municipal Code. The process is called codification. It is recommended that cities do an annual update to their Municipal Code by having recently adopted ordinances codified. This Guide is about towns and cities, and their municipal utilities controlled by ordinances and codes. Authorities, utility boards & districts may be different.

In Tennessee many cities use the codification services of the Municipal Technical Advisory Service (MTAS), while others may use a private company such as MuniCode. An MTAS-produced Code organizes ordinances by subjects called Titles. Title 18 of codes produced by MTAS contains drinking water and sewer or wastewater ordinances or regulations.

### “Streamlining”

In and around 2008 EPA required all utilities with industrial pretreatment programs to update their “legal authority” or sewer use ordinances. This process became known by the highly inaccurate name of “streamlining.” Due to the industrial pretreatment subject matter within these changes, they had to be approved by TDEC, the official Approval Authority. After this approval each city or town could then take the legal steps of locally adopting the updated ordinance.

As each city or town adopted or passed these new ordinances, a number was assigned to the ordinance. If it was adopted in 2008, the Ordinance number probably included “2008 or 08” along with local numbering of some fashion.

When this new “streamlined” ordinance was adopted, it should have repealed any existing ordinance or code chapters. This prevents the confusion of having several similar but slightly different ordinances in force.

### Codification

It has been twelve years since “streamlining” was initiated. Many cities and towns have updated their municipal codes. In this process what was a sewer use ordinance with perhaps a 2008 number has now become a Chapter within Title 18 of the Municipal Code. “Sewer Use

Ordinance 2008-“xyz”, Wastewater Regulations” is gone, it has become Title 18, Chapter “abc,” Wastewater Regulations, of the city’s Code.

### Local Limit Updates

TDEC is placing more emphasis on the review of local limits every five years. They call this a “technical review to determine the need to update local limits.” If local limits and perhaps plant protection criteria are within the Sewer Use Ordinance or Municipal Code, these will need to be updated also. But first, all the TDEC required steps must be followed.

#### *Local Limit Approval by TDEC*

- Updated local limits and protection criteria are submitted to TDEC.
- TDEC grants preliminary approval
- The 30-day public comment period must take place. This is NOT a public “hearing” but a 30-day time period when the public can view, generally in city hall or a utility office, the preliminary approved local limit changes and make written comments.
- The results of the comment period are then sent to TDEC, although usually there are no comments.
- After the comment period, TDEC gives final approval of the local limits and plant protection criteria.

With **TDEC’s final approval**, the current sewer use ordinance or municipal code chapter, can be updated.

This update is accomplished using an amending ordinance, an ordinance to legally change part of an existing ordinance or Code chapter. For a local limit update only the new TDEC approved numbers need to be changed, and this amending ordinance should be very clear that old local limit and plant protection criteria numbers are being removed and new numbers are being inserted. See the example amending ordinance below. This example updates local limits and plant protection criteria, updates the new TDEC rule numbers from 1200 to 0400 and it removes from the Municipal Code outdated Chapters. These are legal changes not physical changes to the documents.

Upon passage of this amending ordinance, no one goes back to retype the new numbers into the old ordinance. The old ordinance remains intact as passed but legally amended by this new ordinance. At such time when ordinances are codified, an old ordinance and all its amendments are then retyped into a new Code Chapter that is now physically updated. In the example the change of the TDEC rule numbers and the removal of old Code Chapters would not physically take place until the Municipal Code was updated. The new Code Chapters will have all the new local limits and plant protection criteria as well as the new TDEC rule numbers. Also, the old out-of-date, chapters will be removed.

### Pretreatment Coordinator’s Documents

A pretreatment coordinator should always have a copy of the current “legal authority.” This may be the “Streamlined” ordinance from 2008 or an updated Chapter from the Municipal Code. If local limits have been updated using an amending ordinance, that amending ordinance should be attached to the old ordinance or Code Chapter. Generally, TDEC would want a copy of any pretreatment related changes to your legal authority. When adopted by the governing body the attached example ordinance will become a legal part of this existing sewer use ordinance No 8-11-09-1 and after codification No. 8-11-09-1 and this amendment will become an updated code chapter with all the changes being incorporated.

### Ordinance Format

Municipal ordinances have a general or recommended format. They begin with the words “Ordinance number” followed by a blank space. The actual number is inserted upon final passage and signing. MTAS recommends using the year followed by the next sequential number. For example, 2020-15 and 2020-16 for the fifteenth and sixteenth ordinances passed in the year 2020.

The Caption or Title is next, which gives an overview of the subject of the ordinance. See the example ordinance on the next page where the title is highlighted in yellow.

Next is the Preamble which briefly explains the purpose, objectives, and answers the question of why the ordinance is needed. This is done through the “Whereas” statements. In the example the preamble is highlighted in green.

The Ordination or Enactment clause is next. The ordination clause formally declares the adoption of the ordinance and identifies the legislative body taking the action. This clause may be very specific to each city and should follow your city’s Charter or Tennessee Code specifications. The example ordinance has this part highlighted in red.

The Body of the ordinance is next and, it may be divided into various sections. The example has four sections. The first section starts with a repealer clause and then has two- and one-half pages of additions. Section 2 is added to correct Tennessee Rules and Regulations numbers which have changed since Ordinance 8-11-09-1 was adopted. Section 3 is a second repealer clause which repeals three outdated chapters of the municipal code and should have been done when Ordinance 8-11-09-1 was adopted.

The fourth section is the effective date. This is the last section of the body and may follow specific language and a specific number of “readings” again depending upon the city’s charter or the Tennessee Code. This town’s charter requires three “readings” while most only have two.

Example Ordinance

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING SUBSECTION 2.4 OF ORDINANCE 8-11-09-1 (SEWER USE ORDINANCE) AND TO REMOVE OUTDATED CHAPTERS OF THE \_\_\_\_\_ MUNICIPAL CODE.

WHEREAS, the Town of \_\_\_\_\_ has a Tennessee Department of Environment and Conservation (TDEC) approved Industrial Pretreatment Program; and,

WHEREAS, TDEC requires regular updates of numeric limits called Local Limits and Plant Protection Criteria; and,

WHEREAS, these updates have been completed and approved by TDEC; and,

WHEREAS, TDEC has changed the numbering of the Tennessee Pretreatment Rule and these references need updating in the Sewer Use Ordinance and,

WHEREAS, existing Sewer Use Ordinances (Chapters 1-3 of the \_\_\_\_\_ Municipal Code) were not repealed when Ordinance No. 8-11-09-1 was adopted; now, therefore:

BE IT HEREBY ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF \_\_\_\_\_, TENNESSEE, that:

**Section 1- Update of Local Limits and Plant Protection Criteria.**

Subsection 2.4 of Ordinance 8-11-09-1 is hereby repealed and replaced with a new Subsection 2.4.

2.4 Local Limits

A. The [Superintendent] is authorized to establish Local Limits pursuant to Tennessee Rule 0400-40-14-.05(3).

B. The following pollutant limits are established to protect against Pass Through and Interference. No person shall discharge wastewater to the POTW which exceeds the following limits. Dilution of any wastewater discharge for the purpose of meeting these limits shall be considered in violation of this Ordinance.

Table 1 Local Limits

Pollutant	Monthly Average Maximum Concentration (mg/L)	Daily Maximum Concentration (mg/L)
Arsenic	0.0296	0.0445
Copper	0.636	0.954
Chromium III	2.905	4.358

Chromium VI	2.905	4.358
Chromium (total)	2.414	3.621
Nickle	0.3585	0.5378
Cadmium	0.0125	0.01882
Lead	0.1369	0.2024
Mercury	0.00904	0.01357
Zinc	1.0257	1.5386
Molybdenum	0.0688	0.1032
Selenium	Below Detection Level	
Silver	0.3408	0.51128
Cyanide	1.154	1.732
Toluene	2.506	3.795
Benzene	0.1515	0.2273
1,1,1 Trichloroethane	2.9239	4.3859
Ethylbenzene	0.467	0.7007
Carbon Tetrachloride	17.549	26.323
Chloroform	2.492	3.739
Tetrachloroethylene	1.6232	2.4392
Trichloroethylene	1.1684	1.7526
1,2 Trans dichloroethylene	0.0865	0.1297
Methylene Chloride	1.1223	1.6849
Phenol (total)	4.67	7.00
Naphthalene	0.14479	0.21719
Total Phthalate *	1.9459	2.9189

\* Total Phthalate is the sum of Bis(2-ethylhexy) phthalate, Butyl benzyl phthalate, Di-n-butyl phthalate, Diethyl phthalate.

Table 2 Plant Protection Criteria

No person or User shall discharge any waters or waste which cause the wastewater arriving at the POTW to exceed any of the maximum concentration limits as follows:

Pollutant	Maximum Concentration (mg/L)
Arsenic	0.003321
Copper	0.06357
Chromium III	0.250
Chromium VI	0.250
Chromium, Total	0.2069
Nickle	0.03189
Cadmium	0.00167
Lead	0.0154
Mercury	0.000815
Zinc	0.13428
Molybdenum	0.00666
Selenium	0.00499
Silver	0.0294
Cyanide	.0100
Toluene	0.214
Benzene	0.013
1,1,1-Trichloroethylene	0.250
Ethylbenzene	0.040
Carbon Tetrachloride	1.500
Chloroform	0.223
Tetrachloroethylene	0.1388
Trichloroethylene	0.100
1,2 Trans dichloroethylene	0.0075
Methylene Chloride	0.0961
Phenol (total)	0.454
Naphthalene	0.0125
Total Phthalate *	0.1697

**Section 2- Update of Tennessee Rules and Regulations 1200-4-14**

Throughout Ordinance No. 8-11-09-1 there are numerous references to Tennessee Rule 1200-4-14. All these citations are hereby updated to read 0400-40-14.

**Section 3- Update of Municipal Code**

Chapter 1- Sewers, Chapter 2-Sewers and Human Excreta Disposal, and Chapter 3- User Charge System are hereby repealed for they were replaced by Ordinance No. 8-11-09-1 which was passed and adopted in 2010.

**Section 4- DATE OF EFFECT.** This ordinance shall take effect from and after its final passage, the public welfare requiring it.

Passed 1<sup>st</sup> reading \_\_\_\_\_ 20\_\_

Passed 2<sup>nd</sup> reading \_\_\_\_\_ 20\_\_

Passed 3<sup>rd</sup> reading \_\_\_\_\_ 20\_\_

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Mayor

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Recorder