

TITLE 18

WATER AND SEWERS¹

CHAPTER

1. SEWAGE AND HUMAN EXCRETA DISPOSAL.
2. SEWER.
3. WATER.
4. SEWER USE AND WASTEWATER TREATMENT.
5. SEWERAGE COMMISSION.
6. STORMWATER MANAGEMENT AND POLLUTION CONTROL PLAN.
7. WASTEWATER COLLECTION SYSTEM OVERSIZING ALLOWANCES.
8. STORMWATER MANAGEMENT PROGRAM.
9. GREASE MANAGEMENT FOR FOOD SERVICE ESTABLISHMENTS.

CHAPTER 1

SEWAGE AND HUMAN EXCRETA DISPOSAL

SECTION

- 18-101. Definitions.
- 18-102. Places required to have sanitary disposal methods.
- 18-103. When a connection to the private or public sewer is required.
- 18-104. When a septic tank shall be used.
- 18-105. Registration and records of septic tank cleaners, etc.
- 18-106. Use of pit privy or other method of disposal.
- 18-107. Approval and permit required for septic tanks, privies, etc.
- 18-108. Owner to provide disposal facilities.
- 18-109. Occupant to maintain disposal facilities.
- 18-110. Only specified methods of disposal to be used.
- 18-111. Discharge into watercourses restricted.
- 18-112. Pollution of ground water prohibited.
- 18-113. Enforcement of chapter.
- 18-114. Carnivals, circuses, etc.
- 18-115. Violations.

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

¹Municipal code references

Building, utility and housing codes: title 12.

Fee schedule; sewer fees, etc.: appendix A.

Refuse disposal: title 17.

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

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

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

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

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

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

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

(8) "Watercourse." Any natural or artificial drain which conveys water either continuously or intermittently.

(9) "Sewer service line." "Sewer service line means a pipe intended to carry sewage flow that connects to the public sewer main and extends to the house, buildings, structures or other properties served. A sewer service line may be inside the public right-of-way or in an easement prior to extension onto private property. (1989 Code, § 8-301, as amended by Ord. #08-115, April 2008)

18-102. Places required to have sanitary disposal methods. Every residence, building, or place where human beings reside, assemble, or are employed within the corporate limits shall be required to have a sanitary method for disposal of sewage and human excreta. (1989 Code, § 8-302)

18-103. When a connection to the private or public sewer is required. Wherever an accessible sewer exists and water under pressure is available, approved plumbing facilities shall be provided and the wastes from such facilities shall be discharged through a connection to said sewer made in compliance with the requirements of the official responsible for the private or public sewerage system. On any lot or premise accessible to the sewer no other method of sewage disposal shall be employed. (1989 Code, § 8-303)

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

No septic tank or other water-carried sewage disposal system except a connection to a public sewer shall be installed without the approval of the health officer or his duly appointed representative. The design, layout, and construction of such systems shall be in accordance with specifications approved by the health officer and the installation shall be under the general supervision of the department of health. (1989 Code, § 8-304)

18-105. Registration and records of septic tank cleaners, etc. Every person, firm, or corporation who operates equipment for the purpose of removing digested sludge from septic tanks, cesspools, privies, and other sewage disposal installations on private or public property must register with the health officer and furnish such records of work done within the corporate limits as may be deemed necessary by the health officer. (1989 Code, § 8-305)

18-106. Use of pit privy or other method of disposal. Wherever a sanitary method of human excreta disposal is required under § 18-102 and water-carried sewage facilities are not used, a sanitary pit privy or other approved method of disposal shall be provided. (1989 Code, § 8-306)

18-107. Approval and permit required for septic tanks, privies, etc. Any person, firm, or corporation proposing to construct a septic tank system, privy, or other sewage disposal facility, requiring the approval of the health officer under this chapter, shall before the initiation of construction obtain the approval of the health officer for the design and location of the system and secure a permit from the health officer for such system. (1989 Code, § 8-307)

18-108. Owner to provide disposal facilities. It shall be the duty of the owner of any property upon which facilities for sanitary sewage or human excreta disposal are required by § 18-102, or the agent of the owner to provide such facilities. (1989 Code, § 8-308)

18-109. Occupant to maintain disposal facilities. It shall be the duty of the occupant, tenant, lessee, or other person in charge to maintain the facilities for sewage disposal in a clean and sanitary condition at all times and no refuse or other material which may unduly fill up, clog, or otherwise interfere with the operation of such facilities shall be deposited therein. (1989 Code, § 8-309)

18-110. Only specified methods of disposal to be used. No sewage or human excreta shall be thrown out, deposited, buried, or otherwise disposed of, except by a sanitary method of disposal as specified in this chapter. (1989 Code, § 8-310)

18-111. Discharge into watercourses restricted. No sewage or excreta shall be discharged or deposited into any lake or watercourse except under conditions specified by the health officer and specifically authorized by the Tennessee Stream Pollution Control Board. (1989 Code, § 8-311)

18-112. Pollution of ground water prohibited. No sewage effluent from a septic tank, sewage treatment plant, or discharges from any plumbing facility shall empty into any well, cistern, sinkhole, crevice, ditch, or other opening either natural or artificial in any formation which may permit the pollution of ground water. (1989 Code, § 8-312)

18-113. Enforcement of chapter. It shall be the duty of the health officer to make an inspection of the methods of disposal of sewage and human excreta as often as is considered necessary to insure full compliance with the terms of this chapter. Written notification of any violation shall be given by the health officer to the person or persons responsible for the correction of the condition, and correction shall be made within forty-five (45) days after notification. If the health officer shall advise any person that the method by which human excreta and sewage is being disposed of constitutes an immediate and serious menace to health such person shall at once take steps to remove the menace, and failure to remove such menace immediately shall be punishable under the general penalty clause for this code. However, such person shall be allowed the number of days herein provided within which to make permanent correction. (1989 Code, § 8-313)

18-114. Carnivals, circuses, etc. Whenever carnivals, circuses, or other transient groups of persons come within the corporate limits such groups

of transients shall provide a sanitary method for disposal of sewage and human excreta. Failure of a carnival, circus, or other transient group to provide such sanitary method of disposal and to make all reasonable changes and corrections proposed by the health officer shall constitute a violation of this section. In these cases the violator shall not be entitled to the notice of forty-five (45) days provided for in the preceding section. (1989 Code, § 8-314)

18-115. Violations. Any person, persons, firm, association, or corporation or agent thereof, who shall fail, neglect, or refuse to comply with the provisions of this chapter shall be deemed guilty of a misdemeanor and shall be punishable under the general penalty clause for this code. (1989 Code, § 8-315)

CHAPTER 2

SEWER¹

SECTION

- 18-201. Application and scope.
- 18-202. Definitions.
- 18-203. Use of system regulated.
- 18-204. Permit and supervision required for connecting to system.
- 18-205. Connection and privilege charges.
- 18-206. Installation, maintenance responsibility, and associated fees for sewer service lines.
- 18-207. Sewer service charges.
- 18-208. Extension policies.
- 18-209. Water service and provisions to apply to sewer service.
- 18-210. Sewer system expansion or improvement fee.
- 18-211. City of Memphis sewer regulations apply.
- 18-212. Developers must submit sewer plans to sewerage commission.

18-201. Application and scope. The provisions of this chapter are a part of all contracts for receiving sewer services from the city and shall apply whether the service is based upon contract, agreement, formal application, implied contract, or otherwise. (1989 Code, § 13-401)

18-202. Definitions. The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them:

(1) "Administrative ordinance or resolution" shall mean such ordinance or resolution as approved by majority vote of the board of commissioners.

(2) "Customer" means any person who receives sewer service from the city under either an express or implied contract.

(3) "Dwelling" means any single structure, with auxiliary buildings, occupied by one (1) or more persons or households for residential purposes.

(4) "Household" means any person or persons living as a household or family group.

¹Municipal code references

Building, utility, etc. codes: title 12.

Property maintenance regulations: title 13.

State law reference

Tennessee Code Annotated, §§ 7-35-201(1), et seq., 7-35-401, et seq., and 68-13-101, et seq.

(5) "Premise" means any structure or group of structures operated as a single business or enterprise; provided, however, the term "premise" shall not include more than one (1) dwelling.

(6) "Service line" shall consist of the pipe line extending from any sewer main of the city to private property. (1989 Code, § 13-402)

18-203. Use of system regulated. All persons using, desiring, or required to use the public sanitary sewer system shall comply with the provisions of this chapter and with such written rules and regulations as may be prescribed by the city when such rules and regulations have been approved by the board of commissioners. (1989 Code, § 13-403)

18-204. Permit and supervision required for connecting to system. No premises shall be connected to the public sanitary system without a permit from the city. Also, all connections to the system must be made under the direct supervision of the city and/or agent designated by the city. (1989 Code, § 13-404)

18-205. Connection and privilege charges. Sewer connection privilege charges for connections to publicly owned sewers or otherwise when ultimately interconnected to a publicly owned sewer within or outside the corporate boundaries of the city shall be as the city may, from time to time, adopt by appropriate administrative ordinance or resolution. (1989 Code, § 13-405)

18-206. Installation, maintenance responsibility, and associated fees for sewer service lines. (1) Each lot shall have a separate sewer service line serving it and no other lot shall be provided service from the sewer service line.

(2) Property owners shall be responsible for the installation of a new sewer service line from the public sewer main to the house, building, or structure if they have not been installed by others. The city does not guarantee that a sewer service line is extended into a lot. If there is no sewer service connection into the lot or parcel of land, the city and/or designated agent by the city may install, at the cost of the customer and as covered by fees set forth by ordinance, a sewer service saddle on the sewer main. The property owner must then install the sewer service line from the saddle on the public sewer main to the property being served by the sewer service. All trenching, excavation, backfilling, compaction, and surface restoration such as pavement replacement etc., shall be performed by and at the cost and expense of the property owner.

(3) The owner shall maintain the existing sewer service line from the public sewer main to the house, building or structure being served. Maintenance covers all work and costs associated with routine and emergency services to clean the sewer service line.

(a) If a residential property owner experiences sewer service interruption as a result of a sewer service line blockage or breakage and has demonstrated a good faith effort to remedy the problem, the city will make any necessary repair on the portion of the sewer service line inside the public right-of-way or easement. A good faith effort shall constitute current written documentation that the owner has hired a plumber to clear or repair the breakage of the sewer service line. The owner shall, before the city makes such repairs, provide a clear and open access to the sewer service line at the right-of-way or easement boundary. Upon completion of making repairs to the sewer service line blockage or breakage, a new sewer service cleanout shall be installed as directed by the city engineer at the right of way line and at the expense of the property owner. Residential property owners will not be billed for any repair work performed by the city between the public sewer main and the right-of-way or easement boundary, except for the material cost of the sewer cleanout. All costs associated with a plumber or others by the property owner to clear a blocked or broken sewer service line shall be the responsibility of the property owner. Commercial property owners shall pay all costs and repairs to a blocked or broken sewer service line from the public sewer main to the structure. This includes the cost of materials and labor to install a sewer service cleanout.

(4) The city does not undertake or agree to furnish or supply continuous uninterrupted sewer service to its property owners and shall not be liable for any deficiency or failure in the receiving of wastewater from property owners for the purpose of making repairs or connections or from any other cause whatsoever. The city specifically reserves the right to assert any and all rights, immunities, and defenses it may have pursuant to the Tennessee Governmental Claims Act.

(5) Sewer system backwater valves. If the city determines that a property owner has the potential to have a sewer system backup, a backwater valve shall be installed by the property owner at owner's cost. Sewer system backwater valves shall be installed in accordance to applicable plumbing code. (1989 Code, § 13-406, as amended by Ord. #08-115, April 2008)

18-207. Sewer service charges. Sewer service charges shall be collected from the person billed for water service to any premises with an accessible sanitary sewer. Water service may be discontinued for non-payment of the combined bill. Sewer service shall be furnished under such rate schedules as may, from time to time, be adopted by appropriate administrative ordinance or resolution. (1989 Code, § 13-407)

18-208. Extension policies. (1) Whenever the board of commissioners is of the opinion that it is to the best interest of the sewer system to construct

a sewer extension, such extension may be constructed upon such terms and conditions as shall be approved by a majority of the members of the commission.

(2) When a sewer extension is constructed to serve land development projects and subdivision developments, the developer shall pay all costs and expenses incurred. Said payments are not subject to refund. (1989 Code, § 13-408)

18-209. Water service and provisions to apply to sewer service.

Insofar as practical, the various policies and provisions set forth by the appropriate water system authority providing water services as outlined in chapter 1 of this title shall apply to sewer service for the following:

- (1) Obtaining service.
- (2) Application and contract for service.
- (3) Temporary service.
- (4) Multiple services through a single meter.
- (5) Billing.
- (6) Discontinuance or refusal of service.
- (7) Reconnection charge.
- (8) Access to customer's premises.
- (9) Inspections.
- (10) Customer's responsibility for system's property.
- (11) Customer's responsibility for violations.
- (12) Supply and resale of water (sewer service).
- (13) Interruption of service. (1989 Code, § 13-409)

18-210. Sewer system expansion or improvement fee. When a system extension is constructed in connection with a project or subdivision development, the city may require the developer to pay an amount not to exceed an amount equal to thirty-five (35) percent of the total cost of the sewer extension as a sewer system expansion or improvement fee. This amount may be required in addition to those charges prescribed in §§ 18-204 and 18-207. (1989 Code, § 13-410)

18-211. City of Memphis sewer regulations apply. City sewer users shall comply with all provisions of the City of Memphis ordinances pertaining to sewer use, charges, billing and practices, in accordance with Agreement dated July 7, 1969, and any other amendments thereto, by and between the City of Lakeland and the City of Memphis. It is stipulated that the Board of Commissioners, by appropriate administrative ordinance or resolution, may from time to time establish connection and privilege charges, sewer service charges, or establish rules and regulations that may be in excess of or more stringent than the requirements of the City of Memphis Ordinances. (1989 Code, § 13-411)

18-212. Developers must submit sewer plans to sewerage commission. (1) All developers of commercial and residential subdivisions within the City of Lakeland who desire to utilize and/or connect to the Lakeland Sewer System shall submit a sewer plan(s) for their respective subdivisions to the BOSC for approval. The plan shall contain the following:

- (a) Detailed drawings of all sewer out-fall lines, or
- (b) Other sewer construction, or
- (c) Design(s) of lift stations, if needed, and/or
- (d) Any other pertinent information that may be required by city staff; including the city engineer for all phases of the respective subdivision(s).

(2) The plan(s) shall contain a summary of the sewer tap fees to be paid to the Lakeland Sewer Fund by developer for all phases of the respective subdivision and shall be submitted to the BOSC.

(3) Approval of the sewer plan(s) by the BOSC must be obtained prior to submission of the sewer plans to the municipal planning commission. (Ord. #00-04, May 2000)

CHAPTER 3

WATER¹

SECTION

- 18-301. To be furnished under franchise.
- 18-302. Services provided by Memphis Light, Gas and Water Division (MLG&W).
- 18-303. Application and scope.
- 18-304. Obtaining services.
- 18-305. Memphis Light, Gas and Water Division regulations apply.

18-301. To be furnished under franchise.² Water shall be furnished to the City of Lakeland and its inhabitants under franchise granted to Shelby County Board of Public Utilities by the Board of Commissioners of the City of Lakeland, Tennessee. The rights, powers, duties, and obligations of the City of Lakeland and its inhabitants are clearly stated in the December 7, 1978 franchise agreement executed by, and which shall be binding upon, the parties concerned. (1989 Code, § 13-101)

18-302. Services provided by Memphis Light, Gas and Water Division. Routine maintenance and operations of the water system authority overseen by the Superintendent, Shelby County Board of Public Utilities is vested in Memphis Light, Gas and Water Division (MLG&W). (1989 Code, § 13-102)

18-303. Application and scope. The provisions of this chapter are a part of all contracts for receiving water service from the water systems authority to the city and shall apply whether the service is based upon contract, agreement, formal application, implied contract, or otherwise. (1989 Code, § 13-103)

18-304. Obtaining services. A formal application for either original or additional service must be made and be approved by the Water System Authority (MLG&W) before connection or meter installation orders will be issued and work performed. (1989 Code, § 13-104)

¹Municipal code reference

Building, utility, etc. codes: title 12.

²For complete details relating to the water franchise agreement, see Ordinance dated December 7, 1978, and any amendments, in the office of the city recorder.

18-305. Memphis Light, Gas and Water Division regulations apply.

The city water system authority users are to comply with all provisions of MLG&W policy and regulations pertaining to use, charges and practices in accordance with the franchise terms delineated in § 18-301 of this chapter, and any such amendments thereto, by and between the City of Lakeland and the Shelby County Board of Public Utilities. (1989 Code, § 13-105)

CHAPTER 4

SEWER USE AND WASTEWATER TREATMENT

SECTION

- 18-401. Purpose and policy.
- 18-402. Definitions.
- 18-403. Connection to public sewers.
- 18-404. Private domestic wastewater disposal.
- 18-405. Regulation of holding tank waste disposal.
- 18-406. Application for domestic wastewater discharge and industrial wastewater discharge permits.
- 18-407. Discharge regulations.
- 18-408. Industrial user monitoring, inspection reports, records access, and safety.
- 18-409. Enforcement and abatement.
- 18-410. Penalties; costs.
- 18-411. Fees and billing.
- 18-412. Validity.

18-401. Purpose and policy. This chapter sets forth uniform requirements for the disposal of wastewater in the service area of the City of Lakeland, Tennessee, wastewater treatment system. The objectives of this chapter are:

- (1) To protect the public health;
- (2) To provide problem free wastewater collection and treatment service;
- (3) To prevent the introduction of pollutants into the municipal wastewater treatment system, which will interfere with the system operation, which will cause the system discharge to violate its National Pollutant Discharge Elimination System (NPDES) permit or other applicable state requirements, or which will cause physical damage to the wastewater treatment system facilities;
- (4) To provide for full and equitable distribution of the cost of the wastewater treatment system;
- (5) To enable the City of Lakeland to comply with the provisions of the Federal Water Pollution Control Act, the General Pretreatment Regulations (40 CFR Part 403), and other applicable federal, state laws and regulations;
- (6) To improve the opportunity to recycle and reclaim wastewaters and sludges from the wastewater treatment system.

In meeting these objectives, this chapter provides that all persons in the service area of the City of Lakeland must have adequate wastewater treatment either in the form of a connection to the municipal wastewater treatment system or, where the system is not available, an appropriate private disposal system.

This chapter also provides for the issuance of permits to system users, for the regulations of wastewater discharge volume and characteristics, for monitoring and enforcement activities; and for the setting of fees for the full and equitable distribution of costs resulting from the operation, maintenance, and capital recovery of the wastewater treatment system and from other activities required by the enforcement and administrative program established herein.

This chapter shall apply to the City of Lakeland, Tennessee, and to persons outside the city who are, by contract or agreement with the city users of the municipal wastewater treatment system. Except as otherwise provided herein, the City Manager of the City of Lakeland shall administer, implement, and enforce the provisions of this chapter.

18-402. Definitions. Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

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

(2) "Approval authority" - The director in an NPDES state with an approved State Pretreatment Program and the Administrator of the EPA in a non-NPDES state or NPDES state without an Approved State Pretreatment Program.

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

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

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

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

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

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

(6) "Categorical standards" - The National Categorical Pretreatment Standards or Pretreatment Standard.

(7) "City" - The City of Lakeland or the Board of Commissioners, City of Lakeland, Tennessee.

(8) "Compatible pollutant" - shall mean BOD, suspended solids, pH, fecal coliform bacteria, and such additional pollutants as are now or may in the future be specified and controlled in the city's NPDES permit for its wastewater

treatment works where sewer works have been designed and used to reduce or remove such pollutants.

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

(10) "Control authority" - The term "control authority" shall refer to the "approval authority," defined hereinabove; or the board of commissioners if the city has an approved pretreatment program under the provisions of 40 CFR 403.11.

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

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

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

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

(15) "Garbage" - Shall mean solid wastes generated from any domestic, commercial or industrial source.

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

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

(18) "Incompatible pollutant" - shall mean any pollutant which is not a "compatible pollutant" as defined in this section.

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

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

(21) "Interference" - The inhibition or disruption of the municipal wastewater processes or operations which contributes to a violation of any requirement of the city's NPDES permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with 405 of the Act, (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant

to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the municipal wastewater treatment system.

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

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

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

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

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

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

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

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

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

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

(32) "POTW treatment plant" - That portion of the POTW designed to provide treatment to wastewater.

(33) "Shall" - is mandatory; "May" - is permissive.

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

(35) "State" - The State of Tennessee.

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

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

(38) "Storm sewer or storm drain" - Shall mean a pipe or conduit which carries storm and surface waters and drainage, but excludes sewage and industrial wastes. It may, however, carry cooling waters and unpolluted waters, upon approval of the City of Lakeland.

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

(40) "Superintendent" - The public works supervisor or person designated by him to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this chapter, or his duly authorized representative.

(41) "Toxic pollutant" - Any pollutant or combination of pollutants listed as toxic in regulations published by the Administrator of the Environmental Protection Agency under the provision of CWA 307(a) or other Acts.

(42) "Twenty-four (24) hour flow proportional composite sample" - A sample consisting of several sample portions collected during a 24-hour period

in which the portions of a sample are proportioned to the flow and combined to form a representative sample.

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

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

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

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

18-403. Connection to public sewers. (1) Requirements for proper wastewater disposal. (a) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the service area of the City of Lakeland, any human or animal excrement, garbage, or other objectionable waste.

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

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

(d) Except as provided in § 18-403(1)(e) below, the owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the service area in which there is now located or may in the future be located a public sanitary sewer, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of the chapter, within sixty (60) days after date of official notice to do so, provided that said public sewer is within five hundred (500) feet of the property line over public access.

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

(f) Where a public sanitary sewer is not available under the provisions of § 18-403(1)(d) above, the building sewer shall be connected to a private sewage disposal system complying with the provisions of § 18-404 of this chapter.

(2) Physical connection public sewer. (a) No person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof. The city shall make all connections to the public sewer upon the property owner first obtaining a written permit from the city as required by § 18-406 of this chapter.

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

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

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

(d) Old building sewers may be used in connection with new buildings only when they are found, on examination and tested by the city to meet all requirements of this chapter. All others may be sealed to the specifications of the City of Lakeland.

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

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

Conventional sewer system - Four inches (4").

Small diameter gravity sewer - Four inches (4").

Septic Tank Effluent Pump - One and one quarter inches (1¼").

Where the septic tank becomes an integral part of the collection and treatment system, the minimum size influent line shall be four inches (4") and the minimum size of septic tank shall be 1,000 gallons. Septic tanks shall be constructed of polyethylene and protected from flotation. The city shall have the right, privilege, and authority to locate, inspect, operate, and maintain

septic tanks which are an integral part of the collection and treatment system.

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

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

Four inch (4") sewers - 1/8 inch per foot.

Two inch (2") sewers - 3/8 inch per foot.

Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least 2.0 feet per second.

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

(v) Building sewers shall be constructed only of ductile iron pipe class 50 or above or polyvinyl chloride pipe SDR-26 for gravity sewers and SDR-26 for pressure sewers. Joints shall be rubber or neoprene "o" ring compression joints. No other joints shall be acceptable.

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

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

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

drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by a pump and discharged to the building sewer at the expense of the owner.

(ix) The methods to be used in excavating, placing of pipe, jointing, testing, backfilling the trench, or other activities in the construction of a building sewer which have not been described above shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city or to the procedures set forth in appropriate specifications of the ASTM and Water Environment Federation Manual of Practice FD-5. Any deviation from the prescribed procedures and materials must be approved by the city engineer before installation.

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

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

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

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

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

(4) Maintenance of building sewers. Each individual property owner or user of the POTW shall be entirely responsible for the maintenance which will include repair or replacement of the building sewer as deemed necessary by the county building department to meet specifications of the city.

18-404. Private domestic wastewater disposal. (1) Availability.

(a) Where a public sanitary sewer is not available under the provisions of § 18-403(1)(d), the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this section.

(b) Any residence, office, recreational facility, or other establishment used for human occupancy where the building drain is below the elevation to obtain a grade equivalent to 1/8-inch per foot in the building sewer but is otherwise accessible to a public sewer as provided in § 18-403, the owner shall provide a private sewage pumping station as provided in § 18-403(2)(e)(viii).

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

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

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

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

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

(e) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city. When the public sewer becomes available, the building sewer, or the septic tank effluent line shall be connected to the public sewer within sixty (60) days of the date of availability and the private sewage disposal

system should be cleaned of sludge and if no longer used as a part of the city's treatment system, filled with suitable material.

(f) No statement contained in this chapter shall be construed to interfere with any additional or future requirements that may be imposed by the City of Lakeland and the Shelby County Health Department.

18-405. Regulation of holding tank waste disposal. (1) Permit. No person, firm, association or corporation shall clean out, drain, or flush any septic tank or any other type of waste water or excreta disposal system, unless such person, firm, association, or corporation obtains a permit from the city to perform such acts or services.

Any person, firm, association, or corporation desiring a permit to perform such services shall file an application on the prescribed form. Upon any such application, said permit shall be issued by the when the conditions of this chapter have been met and providing the city is satisfied the applicant has adequate and proper equipment to perform the services contemplated in a safe and competent manner. Such permits shall be limited to the discharge of domestic sewage waste containing no industrial waste.

(2) Fees. For each permit issued under the provisions of this chapter the applicant shall agree in writing by the provisions of this section and pay an annual service charge to the city to be set as specified in § 18-411. Any such permit granted shall be for one fiscal year or fraction of the fiscal year, and shall continue in full force and effect from the time issued until the ending of the fiscal year, unless sooner revoked, and shall be nontransferable. The number of the permit granted hereunder shall be plainly painted 3-inch permanent letters on each side of each motor vehicle used in the conduct of the business permitted hereunder.

(3) Designated disposal locations. The city shall designate approved locations for the emptying and cleansing of all equipment used in the performance of the services rendered under the permit herein provided for, and it shall be a violation hereof for any person, firm, association or corporation to empty or clean such equipment at any place other than a place so designated. The city may refuse to accept any truckload of waste at his absolute discretion where it appears that the waste could interfere with the operation of the POTW.

(4) Revocation of permit. Failure to comply with all the provisions of this chapter shall be sufficient cause for the revocation of such permit by the City of Lakeland. The possession within the service area by any person of any motor vehicle equipped with a body type and accessories of a nature and design capable of serving a septic tank of wastewater or excreta disposal system cleaning unit shall be prima facie evidence that such person is engaged in the business of cleaning, draining, or flushing septic tanks or other wastewater or excreta disposal systems within the service area of the City of Lakeland.

18-406. Application for domestic wastewater discharge and industrial wastewater discharge permits. (1) Application for discharge of domestic wastewater. All users or prospective users which generate domestic wastewater shall make application to the city for written authorization to discharge to the municipal wastewater treatment system. Applications shall be required from all new dischargers as well as for any existing discharger desiring additional service. Connection to the city sewer shall not be made until the application is received and approved by the city, the building sewer is installed in accordance with § 18-401 of this chapter and an inspection has been performed by Shelby County Code Enforcement or his representative.

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

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

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

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

(ii) The application shall be in the prescribed form of the city and shall include, but not be limited to the following information: name, address, and SIC number of applicant; wastewater volume; wastewater constituents and characteristic, including but not limited to those mentioned in §§ 18-407(1) and (2) discharge variations -- daily, monthly, seasonal and 30 minute peaks; a description of all chemicals handled on the premises, each product produced by type, amount, process or processes and rate of production, type and amount of raw materials, number and type of employees, hours of operation, site plans, floor plans, mechanical and plumbing plans and details showing all sewers and appurtenances by size, location and elevation; a description of existing and proposed pretreatment and/or equalization facilities

and any other information deemed necessary by the City of Lakeland.

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

(iv) If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the application shall include the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. For the purpose of this paragraph, "pretreatment standard," shall include either a national pretreatment standard or a pretreatment standard imposed by § 18-407 of this chapter.

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

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

(vii) The City of Lakeland will act only on applications containing all the information required in this section. Persons who have filed incomplete applications will be notified by the city that the application is deficient and the nature of such deficiency and will be given thirty (30) days to correct the deficiency. If the deficiency is not corrected within thirty (30) days or within such extended period as allowed by the city, the city shall deny the application and notify the applicant in writing of such action.

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

- (i) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;
- (ii) Limits on the average and maximum rate and time of discharge or requirements and equalization;
- (iii) Requirements for installation and maintenance of inspections and sampling facilities;
- (iv) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests and reporting schedule;
- (v) Compliance schedules;
- (vi) Requirements for submission of technical reports or discharge reports;
- (vii) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the city, and affording city access thereto;
- (viii) Requirements for notification of the city of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system.
- (ix) Requirements for notification of slug discharged;
- (x) Other conditions as deemed appropriate by the city to ensure compliance with this chapter.

(d) Permit modifications. Within nine months of the promulgation of a national categorical pretreatment standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. A user with an existing wastewater discharge permit shall submit to the city within 180 days after the promulgation of an applicable federal categorical pretreatment standard the information required by §§ 18-406(2)(b)(ii) and (iii). The terms and conditions of the permit may be subject to modification by the city during the term of the permit as limitations or requirements are modified or other just cause exists. The user shall be informed of any proposed changes in this permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(e) Permits duration. Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The

user shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit.

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

(g) Revocation of permit. Any permit issued under the provisions of the chapter is subject to be modified suspended, or revoked in whole or in part during its term for cause including, but not limited to, the following:

(i) Violation of any terms or conditions of the wastewater discharge permit or other applicable federal, state, or local law or regulation.

(ii) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts.

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

(iv) Intentional failure of a user to accurately report the discharge constituents and characteristics or to report significant changes in plant operations or wastewater characteristics.

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

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

Information accepted by the city as confidential shall not be transmitted to any governmental agency or to the general public by the city until and unless prior and adequate notification is given to the user.

18-407. Discharge regulations. (1) General discharge prohibitions.

No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation and performance of the POTW. These general prohibitions apply to all such users of a POTW whether or not the user is subject to national categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements. A user may not contribute the following substances to any POTW:

(a) Any liquids, solids, or gases which 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 other way to the POTW or to the operation of the POTW. At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the 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 include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromate, carbides, hydrides and sulfides and any other substances which the city, the state or EPA has notified the user is a fire hazard or a hazard to the system.

(b) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities but not limited to: grease, garbage with particles greater than one-half inch (1/2") in any dimension, paunch manure, bones, hair, hides, or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues from refining, or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.

(c) Any wastewater having a pH less than 5.5 or higher than 9.5 or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.

(d) Any wastewater containing any toxic pollutants, chemical elements, or compounds in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the Act.

(e) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance, hazard to life, are sufficient to prevent entry into the sewers for maintenance and repair.

(f) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or under Section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.

(g) Any substances which will cause the POTW to violate its NPDES Permit or the receiving water quality standards.

(h) Any wastewater causing discoloration of the wastewater treatment plant effluent to the extent that the receiving stream water quality requirements would be violated, such as, but not limited to, dye wastes and vegetable tanning solutions.

(i) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the sewer system which exceeds 65°C (150°F) or causes the influent at the wastewater plant to exceed 40°C (104°F).

(j) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which a user knows or has reason to know will cause interference to the POTW.

(k) Any waters or wastes causing an unusual volume of flow or concentration of waste constituting "slug" as defined herein.

(l) Any waters containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the city in compliance with applicable state or federal regulations.

(m) Any wastewater which causes a hazard to human life or creates a public nuisance.

(n) Any waters or wastes containing fats, wax, grease, or oil, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperature between thirty-two (32) or one hundred fifty (150) degrees F (0 and 65°C).

(o) Any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved

by the city and the Tennessee Department of Health. Industrial cooling water or unpolluted process waters may be discharged on approval of the city and the Tennessee Department of Environment and Conservation, to a storm sewer or natural outlet.

(2) Restrictions on wastewater strength. No person or user shall discharge wastewater which exceeds the following set of standards (Table A - User Discharge Restrictions) unless an exception is permitted as provided in this chapter. Dilution of any wastewater discharge for the purpose of satisfying these requirements shall be considered in violation of this chapter.

Table A - User Discharge Restrictions

Pollutant	Daily Average* Maximum Concentration (mg/l)	Instantaneous Maximum Concentration (mg/l)
Antimony	5.0	8.0
Arsenic	1.0	1.5
Cadmium	1.0	1.5
Chromium (total)	4.0	7.0
Copper	3.0	5.0
Cyanide	1.0	2.0
Lead	1.0	1.5
Mercury	0.1	0.2
Nickel	3.0	4.5
Pesticides & Herbicides	BDL	1.0
Phenols	10.0	15.0
Selenium	1.0	1.5
Silver	1.0	1.5
Surfactants, as MBAS	25.0	50.0
Zinc	3.0	5.0

*Based on 24-hour flow proportional composite samples.

(3) Protection of treatment plant influent. The city may monitor the treatment works influent for each parameter in the following table. (Table B - Plant Protection Criteria). Industrial users shall be subject to reporting and monitoring requirements regarding these parameters as set forth in this chapter. In the event that the influent at the POTW reaches or exceeds the levels established by this table, the city shall initiate technical studies to determine the cause of the influent violation and shall recommend to the city

the necessary remedial measures, including, but not limited to, recommending the establishment of new or revised pre-treatment levels for these parameters. The city shall also recommend changes to any of these criteria in the event that: the POTW effluent standards are changed, there are changes in any applicable law or regulation affecting same, or changes are needed for more effective operation of the POTW.

Table B - Plant Protection Criteria

Parameter	Maximum Concentration mg/1 (24 Hour Flow) Proportional Composite Sample	Maximum Instantaneous Concentration (mg/1) Grab Sample
Aluminum		
dissolved (AL)	3.00	6.0
Antimony (Sb)	0.50	1.0
Arsenic (As)	0.06	0.12
Barium (Ba)	2.50	5.0
Boron	0.4	0.8
Cadmium (Cd)	0.004	0.008
Chromium Hex	0.06	0.12
Cobalt	0.03	0.06
Cooper (Cu)	0.16	0.32
Cyanide (CN)	0.03	0.06
Fluoride (F)	0.6	1.2
Iron (Fe)	3.0	6.0
Lead (Pb)	0.10	0.2
Manganese (Mn)	0.1	0.2
Mercury (Hg)	0.025	0.05
Nickel (Ni)	0.15	0.30
Pesticides & Herbicides	.001	.002
Phenols	1.00	2.0
Selenium (Se)	0.01	0.02
Silver (Ag)	0.05	0.1
Sulfide	25.0	40.0
Zinc (Zn)	0.3	0.6
Total Kjeldahl		
Nitrogen (TKN)	45.00	90.00
Oil & Grease	50.00	100.00
MBAS	5.00	10.0
BOD	220	350
COD	440	700
Suspended Solids	220	350

(4) Federal categorical pretreatment standards. Upon the promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter. The city shall notify all affected users of the applicable reporting requirements under 40 CFR, Section 403.12.

(5) Right to establish more restrictive criteria. No statement in this chapter is intended or may be construed to prohibit the city from establishing specific wastewater discharge criteria more restrictive where wastes are determined to be harmful or destructive to the facilities of the POTW or to create a public nuisance, or to cause the discharge of the POTW to violate effluent or stream quality standards, or to interfere with the use or handling of sludge, or to pass through the POTW resulting in a violation of the NPDES permit, or to exceed industrial pretreatment standards for discharge to municipal wastewater treatment systems as imposed or as may be imposed by the Tennessee Department of Health and/or the United States Environmental Protection Agency.

(6) Accidental discharges. (a) Protection from accidental discharge. All industrial users shall provide such facilities and institute such procedures as are reasonably necessary to prevent or minimize the potential for accidental discharge into the POTW of waste regulated by this chapter from liquid or raw material storage areas, from truck and rail car loading and unloading areas, from in-plant transfer or processing and materials handling areas, and from diked areas or holding ponds of any waste regulated by this chapter. Detailed plans showing the facilities and operating procedures shall be submitted to the city before the facility is constructed.

The review and approval of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility to provide the protection necessary to meet the requirements of this chapter.

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

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

Such notification shall not relieve the user of liability for any expense, loss, or damage to the POTW, fish kills, or any other damage to

person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter or state or federal law.

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

18-408. Industrial user monitoring, inspection reports, records access, and safety. (1) Monitoring facilities. The installation of a monitoring facility shall be required for all industrial users. A monitoring facility shall be a manhole or other suitable facility approved by the city.

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

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

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

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

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

has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the city, approval authority and EPA will be permitted to enter, without delay, for the purposes of perform in their specific responsibility.

(3) Compliance date report. Within 180 days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the city a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial user, and certified to by a professional engineer registered to practice engineering in Tennessee.

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

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

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

(c) The reports required by this section shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration or production and mass where requested by the city of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed

in the wastewater discharge permit or the pretreatment standard. All analysis shall be performed in accordance with procedures established by the administrator pursuant to Section 304 (g) of the Act and contained in 40 CFR, Part 136, and amendments thereto. Sampling shall be performed in accordance with techniques approved by the administrator.

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

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

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

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

18-409. Enforcement and abatement. (1) Issuance of cease and desist orders. When the city finds that a discharge of wastewater has taken place in violation of prohibitions or limitations of this chapter, or the provisions of a wastewater discharge permit, the city shall issue an order to cease and desist, and direct that these persons not complying with such prohibitions, limits requirements, or provisions to:

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

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

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

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

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

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

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

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

(ii) Take the evidence;

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

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

(d) After the board of commissioners or the appointed persons have reviewed the evidence, it/they may issue an order to the user

responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed on existing treatment facilities, and that these devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

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

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

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

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

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

(8) Damage to facilities. When a discharge of wastes causes an obstruction, damage, or any other physical or operational impairment to facilities, the city shall assess a charge against the user for the work required

to clean or repair the facility and add such charge to the user's sewer service charge.

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

The City of Lakeland shall sue for such damage in any court of competent jurisdiction.

18-410. Penalties; costs. (1) Civil penalties. Any user who is found to have violated an order of the board of commissioners or the city manager, or who willfully or negligently failed to comply with any provision of this chapter, and the order, rules, regulations and permits issued hereunder, shall be fined not less than two hundred fifty and 00/100 dollars (\$250.00) for each offense. Each day of which a violation shall occur or continue shall be deemed a separate and distinct offense.

(2) Costs recoverable. In addition to the penalties provided herein, the city may recover reasonable attorney's fees, engineering fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the person found to have violated this chapter or the orders, rules, regulations, and permits issued hereunder.

18-411. Fees and billing. (1) Purpose. It is the purpose of this chapter to provide for the equitable recovery of costs from user's of the city's wastewater treatment system including costs of operation, maintenance, administration, bond service costs, capital improvements, depreciation, and equitable cost recovery of EPA administered federal wastewater grants.

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

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

(3) Fees for application for discharge. A fee may be charged when a user or prospective user makes application for discharge as required by § 18-406 of this chapter.

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

(5) Sewer user charges.¹ The board of commissioners shall establish monthly rates and charges for the use of the wastewater system and for the services supplied by the wastewater system.

(6) Industrial wastewater discharge permit fees. A fee may be charged for the issuance of an industrial wastewater discharge fee in accordance with § 18-406 of this chapter.

(7) Fees for industrial discharge monitoring. Fees may be collected from industrial user's having pretreatment or other discharge requirements to compensate the city for the necessary compliance monitoring and other administrative duties of the pretreatment program.

18-412. Validity. This chapter and its provisions shall be valid for all service areas, regions, and sewage works under the jurisdiction of the City of Lakeland, Tennessee.

¹Such rates are reflected in administrative ordinances or resolutions, which are of record in the office of the city recorder.

CHAPTER 5

SEWERAGE COMMISSION

SECTION

18-501. Establishment.

18-501. Establishment. The Board of Commissioners of the City of Lakeland, Tennessee shall assume and perform the duties required of a sewerage commission in regard to the ownership and operation of the Lakeland Sewerage System. (Ord. #99-02, April 1999)

CHAPTER 6

STORMWATER MANAGEMENT AND POLLUTION CONTROL PLAN

SECTION

- 18-601. General provisions.
- 18-602. Illicit discharges.
- 18-603. Land development and construction activity.
- 18-604. Design and on-site management of stormwater facilities and maintenance agreements.
- 18-605. Enforcement.
- 18-606. Penalties.
- 18-607. Appeals.

18-601. 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 CFR 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) Conflict. All other ordinances related to stormwater management and pollution control or parts of said ordinances inconsistent or conflicting with any part of this ordinance are hereby repealed to the extent of such inconsistency or conflict and this ordinance shall govern.

(3) Severability. If any provision of this ordinance or its application to any person, entity, or property is held invalid, the remainder of the ordinance or the application of the provision to other persons or property shall not be affected. Should any article, section, subsection, clause or provision of this ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part declared to be unconstitutional or invalid, each article, section clause and provision being declared severable.

(4) Definitions. For the purpose of this ordinance, unless specifically defined below, words or phrases shall be interpreted so as to give them the meaning they have in common usage and to give this article its most effective application. Words in the singular shall include the plural, and words in the plural shall include the singular. Words used in the present tense shall include the future tense. The word "shall" connotes mandatory and not discretionary; the word "may" is permissive.

(a) "Accidental discharge" - means a discharge prohibited by this ordinance into the City of Lakeland MS4 that occurs by chance and without planning or consideration prior to occurrence.

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

(c) "City" means the City of Lakeland staff, employees, equipment, or contractual resources under the direction and contract with the city.

(d) "City manager" means the chief administrator officer of the city, whose duties are established by Tennessee statutes and by the board of commissioners.

(e) "Clean Water Act or the Act" - means the Federal Water Pollution Control Act, as amended, codified at 33 U.S.C. 1251 *et seq.*

(f) "Commercial" - means property devoted in whole or part to commerce, that is, the exchange and buying and selling of commodities or services. The term shall include, by way of example, but not be limited to the following businesses: amusement establishments, animal clinics or hospitals, automobile service stations, automobile dealerships for new or used vehicles, automobile car washes, automobile and vehicular repair shops, banking establishments, beauty and barber shops, bowling alleys, bus terminals, and repair shops, camera shops, dental offices or clinics, day care centers, department stores, drug stores, funeral homes, furniture stores, gift shops, grocery stores, hardware stores, hotels, jewelry stores, laboratories, laundries, and dry cleaning establishments, liquor stores, medical offices and clinics, motels, movie theaters, office buildings, paint stores or shops, parking lots, produce markets, professional offices, radio stations, repair establishments, retail stores, television stations and production facilities, theaters, truck or construction equipment service stations, truck or construction equipment dealerships for new or used vehicles, truck or construction equipment washing facilities and truck or construction equipment repair shops.

(g) "Construction activity" shall mean any clearing, grading, excavating, or equipment usage that will result in the disturbance of the land surface and is subject to stormwater permit requirements under the State of Tennessee General Permit for Stormwater Discharges Associated with Construction Activity. The term shall not include:

(i) Such minor construction activities as home gardens and individual home landscaping, home repairs, home maintenance work and other related activities that result in minor soil erosion;

(ii) Individual service and sewer connections for single or two family residences;

(iii) Agricultural practices involving the establishment, cultivation or harvesting of products of the field or orchard, preparing and planting of pasture land, forestry land management practices including harvesting, farm ponds, dairy operations, and livestock and poultry management practices and the construction of farm buildings;

(iv) Any project carried out under the technical supervision of the Natural Resources Conservation Service of the United States Department of Agriculture;

(v) Installation, maintenance, and repair of any underground public utility lines when such activity occurs in an existing hard surface road, street or sidewalk, provided the activity is confined to the area of the road, street or sidewalk which is hard surfaced and a street, curb, gutter or sidewalk permit has been obtained, and if such area is less than one acre of disturbance.

(h) "Critical design storm" - means the design storm specified in the Shelby County Stormwater Management Manual (SWMM).

(i) "Development" means any activity subject to the Tennessee General Permit for Construction Activities.

(j) "Engineer" - means the City of Lakeland City Engineer who is designated to supervise the operation of the stormwater management program and who is charged with certain duties and responsibilities by this ordinance, or his/her duly authorized representative.

(k) "Erosion prevention and sediment control plan" - means a written plan, including drawings or other graphic representations, for the control of soil erosion and sedimentation resulting from a construction activity.

(l) "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 hot spots, but that term is not limited to only these land uses:

(i) Vehicle salvage yards and recycling facilities.

(ii) Vehicle service and maintenance facilities.

(iii) Vehicle and equipment cleaning facilities.

(iv) Fleet storage areas (bus, truck, etc.).

(v) Industrial sites (included on standard industrial classification code list).

(vi) Marinas (service and maintenance).

(vii) Public works storage areas.

(viii) Facilities that generate or store hazardous waste materials.

(ix) Commercial container nursery.

(x) Restaurants and food service facilities.

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

(m) "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.

(n) "Impervious" - means not allowing the passage of water through the surface of the ground or ground covering or a substantial reduction in the capacity for water to pass through the surface of the ground or ground covering.

(o) "Industrial facility" - is a business engaged in industrial production or service, that is, a business characterized by manufacturing or productive enterprise or a related service business. This term shall include but not be limited to the following: apparel and fabric finishers, automobile salvage and junk yards, blast furnace, blueprint and related shops, boiler works, cold storage plants, contractor's plants and storage facilities, foundries, furniture and household goods manufacturing, forge plants, greenhouses, manufacturing plants, metal fabrication shops, ore reduction facilities, planing mills, rock crushers, rolling mills, saw mills, smelting operations, stockyards, stone mills or quarries, textile production, utility transmission or storage facilities, truck or construction equipment salvage or junkyards, warehousing, and wholesaling facilities.

(p) "Institutional" - means an established organization, especially of a public or charitable nature. This term shall include, by way of example, but not be limited to, the following: churches, community buildings, colleges, day care facilities, dormitories, drug or alcohol rehabilitation facilities, fire halls, fraternal organizations, golf courses and driving ranges, government buildings, hospitals, libraries, kindergartens, or preschools, nursing homes, mortuaries, schools, social agencies, synagogues, parks and playgrounds.

(q) "Manager" - means the City of Lakeland City Manager.

(r) "Multi-family residential" - means an apartment building or other residential structure built for three or more units or lots under common ownership, and condominiums of three or more units.

(s) "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, manmade channels, and storm drains, and where the context indicates, it means the municipality that owns the separate storm sewer system.

(t) "National Pollutant Discharge Elimination System or NPDES permit" - means a permit issued pursuant to 33 U.S.C. Ordinance 26 Water Pollution Prevention and Control, subchapter IV Permits and Licenses, section 1342.

(u) "Notice of Intent or N.O.I." - means a written notice by the discharger to the Commissioner of the Tennessee Department of Environment and Conservation, or his/her designee, that a person wishes his/her discharge to be authorized under a general permit authorized by state law or regulation.

(v) "Person" - means any individual, partnership, copartnership, firm, company, trust estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by context.

(w) "Regional facility" - means a stormwater management facility designed to serve more than two properties and 100 or more acres of drainage area. A regional facility typically includes a stormwater pond.

(x) "Redevelopment" - any development subject to the Tennessee General Permit for Construction Activities.

(y) "Significant spills" - releases of oil or hazardous substances in excess of reportable quantities under section 311 of the Clean Water Act (at 40 CFR 110.10 and CFR 117.21) or section 102 of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), (at CFR 302.4).

(z) "Stormwater" - refers to water induced or created from precipitation whether rain, snow or ice and either stored, collected, detained, absorbed, or discharged.

(aa) "Stormwater management facility" - means a stormwater management control device, structure, or system of such physical components designed to treat, detain, store, convey, absorb, conserve, protect, or otherwise control stormwater.

(bb) "Stormwater management" - means the collection, conveyance, storage, treatment and disposal of stormwater in a manner to meet the objectives of this ordinance and its terms, including, but not be limited to measures that control the increase volume and rate of stormwater runoff and water quality impacts caused or induced by manmade changes to the land.

(cc) "Stormwater management manual (SWMM)" - means the guidance document adopted for use by Shelby County. The manual provides the technical standards and information necessary for proper design and construction of stormwater management facilities and the management of stormwater management infrastructure as defined in § 18-604.

(dd) "Stormwater management plan or SWMP" - means the set of drawings and other documents that comprise all of the information and specifications for the programs, drainage systems, structures, BMPs, concepts, and techniques for the City of Lakeland and as part of this ordinance.

(ee) "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.

(ff) "Stormwater sewer system" - means the network of conveyances and/or storage facilities that collect, detain, absorb, treat, channel, discharge, or otherwise control the quantity and quality of stormwater.

(gg) "Stream" - means any river, creek, slough and/or natural water-course in which water usually flows in a defined bed or channel. It is not essential that the flowing be uniform or uninterrupted. The fact that some parts of the bed have been dredged or improved does not prevent the water-course from being a stream. For the purposes of this ordinance, a stream is not a "wet weather conveyance" as also defined herein. Typically, streams are identified on USGS maps by solid blue lines and intermittent streams are depicted by dashed blue lines.

(hh) "TDEC" means the Tennessee Department of Environment and Conservation.

(ii) "Toxic pollutant" - means any pollutant or combination of pollutants listed as toxic in 40 CFR Part 401 promulgated by the Administrator of the Environmental Protection Agency under the provisions of 33 U.S.C. 1317.

(jj) "Variance" - means the modification of the minimum stormwater management requirements contained in this ordinance and the stormwater management plan for specific circumstances where strict adherence of the requirement would result in unnecessary hardship and not fulfill the intent of this ordinance.

(kk) "Water quality" - means characteristics that are related to the physical, chemical, biological, and/or radiological integrity of stormwater.

(ll) "Watershed management program" - means a balanced program and plan of controlling the quantity and quality of water resources through comprehensive land and water resource management. Such management includes but is not limited to pollution control, land development controls, best management practices both structural and non-structural, preservation, habitat protection, and well-head protection. This program incorporates the state's NPDES stormwater quality permit program within such watersheds or portions thereof as are located inside Lakeland's geographical boundaries.

(mm) "Watershed master plan" - means the guidance vehicle for implementing the "watershed management program."

(nn) "Waterway buffer" - means an area including trees, shrubs, and herbaceous vegetation that exists or is established to protect and separate a stream, waterway, lake, reservoir, or pond or other body of water from buildings and/or structures and other land uses that alter habitat, geomorphology, water quality, and hydrology.

(oo) "Wet weather conveyance" - as defined in Rule 1200-4-3-.04 of the Rules of the Tennessee Department of Environment and Conservation. Wet weather conveyances are man made or natural water courses, including natural water courses that have been modified by channelization, that flow only in direct response to precipitation runoff in their immediate locality, the channels of which are above the

groundwater table and which do not support fish or aquatic life and are not suitable for drinking water supplies. Rule 1200-4-3-.02(7) requires that waters designated as wet weather conveyances shall be protective of wildlife and humans that may come in contact with them and maintain standards applicable to all downstream waters. No other use classification or water quality criteria apply to these waters.

(5) **Abbreviations.** (a) CERCLA - means the Comprehensive Environmental Response, Compensation and Liability Act in its original form or as amended.

(b) CFR - Code of Federal Regulations

(c) FEMA - Federal Emergency Management Agency

(d) MS4 - Municipal Separate Storm Sewer System means the City of Lakeland separate stormwater system both natural and manmade as may be subject to the NPDES Stormwater Permit for the City of Lakeland.

(e) SWPPP - Stormwater Pollution Prevention Plan

(f) TCA - Tennessee Code Annotated (latest version)

(g) TNCGP - Tennessee Construction General Permit

(h) TMSP - Tennessee Multi-Sector Permit for stormwater discharges associated with industrial activity (see § 18-605 (2))

(i) U.S.C - means United States Code

(j) WMM - Watershed Management Manual.

(as added by Ord. #04-67, July 2004, and amended by Ord. #12-183, Dec. 2012)

18-602. Illicit discharges. (1) Unauthorized discharge a public nuisance. Discharge of stormwater in any manner in violation of this ordinance; or any violation of any condition of a permit issued pursuant to this ordinance; or any violation of any condition of a stormwater discharge permit issued by the State of Tennessee Department of Environment and Conservation is hereby declared a public nuisance and shall be corrected or abated.

(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 stormwater facility that is not inspected in accordance with § 18-604 shall be an illicit discharge. Non-stormwater discharges shall include, 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:

(i) Water line flushing or other potable water sources;

(ii) Landscape irrigation or lawn watering with potable water;

- (iii) Diverted stream flows;
- (iv) Rising ground water;
- (v) Groundwater infiltration to storm drains;
- (vi) Pumped groundwater;
- (vii) Foundation or footing;
- (viii) Crawl space pumps;
- (ix) Air conditioning;
- (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 ground water (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 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, may be required 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 ordinance 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) Monitoring and inspection. (a) Monitoring. The engineer shall periodically monitor compliance of the stormwater NPDES permit holder.

(b) Detection of illicit connections and improper disposal. The engineer shall take appropriate steps to detect and eliminate illicit connections to the City of Lakeland MS4, including the adoption of programs to identify illicit discharges and their source or sources and provide for public education, public information and other appropriate activities to facilitate the proper management and disposal of used oil, toxic materials and household hazardous waste.

(c) Inspections. (i) The engineer or his/her designee, bearing proper credentials and identification, may enter and inspect properties for inspections, investigations, monitoring, observation, measurement, enforcement, sampling and testing, to effectuate the provisions of this ordinance, the stormwater management plan, and/or the NPDES stormwater permit. The engineer or his/her designee shall duly notify the owner of said property or the

representative on site and the inspection shall be conducted at reasonable times.

(ii) Upon refusal by any property owner to permit an inspector to enter or continue an inspection, the inspector shall terminate the inspection or confine the inspection to areas wherein no objection is raised. The inspector shall immediately report the refusal and the circumstances to the engineer. The engineer may seek appropriate action.

(iii) In the event the engineer or his/her designee reasonably believes that discharges into the City of Lakeland MS4 may cause an imminent and substantial threat to human health or the environment, the inspection may take place at any time and without notice to the owner of the property or a representative on site. The inspector shall present proper credentials upon request by the owner or representative.

(iv) At any time during the conduct of an inspection or at such other times as the engineer or his/her designee may request information from an owner or representative, the owner or representative may identify areas of the facility or establishment, material or processes which contains or may contain a trade secret. If the engineer or his/her designee has no clear and convincing reason to question such identification, the inspection report shall note that trade secret information has been omitted. To the extent practicable, the engineer shall protect all information that is designated as a trade secret by the owner or their representative. (as added by Ord. #04-67, July 2004, and amended by Ord. #12-183, Dec. 2012)

18-603. Land development and construction activity. (1) This section shall be applicable to all land development, including, but not limited to, site plan applications, subdivision applications, land disturbance applications and grading applications. These standards apply to any new development or redevelopment site that meets one (1) or more of the following criteria:

(a) One (1) acre or more;

(i) New development that involves land development activities of one (1) acre or more;

(ii) Redevelopment that involves other land development activity of one (1) acre or more;

(b) Projects or developments of less than one (1) acre of total land disturbance must acquire a land disturbance permit from the City of Lakeland if:

(i) The City of Lakeland has determined that the stormwater discharge from a site is causing, contributing to, or is likely to contribute to a violation of a state water quality standard;

(ii) The City of Lakeland has determined that the stormwater discharge is, or is likely to be a significant contributor of pollutants to waters of the state;

(c) Changes in state or federal rules require sites of less than one (1) acre that are not part of a larger common plan of development or sale to obtain a stormwater permit;

(d) Any new development or redevelopment, regardless of size, that is defined by the City of Lakeland to be a hotspot land use; or

(e) Minimum applicability criteria set forth in item (a) above if such activities are part of a larger common plan of development, even multiple, that is part of a separate and distinct land development activity that may take place at different times on different schedules.

(f) 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.

(2) Construction activity. regulated. (a) A Stormwater Pollution Prevention Plan (SWPPP) must be prepared and approved by the City of Lakeland and TDEC before construction begins. In order to effectively reduce erosion and sedimentation impacts, Best Management Practices (BMPs) must be designed, installed, and maintained during land disturbing activities. The SWPPP should be prepared in accordance with the current Tennessee Erosion and Sediment Control Handbook. All SWPPPs shall be prepared and updated in accordance with section 3 of the General National Pollutant Discharge Elimination System (NPDES) Permit for Discharges of Stormwater Associated with Construction Activities.

(b) 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:

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

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

(iii) All existing drainage ways, including intermittent and wet-weather. Include any designated floodways or flood plains.

(iv) A general description of existing land cover. A tree management plan shall be submitted as part of the SWWP. 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.

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

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

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

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

(ix) Existing and proposed drainage network.

(x) Proposed drain tile or waterway sizes.

(xi) Approximate flows leaving site after construction and incorporating water run-off 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.

(xii) 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.

(xiii) Specific remediation measures to prevent erosion and sedimentation run-off. 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.

(xiv) 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 ordinance.

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

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

(xvii) 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.

(c) Exempted construction activity. The following activities may be undertaken without formal notice; however, the persons conducting these excluded activities shall remain responsible for otherwise conducting those activities in accordance with the provisions of this ordinance and other applicable law including responsibility for controlling sedimentation and runoff.

(i) Such minor construction activities as home gardens and individual home landscaping, home repairs, home maintenance work and other related activities that result in minor soil erosion;

(ii) Individual service and sewer connections for single or two family residences;

(iii) Agricultural practices involving the establishment, cultivation or harvesting of products of the field or orchard, preparing and planting of pastureland, forestry land management practices (refer also to the Lakeland Tree Management Ordinance (03-36) including harvesting, farm ponds, dairy operations, and

livestock and poultry management practices and the construction of farm buildings;

(iv) Any project carried out under the technical supervision of the Natural Resources Conservation Service of the United States Department of Agriculture;

(v) Installation, maintenance, and repair of any underground public utility lines when such activity occurs in an existing hard surface road, street or sidewalk, provided the activity is confined to the area of the road, street or sidewalk which is hard surfaced and a street, curb, gutter or sidewalk permit has been obtained;

(vi) Construction of a single family residence in which the lot owner is the proposed resident.

(d) Permitting requirements. Permittees who discharge stormwater through an NPDES-permitted municipal separate storm sewer system (MS4) who are not exempted in section 1.4. 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 City of Lakeland Engineering Office.

(3) 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 be stabilized. 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 not 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. (as added by Ord. #04-67, July 2004, and amended by Ord. #112-183, Dec. 2012)

18-604. Design and on-site management of stormwater facilities and maintenance agreements. (1) Maintenance agreement-deed restriction. 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.

(2) Maintenance agreement requirements. The maintenance agreement shall:

- (a) 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.
- (b) Provide for a periodic inspection by the property owners in accordance with the requirements of subsections below for the purpose of documenting maintenance and repair needs and to ensure compliance

with the requirements of this ordinance. 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.

(c) 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.

(d) Provide that maintenance needs must be addressed in a timely manner, on a schedule to be determined by the city manager.

(e) Provide that if the property is not maintained or repaired within the prescribed schedule, the city manager may direct city employees and other resources to perform the maintenance and repair at its expense, and bill the same to the property owner. The maintenance agreement shall also provide that the city's cost of performing the maintenance shall be a lien against the property.

(3) Existing problem locations - no maintenance agreement. (a) The city manager 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. Discharges from existing BMPs that have not been maintained and/or inspected in accordance with this ordinance shall be regarded as illicit.

(b) 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) Owner/operator inspections - generally. The owners and/or the operators of stormwater management practices shall:

(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 city manager 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 city manager may require submittal of this documentation.

(5) Requirements for all existing locations and ongoing developments. The following requirements shall apply to all locations and developments at which land disturbing activities have occurred:

(a) Denuded areas must be vegetated or covered under the standards and guidelines specified in § 18-603 and on a schedule acceptable to the city manager.

(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, etc., to prevent erosion.

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

(e) Stormwater runoff shall, at the discretion of the city manager 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 systems
 - (A) Catch basin inserts/media filter
 - (B) Sand filter
 - (C) Filter/absorption bed
 - (D) Filter and buffer strips
- (v) Open channel
 - (A) Swale

(6) Corrections of problems subject to appeal. Corrective measures imposed by the city under this section are subject to appeal under § 18-607 of this chapter.

(7) Inspection of stormwater management facilities. Periodic inspections of facilities shall be performed, documented, and reported in accordance with this chapter, as detailed in §14-506.

(8) 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.

(9) 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, 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. In the event that the 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 responsible party.

(10) Design of stormwater facilities. Minimum design standards for stormwater facilities shall follow the Memphis Shelby County Stormwater Design Manual and the City of Lakeland subdivision regulations whichever is the more stringent. (as added by Ord. #04-67, July 2004, as replaced by Ord. #12-183, Dec. 2012)

18-605. Enforcement. (1) Enforcement authority. The City of Lakeland shall have the authority to issue notices of violation and citations, and to impose the civil penalties provided in this section. Measures authorized include:

(a) Verbal warnings - At a 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 MS4s 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 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 city manager finds that any permittee or any other person discharging stormwater has violated or is violating this ordinance or a permit or order issued hereunder, the City of Lakeland 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 city manager. 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 City of Lakeland 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 city manager may order any person who violates this chapter or permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the person specifying the time and place for the meeting, the proposed enforcement action 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 city manager finds that any person has violated or continues to violate this chapter or a permit or order issued thereunder, he may issue an order to the violator directing that, following a specific time period, adequate structures 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 city manager finds that any person has violated or continues to violate this chapter or any permit or order issued hereunder, the city manager 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 City of Lakeland 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 City of Lakeland 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 and in the BMP manual adopted by the city under this ordinance, the strictest standard shall prevail. (as added by Ord. #04-67, July 2004, and replaced by Ord. #12-183, Dec. 2012)

18-606. 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 City of Lakeland, 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 Lakeland 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.

(3) **Measuring civil penalties.** In assessing a civil penalty, the City of Lakeland (stormwater entity) 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 ordinance, 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 two (2) follow-up inspections and two (2) warning letters. 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. #04-67, July 2004, and replaced by Ord. #12-183, Dec. 2012)

18-607. Appeals. (1) 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 city's governing body.

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

(3) Public hearing. Upon receipt of an appeal, the city's governing body, or other appeals 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.

(4) Appealing decisions of the city's governing body. Any alleged violator may appeal a decision of the city's governing body pursuant to the

provisions of Tennessee Code Annotated, title 27, chapter 8. (as added by Ord. #12-183, Dec. 2012)

CHAPTER 7

WASTEWATER COLLECTION SYSTEM OVERSIZING ALLOWANCES

SECTION

18-701. Purpose and scope.

18-702. Definitions.

18-703. Oversizing requirements.

18-704. Oversizing reimbursement and recapture provisions.

18-705. Exemptions.

18-706. Appeals.

18-707. Severability.

18-701. Purpose and scope. (1) The city has the authority to enact this chapter pursuant to state statutes.

(2) The purpose of this chapter is to provide developers oversizing reimbursements for the oversizing of wastewater collection systems.

(3) This chapter shall apply to all city-owned or controlled wastewater collection facilities and systems within the city limits of Lakeland.

(4) This chapter does not apply to other governmental entities or agencies that own) operate, and maintain their own wastewater collection systems.

(5) This chapter does not apply to privately-owned wastewater collection systems connected to the city systems. (as added by Ord. #08-127, Dec. 2008)

18-702. Definitions. The following definitions shall apply in the interpretation of this chapter:

(1) "City" means the governing body of the City of Lakeland, Tennessee

(2) "Developer" means any individual, person, subdivision, or other legal entity that must construct and/or extend wastewater collection facilities for system or project improvements.

(3) "City manager" means the city manager or his/her appointed designee.

(4) "Master plans" means the currently adopted wastewater collection system master plan, and the comprehensive land use plan developed for the city which may indicate the size and conceptual location of wastewater collection mains in order to service future expansion of the city.

(5) "Oversizing reimbursement" means payment to a developer for the oversizing costs of wastewater collection systems above the size required to serve the proposed and potential development.

(6) "Oversized wastewater collection mains" means generally wastewater collection mains over ten inches (10") in diameter and are required by the adjacent land use, master plan or system improvements.

(7) "Project improvements" means wastewater facilities that are planned and designed to provide service for a particular development project, and are necessary for the use and convenience for the occupants or users for such project, and are not considered system improvements to be considered for over-sizing reimbursement by the city as otherwise provided herein. The character of the improvements shall control the determination of whether an improvement is a project improvement or a system improvement, and a physical location of the improvement on-site or off-site shall not be considered determinative of whether an improvement is a project improvement or system improvement. If an improvement or facility provides, or will provide, more than incidental service or facilities to persons other than the user occupants of a particular project, the improvement or facility is a system improvement and shall not be considered a project improvement.

(8) "System improvements" means capital improvements that are wastewater facility improvements which are designed to provide service to the community-at-large in contrast to project improvements for a particular development. (as added by Ord. #08-127, Dec. 2008)

18-703. Over-sizing requirements. The oversizing of wastewater collection systems shall be based upon the city's master plans. However, the city reserves the right to specify sizes and locations of all sewer mains, including those not otherwise delineated by the master plans.

(1) All developers shall develop and plan for wastewater collection systems in accordance with the requirements of the city, and for the sizing and location of such system improvements.

(2) The developer, at its sole expense, shall furnish and install all wastewater collection systems in the project. The city shall compensate the developer for over-sizing of wastewater collection systems as provided herein.

(a) The city, in requiring the oversizing of wastewater collection systems, may consider the following:

(i) The developer shall provide a wastewater collection system analysis performed by an engineer in accordance with design requirements established by the Tennessee Department of Environment and Conservation and the city. The wastewater system hydraulic analysis shall be approved by the city engineer to be acceptable for serving the developer's project and all surrounding lands also owned by the developer and/or other partnerships or corporations in which the developer has an interest.

(ii) Whether oversizing corrects wastewater collection not identified in the appropriate master plan.

(iii) Whether oversizing corrects wastewater collection system deficiencies identified in the appropriate master plan or as identified by the city.

(iv) Whether the project promotes infill or extension of oversized wastewater collection systems located within or adjacent to the city limits.

(v) Wastewater collection system deficiencies shall be determined solely by the city.

(3) A developer shall, as solely determined and directed by the city, install oversized wastewater collection mains, when sizing may not necessarily be in concurrence with the master plans adopted by the city. (as added by Ord. #08-127, Dec. 2008)

18-704. Oversizing reimbursement and recapture provisions.

(1) An oversizing reimbursement shall be available to the developer for oversizing wastewater collection systems as required by the city to be installed in a project or development. Oversizing reimbursement provisions shall be contained in a development contract with the developer.

(2) The developer shall be solely responsible for all wastewater collection systems sized to service the developer's project and any surrounding land also owned by the developer and/or other partnerships or corporations in which the developer has an interest. An oversizing reimbursement may only be allowed for the size as required by the city over the size reasonably required by the project and any surrounding land also owned by the developer, and/or other partnerships or corporations in which the developer has an interest.

The oversizing reimbursement shall be calculated and based upon twice the difference of the reasonable cost of materials, as specified below, or the sizing, as required by the city, of the sewer pipe for the wastewater collection system over and above the cost of the same materials for such wastewater collection system otherwise reasonably sized for the project and all the surrounding land also owned by the developer and/or other partnerships or corporations in which the developer has an interest. An engineer of the developer shall supply a list of associated material costs and all oversizing quantities required for the project to the city. These oversizing quantities must be certified by the city engineer to be correct to his/her best belief and knowledge.

(4) The oversizing reimbursement shall be determined by the city, based on material costs prevailing at the time of the execution of the development contract.

(5) An oversizing reimbursement shall not be paid to the developer until the project or development is fully accepted by the city for ownership, operation, and maintenance. A developer shall apply to the city through the city engineer's office for all oversizing reimbursements within one hundred eighty (180) days of the date the developer is notified by the city of the commencement of one (1) year warranty period for the wastewater collection system oversized pursuant to this chapter or otherwise be forever barred from applying for or collecting from the city any such oversizing reimbursement.

(6) If sufficient funds are not available from the city sewer fund to finance the cost for oversizing reimbursement, the payment of the reimbursement will be postponed, interest free, until such time as appropriate funds are available.

(7) If at any time in the future should a developer connect onto a sewer line previously provided an oversizing allowance, the city shall be entitled to recapture a portion of the oversizing allowance based on the percentage unused hydraulic capacity of the oversized sewer main. The amount of recapture shall be as determined by the procedures outlined in the fee schedule.

The recapture amount shall be provided to the City of Lakeland upon execution of the development contract for that particular development. If no development contract exists, the fees shall be paid prior to connecting up to the sewer. (as added by Ord. #08-127, Dec. 2008)

18-705. Exemptions. (1) The following shall be exempted from this chapter and over-sizing requirements and over-sizing reimbursement:

(a) Privately-owned and other governmental entities/agency-owned, operated and maintained wastewater collection systems connected to the city systems will be exempt from this chapter and are not eligible for oversizing reimbursements as otherwise provided by this chapter. Only wastewater collection mains to be accepted by the city for public ownership and maintenance will be eligible for an oversizing reimbursement. (as added by Ord. #08-127, Dec. 2008)

18-706. Appeals. (1) Any developer directly aggrieved by a decision of the city with respect to the determination of the amount or methodology in calculation of an over-sizing reimbursement may appeal their cause to the board of appeals.

(2) An appeal notice which states the grounds and reasons for the appeal shall be made in writing to the board of appeals within twenty (20) days of the date the developer is notified of the amount and calculation of an oversizing reimbursement. The board of appeals is to preside at and make a record of such appeal. (as added by Ord. #08-127, Dec. 2008)

18-707. Severability. If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holdings shall not affect the validity of the remaining portions thereof of this chapter. (as added by Ord. #08-127, Dec. 2008)

CHAPTER 8

STORMWATER MANAGEMENT PROGRAM

SECTION

- 18-801. Legislative findings and policy.
- 18-802. Creation of stormwater management program.
- 18-803. Definitions.
- 18-804. Funding of stormwater management program.
- 18-805. Stormwater fund.
- 18-806. Operating budget.
- 18-807. Stormwater user's fees established.
- 18-808. Equivalent Residential Unit (ERU).
- 18-809. Property classification for stormwater user's fee.
- 18-810. Base rate.
- 18-811. Adjustments to stormwater user's fees.
- 18-812. Property owners to pay charges.
- 18-813. Billing procedures and penalties for late payment.
- 18-814. Appeals of fees.
- 18-815. Enforcement, abatement, penalties, and appeals.

18-801. Legislative findings and policy. The Mayor and Board of Commissioners of the City of Lakeland, Tennessee; 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 incorporated city limits. Such benefits include, but are not limited to: the provision of adequate systems of collection, conveyance, detention, treatment and release of stormwater; the reduction 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 the water quality in the stormwater and surface water system and its receiving waters. (as added by Ord. #08-117, May 2008)

18-802. Creation of stormwater management program. For those purposes of the Federal Clean Water Act and of Tennessee Code Annotated, § 68-221-1101, et seq., there is created a stormwater management program which shall consist of a manager or director and such staff as designated and appointed by the city manager of the city. The stormwater management program shall be under direction and control of the city manager and shall:

- (1) Administer the acquisition, design, construction, maintenance and operation of the stormwater system, including operational and material expenses, and capital improvements designated in the capital improvement program;

(2) Administer and enforce the ordinance comprising this chapter and all regulations and procedures adopted relating to the design, construction, maintenance, operation, and alteration of the stormwater system, including, but not limited to, the quantity and quality of the stormwater conveyed thereby;

(3) Advise the city manager on matters relating to the stormwater fund, Equivalent Residential Units (ERU), user fee and other appropriate terms and conditions which affect the financial stability of the fund.

(4) Prepare, revise and amend a comprehensive stormwater management plan for adoption by the municipality's governing body;

(5) Review construction plans and approve or deny, inspect, and accept extensions and connections to the city's stormwater system;

(6) Assist in the enforcement of regulations to protect and maintain water quality and quantity within the system in compliance with water quality standards established by local, state, and/or federal agencies as now adopted or hereafter amended;

(7) Annually analyze the cost of services and benefits provided, and the system and structure of fees, charges, civil penalties, and other revenues of the program. (as added by Ord. #08-117, May 2008)

18-803. 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) "Base rate" means the stormwater user's fee for a detached single family residential property in the city.

(2) "Construction" means 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.

(3) "Developed property" means 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 or other improvements.

(4) "Equivalent Residential Unit" or "ERU" means the average impervious area associated within a detached single family residential property determined pursuant to this chapter.

(5) "Exempt property" means all properties of the federal, state, county, and city governments, and any of their divisions or subdivisions, and

property that does not discharge stormwater runoff into the stormwater or flood control facilities of the municipality.

(6) "Fee" or "stormwater user's fee" means the charge established under this ordinance 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 municipality. The stormwater user's fee is in addition to any other fee that the municipality or home owner's association has the right to charge under any other rule or regulation of the municipality or home owner's association.

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

(8) "Impervious surface" means 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.

(9) "Impervious surface area" means the number of square feet of horizontal surface covered by buildings, and other impervious surfaces. All building measurements shall be made between exterior faces of walls, foundations, columns or other means of support or enclosure.

(10) "Other developed property" means 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.

(11) Parcel means any area of land described by a single legal description.

(12) "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.

(13) "Property owner" means the property owner of record as listed in the county's 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.

(14) "Single family residential property" means a developed property which serves the primary purpose of providing a permanent dwelling unit to a single family. A single family detached dwelling or a townhouse containing an accessory apartment or second dwelling unit is included in this definition.

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

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

(17) "Stormwater management fund" or "fund" means the fund created by this chapter to operate, maintain, and improve the city's stormwater system.

(18) "Stormwater management program" means the planning, design, construction, regulation, improvement, repair, maintenance, and operation of facilities and programs relating to water quality and quantity.

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

(20) "User" shall mean the owner of record of property subject to the stormwater user's fee imposed by this chapter.

(21) "Undisturbed property" means real property, which has not been altered from its natural state by dredging, filling, removal of trees and vegetation or other activities, which have disturbed or altered the topography of soils on the property. (as added by Ord. #08-117, May 2008)

18-804. Funding of stormwater management program. Funding for the stormwater management program may include, but not be limited to, the following:

- (1) Stormwater user's fees.
- (2) Civil penalties and damage assessments imposed for or arising from the violation of the city's stormwater management program ordinance.
- (3) Stormwater permit and inspection fees.
- (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 1986.¹

To the extent that the stormwater drainage fees collected are insufficient to construct needed stormwater drainage facilities, the cost of the same may be paid from such city funds as may be determined by the municipality's governing body. (as added by Ord. #08-117, May 2008)

18-805. Stormwater fund. All revenues generated by or on behalf of the stormwater program shall be deposited in a stormwater program fund and used exclusively for the stormwater program. (as added by Ord. #08-117, May 2008)

18-806. Operating budget. The municipality's governing body shall adopt an operating budget for the stormwater program 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. #08-117, May 2008)

¹State law reference

Tennessee Code Annotated, title 9, chapter 21.

18-807. Stormwater user's fees established. There shall be imposed on each and every developed property in the city, except exempt property, a stormwater user's fee, which shall be set from time to time by ordinance and in the manner and amount prescribed by this ordinance. (as added by Ord. #08-117, May 2008)

18-808. Equivalent Residential Unit (ERU). (1) Establishment. There is established for purposes of calculating the stormwater user's fee the Equivalent Residential Unit (ERU) equal to six thousand (6,000) square feet of impervious area.

(2) Setting the ERU. The ERU shall be amended by the municipality's governing body from time to time by ordinance.

(3) Source of ERU. The municipality's governing body 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. The municipality's governing body shall have the discretion to determine the impervious surface area of other developed property through property tax assessor's rolls or site examination, mapping information, aerial photographs, and other reliable information. (as added by Ord. #08-117, May 2008)

18-809. Property classification for stormwater user's fee.

(1) Property classifications. For purposes of determining the stormwater user's fee, all properties in the city are classified into one (1) of the following classes:

- (a) Single family residential property;
- (b) Developed property;
- (c) Undeveloped property;
 - (i) Disturbed (farm land);
 - (ii) Undisturbed (grass land);
- (d) Exempt property.

(2) Single family residential property and fee. The municipality's governing body finds that the intensity of development of most parcels of real property in the municipality classified as single family residential is similar and that it would be excessively and unnecessarily expensive to determine precisely the square footage of the improvements (such as buildings, structures, and other impervious areas) on each such parcel. Therefore, all single family residential properties in the city shall be charged a flat stormwater management fee, equal the base rate, regardless of the size of the parcel or the improvements.

(3) Developed property and fee. The fee for developed property (i.e., non-single-family residential property) in the municipality shall be the base rate multiplied by the numerical factor obtained by dividing the total impervious area (square feet) of the property by one (1) ERU times a correction factor based

on the following onsite improvements. The improvements and the correction factors are as follows:

(a) For developed properties that discharge into onsite dry detention ponds that regulate discharges not to exceed the historical flow-rate, the correction factor shall be 0.40.

(b) For developed properties that utilize other onsite structures that meet the Tennessee Department of Environment and Conservation best management practices that reduce runoff volumes to within five percent (5%) of the historical flow-rates and can demonstrate the improvement of stormwater runoff quality by means of engineering principles, the correction factor shall be 0.55.

(c) If no onsite improvements exist, the correction factor shall be 1.0.

All stormwater runoff from the developed site shall be covered by the improvements listed above in order to receive a correction factor for the entire site. The minimum stormwater management fee for other developed property shall equal the base rate for single family residential property.

(4) Undeveloped property. (a) Disturbed (farm land). Parcels which are disturbed by farming activities which results in an annual cycle of planting and harvest will be charged a stormwater fee of one (1) ERU unless significant erosion is allowed to occur due to an increase in stormwater runoff.

(b) Undisturbed parcels which are undisturbed and remain in a natural state of vegetative growth (grass land) and are maintained to prevent erosion by periodic mowing or other appropriate means will not be charged a stormwater fee. Undisturbed parcels that are not maintained in appropriate conservation practices will be considered to be disturbed and a stormwater user's fee shall be assessed in accordance with procedures outlined herein in this chapter.

(5) Exempt property. There shall be no stormwater user's fee for exempt property. (as added by Ord. #08-117, May 2008)

18-810. Base rate. The municipality's governing body shall, by ordinance, establish the base rate for the stormwater user's fee. 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. (as added by Ord. #08-117, May 2008)

18-811. Adjustments to stormwater user's fees. The stormwater program shall have the right on its own initiative to adjust upward or downward the stormwater user's fees with respect to any property, based on the approximate percentage on any significant variation in the volume or rate of stormwater, or any significant variation in the quality of stormwater, emanating

from the property, compared to other similar properties. In making determinations of the similarity of property, the stormwater program shall take into consideration the location, geography, size, use, impervious area, stormwater facilities on the property, and any other factors that have a bearing on the variation. (as added by Ord. #08-117, May 2008)

18-812. Property owners to pay charges. The owner of each non-exempt lot or parcel shall pay the stormwater user's fees and charges as provided in this chapter. (as added by Ord. #08-117, May 2008)

18-813. Billing procedures and penalties for late payment.

(1) **Rate and collection schedule.** The stormwater user's fee will be set at a rate, and collected on a schedule established by ordinance. The stormwater fee shall reflect the nature of the property classification by the water meter billing. The stormwater user fee for single-family residential and non-residential developed property shall be billed and collected monthly. Apartment buildings will be billed monthly to either a master meter (base rate times the number of individual apartments) or to the individual meters for each apartment resident, whichever the case may be. The owner of a mobile home park will receive a monthly bill for the entire complex (base rate times the number of individual mobile home sites). Undeveloped properties will be billed monthly at the rate established by this ordinance if the property is utilized for farming activities and allowed to erode and contribute to pollution of streams, rivers and ponds here in Lakeland.

(2) **Delinquent bills.** The stormwater user's fee shall be billed through Memphis Light, Gas, and Water and paid by mail or in person as per their requirements; and shall become delinquent as of sixty (60) days following the billing. Any unpaid stormwater user's fee shall bear interest at the legal rate if it remains unpaid after one hundred twenty (120) days following the billing. (as added by Ord. #08-117, May 2008)

18-814. Appeals of fees. (1) The City of Lakeland Board of Appeals shall hear and decide appeals and requests for variances from the requirements of this chapter.

(2) Variances may be issued in regards to the stormwater user fees and/or property classification. The stormwater management plan operating budget shall not be appealed.

(3) In passing upon such variances, the board of appeals shall consider all technical evaluations, all relevant factors such as practices that meet the Tennessee Department of Environment and Conservation best management practices, historical flows versus developed flows, and all standards specified in other sections of this chapter, and,

(4) Upon consideration of the factors listed above, and the purposes of this chapter, the board of appeals may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this chapter.

(5) Request for variances may be appealed within thirty (30) calendar days from the date of the last bill containing stormwater user's fees charges.

(6) Variances may be issued upon a determination that the variance is the minimum relief necessary, considering the amount of the fee and/or the property classification.

(7) Variances shall only be issued upon:

(a) A showing of good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship compared to other similarly assessed property; and

(c) A determination that the granting of a variance will not result in conflict with existing local laws or ordinances.

(8) Written notice. Any applicant to whom a variance is granted shall be given written notice by the board of appeals.

(9) Record keeping and reporting. The City of Lakeland shall maintain the record of all appeal actions.

(10) All appeals shall be reviewed and a decision rendered within forty-five days (45) days after the appeal is filed. (as added by Ord. #08-117, May 2008)

18-815. Enforcement, abatement, penalties, and appeals.

(1) Enforcement and abatement authority. The city manager or his designees shall have the authority to issue notices of violation and citations, and to impose the civil penalties provided in this section.

(2) Notification of violation. (a) Written notice. Whenever the city manager or his/her designee 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 city manager 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 city manager. 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.

(b) Consent orders. The city manager or his/her designee 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.

(c) Show cause hearing. The city manager may order any person who violates this chapter or permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the person specifying the time and place for the meeting, the proposed enforcement action 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.

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

(e) Cease and desist orders. When the city manager or his/her designee finds that any person has violated or continues to violate this ordinance or any permit or order issued hereunder, the city manager may issue 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 and terminating the discharge.

(3) Penalties. 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 ordinance, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by the city manager or his/her designee, shall be guilty of a civil offense.

(4) Under the authority provided in Tennessee Code Annotated, § 68-221-1106, the municipality declares that any person violating the provisions of this chapter may be assessed a civil penalty by the city manager or his/her designee 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.

(5) Measuring civil penalties. In assessing a civil penalty, the city manager or his/her designee 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 municipality;
- (f) The amount of penalty established by ordinance or resolution for specific categories of violations; and
- (g) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

(6) Recovery of damages and costs. In addition to the civil penalty in subsection (2) above, the municipality may recover;

(a) All damages proximately caused by the violator to the municipality, 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 municipality's maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by this section.

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

(8) 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.

(9) 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 board of appeals.

(a) 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.

(b) Public hearing. Upon receipt of an appeal, the board of appeals 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 board of appeals shall be final.

(c) Appealing decisions of the board of appeals. Any alleged violator may appeal a decision of the board of appeals pursuant to the

provisions of Tennessee Code Annotated, title 27, chapter 8. (as added by Ord. #09-134, Aug. 2009)

CHAPTER 9

GREASE MANAGEMENT FOR FOOD SERVICE ESTABLISHMENTS

SECTION

- 18-901. Purpose.
- 18-902. Definitions.
- 18-903. General requirements.
- 18-904. Approved grease waste haulers.
- 18-905. Grease control equipment requirements.
- 18-906. New multi-unit (strip mall) facilities.
- 18-907. Variance to grease interceptor installation.
- 18-908. Approval of grease control equipment.
- 18-909. Grease control equipment sizing.
- 18-910. Grease interceptor design and installation.
- 18-911. Grease interceptor cleaning/maintenance requirements.
- 18-912. "Additives" prohibition for use as grease management and control.
- 18-913. Right of entry—inspection and monitoring.
- 18-914. Fee option.
- 18-915. Violations and enforcement action.

18-901. Purpose. This chapter sets forth requirements to aid in the prevention of sanitary sewer blockages, obstructions, and overflows due to the contribution and accumulation of fats, oils, and greases into said sewer system from commercial, industrial and institutional food service establishments. The objective is to reduce or eliminate sanitary sewer overflows onto streets, waterways, and onto residential and commercial properties and buildings that could result in liabilities to the city. (as added by Ord. #10-153, Nov. 2010)

18-902. Definitions. (1) "Black water" means wastewater containing human waste from sanitary fixtures such as toilets and urinals.

(2) "Brown grease" means fats, oils, and grease that is discharged to the grease control equipment.

(3) "City" shall mean the City of Lakeland or the city manager or designee.

(4) "FOG (Fats, Oils, and Grease)" means organic polar compounds derived from animal and/or plant sources. FOG may be referred to as "grease" or "greases" in this chapter.

(5) "Food Service Establishment (FSE)" means any establishment, business or facility engaged in preparing, serving or making food available for consumption. Single family residences are not an FSE, however, multi-residential facilities may be considered an FSE at the discretion of the city. Food service establishments will be classified as follows:

(a) Class 1: Deli – engaged in the sale of cold cut and microwaved sandwiches/subs with no frying or grilling on site, ice cream shops and beverage bars as defined by North American Industry Classification System (NAICS) 77213, Mobile Food Vendors as defined by NAICS 722330.

(b) Class 2: Limited-service restaurants (a.k.a. fast food facilities, daycares) as defined by NAICS 722211 and caterers as defined by NAICS 722320.

(c) Class 3: Full-service restaurants as defined by NAICS 722110.

(d) Class 4: Buffet and cafeteria facilities as defined by NAICS 72212.

(e) Class 5: Institutions (schools, hospitals, prisons, etc.) as defined by NAICS 722310 but not to exclude self-run operations.

(6) "Gray water" refers to all other wastewater other than black water as defined in this chapter.

(7) "Grease Control Equipment (GCE)" means a device for separating and retaining wastewater FOG prior to wastewater exiting the FSE and entering the city's sewer system. Devices include grease interceptors, grease traps, or other devices approved by the city.

(8) "Grease interceptor" means grease control equipment identified as a large tank, usually one thousand (1,000) gallon to three thousand (3,000) gallon capacity, which provides FOG control for an FSE. Grease interceptors will be located outside the FSE, unless a variance request has been granted.

(9) "Grease trap" means grease control equipment identified as an "under the sink" trap, a small container with baffles, or a floor trap. For an FSE approved to install a grease trap, the minimum size requirement is the equivalent of a twenty (20) gallon per minute/forty (40) pound capacity trap. All grease traps will have flow control restrictor and venting.

(10). "Grease recycle container" means a container used for the storage of yellow grease.

(11) "Series (grease interceptors installed in series)" means grease interceptor tanks are installed one after another in a row and are connected by plumbing pipe.

(12) "User" means a customer operating a food service establishment and discharging to the sanitary sewer system.

(13) "Yellow grease" means fats, oils and grease that have not been in contact or contaminated from other sources (water, wastewater, solid waste, etc.) and can be recycled. Yellow grease is normally stored in a grease recycle container or bin for beneficial reuse. (as added by Ord. #10-153, Nov. 2010)

18-903. General requirements. (1) All new and existing Food Service Establishments (FSEs) are required to have Grease Control Equipment (GCE)

installed, maintained and operating properly, in accordance with this FOG chapter.

(2) All FSEs will be required to maintain records of cleaning and maintenance of GCE. GCE maintenance records include, at a minimum, the date of cleaning/maintenance, company or person conducting the cleaning/maintenance, volume (in gallons) of grease wastewater removed and final disposal location.

(3) GCE maintenance records will be available at the FSE premises so they can be provided to the city and/or the health department. The FSE shall maintain GCE maintenance records for two (2) years.

(4) No FSE will discharge oil and grease in concentrations that exceed the city's numerical limit for oil and grease.

(5) Owners of commercial property will be held responsible for wastewater discharges from a leaseholder on their property.

(6) Grease control equipment certification requirement. All establishments with grease control equipment must have their grease interceptor or grease trap inspected and certified every two (2) years by a city "certified" grease waste hauler or plumber. If a grease interceptor or grease trap "passes" the certification requirement, then no further action is required. If a grease interceptor or grease trap "fails" the certification requirement, then a corrective action response is required from the FSE owner to the city within thirty (30) calendar days.

(7) FSEs shall dispose of yellow grease in an approved container or recycle container, and the contents shall not be discharged to any sanitary sewer line, stormwater grate, drain or conveyance. Yellow grease, or oils, poured or discharged into the FSE sewer lines or city's sewer system is a violation of this FOG chapter.

(8) It shall be a violation of this FOG chapter to push or flush the non-water portion of GCE into the public sewer. (as added by Ord. #10-153, Nov. 2010)

18-904. Approved grease waste haulers. To ensure proper disposal of the FOG waste, all grease waste haulers must operate trucks that are marked with a company name, phone number, waste hauler permit, number, city and state of legible size and color. The tank must also be marked with the company name and capacity of the tank in gallons. The hauler must provide proof upon request of the city that it is certified to operate in any of the surrounding communities in Shelby County. (as added by Ord. #10-153, Nov. 2010)

18-905. Grease control equipment requirements. (1) Any new FSE, existing FSE, upgrading of an existing FSE, or change of ownership of existing FSE will be required to install and maintain a grease interceptor.

(2) New construction of FSEs shall have separate sanitary (restroom) and kitchen process lines. The kitchen process lines shall be plumbed to

appropriately sized GCE. No sanitary wastewater or stormwater shall be plumbed to the GCE.

(3) All of the FSEs internal plumbing shall be constructed to separate sanitary (restroom) flow from kitchen process flow. Sanitary flow and kitchen process discharges shall be approved separately by the city and shall discharge from the building separately. Kitchen process lines and sanitary lines may combine prior to entering the public sewer; however, the lines cannot be combined until after the GCE.

(4) A grease interceptor or grease trap will be installed and connected so that it may be easily accessible for inspection, cleaning and removal of grease at any time.

(5) Existing food service establishments are required to install GCE and meet the FOG chapter requirements by January 1, 2013. Separate piping as specified under § 18-806 is not required. (as added by Ord. #10-153, Nov. 2010)

18-906. New multi-unit (strip mall) facilities. (1) New strip malls or strip centers must have two (2) separate sewer line connections at each unit within the strip mall or strip center. One (1) sewer line will be for sanitary wastewater and one (1) sewer line will be for the kitchen area, or potential kitchen area, of each unit. The kitchen area, or potential kitchen area, sewer line will be connected to floor drains in the specified kitchen area, and will connect, or be able to connect, to other food service establishment kitchen fixtures, such as a three (3) compartment sink, a two (2) compartment sink, a pre-rinse sink, a mop sink and/or a hand wash sink.

(2) Owners of a new multi-unit facility or new "strip mall" facility shall contact the city prior to conducting private plumbing work at the multi-unit facility site. Multi-unit facility owners or their designated contractor shall have plans for separate private wastewater lines for kitchen and sanitary wastewater for each "individual" unit. In addition, the plans shall identify "stub-out" locations to accommodate a minimum of one thousand (1,000) gallon grease interceptor for each unit of the multi-unit facility.

(3) FSEs located in a new multi-unit facility shall have a minimum of a one thousand (1,000) gallon grease interceptor installed, unless that FSE is identified as a Class 1 facility. Sanitary wastewater, or black water, shall not be connected to GCE. (as added by Ord. #10-153, Nov. 2010)

18-907. Variance to grease interceptor installation. At the discretion of the city engineer, an FSE may receive a variance from the required installation of a grease interceptor and sewer line piping. Variances will be limited to existing FSEs that have unusual physical location circumstances that will prevent the installation of a large grease interceptor or separate piping of sewer waste. Sizing of grease interceptors will be based on the standard

PDI-G101 of the Plumbing and Drainage Institute, simplified chart, wherever possible. (as added by Ord. #10-153, Nov. 2010)

18-908. Approval of grease control equipment. All existing FSEs that have upgraded their plumbing facilities must contact the city for final approval of the grease control equipment. This will include onsite inspection of the grease control equipment by the city. (as added by Ord. #10-153, Nov. 2010)

18-909. Grease control equipment sizing. (1) Minimum acceptable size of grease control equipment for each FSE classification will be as follows:

(a) Class 1: Deli, ice cream shops, beverage bars, mobile food vendors – twenty (20) gpm/forty (40) pound grease trap (NAICS 72213, 72233).

(b) Class 2: Limited-service restaurants/cafeterias/daycares – one thousand (1,000) gallon grease interceptor (NAICS 722211, 722320).

(c) Class 3: Full service restaurants – one thousand (1,000) gallon grease interceptor (NAICS 722110).

(d) Class 4: Buffet and cafeteria facilities – one thousand five hundred (1,500) gallon grease interceptor (NAICS 72212).

(e) Class 5: Institutions (schools, hospitals, prisons, etc.) – two thousand (2,000) gallon grease interceptor (NAICS 722310).

(2) To calculate the appropriate size GCE, the FSE's engineer, architect or contractor should use a formula that considers fixture units, storage capacity, type of facility and an adequate retention time. The grease control equipment minimum acceptable size for the above listed FSE classification (Class 1 through 5) must be met.

(3) The city will review and approve of the GCE sizing received from the FSE's engineer, architect or contractor. The city will make a decision to approve or require additional grease interceptor volume based on the type of FSE, the number of fixture units, and additional calculations. Grease interceptor capacity should not exceed three thousand (3,000) gallons for each interceptor tank. In the event that the grease interceptor calculated capacity needs to exceed three thousand (3,000) gallons, the FSE shall install an additional interceptor of the appropriate size. If additional interceptors are required, they shall be installed in series.

(4) Grease interceptors that are installed in series shall be installed in such a manner to ensure positive flow between the tanks at all times. Therefore, tanks shall be installed so that the inlet invert of each successive tank shall be a minimum of two inches (2") below the outlet invert of the preceding tank.

(5) Grease control equipment must remove fats, oils, and grease at or below the city limit of one hundred (100) mg/L. (as added by Ord. #10-153, Nov. 2010)

18-910. Grease interceptor design and installation. (1) Access openings (manholes). (a) Access to grease interceptors shall be provided by a minimum of one (1) manhole per interceptor division (baffle chamber) and of twenty-four inch (24") minimum dimensions terminating one inch (1") above finished grade with cast iron frame and cover. An eight inch (8") thick concrete pad extending a minimum of twelve inches (12") beyond the outside dimension of the manhole frame shall be provided. One (1) manhole shall be located above the inlet tee hatch and the other manhole shall be located above the outlet tee hatch. A minimum of twenty-four inches (24") of clear opening above each manhole access shall be maintained to facilitate maintenance, cleaning, pumping, and inspections.

(b) Access openings shall be mechanically sealed and gas tight to contain odors and bacteria and to exclude vermin and ground water in a manner that permits regular reuses.

(c) The manholes are to be accessible for inspection by the city.

(2) Additional requirements. (a) Water tight. Precast concrete grease interceptors shall be constructed to be watertight. A static water test shall be conducted by the installer and timed so as to permit verification through visual inspection by regulatory agent. The water test shall consist of plugging the outlet (and the inlet if necessary) and filling the tank(s) with water to the tank top a minimum of twenty-four (24) hours before the inspection. The tank shall not lose water during this test period. Certification by the plumbing contractor shall be supplied to the city prior to final approval of grease control equipment.

(b) Location. Grease interceptors shall be located so as to be readily accessible for cleaning, maintenance, and inspections. They should be located close to the fixture(s) discharging the greasy waste stream. If possible, grease interceptors should not be installed in "drive-thru" lanes or a parking area. Grease interceptor access manholes shall never be passed over.

(c) Responsibility. Removal of the grease from the wastewater routed to a public or private sanitary system is the responsibility of the user/owner.

(d) Construction material. Grease interceptors shall be constructed of sound durable materials, not subject to excessive corrosion or decay, and shall be water and gas tight. Each interceptor shall be structurally designed to withstand any anticipated load to be placed on the interceptor (i.e. vehicular traffic in parking or driving areas). Note: Concrete materials and other grease interceptor materials shall meet the American National Standards Institute, Inc. (ANSI) and International Association of Plumbing and Mechanical Officials (IAPMO) standards.

(e) Marking and identification. Prefabricated gravity grease interceptors shall be permanently and legibly marked with the following:

- (i) Manufacturer's name or trademark, or both;
- (ii) Model number;
- (iii) Capacity;
- (iv) Month and year of manufacture;
- (v) Load limits and maximum recommended depth of earth cover in feet;
- (vi) Inlet and outlet. (as added by Ord. #10-153, Nov. 2010)

18-911. Grease interceptor cleaning/maintenance requirements.

(1) Partial pump of interceptor contents or onsite pump and treatment of interceptor contents will not be allowed due to reintroduction of fats, oils and grease to the interceptor and pursuant to Lakeland Municipal Code chapter 4, title 18, Sewer Use and Wastewater Treatment and as referenced in the Code of Federal Regulations (CFR) § 403.5 (b)(8), which states "Prohibited discharges. No persons shall discharge or cause or allow to be discharged or deposited into the city's wastewater system any wastewater that contains the following: any trucked or hauled pollutants, except at discharge points designated and approved by the city."

(2) Grease interceptors must be pumped-in-full (total pump of all contents) when the total accumulations of surface FOG (including floating solids) and settled solids reach twenty-five percent (25%) of the grease interceptor's overall liquid depth. This criterion is referred to as the "25 percent rule." At no time shall the cleaning frequency exceed ninety (90) days unless approved by the city. Approval will be granted on a case by case situation with submittal by the FSE documenting proof of proposed frequency. Some existing FSEs in Class 2 through 5 will need to consider a pumping schedule of thirty (30) or sixty (60) days to meet this requirement.

(3) The grease interceptor effluent-T will be inspected during cleaning and maintenance, and the condition noted by the grease waste hauler's company or individual conducting the maintenance. Effluent-Ts that are loose, defective, or not attached must be repaired or replaced immediately. Any repairs to the grease interceptor should be documented and kept on file at the FSE.

(4) Grease interceptors must have access manholes over the influent-T and effluent-T for inspection and ease of cleaning/maintenance. Access manholes will be provided for all separate compartments of interceptors for complete cleaning (i.e. interceptor with two (2) main baffles or three (3) compartments will have access manholes at each compartment).

(5) Grease interceptor waste must be hauled offsite and disposed at a state or POTW approved disposal location. (as added by Ord. #10-153, Nov. 2010)

18-912. "Additives" prohibition for use as grease management and control. (1) Additives include but are not limited to products that contain solvents, emulsifiers, surfactants, caustics, acids, enzymes and bacteria.

(2) Use of biological additives is discouraged. Any additive placed into the grease trap or building discharge designed to absorb, purge, consume, treat or otherwise eliminate grease shall require written approval by the grease management coordinator. If the city identifies FOG in the downstream sewer system from an FSE that is using an additive, then the city may require the FSE to discontinue use of the additive.

(3) Additive use will not be a substitute for regular, required cleaning or pumping of grease control equipment.

(4) This FOG chapter prohibits the use of chemicals, acids, caustics, enzymes, hot water, emulsifiers, surfactants, or other additives to cause oil or grease to pass through the user's grease trap or grease interceptor designed to remove oil and grease. (as added by Ord. #10-153, Nov. 2010)

18-913. Right of entry—inspection and monitoring. The city shall have the right to enter the premises of FSEs to determine whether the FSE is complying with the requirements of this FOG chapter. FSEs shall allow city personnel or their authorized representative, upon presentation of proper credentials, full access to all parts of the premises for the purpose of inspection, monitoring, and/or records examination. Unreasonable delays in allowing city personnel access to the FSE premises shall be a violation of this FOG chapter and the city sewer use ordinance. All grease interceptors/traps shall be subject to review, evaluation and inspection by the city personnel during normal working hours. Inspections will determine proper maintenance, changes in operation, proper records and files, ability of interceptor to trap and prevent grease from entering the system and any other factors pertaining to grease management. The city reserves the right to make determinations of interceptor/trap condition and adequacy based on review of all information regarding the interceptor/trap performance and may require cleaning, maintenance, modification or replacement. All records will be available onsite for review by the city for a period of thirty-six (36) months. The city may require that the FSE install monitoring or additional pretreatment equipment deemed necessary for compliance with this FOG chapter and or the city sewer use ordinance. (as added by Ord. #10-153, Nov. 2010)

18-914. Fee option. The city may charge inspection, monitoring, assessment, impact, surcharge and/or permit fees to food service establishments for reimbursement of the cost to administer this FOG regulatory program. Any associated fees will be listed in the Lakeland Fee Schedule. (as added by Ord. #10-153, Nov. 2010)

18-915. Violations and enforcement action. (1) Violations of this FOG regulatory program include, but are not limited to, failure to clean or pump grease control equipment, failure to maintain grease control equipment including installation of properly functioning effluent-T and baffles, failure to install grease control equipment, failure to control FOG discharge from the FSE, failure to certify the grease interceptor or trap, being responsible for sewer line obstruction, being responsible for a sanitary sewer overflow, and using additives so that FOG is diluted or pushed downstream of the FSE.

(2) Whenever the city determines that a grease interceptor or trap is in need of installation, pumping, repairs, maintenance or replacement, a noncompliance notification or a Notice of Violation (NOV) will be issued stating the nature of the violation(s) and timeframe for corrective measures.

(3) If the facility fails to initiate action in response to a noncompliance notification or NOV, a second notice will be issued and additional fees assessed. Fees may include costs associated with service calls for sewer line blockages, line cleaning, camera trucks, line and pump repairs, including all labor, material and equipment. Further noncompliance will result in the discontinuance of the facility's water service.

(4) Immediate discontinuance of water may be requested by the city to Memphis Light Gas and Water if the facility presents an imminent endangerment to the health or welfare of persons or to the public or to the environment, or causes stoppages or excessive maintenance to the sanitary sewer system, causes significant interference with the wastewater treatment plant, or causes the city to violate any condition of its NPDES permit. Service shall be reinstated when such conditions have been eliminated as determined by the city.

(5) If inspections and field investigations determine that any fats, oils and grease interference or blockage in the sewer system, a sewage pumping station, or the wastewater treatment plant is caused by a particular food service establishment, then that food service establishment shall reimburse the city for all labor, equipment, supplies and disposal costs incurred by city to clean the interference or blockage. The charges will be added to the FSEs water/wastewater bill. Failure to reimburse the city may result in termination of water service. (as added by Ord. #10-153, Nov. 2010)