

## TITLE 18

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

#### CHAPTER

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#### CHAPTER 1

#### SEWER USE

#### SECTION

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**18-101. Definitions.** The following words, terms and phrases, when used in title 18, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) "Act" or the act means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251, et seq.
- (2) Authorized representative of a user means:
  - (a) If the user is a corporation:
    - (i) The president, chief executive officer, secretary, treasurer or a vice-president of the corporation in charge of a principal business function or any other person who performs similar policy or decision-making functions for the corporation; or
    - (ii) The manager of one (1) or more manufacturing, production or operation facilities if authority to sign documents

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<sup>1</sup>State law references:

Authority to operate sewage facilities, Tennessee Code Annotated, § 7-34-104.

has been assigned or delegated to the manager in accordance with corporate procedures.

(b) If the user is a partnership or sole proprietorship, a general partner or proprietor, respectively.

(c) If the user is a federal, state or local governmental facility, a manager or highest official, elected or appointed, designated to oversee the operation and performance of the activities of the government facility or their designee.

(d) The individuals described in subsections of this definition may designate another authorized representative if the authorization is submitted to the manager in writing, and the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company.

(3) "Biochemical Oxygen Demand (BOD)" means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at twenty degrees Celsius (20° C), usually specified as a concentration (e.g., milligrams per liter (mg/l)).

(4) "Building sewer" means the extension from the building drain to the public sewer or other place of disposal.

(5) "Categorical standard" or "categorical pretreatment standard" means any regulation containing pollutant discharge limits promulgated by EPA in accordance with 33 USC 1317, which apply to a specific category of users and which appear in 40 CFR 405 through 471.

(6) "Compliance order" means an order signed by the manager that identifies a series of events the user must take, along with a prescribed timetable, to achieve compliance with the requirements of title 18, any permit requirement or any other valid order.

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

(8) "Domestic wastewater" means wastewater that is generated by a single-family residence, apartment or residential unit. specifically excluded from this definition is any categorical or significant industrial facility.

(9) "Environmental Protection Agency" or "EPA" means the U.S. Environmental Protection Agency or, where appropriate, the regional water management division manager or other duly authorized official of the agency.

(10) "Existing source" means any source of discharge, the construction or operation of which commenced prior to publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with section 307 of the Act.

(11) "Garbage" means solid wastes from domestic and commercial preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

(12) "Holding tank waste" means any waste from holding tanks, such as but not limited to vessels, chemical toilets, trailers, septic tanks and vacuum pump tank trucks.

(13) "Industrial user" means a nondomestic source of wastewater entering the POTW.

(14) "Interference" means a discharge, which alone or in conjunction with a discharge from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; or is a cause of a violation of the Town of Mount Carmel's NPDES permit; or prevents sewage sludge use or disposal in compliance with any of the following statutory or regulatory provisions or permits issued thereunder or any more stringent state or local regulations: section 405 of the Act; the Solid Waste Disposal Act, including title II, commonly referred to as the Resource Conservation and Recovery Act (RCRA); any state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research and Sanctuaries Act.

(15) "New source" means:

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

(i) The building, structure, facility or installation is constructed at a site at which no other source is located;

(ii) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(iii) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(b) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the

criteria of subsections (a)(ii) or (a)(iii) of this definition but otherwise alters, replaces or adds to existing process or production equipment.

(c) Construction of a new source, as defined, has commenced if the owner or operator, has:

(i) Begun or caused to begin, as part of a continuous on-site construction program, any placement, assembly or installation of facilities or equipment; or significant site preparation work including clearing, excavation or removal of existing buildings, structures or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment; or

(ii) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this subsection.

(16) "Manager of public utilities" or "manager" means the Chairman of the Public Utilities Board of the Town of Mount Carmel or a duly authorized representative or such person employed by the Town of Mount Carmel, Tennessee, and so designated by the board of mayor and aldermen as "manager" of the public utilities board; the control authority as specified by 40 CFR 403.12.

(17) "Noncontact cooling water" means water used for cooling which does not come into direct contact with any raw material, intermediate products, waste products or finished products.

(18) "Nondomestic source" means any source of discharge of wastewater from any facility other than a residential unit meeting the requirements of a domestic wastewater producer.

(19) "Notice of Violation (NOV)" means a written notice signed by the manager that notifies a user that a violation of any permit requirement, any section of title 18 or any other valid order has occurred and describes the facts of the violation.

(20) "NPDES (National Pollutant Discharge Elimination System)" means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements under sections 307, 402, 318 and 405 of the Clean Water Act (CWA).

(21) "Pass through" means a discharge that exits the POTW into the waters of the state in quantities or concentrations which, alone or in conjunction with a discharge from other sources, is a cause of violation of any requirement of the POTW's NPDES permit, including an increase in the magnitude or duration of a violation.

(22) Person means 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. This shall include all federal, state and local governmental entities.

(23) "pH" means a measure of the acidity or alkalinity of a solution. The logarithm (base 10) of the reciprocal of the concentration of the hydrogen ions measured in grams per liter of solution and expressed in Standard Units (SU).

(24) "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, industrial, municipal and agricultural waste discharged into water, or wastewater having been changed in pH, temperature, TSS, turbidity, color, BOD, COD, toxicity or odor.

(25) "Pollution" means the manmade or man-induced alteration of the chemical, physical, biological and radiological integrity of water.

(26) "Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to introducing such pollutants into the POTW. The reduction or alteration can be obtained by physical, chemical or biological processes; by process changes; or by other means except by diluting the concentration of pollutants unless allowed by an applicable pretreatment standard.

(27) "Pretreatment requirement" means any substantive or procedural requirement related to pretreatment imposed on a user, other than a national pretreatment standard imposed on an industrial user.

(28) "Pretreatment standards" means prohibited discharge standards, categorical pretreatment standards and local limits.

(29) "Prohibited discharge standards" or "prohibited discharges" means absolute prohibitions against the discharge of certain substances as set out in § 18-305.

(30) "Public sewer" means a sewer controlled or maintained by the Town of Mount Carmel.

(31) "Publicly Owned Treatment Works (POTW)" means a treatment works as defined by 33 USC 1292 and owned by the Town of Mount Carmel. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of domestic or industrial waste of a liquid nature and any pipes which convey wastewater to a treatment plant.

(32) "Residential unit" means a structure used primarily as housing and generating wastewater that includes but is not limited to human waste, kitchen waste, domestic washwater and bathwater. If there is located within or upon the same property as a residential unit any process, commercial activity or any other activity that generates wastewater not included in this definition, such wastewater shall not be classified as domestic wastewater.

(33) "Significant industrial user" means any industrial user who:

(a) Is subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; or

(b) A user that:

(i) Discharges twenty-five thousand (25,000) gallons or more per average workday of process wastewater to the POTW, excluding sanitary, noncontact cooling and boiler blowdown wastewater;

(ii) Contributes a process waste stream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of Mount Carmel of the POTW treatment plant; or

(iii) Is designated by the manager as having the reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement in accordance with 40 CFR 403.8(f)(6).

(34) "Significant noncompliance" means a status or condition existing if an industrial user's discharge meets one or more of the following criteria:

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

(b) Technical Review Criteria (TRC) violations, defined as those in which thirty-three percent (33%) or more of all measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH.).

(c) Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the manager determines has caused, alone or in combination with other discharges, interference or pass through or endangers the health of POTW personnel or the general public.

(d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under 40 CFR 403.8(f)(1)(vi)(B) to halt or prevent such a discharge.

(e) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction or attaining final compliance.

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

(g) Failure to accurately report noncompliance.

(h) Any other violation or group of violations which the manager determines will adversely affect the operation or implementation of the local pretreatment program (40 CFR 403.8(f)(2)(vii)).

(35) "Sludge" means solid, semisolid or liquid residue generated during treatment of domestic or industrial sewage in a treatment works.

(36) "Standard Industrial Classification (SIC)" means a classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

(37) "Stormwater" means any flow of water resulting from any form of precipitation.

(38) "Suspended Solids" or "Total Suspended Solids (TSS)" means the total suspended matter that floats on the surface of or is suspended in water, wastewater or other liquid and which is removable by laboratory filtering by approved procedures according to 40 CFR 136.

(39) "Treatment plant" means that portion of a POTW designed to treat wastewater.

(40) "User" means any person who contributes, causes or allows the contribution of wastewater into the POTW.

(41) "Wastewater" means industrial or domestic liquid waste from dwellings, commercial buildings, industrial or manufacturing facilities and institutions, together with any groundwater, surface water or stormwater that may be present, whether treated or untreated, which is contributed to or allowed to enter the POTW.

(42) "Wastewater discharge permit" means a control document issued by the manager authorizing conditional discharge of pollutants into the POTW.

(43) "Waters of the state" means any and all waters, public or private, on or beneath the surface of the ground, which are contained within, flow through or border upon this state or any portion thereof except those bodies of water confined to and retained within the limits of private property in a single ownership which do not combine or effect a junction with natural surface or underground waters. (Ord. #287, Dec. 2004)

**18-102. Abbreviations.** (1) The following abbreviations, when used in title 18, shall have the meanings designated:

- (a) BOD  
Biochemical Oxygen Demand
- (b) CFR  
Code of Federal Regulations
- (c) COD  
Chemical Oxygen Demand
- (d) EPA  
U.S. Environmental Protection Agency
- (e) mg/l

- Milligrams per liter
- (f) NPDES  
National Pollutant Discharge Elimination System
- (g) POTW  
Publicly Owned Treatment Works
- (h) RCRA  
Resource Conservation and Recovery Act
- (i) SIC  
Standard Industrial Classification
- (j) TSS  
Total Suspended Solids
- (k) USC  
United States Code (Ord. #287, Dec. 2004)

**18-103. Purpose and policy.** (1) Title 18 sets forth uniform requirements for users of the POTW of the Town of Mount Carmel and enables the Town of Mount Carmel to comply with all applicable state and federal laws, including the Clean Water Act (33 USC 1251, et seq.), and general pretreatment regulations set out in 40 CFR 403.

(2) Title 18 shall apply to all users of the POTW, whether located inside the Town of Mount Carmel or outside the Town of Mount Carmel. Title 18 authorizes issuance of wastewater discharge permits; provides for monitoring, compliance, recordkeeping, pretreatment and enforcement; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established in title 18.

(3) The objectives of title 18 are to:

(a) Prevent the introduction of pollutants into the POTW that will interfere with its operation;

(b) Prevent the introduction of pollutants into the POTW that will pass through inadequately treated into receiving waters or otherwise be incompatible with the POTW;

(c) Protect the POTW personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

(d) Promote reuse and recycling of industrial wastewater and sludge from the POTW;

(e) Provide for fees for the equitable distribution of the cost of operation, maintenance and improvement of the POTW; and

(f) Enable the Town of Mount Carmel to comply with its national pollutant discharge elimination system permit conditions, sludge use and disposal requirements and any other federal or state laws to which the POTW is subject. (Ord. #287, Dec. 2004)



**18-104. Retention of records.** All records and reports required by title 18 shall be retained for a minimum of three (3) years and shall be made available for inspection and copying by the manager or appropriate state or federal agencies. This period of retention shall be extended during the course of any unresolved litigation regarding the user or when requested by the manager or appropriate state or federal agencies. (Ord. #287, Dec. 2004)

**18-105. Time of report filing.** Under title 18, written reports shall be deemed to have been submitted on the date of receipt by the manager. (Ord. #287, Dec. 2004)

## CHAPTER 2

### ADMINISTRATION AND ENFORCEMENT

#### SECTION

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- 18-203. Duties and authority of public utilities board.
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- 18-206. Adoption of enforcement response plan.
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- 18-208. Consent orders.
- 18-209. Show cause hearing.
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- 18-220. Injunctive relief.
- 18-221. Appeals to public utilities board.
- 18-222. Additional stay.
- 18-223. Judicial review.

**18-201. Duties and authority of the manager.** Except as otherwise provided in title 18, the chairman of the public utilities board shall administer, implement and enforce title 18 by and through the public utilities board.

(1) The manager shall have the following specific powers, duties and responsibilities which may be delegated by the manager to other Town of Mount Carmel personnel:

- (a) Administer and enforce a pretreatment program in accordance with 40 CFR 403, federal pretreatment program requirements, Tennessee Code Annotated, §§ 69-3-123 through 69-3-129 and title 18;
- (b) Develop and implement a uniform enforcement response plan;
- (c) Recommend a schedule of civil penalties for violations of title 18;

- (d) Maintain all records required by chapters 1 through 9 of title 18; and
  - (e) Issue emergency orders.
- (2) The manager shall have the following powers, duties and responsibilities, which shall not be delegated:
- (a) Issue, modify or revoke permits and exceptions, subject to rights of appeal set out in title 18;
  - (b) Issue notices of violation whenever it is found that a user has violated or is violating any permit requirement, order or any section of title 18. Such notice of violation may require submittal of a plan of correction by the user;
  - (c) Sign and issue consent orders ensuring voluntary compliance, including necessary remedial or preventive action, according to a fixed time schedule;
  - (d) Issue compliance orders;
  - (e) Conduct show cause hearings to review facts of alleged violations in order to determine and pursue any appropriate enforcement remedy;
  - (f) Levy civil penalties for violation of title 18, for damages to the POTW or for injury to POTW personnel; and
  - (g) Terminate water service, sewer service or both, in conformance with title 18.
- (3) In the absence or incapacity of the manager and in an emergency, the Mayor of the Town of Mount Carmel shall assume all duties and responsibilities of the manager unless the manager shall have previously appointed a person to serve in his stead. (Ord. #287, Dec. 2004)

**18-202. Public utilities board.** (1) There is created and established, pursuant to Tennessee Code Annotated, § 69-3-123, et seq., the public utilities board, referred to in title 18 as "Utilities Board," which shall be composed of five (5) members as follows:

(a) Board appointment. The board shall consist of five (5) members, who shall have custody, administration, operation, maintenance, and control of the sewer system. All members shall be property holders, who are and have been residents of the town for not less than one (1) year next preceding the date of appointment. One (1) member of the board shall also be a member of the board of mayor and aldermen and such member's term shall never extend beyond his term of office on such governing body of the town. All members of the board shall be appointed by the mayor subject to the advice and consent of the board of mayor and aldermen.

(b) Term of office. The original appointees are to serve from date of appointment for one (1), two (2), three (3), and four (4) years, respectively, from the next succeeding July 1. Each successor to a retired

member of the board shall be appointed for a term of five (5) years in the same manner, at the next regular meeting of the governing body of the town in June next preceding the expiration of the term of office of the retiring member. Appointments to complete unexpired terms of office, vacant for any cause, shall be made in the same manner as original appointments.

(c) Bond, oath, officers of board, meetings, and compensation:

(i) Each member shall qualify by taking the same oath of office as required for governing officials of the town. Within ten (10) days after appointment and qualification of members, the board shall hold a meeting to elect a chairman, and designate a secretary, and treasurer or a secretary-treasurer who need not be a member or members of the board and fix the amount of the surety bond which shall be required of such treasurer and shall fix his compensation. The board shall hold public meetings at least once per quarter, at such regular time and place as the board may determine. Changes in such time and place of meeting shall be made known to the public as far in advance as practicable. Except as otherwise expressly provided, the board shall establish its own rules of procedure.

(ii) All members of the board shall serve as such without compensation, but they shall be allowed necessary traveling and other expenses while engaged in the business of the board, including an allowance not to exceed one hundred dollars (\$100.00) per month for attendance at meetings. Such expenses as well as the salaries of the secretary and treasurer, or secretary-treasurer, shall constitute a cost of operation and maintenance.

(d) Removal from office. Any member of the board may be removed from office for cause, but only after preferment of formal charges and trial before a court of proper jurisdiction. Charges may be brought by resolution of the governing body of the town by any member of the board, or by a petition signed by two percent (2%) or more, but not less than twenty-five (25) in number, of the owners of property served by the works.

(2) All utilities board members shall serve without pay or other compensation.

(3) The utilities board shall promulgate such procedural rules as may be deemed necessary in the interest of justice, fairness and impartiality.

(4) Manager is authorized and empowered to act as the designated representative of the board to make any and all decisions on behalf of the board subject to ratification by the board. (Ord. #287, Dec. 2004)

**18-203. Duties and authority of public utilities board.** The public utilities board shall have the power, duty and responsibility to:

- (1) Hear appeals from orders issued by the manager assessing penalties or damages, or revoking or modifying permits;
- (2) Affirm, modify or revoke such actions or orders of the manager;
- (3) Issue notices of appeals and subpoenas requiring attendance of witnesses and the production of evidence;
- (4) Administer oaths and examine witnesses;
- (5) Take such testimony as the utilities board deems necessary; and
- (6) Hear appeals of applicants or users for the purpose of reviewing the denial of a permit or imposition of terms or conditions in permits or any exceptions granted by the manager. (Ord. #287, Dec. 2004)

**18-204. Remedies nonexclusive.** The remedies provided for in title 18 are not exclusive, and the manager may take any, all or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the Town of Mount Carmel's enforcement response plan. However, the manager may take other action against any user when the circumstances warrant. Further, the manager is empowered to take more than one enforcement action against any noncompliant user. (Ord. #287, Dec. 2004)

**18-205. Publication of violations.** (1) The manager shall cause to be published annually, in the largest daily newspaper serving the Town of Mount Carmel, a list of users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements.

(2) If any published violation has been appealed by the user and that appeal has not been resolved, the published notice shall so indicate. (Ord. #287, Dec. 2004)

**18-206. Adoption of enforcement response plan.** Under title 18, an enforcement response plan, including a schedule of civil penalties which may be assessed for certain specific violations or categories of violations, shall be established by resolution of the board of mayor and aldermen. Any civil penalty assessed to a violator pursuant to this section may be in addition to any other penalty assessed by a state or federal authority. (Ord. #287, Dec. 2004)

**18-207. Notification of violation.** (1) When the manager finds that a user has violated or continues to violate any section of title 18, a wastewater discharge permit or order issued under title 18 or any other pretreatment standard or requirement, the manager may serve upon that user a written notice of violation. Within thirty (30) days of the receipt of this notice, a written explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the manager. Submission of this plan in no way relieves the user of

liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the manager to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(2) Any notice or order issued pursuant to title 18 shall also contain notification to the violator of his right of appeal to the utilities board or the right of appeal to the chancery court. (Ord. #287, Dec. 2004)

**18-208. Consent orders.** The manager may enter into consent orders, assurances of voluntary compliance or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents shall include specific action to be taken by the user to correct the noncompliance within a time period specified in the document. Such documents shall have the same force and effect as orders issued pursuant to § 18-223 and shall be judicially enforceable. (Ord. #287, Dec. 2004)

**18-209. Show cause hearing.** The manager may order a user who has violated or continues to violate any section of title 18, a wastewater discharge permit or order issued under title 18 or any other pretreatment standard or requirement to appear before the manager and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action and a request that the user show cause 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 thirty (30) days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against or prerequisite for taking any other action against the user, but shall be a prerequisite for issuing any compliance order, cease or desist order, termination of service or assessment of civil penalties, except as provided by § 18-212. (Ord. #287, Dec. 2004)

**18-210. Compliance orders.** When the manager finds that a user has violated or continues to violate any section of title 18, a wastewater discharge permit or order issued under title 18 or any other pretreatment standard or requirement, the manager may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued upon thirty (30) days' written notice, unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the POTW. A compliance order may not extend the deadline for

compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against or a prerequisite for taking any other action against the user. (Ord. #287, Dec. 2004)

**18-211. Cease and desist orders.** When the manager finds that a user has violated or continues to violate any section of title 18, a wastewater discharge permit or order issued under title 18 or any other pretreatment standard or requirement or that the user's past violations are likely to recur, the manager may issue an order to the user directing it to cease and desist all such violations and directing the user to immediately comply with all requirements and 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. Issuance of a cease and desist order shall not be a bar against or a prerequisite for taking any other action against the user. (Ord. #287, Dec. 2004)

**18-212. Emergency suspensions.** (1) Under title 18, if the manager finds that an emergency exists imperatively requiring immediate action to protect the public health, safety or welfare; the health of animals, fish or aquatic life a public water supply; or the facilities of the POTW, the manager may, without prior notice, issue an order reciting the existence of such an emergency and requiring that such action be taken as the manager deems necessary to meet the emergency.

(2) Any user notified of a suspension of the discharge shall immediately eliminate the contribution. If a user fails to immediately comply voluntarily with the suspension order, the manager may take such steps as deemed necessary, including immediate severance of the sewer connection. The manager may allow the user to recommence the discharge when the user has demonstrated to the satisfaction of the manager that the period of endangerment has passed, unless the termination proceedings in § 18-213 are initiated against the user.

(3) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the manager prior to the date of any show cause or termination hearing under §§ 18-209 or 18-213.

(4) Nothing in title 18 shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

(5) Any user whose discharge is suspended pursuant to this section, on petition to the utilities board, shall be afforded a hearing as soon as possible, but in no case shall such hearing be held later than three (3) working days from the receipt of such a petition by the manager. (Ord. #287, Dec. 2004)

**18-213. Termination of discharge.** (1) Any user who violates the following conditions is subject to discharge termination:

- (a) Violation of wastewater discharge permit conditions;
- (b) Failure to accurately report the wastewater constituents and characteristics of the discharge;
- (c) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge;
- (d) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling;
- (e) Violation of the pretreatment standards in chapter 5 of title 18; or
- (f) Failure to pay sewer user charges, administrative penalties, inspection fees or any other fee or charge authorized in title 18.

(2) Such user will be notified of the proposed termination of the discharge and will be offered an opportunity to show cause under § 18-209 why the proposed action should not be taken. Exercise of this option by the manager shall not be a bar to or a prerequisite for taking any other action against the user. (Ord. #287, Dec. 2004)

**18-214. Method of assessment.** Under title 18, civil penalties shall be assessed in the following manner:

(1) The manager may issue an assessment against any person responsible for the violation.

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

(3) If any assessment becomes final because of a person's failure to appeal the manager's assessment, the manager may apply to the appropriate court for a judgment and seek execution of the judgment, and the court in such proceedings shall treat a failure to appeal such assessment as a confession of judgment in the amount of the assessment. Upon final order, if payment is not made the manager may terminate water service.

(4) In assessing civil penalties the manager shall consider the following factors:

- (a) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;
- (b) Damages to the POTW, including compensation for the damage or destruction of the facilities of the POTW, and also including any penalties, costs and attorney's fees incurred by the Town of Mount



Carmel as the result of the activity, as well as the expenses involved in enforcing this section and the costs involved in rectifying any damages;

- (c) Cause of the discharge or violation;
- (d) The severity of the discharge and its effect upon the POTW and upon the quality and quantity of the receiving waters;
- (e) Effectiveness of action taken by the violator to provide a remedy;
- (f) The technical and economic reasonableness of reducing or eliminating the discharge; and
- (g) The economic benefit gained by the violator. (Ord. #287, Dec. 2004)

**18-215. Assessment for noncompliance with permits or orders.**

(1) The manager may assess any polluter or violator for damages to the Town of Mount Carmel resulting from any person's pollution or violation, failure or neglect in complying with any permits or orders issued pursuant to the provisions of the pretreatment program or any part of title 18.

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

(3) Damages may include any expenses incurred in investigating and enforcing the pretreatment program or chapter 5 of title 18; in removing, correcting and terminating any pollution; and also compensation for any actual damages to the POTW or to personnel employed therein caused by the violation. (Ord. #287, Dec. 2004)

**18-216. Civil penalties.** (1) A civil penalty up to the maximum permitted by the constitution and laws of the state, not to exceed the maximum authorized by the Constitution of Tennessee per day, may be assessed against any user who has violated or continues to violate any section of title 18 or any of the following:

- (a) A wastewater discharge permit;
- (b) Any valid order issued under title 18;
- (c) Any pretreatment standard or requirement;
- (d) Any terms or conditions of a permit issued pursuant to the pretreatment program;
- (e) Failing to complete a filing requirement of the pretreatment program;
- (f) Failing to allow entry, inspection or monitoring; or violates reporting requirements;
- (g) Failing to pay user or cost recovery charges imposed by the pretreatment program; or
- (h) Violation of a final determination or order of the utilities board or manager.

(2) The manager may recover reasonable attorneys' fees, court costs and other expenses associated with enforcement, including sampling and monitoring expenses, and the cost of any actual damages incurred by the Town of Mount Carmel.

(3) In determining the amount of civil liability, account shall be taken of all relevant circumstances, including but not limited to the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user and any other factor provided by law. (Ord. #287, Dec. 2004)

**18-217. Performance bonds.** The manager may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any section of title 18, a previous wastewater discharge permit or order issued under title 18 or any other pretreatment standard or requirement, unless such user first files a satisfactory bond, payable to the Town of Mount Carmel, in a sum not to exceed a value determined by the manager to be necessary to achieve consistent compliance. (Ord. #287, Dec. 2004)

**18-218. Financial assurance.** The manager may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any section of title 18, a previous wastewater discharge permit, or order issued under title 18 or any other pretreatment standard or requirement, unless the user first submits proof that he has obtained financial assurances sufficient to restore or repair damage to the POTW caused by the discharge. (Ord. #287, Dec. 2004)

**18-219. Water supply severance.** Whenever a user has violated or continues to violate any section of title 18, a wastewater discharge permit or order issued under title 18 or any other pretreatment standard or requirement, potable water service to the user may be severed. A user holding a valid wastewater discharge permit shall be given ten (10) days' written notice by certified mail prior to the severance of the water supply. Severance of water service for all other users shall be in conformance with § 18-901. Service will only recommence, at the user's expense, after the user has satisfactorily demonstrated ability to comply with title 18. (Ord. #287, Dec. 2004)

**18-220. Injunctive relief.** When the manager finds that a user has violated or continues to violate any section of title 18, a wastewater discharge permit or order issued under title 18 or any other pretreatment standard or requirement, the manager may petition the appropriate court, through the Town of Mount Carmel attorney, for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order or other requirement imposed by title

18 on activities of the user. The manager may also seek such other action as is appropriate for legal and equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against or a prerequisite for taking any other action against a user. (Ord. #287, Dec. 2004)

**18-221. Appeals to public utilities board.** (1) Upon receipt of a written petition from an aggrieved user under title 18 but not less than fifteen (15) days after notice of a matter to be appealed, the manager shall give the petitioner thirty (30) days' written notice of the time and place of the hearing, but in no case shall such hearing be held more than sixty (60) days from the receipt of the written petition unless the manager and the petitioner agree to a postponement.

(2) An appeal to the utilities board shall be a de novo review.

(3) Hearings or rehearings before the utilities board shall be conducted in accordance with the following:

(a) A quorum of the utilities board shall be necessary to conduct a hearing.

(b) A verbatim record of the proceedings shall be taken, together with the findings of fact and conclusions of law. The transcript so recorded shall be made available to any party upon prepayment of a charge adequate to cover the costs of preparation.

(c) In connection with the hearing, subpoenas shall be issued in response to any reasonable request by any party to the hearing requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. In case of contumacy or refusal to obey a notice of hearing or subpoena issued under this section, the chancery court shall have jurisdiction, upon application of the utilities board or the manager, to issue an order requiring such person to appear and testify or produce evidence as the case may require, and any failure to obey such order of the court may be punished as contempt under law.

(d) On the basis of the evidence produced at the hearing, the utilities board shall make findings of fact and conclusions of law and enter such decisions and orders as in its opinion will best further the purposes of the pretreatment program and shall give written notice of such decisions and orders to the petitioner. The order so issued shall be issued no later than thirty (30) days following the close of the hearing.

(e) The decision of the utilities board shall become final and binding on all parties unless appealed as provided in § 18-223.

(4) Any person to whom an emergency order is directed pursuant to § 18-212 shall comply therewith immediately but on petition to the utilities board shall be afforded a hearing not later than three (3) working days from the receipt of such a petition by the manager.

(5) The following shall not be applicable to emergency suspensions pursuant to § 18-212:

(a) If a written petition of appeal is filed by a user, the effective date of the matter properly appealed shall be stayed until a decision is announced by the utilities board; provided, however, that in no case shall such a stay exceed a period of ninety (90) days, except as provided in § 18-222, from the date of receipt of a written petition to the manager to appeal as set out in this section.

(b) If a continuance of a hearing before the utilities board is requested by a user, no additional time shall be added to the limitations of subsection (c) of this section.

(c) If the utilities board is not be able, for good cause, to hold a hearing within the sixty (60) day limit, the stay shall be extended by the number of days such period is exceeded.

(d) If a continuance is requested by the Town of Mount Carmel, the time of the stay shall be extended by the same number of days as the continuance. (Ord. #287, Dec. 2004)

**18-222. Additional stay.** The utilities board may grant an additional continuance and stay beyond that set out in § 18-221 upon the request of a user and upon the posting of an appeal bond payable to the Town of Mount Carmel in a sum to be determined by the manager as necessary to protect the interests of the Town of Mount Carmel. (Ord. #287, Dec. 2004)

**18-223. Judicial review.** Any aggrieved party may petition a court for review of any final order or judgment of the utilities board pursuant to Tennessee Code Annotated, § 27-9-101, et seq. (Ord. #287, Dec. 2004)

## CHAPTER 3

### GENERAL WASTEWATER DISPOSAL

#### SECTION

- 18-301. Requirements for proper wastewater disposal.
- 18-302. Physical connections to the public sewer.
- 18-303. Inspection of connections.
- 18-304. Maintenance of building sewers.
- 18-305. Prohibited discharges.
- 18-306. Restrictions on wastewater strength.

**18-301. Requirements for proper wastewater disposal.** (1) It shall be unlawful to discharge to any waters of the state any wastewater or other polluted water, except where suitable treatment has been provided in accordance with title 18.

(2) Except as provided in this section, it shall be unlawful to construct or maintain a private wastewater disposal system within the Town of Mount Carmel.

(3) Except as provided in this section, the owner of any house, building or property used for human occupancy, employment, industry, recreation or other purposes located where sewers are available is required at his expense to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer in accordance with title 18 and the Town of Mount Carmel plumbing code within ninety (90) days after the date of official notice to do so, provided that the sewer is within five hundred feet (500') of the structure and at a suitable elevation. Any residence, business or industrial establishment having sewers available for ninety (90) days shall be considered a user whether connected or not and shall be subject to paying all valid charges imposed by title 18 and appropriate fees as established by resolution of the board of mayor and aldermen.

(4) Where a sewer is not available, the building shall be connected to a private wastewater disposal system complying with chapter 4 of title 18 and any requirements of the state.

(5) An industrial facility may discharge wastewater to the waters of the state, provided that it obtains an NPDES permit and meets all the requirements of the Federal Clean Water Act, the NPDES permit and any other applicable local, state or federal statutes and regulations. Such facility shall be considered a user of the public sewers or the POTW only if it contributes, causes or permits the contribution of wastewater into the POTW.

(6) Every industrial user not holding an NPDES permit shall be required to connect to the POTW if a public sewer is available. (Ord. #287, Dec. 2004)

**18-302. Physical connections to the public sewer.** (1) Building sewers. (a) All building sewer installation and testing shall be in accordance with all current applicable plumbing codes.

(b) Building sewers for connection to pressure sewer shall conform to the following requirements:

(i) The owner is required to furnish two hundred twenty (220) volts (thirty (30) amp breaker or thirty (30) amp time delay fuse) of electrical service to the outside wall closest to the grinder pump. Wire must be a minimum #10/3 wire with ground. Power must be left on year round whether the property is occupied or not.

(ii) The customer will construct a four inch (4") lateral from his home and connect it to the grinder pump unit in accordance with the materials specifications and construction methods specified in title 18.

(iii) The public utilities board will furnish and install a grinder pump unit and not more than one hundred feet (100') of sewer lateral to connect to the trunk line. Routine maintenance of the grinder pump shall be the responsibility of the public utilities board. Damages or malfunctions of such grinder pump units caused by misuse, abuse, negligence, or improper practices on the part of the customer shall be the responsibility of the customer. In such event, neither the public utilities board nor the Town of Mount Carmel shall be responsible for any damages arising out of the malfunction or improper operation of such grinder pump units.

(c) Building sewers for connection to gravity sewer shall conform to the following requirements:

(i) The minimum size of a building sewer shall be four inches (4").

(ii) All joints and connections shall be made water-tight.

(iii) The building sewer shall be laid at uniform grade on a continuous firm base and in straight alignment insofar as possible. A clean-out shall be provided outside and within five feet (5') of the wall, and be properly plugged. No bends greater than forty-five degrees (45°) will be permitted.

(iv) Four inch (4") building sewers shall be laid on a grade greater than or equal to one-eighth inch (1/8") per lineal 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.

(v) The interior of each length of pipe shall be made perfectly clean and free from off-sets, fins, and projections before the next length is connected.

(vi) Building sewers shall not be constructed closer than five feet (5') to any exterior wall, cellar, basement, or cistern, and depth shall be sufficient to afford protection from freezing.

(vii) Waste, gas service, electric service, and building storm sewers, shall not be laid in the same trench as the building sanitary sewer.

(2) General requirements. (a) All sanitary sewers and appurtenances to be connected to the POTW, whether located inside or outside the corporate limits of the Town of Mount Carmel, shall be installed in conformance with state specifications and the specifications of title 18 then in effect. Upon completion and prior to acceptance, each project or addition shall be inspected and approved by the public utilities board to ensure compliance.

(b) No acceptance shall be made of sewers or sewer lines unless and until easements are provided for maintenance with the exclusive right to control the lines and appurtenances as set forth in the applicable codes.

(c) No person shall fill, cover, uncover, make any connection to, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the public utilities board.

(i) The owner, at such time as sewer service becomes available under § 18-301 to any property served by a private wastewater disposal system, shall obtain a permit and make a direct connection to the public sewer within thirty (30) days thereafter.

(ii) In the case of unimproved property to which sewer service becomes available, the owner may obtain a permit within thirty (30) days thereafter; or, the owner of such property may obtain a permit at the same time as a building permit is issued for the property and make a direct connection to the public sewer prior to occupancy of the improvement.

(A) The connection fee must be paid in full prior to the permit being issued; or

(B) In lieu of payment in full of the system user charge, the owner/occupant of a residence, upon proof of acceptable credit, may be allowed to enter into a promissory note for the full payment of same but in no event shall any such promissory note be entered into without said promissory note being secured by a lien on the property serviced by said sewer.

(d) 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 public utilities board and the Town of Mount Carmel from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. The manager of public utilities shall assess a charge against the user for work required to repair damages and add such charge to the user's sewer service charge.

(e) Building sewers shall conform to all applicable Town of Mount Carmel sewer specifications on file with the Tennessee Department of Environment and Conservation, or as follows, whichever is more strict.

(i) Building sewer shall be constructed of a size not less than four inches (4"), nominal internal diameter and shall be of the materials listed below or other suitable material that is approved by the public utilities board.

(ii) Clay pipe. A.S.T.M. Specifications C425 O-vitrified; clay pipe-extra strength premium joints.

(iii) Cast iron pipe. A.S.T.M. Specifications A74-42; cast iron solid pipe and fittings.

(iv) Plastic pipe. Minimum wall thickness for all plastic pipe is 0.187" schedule 40 and to meet A.S.T.M. specifications. Polyvinyl chloride (PVC) - extra strength - cemented joints; Acrylonitrik-Butadiene-Styrene (ABS) - sewer pipe and fittings - extra strength - cemented joints.

(f) A backwater check valve shall be installed in each building sewer unless otherwise specified by the public utilities board.

(g) Existing building sewers that have been previously used but have been abandoned due to the razing of a building structure may be used in connection with new buildings only when they are found, upon examination and testing by the public utilities board, to meet all of the requirements of title 18. All others shall be sealed by the owner to the specifications of the manager of public utilities.

(h) Each individual property owner or user of the wastewater control facilities shall be entirely responsible for the maintenance of the building sewer located on private property. This maintenance will include repair or replacement of the building sewer as deemed necessary to meet specifications of the public utilities board.

(i) No person shall connect roof downspouts, exterior foundation drains, areaway drains or any other drain used exclusively for the carrying away of precipitation, groundwater or surface water runoff to a building sewer which is connected directly or indirectly to the POTW, unless specifically authorized by the manager of public utilities.

(3) Any person violating any provisions of this section shall be guilty of an offense and upon conviction shall pay a penalty of up to fifty dollars(\$50.00) for each offense. Each occurrence shall constitute a separate offense. (Ord. #287, Dec. 2004, as replaced by Ord. #357, April 2011)

**18-303. Inspection of connections.** All connections from the building to the public sewer line shall be inspected by the Town of Mount Carmel to ensure compliance with title 18 and all building code requirements. (Ord. #287, Dec. 2004)



**18-304. Maintenance of building sewers.** Each individual user of the POTW shall be entirely responsible for maintenance of the building sewer. The maintenance shall include repair or replacement as deemed necessary by the Town of Mount Carmel. (Ord. #287, Dec. 2004)

**18-305. Prohibited discharges.** (1) General prohibitions. No user shall introduce or cause or allow to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. This subsection shall apply to all users of the POTW, whether or not they are subject to categorical pretreatment standards or any other national, state or local pretreatment standards or requirements.

(2) No person shall discharge or cause to be discharged into the POTW any waste which contains any of the following:

(a) Unpolluted water. Unpolluted water, such as storm water, which will increase the hydraulic load on the public sanitary sewer system.

(b) Improperly shredded garbage. Wastewater containing garbage that has not been ground to such a degree that it will be carried freely in suspension under flow conditions normally prevailing in the public sanitary sewer system.

(c) Solid or viscous wastes. Wastewater containing materials, such as oil or grease, whether animal, vegetable, or petroleum based, which may solidify or become viscous so that it will or may cause obstruction to the flow in a sewer line, or other interference with the proper operation of the public sanitary sewer system.

(d) Discolored materials. Wastewater with an objectionable color not removable by the treatment process.

(e) Thermal discharges. Wastewater which is heated to such a temperature as will or may inhibit biological activity in or cause damage to the public sanitary sewer system.

(f) Odorous materials. Wastewater which alone or in combination with other substances normally found in sewerage will or may result in the release of noxious odors above what is normal for domestic sewerage.

(g) Human hazards. Wastewater which will or may cause a hazard to human life or create a public nuisance.

(h) Noxious materials. Wastewater containing noxious or malodorous liquids, solids or gases which, either singly, or by interaction with other wastes, are capable of creating a public nuisance, hazard to life, noxious odors or are, or may be sufficient to prevent entry into a sewer for its maintenance or repair.

(i) Corrosive wastes. Wastewater containing materials which will or may cause corrosion or deterioration of the public sanitary sewer system.

(j) Explosive mixtures. Liquids, solids or gases which by reason of their nature or quantity, are, or may be, sufficient to cause a fire or explosion hazard or be injurious in any other way to the public sanitary sewer system or its operation.

(k) Toxic substances. Any toxic substance, chemical element or compound which may interfere with the biological processes or efficiency of the public sanitary sewer system or that will pass through the public sanitary sewer system in concentrations which could cause the public sanitary sewer system to exceed its NPDES permit or passthrough limits.

(l) Radioactive wastes. Radioactive wastes or isotopes which will or may cause damage or hazards to the public sanitary sewer system or personnel operation or maintaining the system.

(m) Trucked wastes. Any trucked or otherwise hauled waste.

(n) Excessive discharge waste. Wastewater at a flow rate which is excessive relative to the capacity of the public sanitary sewer system or which could cause a treatment process upset or subsequent loss of treatment efficiency; or wastewater containing such concentrations or quantities of pollutants that their introduction into the public sanitary sewer system over a relatively short period of time (sometimes referred to as "slug" discharges) could cause a treatment process upset or subsequent loss of treatment efficiency.

(3) Not to be discharged. Pollutants, substances or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW. (Ord. #287, Dec. 2004)

**18-306. Restrictions on wastewater strength.** No person shall discharge, convey, permit or allow to be discharged or conveyed to the POTW any wastewater containing pollutants of such character or quantity as will:

(1) Not be susceptible or amenable to treatment or reduction by the wastewater treatment process employed by the POTW, or is susceptible or amenable to treatment or reduction only to such a degree that the POTW effluent cannot meet the requirements of other governmental agencies having jurisdiction over discharge to the receiving waters;

(2) Interfere with the process or efficiency of the POTW;

(3) Constitute a hazard to human or animal life or to the stream or water course receiving the POTW effluent;

(4) Violate pretreatment standards;

(5) Cause the POTW to violate its NPDES Permit, pass-through limits or applicable receiving water standards; or,

(6) Otherwise exceed the requirements and limitations imposed by the design capacity and effluent standards of the POTW; or the most restrictive user discharge restrictions and plant protection criteria or any other applicable State or federal law, regulation or guideline, including, but not limited to "Pretreatment of Pollutants into Publicly Owned Treatment Works," United

States Environmental Protection Agency Federal Guidelines, October, 1973, or its current edition.

Where requirements and limitations imposed by either the Tennessee Department of Environment and Conservation or the United States Environmental Protection Agency are more stringent than the requirements and limitations imposed by the other, the most restrictive requirements and limitations shall apply. (Ord. #287, Dec. 2004)

## CHAPTER 4

### PRIVATE WASTEWATER DISPOSAL SYSTEMS AND HOLDING TANKS

#### SECTION

18-401. Availability of system.

18-402. Requirements for private domestic systems.

18-403. Holding tank waste disposal.

**18-401. Availability of system.** (1) Where the POTW is not available under § 18-301, the building sewer shall be connected to a private wastewater disposal system complying with this chapter.

(2) A private pumping system will be provided if any residence, office, recreational facility or other establishment used for human occupancy is below an elevation to obtain proper flow through the building sewer, unless an exception is granted by the manager.

(3) When a public sewer becomes available, connection shall be made to the sewer within ninety (90) days after date of official notice to do so, and any septic tank or other private disposal facility shall be abandoned. (Ord. #287, Dec. 2004)

**18-402. Requirements for private domestic systems.** (1) Private domestic wastewater disposal systems shall not be constructed within the Town of Mount Carmel until a letter is obtained from the manager stating that a public sewer is not accessible to the property and no such sewer is proposed for construction in the immediate future. No letter 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 state.

(2) Before commencement of construction of a private wastewater disposal system, the owner shall obtain a written permit from the appropriate state agency.

(3) Private wastewater disposal systems shall not be placed in operation until the installation is approved by the state. The work may be inspected at any stage of construction, and in any event the owner shall notify the town when the work is ready for final inspection and before any underground portions are covered.

(4) The type, capacity, location and layout of a private wastewater disposal system shall comply with all recommendations of the appropriate state agency. No septic tanks or cesspools shall be permitted to discharge to the waters of the state except as specifically permitted for the appropriate system.

(5) The owner shall operate and maintain the private wastewater disposal facility in a sanitary manner at all times, at the owner's expense.

(6) No part of this chapter shall be construed to interfere with any additional requirements that may be imposed by the state. (Ord. #287, Dec. 2004)

**18-403. Holding tank waste disposal.** (1) Permit. No person shall clean out, drain or flush any septic tank or any other type of wastewater or excreta disposal system within the Town of Mount Carmel unless such person obtains a permit from the manager to perform such acts or services. Any person desiring a permit to perform such services shall file an application on the prescribed form. Upon such application, a permit shall be issued by the manager when the conditions of this chapter have been met, provided the manager is satisfied the applicant has adequate and proper equipment to perform the services contemplated in a safe and competent manner. The manager may require domestic septic tank waste haulers to obtain wastewater discharge permits.

(2) Fees. For each permit issued under this section, an annual fee shall be paid as established by resolution of the board of mayor and aldermen.

(3) Designated disposal locations. The manager shall designate approved locations for the emptying and cleaning of all equipment used in the performance of the services rendered as provided for, and it shall be a violation for any person to empty or clean such equipment at any place other than a place so designated.

(4) Revocation of permit. Failure to comply with all sections of title 18 shall be sufficient cause for the revocation of such permit by the manager. (Ord. #287, Dec. 2004)

## CHAPTER 5

### PRETREATMENT

#### SECTION

- 18-501. National categorical pretreatment standards.
- 18-502. Pretreatment facilities.
- 18-503. Additional pretreatment measures.
- 18-504. Dilution.
- 18-505. New sources.

**18-501. National categorical pretreatment standards.** The categorical pretreatment standards found at 40 CFR 405 through 471 are incorporated by reference, the same as if copied verbatim in this section. (Ord. #287, Dec. 2004)

**18-502. Pretreatment facilities.** Users shall provide wastewater pretreatment as necessary to comply with § 18-501 and shall achieve compliance with all applicable categorical pretreatment standards and local limits within the time limitations specified by EPA, the state or the manager, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Town of Mount Carmel for review and shall be acceptable to the Town of Mount Carmel before such facilities are constructed. Review of such plans and operating procedures shall in no way relieve the user of the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the Town of Mount Carmel under title 18. (Ord. #287, Dec. 2004)

**18-503. Additional pretreatment measures.** Whenever deemed necessary pursuant to title 18, the manager may require a user to restrict the discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and consolidate points of discharge, separate sewage waste streams from industrial waste streams and such other conditions as may be necessary to protect the POTW and determine the user's compliance with requirements of title 18. (Ord. #287, Dec. 2004)

**18-504. Dilution.** Under title 18, no user shall ever increase the volume of process water or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate pretreatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The manager may impose mass limitations on users who use dilution to meet applicable pretreatment standards or requirements or

in other cases when the imposition of mass limitations is appropriate. (Ord. #287, Dec. 2004)

**18-505. New sources.** New sources shall install and have in operating condition, and shall be operating, all pretreatment facilities required to meet applicable pretreatment standards before beginning to discharge waste water to the POTW. New sources must meet all applicable pretreatment standards within ninety (90) days of the beginning of discharge. (Ord. #287, Dec. 2004)

## CHAPTER 6

### COMPLIANCE MONITORING

#### SECTION

18-601. Right of entry and inspection.

18-602. Monitoring and sampling facilities.

18-603. Search warrants.

**18-601. Right of entry and inspection.** (1) The manager shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of title 18 and any wastewater discharge permit or order issued under title 18. Users shall allow the manager ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying and the performance of any additional duties required by title 18.

(2) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the manager will be permitted to enter without delay for the purposes of performing specific responsibilities.

(3) The manager shall have the right to set up on the user's property or require installation of such devices as are necessary to conduct sampling and metering of the user's operations.

(4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected or sampled shall be promptly removed by the user at the written or verbal request of the manager and shall not be replaced. The costs of clearing such access shall be borne by the user.

(5) Unreasonable delays in allowing the manager access to the user's premises shall be a violation of title 18.

(6) The manager shall at all times, while upon the user's premises, observe and comply with all safety and security measures of the facility. (Ord. #287, Dec. 2004)

**18-602. Monitoring and sampling facilities.** (1) The installation of a monitoring facility may be required to provide suitable monitoring facilities. The purpose of the facility is to enable inspection, sampling and flow measurement of the wastewater produced by a user.

(2) Monitoring facilities shall be located on the user's premises outside of any building unless an exception is approved by the manager in writing.

(3) The manager may require separate monitoring facilities to be installed for each source of discharge of a single user.



(4) The monitoring facility shall be a manhole or other suitable facility approved by the manager and shall be constructed and maintained at the user's expense.

(5) If sampling or metering equipment is also required by the manager, it shall be provided and installed at the user's expense. Such sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user. There shall be ample room in or near all monitoring facilities to allow accurate sampling and preparation of samples for analysis.

(6) All monitoring facilities shall be constructed and maintained at the user's expense in accordance with the manager's requirements and all applicable local building codes. Construction must be completed not later than one hundred eighty (180) days after permit approval, unless an extension is granted by the manager.

(7) All devices used to measure wastewater flow and quality shall be calibrated not less than every three (3) months to ensure accuracy. (Ord. #287, Dec. 2004)

**18-603. Search warrants.** If the manager has been refused reasonable access to a building, structure or property or any part thereof and is able to demonstrate probable cause to believe that there may be a violation of title 18 or that there is a need to inspect or sample as part of a routine inspection and sampling program of the Town of Mount Carmel designed to verify compliance with title 18 or any permit or order issued under title 18 or to protect the overall public health, safety and welfare of the community, the manager may seek issuance of a search warrant from the appropriate court. (Ord. #287, Dec. 2004)

## CHAPTER 7

### FEES AND BILLING

#### SECTION

18-701. Purpose.

18-702. Authorization to establish charges and fees.

18-703. Inspection fees and tap-on fees.

18-704. Sewer use charges.

18-705. Billing.

**18-701. Purpose.** The purpose of this chapter is to provide for equitable recovery of costs from users of the Town of Mount Carmel's POTW, including costs of operation, maintenance, administration, bond service, inspection and monitoring, testing, capital improvements, depreciation and equitable cost recovery of EPA administered federal wastewater grants. (Ord. #287, Dec. 2004)

**18-702. Authorization to establish charges and fees.** (1) The board of mayor and aldermen may adopt by resolution reasonable charges and fees which shall include but not be limited to:

- (a) Inspection fees and tapping fees;
- (b) Sewer user charges;
- (c) Surcharge fees;
- (d) Wastewater discharge permit fees, including the cost of processing such applications;
- (e) Monitoring, inspection and surveillance fees which shall include the cost of collection and analyzing a user's discharge and reviewing monitoring reports submitted by users;
- (f) Fees for reviewing and responding to accidental discharges;
- (g) Fees for filing appeals, including but not limited to attorney's fees and enforcement fees; and
- (h) Such other fees as may be deemed necessary from time to time to carry out the requirements of title 18.

(2) These fees relate solely to the matters covered by title 18 and are separate from all other fees, fines and penalties the Town of Mount Carmel is authorized to levy. (Ord. #287, Dec. 2004)

**18-703. Inspection fees and tap-on fees.** (1) The board of mayor and aldermen may provide for extension of sewer services by means other than improvement districts and shall, by resolution, establish a schedule of tap-on fees including but not limited to the following categories of use:

- (a) Existing residences and row houses with existing septic tanks;

- (b) Additional existing units on same lot or parcel of land with existing residence and connected to the same sewer tap;
- (c) New residences and row houses;
- (d) New residences located in subdivisions, planned residential developments and multifamily projects developed under regulations governing subdivision of land of the regional planning commission in which adequate and proper sewer lines constructed by the developer in conformity with applicable statutes of the state and ordinances of the Town of Mount Carmel pertaining to sanitation have been constructed as part of a private subdivision development, specifically providing for an inside municipal corporate boundary rate and an outside municipal corporate boundary rate;
- (e) Small commercial user (i.e., service stations, office buildings, warehouses, etc.);
- (f) Carwash for first bay and a fee for each additional bay thereafter;
- (g) Existing multifamily complexes and new multifamily complexes specifically providing a fee for the first unit and a fee for each additional unit thereafter; and
- (h) Factories and shopping centers; the fee to be based on a basis of ten thousand (10,000) square feet of floor space with a fee for each additional ten thousand (10,000) square feet of floor space over and above the base amount.

(2) A tap-on fee shall not be permitted in lieu of participation in an improvement district. Where a tap-on fee is paid prior to creation of an improvement district serving the property, it will be credited against the assessment of an improvement district later created serving the property. (Ord. #287, Dec. 2004)

**18-704. Sewer use charges.** All users shall pay a single unit charge expressed as dollars per one thousand (1,000) gallons of water purchased. (Ord. #287, Dec. 2004)

**18-705. Billing.** (1) The billing of normal wastewater services shall consist of monthly billing in accordance with rates established by resolution of the board of mayor and aldermen.

(2) Any user connected to the sanitary sewer shall have water service either from the Town of Mount Carmel or some other water utility system authorized to provide potable water by the state or such user shall, at his sole expense, install a sewage flow meter meeting the approval of the manager to measure the flow of sewage through such meter.

(3) Private wells or private water systems shall not be construed to constitute water utility systems authorized to provide potable water by the state. (Ord. #287, Dec. 2004)

## CHAPTER 8

### SEWER EXTENSION POLICY

#### SECTION

- 18-801. Sewer service extensions.
- 18-802. System user fee credits.
- 18-803. Main trunk line extension variances.

**18-801. Sewer service extensions.** (1) Public sanitary sewer service may be provided to areas within the corporate limits not presently served by the existing POTW in accordance with the policies set forth in this chapter. These policies shall govern any extension of the POTW from its existing terminus to the boundary of the property to be served, including main trunk line extensions or replacements to serve new residential subdivisions, new commercial development or undeveloped property, and collector branch line extensions to serve existing subdivisions or developments which are being expanded; as well as the construction of any sanitary sewer collection system within the interior of the property to be served. All connections to the POTW shall become the property of the town upon inspection and acceptance.

(a) Any person, firm, or corporation desiring an extension of POTW, hereinafter "developer," in addition to any other requirement imposed by another governmental agency having jurisdiction, shall:

(i) At their own expense, engage an engineer having knowledge of the standards of design, construction and materials required by the town; and obtain a determination from the town as to whether any special modification of their proposed extension of the POTW will be required, e.g. installing larger size pipe or additional collector branch lines to accommodate future growth, adding manholes or services or other changes. Main trunk lines shall always be extended to the farthest point or points upgrade within the property to be served so that the POTW, if need be, can continue uninterrupted. The board of mayor and aldermen may agree to share in the cost of any such required modifications pursuant to a formal resolution.

(ii) At their own expense, have detailed plans and specifications prepared for their proposed extension of the POTW in conformance with the standards of design, construction and materials required by the state and the regulations of the town, and submit such plans and specifications to the town for review and approval.

(iii) Obtain written approval of the plans and specifications from the town.

(iv) Secure bids from competent and reliable contractors for the furnishing of materials, labor, and services necessary for the construction of their proposed extension to the POTW; and, submit those bids to the town for review and approval prior to acceptance by the developer. All bids submitted to the town for review and approval shall include a provision:

(A) For inspection of actual construction by the town; including, but not limited to:

- (1) Vacuum test manholes;
- (2) Pressure test line;
- (3) Pull mandrel through line; and

(B) For conducting pre-blast surveys and monitoring all blasts; and

(C) For photography of existing lawns, driveways, and etc. prior to commencement of any ditching or excavation which would materially alter said lawns, driveways, etc.; and

(D) For restoration of the affected surface to be done so as to nearly as practical restore the lawn and/or driveway to its original condition as soon as feasible, weather permitting; and

(E) For sufficient performance bonds and adequate retainage;

(F) For penalties upon noncompliance; and

(G) That any sewer line to be located within any paved street or right-of-way shall be restored--as nearly as practical--to its pre-construction condition and preferably re-paved after the completion of construction.

(v) Obtain all permits and easements necessary for the construction of their proposed extension to the sewerage collection system.

(vi) At their own expense, construct their proposed extension of the POTW in accordance with the plans and specifications in a good workmanlike manner and furnish all materials, labor and services therefor.

(A) Except that, where town determines that the proposed extension to the POTW can be constructed by its own forces, the town may allow the developer to deposit with the town the estimated cost of sewer construction, plus engineering and administrative cost.

(B) The town will then proceed to construct the sewer. If at any time the actual cost exceeds the amount deposited, the developer shall immediately, upon

notification, deposit sufficient additional funds to complete the work.

(vii) Furnish to the town evidence that all bills and charges for labor and materials and other services used in the construction have been paid.

(viii) Furnish to the town, the formal written certification of the developer's engineer that he has inspected the construction and has determined that it conforms to all approved plans and specifications.

(ix) Prior to placing their proposed extension of the POTW into service, have the construction inspected and approved by the town and "as-built record plans" of the construction provided to the town.

(x) When completed, transfer and convey by appropriate written instrument, their proposed extension of the POTW to the town free from all liens of every kind. Said instruments and or deeds shall include such easements as necessary for ingress, egress, operation and maintenance.

(2) After the construction of the proposed extension of the POTW is inspected and approved by the town, and it is transferred and conveyed to the town free from all liens and encumbrances, and if the developer fulfills the requirements set forth above, then:

(a) The town will permit the proposed extension of the POTW to be connected to and incorporated into its existing POTW and will furnish public sanitary sewer service to each property within the property to be served in accordance with the town's rules and regulations governing same, and subject to such limitations as may exist because of the size, elevation and other engineering considerations of the trunks.

(b) The town will charge for public sanitary sewer service at the rates currently being charged other customers in similar locations.

(3) The extension of public sanitary sewer service to property that is not part of a new development established after the adoption of this policy, shall be financed by special assessment against all properties benefitted by such extension in accordance with applicable statutes authorizing the creation of improvement districts for this purpose.

(4) Public sanitary sewer service may only be extended outside of the existing corporate limits pursuant to a formal resolution of the board of mayor and aldermen expressly authorizing such extension and the reason therefore. (Ord. #287, Dec. 2004)

**18-802. System user fee credits.** (1) In the case of construction of any "submain" line serving residential lots within the interior of the property to be served, a system user fee credit in the amount of two thousand dollars

(\$2,000.00) may be issued against the system user fee assessed upon each residential lot within the interior of the property to be served.

(2) In order to calculate the number of system user fee credits to be issued on any "submain" line:

(a) The cost of the "submain" within the property to be served, including the actual proven cost to the developer of engineering fees and other construction cost shall be determined by the public utilities board.

(b) Then the cost of the "submain" on the property shall be divided by the amount of the system user fee credit, and the resulting number of system user fee credits may be used for residential lots within the interior of the property to be served.

(3) The system user fee credit, shall be evidenced by a certificate identifying the project and the property against which the system user fee credit may be taken. The town will endeavor to have the certificates redeemed before accepting system user fees for the property from other parties.

(4) Applications for individual services (sewer taps) will be accepted upon completion of construction, receipt of "record plans", receipt of waiver of lien from the contractor installing the sewer system, copies of permit approvals for operation from regulatory agencies, and proof that plumbing permits for the structures for which application is being made have been issued. (Ord. #311, May 2006, as amended by Ord. #13-393, June 2013)

**18-803. Main trunk line extension variances.** Whenever the board of mayor and aldermen shall determine that it is to the best interest of the town and its citizens and taxpayers to construct a main trunk line extension without requiring strict compliance with the preceding sections, such extension may be constructed upon such terms and conditions as shall be approved by the board of mayor and aldermen. The authority to make a main trunk line extension under the preceding section is permissive only and nothing contained therein shall be construed as requiring the town to make such extensions or to furnish service to any person or persons. This policy governing sewer extensions shall not limit the town from participating in the cost of main trunk line extension when the application warrants consideration due to favorable return on investment. (Ord. #287, Dec. 2004)

**CHAPTER 9****CONTRACT FOR SEWER BILLING****SECTION**

18-901. Contract with First Utility District.

18-902. Parties to be governed by contract.

**18-901. Contract with First Utility District.** The Town of Mount Carmel, Tennessee, by and through its public utilities board, will contract with the First Utility District of Hawkins County, Tennessee to provide for the billing of the sewer bills from the town's wastewater system, for the disconnection of water service in the event of delinquent sewer bills, for the payment of these services, for the adjustment of sewer bills, for the repair of city streets used by the First Utility District, and for the establishment of a formal relationship between the parties. (Ord. #287, Dec. 2004)

**18-902. Parties to be governed by contract.** The rights and obligations of the Town of Mount Carmel and the First Utility District of Hawkins County shall be governed by the contract entered into between the parties on June 22, 1989, which contract is incorporated by reference the same as if fully set out herein.<sup>1</sup> (Ord. #287, Dec. 2004)

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<sup>1</sup>A copy of the contract is set out as an attachment to Ord. No 102 which is of record in the office of the recorder.