

## TITLE 18

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

#### CHAPTER

1. WATER.
2. SEWER USE.
3. ENFORCEMENT RESPONSE PLAN.
4. CROSS-CONNECTIONS, AUXILIARY INTAKES, ETC.
5. STORMWATER DISCHARGE CONTROL.
6. STORMWATER AND WATER QUALITY ISSUES.

#### CHAPTER 1

### WATER<sup>2</sup>

#### SECTION

- 18-101. Definitions.
- 18-102. Meter rates--residential, multi-dwelling, industrial, commercial and wholesale.
- 18-103. Sprinkler systems and private fire hydrants.
- 18-104. Tap fees and deposits.
- 18-105. Water line maintenance.
- 18-106. Unauthorized water service connection or tampering.
- 18-107. Adjustments to water bills due to leaks.
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**18-101. Definitions.** (1) "Commercial." Small businesses such as service stations, office buildings, restaurants, laundromats, warehouses, and other non-industrial businesses.

(2) "Incorporated water system." The City of Elizabethton's water system which services customers located in areas within the incorporated limits of any other municipality, city, town, or other area, incorporated under the laws of the State of Tennessee, after November 30, 1997, and which are outside the incorporated limits of the City of Elizabethton.

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<sup>1</sup>Municipal code references

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

<sup>2</sup>Municipal code reference

Plumbing code: title 12, chapter 2.

(3) "Industry" and "industrial" shall refer to any mill or factory in any branch of trade, production, or manufacturing, or all of these collectively, as approved by the city manager.

(4) "Multi-dwelling." A dwelling unit or units in a complex or area wherein more than one (1) individual or one (1) family resides, with more than one (1) unit being supplied by a single meter. This definition encompasses, among other things, apartment complexes, group housing, planned unit development, bed and breakfast boarding or rooming, mobile home complexes or parks, and any unit or area which houses more than one (1) individual or family.

(5) "Municipal water system." The City of Elizabethton's water system, which serves customers, located in areas within the incorporated limits of the City of Elizabethton.

(6) "Regional water system." The City of Elizabethton's water system which services customers located in areas outside of the incorporated limits of the City of Elizabethton and/or located in areas outside of the incorporated limits of any other municipality, city, town, or other incorporated area under the laws of the State of Tennessee.

(7) "Residential." A single-family dwelling unit. (2000 Code, § 18-101)

**18-102. Meter rates--residential, multi-dwelling, industrial, commercial and wholesale.** The City of Elizabethton is the sole provider of metered water services in the area serviced by the Elizabethton Water Utility District. Third party water metering service is not permitted. The following rates shall be charged to customers.

1. Rates for customers shall be:
  - a. Residential, commercial, industrial and wholesale customers.

July 1, 2015 through June 30, 2016

| <u>Service</u>                   | <u>Municipal</u> | <u>Regional</u> |
|----------------------------------|------------------|-----------------|
| Minimum 1,000 gals. or less      | \$17.45/m        | \$24.34/m       |
| Above 1,000 to 500,000 gals.     | \$4.17/m         | \$7.35/m        |
| Above 500,000 to 1,000,000 gals. | \$2.67/m         | \$4.61/m        |
| Above 1,000,000 gals.            | \$2.57/m         | \$4.32/m        |

July 1, 2016 through June 30, 2017

| <u>Service</u>                   | <u>Municipal</u> | <u>Regional</u> |
|----------------------------------|------------------|-----------------|
| Minimum 1,000 gals. or less      | \$18.95/m        | \$25.84/m       |
| Above 1,000 to 500,000 gals.     | \$4.34/m         | \$7.65/m        |
| Above 500,000 to 1,000,000 gals. | \$2.78/m         | \$4.79/m        |
| Above 1,000,000 gals.            | \$2.67/m         | \$4.49/m        |

July 1, 2017 through June 30, 2018

| <u>Service</u>                   | <u>Municipal</u> | <u>Regional</u> |
|----------------------------------|------------------|-----------------|
| Minimum 1,000 gals. or less      | \$18.95/m        | \$25.84/m       |
| Above 1,000 to 500,000 gals.     | \$4.51/m         | \$7.95/m        |
| Above 500,000 to 1,000,000 gals. | \$2.89/m         | \$4.98/m        |
| Above 1,000,000 gals.            | \$2.78/m         | \$4.67/m        |

July 1, 2018 through June 30, 2019

| <u>Service</u>                   | <u>Municipal</u> | <u>Regional</u> |
|----------------------------------|------------------|-----------------|
| Minimum 1,000 gals. or less      | \$18.95/m        | \$25.84/m       |
| Above 1,000 to 500,000 gals.     | \$4.69/m         | \$8.27/m        |
| Above 500,000 to 1,000,000 gals. | \$3.01/m         | \$5.18/m        |
| Above 1,000,000 gals.            | \$2.89/m         | \$4.85/m        |

July 1, 2019 through June 30, 2020

| <u>Service</u>                   | <u>Municipal</u> | <u>Regional</u> |
|----------------------------------|------------------|-----------------|
| Minimum 1,000 gals. or less      | \$18.95/m        | \$25.84/m       |
| Above 1,000 to 500,000 gals.     | \$4.88/m         | \$8.60/m        |
| Above 500,000 to 1,000,000 gals. | \$3.13/m         | \$5.39/m        |
| Above 1,000,000 gals.            | \$3.01/m         | \$5.05/m        |

July 1, 2020 through June 30, 2021

| <u>Service</u>                   | <u>Municipal</u> | <u>Regional</u> |
|----------------------------------|------------------|-----------------|
| Minimum 1,000 gals. or less      | \$18.95/m        | \$25.84/m       |
| Above 1,000 to 500,000 gals.     | \$5.07/m         | \$8.95/m        |
| Above 500,000 to 1,000,000 gals. | \$3.25/m         | \$5.61/m        |
| Above 1,000,000 gals.            | \$3.13/m         | \$5.25/m        |

\*m=1,000 gallons

b. Multi-dwelling meter rates. i. Multi-dwelling units are required to install separate water meters for each dwelling unit. Examples include, but are not limited to, apartments, trailer parks, condominiums, shopping centers, malls and strip malls.

ii. Exception to the multi-dwelling requirement: Examples are not limited to hospitals, hotels, motels, nursing home facilities, dormitories, hostels, state and government housing, prisons, and camping facilities where one (1) owner is paying for the entire water used and tenants are not directly charged for water used; where state or government restrictions apply, where it is not feasible to install individual meters, where tenants stay less than twelve (12) days a month.

Exceptions may be granted by the finance director to install a single meter to supply the entire facility. It is strictly at the

discretion of the City of Elizabethton Finance Director to determine if an exception is warranted.

If an exception is made one (1) of the following methods may be used to calculate the water rates charged to multi-dwelling unit customers:

(1) Divide the total complex monthly water consumption by the number of units in the complex to determine the average monthly dwelling consumption.

(2) Calculate the revenues earned for the average monthly unit consumption with the meter rate schedule set forth in § 18-102(1)(a).

(3) Multiply the revenues calculated in the step above by the number of units in the complex to determine the monthly revenues for the complex by this method or calculate the revenues based on the consumption of water for the installed meter.

c. New construction--required meter installation. All new construction of multi-dwelling units shall be required to install a separate meter for each unit.

d. Wholesale rates. The following wholesale rates shall be applied to all utility districts created pursuant to "The Utility District Law of 1937," Tennessee Code Annotated § 7-82-101, et seq. And the City of Johnson City, Tennessee, served by the City of Elizabethton, Tennessee.

| <u>Service</u>                       | <u>Rate</u> |
|--------------------------------------|-------------|
| 1,000 gallons to above 1,000 gallons | \$2.65/m    |
| *m=1,000 gallons                     |             |

(ii) All mobile home parks/trailer parks, apartment complexes and apartments that are currently being provided water service by the City of Elizabethton, Elizabethton Water Department, through a master meter shall pay a water system capital improvement fee for each trailer/mobile home or apartment serviced or provided water service through the City of Elizabethton, Elizabethton Water Department Master Meter. For example, a trailer/mobile home park with thirty (30) units being serviced by one (1) water department master meter shall be assessed thirty (30) water system improvement fees.

2. Billing. Water and sewer bills are combined on one bill per account and are mailed to the customer on a monthly basis. Failure to receive a bill does not relieve the customer's responsibility for payment. A replacement bill may be obtained at City Hall, 136 S. Sycamore Street. Failure to timely pay a bill

will result in disruption of service and payment of a reconnect fee to re-establish service.

3. Water bill vacation. If a customer is planning to be away from home an extended period of time when water will not be used at the service location, then the customer can choose to place the service on vacation by either requesting vacation status in writing or appearing in person at the utility billing services office at city hall. Requesting vacation status entitles the customer a choice of paying the minimum water bill or disconnecting the service and paying a reconnection fee when the vacation period ends. If the disconnection option is selected, a re-connection date can be prearranged and the re-connection fee will be billed on the next bill after vacation.

4. Minimum monthly bill.

| <u>Service</u> | <u>Municipal</u> | <u>Regional</u> | <u>Utilities</u> |
|----------------|------------------|-----------------|------------------|
| 5/8" x 3/4"    | \$ 6.86          | \$ 12.80        | \$ 462.00        |
| 3/4"           | \$ 12.10         | \$ 17.60        | \$ 462.00        |
| 1"             | \$ 24.20         | \$ 33.00        | \$ 462.00        |
| 1 1/4"         | \$ 29.70         | \$ 38.50        | \$ 462.00        |
| 1 1/2"         | \$ 41.80         | \$ 55.00        | \$ 462.00        |
| 2"             | \$ 53.90         | \$ 77.00        | \$ 462.00        |
| 3"             | \$ 101.20        | \$ 143.00       | \$ 462.00        |
| 4"             | \$ 231.00        | \$ 275.00       | \$ 462.00        |
| 6"             | \$ 401.50        | \$ 467.50       | \$ 462.00        |
| 8"             | \$ 605.00        | \$ 770.00       | \$ 880.00        |

5. Penalty for late payment. If water bills are not paid on or before the tenth day following the date of billing, a ten percent (10%) late charge and penalty will be added thereto. If payment is not received by the cut-off date shown on the bill, service may be discontinued and a reconnection fee assessed for reinstatement of service. No additional notification (other than shown on the billing) is required prior to service disconnection for non-payment.

6. Miscellaneous and customer responsibilities. It is the customer's responsibility to make sure all faucets inside and outside the point of service are in the "OFF" position when water service is initially established or reestablished after cut-off, to prevent water damage or excessive loss of water. The city assumes no responsibility for water damage or metered charges in instances of customer negligence in turning off faucets or other water equipment or appliances. The following are fees associated with initial water service or reinstatement after cut-off, blocking meters and other miscellaneous services, to-wit:

a. Service installation fee (customer's option).

| <b>Service</b>                   | <b>Municipal</b> | <b>Regional</b> | <b>Incorporated</b> |
|----------------------------------|------------------|-----------------|---------------------|
| Same day                         | \$50.00          | \$60.00         | \$70.00             |
| Worked into normal work schedule | \$15.00          | \$25.00         | \$30.00             |

The service installation fee applies to new services as well as when current customers transfer their water deposit from one location to another.

b. Turn-on (after cut-off)--customer's option

i. The following fees shall be charged for the first time a customer requires restoration of service:

|                                  | <b>Municipal</b> | <b>Regional</b> | <b>Incorporated</b> |
|----------------------------------|------------------|-----------------|---------------------|
| Same day                         | \$35.00          | \$45.00         | \$70.00             |
| Worked into normal work schedule | \$15.00          | \$25.00         | \$30.00             |

ii. The following fees shall be charged for the second and any subsequent time a customer requires restoration of service within a twelve month period from the last restoration charge:

|                                  | <b>Municipal</b> | <b>Regional</b> | <b>Incorporated</b> |
|----------------------------------|------------------|-----------------|---------------------|
| Same day                         | \$35.00          | \$45.00         | \$70.00             |
| Worked into normal work schedule | \$25.00          | \$40.00         | \$60.00             |

c. Rereading meter, if previous reading is not in error

| <b>Service</b> | <b>Municipal</b> | <b>Regional</b> | <b>Incorporated</b> |
|----------------|------------------|-----------------|---------------------|
| Re-read meter  | \$15.00          | \$25.00         | \$35.00             |

d. Relocation of meter at customer's request shall be the actual cost not to exceed the cost of a new tap fee.

e. Inhibiting access to meter by placing junk, refuse, trash, debris or other items over the meter or by blocking access to meter by fencing or other means such as parking a vehicle over the meter to prevent reading access.

- |      |             |   |  |
|------|-------------|---|--|
| i.   | First time  | Warning tag                               | Estimated bill   |
| ii.  | Second time | \$50.00                                   | Fee added to estimated bill                                  |
| iii. | Third time  | \$100.00                                  | Fee added to estimated bill                                  |
| iv.  | Fourth time | Obstruction removed at customer's expense | Plus \$100.00 fee assessed                                   |
| v.   | Fifth time  | Meter removed                             | New meter (tap) fee required to reinstate customer's service |

f. Inhibiting access to meter--preventing meter cut-off for non-payment.

|      |                              |   |   |
|------|------------------------------|---|---|
| i.   | First time                   | \$50.00 fee assessed                      | ESTIMATED BILL, TAG LEFT  |
| ii.  | Second time within 12 months | Obstruction removed at customer's expense | \$100.00 fee assessed and water turned off                                    |
| iii. | Third time within 12 months  | Obstruction removed at customer's expense | Meter removed, new meter and tap fee required to reinstate customer's service |

g. Cut lock fee. When service is discontinued or cut off, the meter reader turns off the meter and locks it to prevent unauthorized use. It is a violation of Tennessee Code Annotated § 39-14-101 for anyone other than city authorized personnel to remove the lock. If any meter lock is cut off the meter, the following cut lock fees will apply.

| <b>Service</b>                    | <b>Municipal</b> | <b>Regional</b> | <b>Incorporated</b> |
|-----------------------------------|------------------|-----------------|---------------------|
| Replace cut lock (first time)     | \$50.00          | \$50.00         | \$50.00             |
| Replace cut lock (second or more) | \$100.00         | \$100.00        | \$100.00            |

Criminal prosecution may also be pursued in accordance with Tennessee Code Annotated § 39-14-101.

h. Turn-off due to sewage or any other contamination around water meter. If it is determined that sewage or any other contamination is seeping into the water meter box, water service will immediately be turned off until the property owner has corrected the problem. After the problem has been corrected, the meter box will be inspected by city water department personnel to verify correction has been completed satisfactorily. A turn-on fee will then be assessed in accordance with (b) (first time) above.

(i) Meter tampering charges. Instances occur when customers damage the meter and other parts in the meter box in order to obtain the unauthorized use of water services. This may occur when service is disconnected or cut off. The meter reader turns off the meter and, when possible, locks it to prevent the unauthorized use of water services but

unauthorized service may extend beyond this definition. It is a violation of Tennessee Code Annotated, § 39-14-101 for anyone other than city authorized personnel to remove and/or manipulate any parts located in the meter box to steal water services. When it has been determined that an Elizabethton water meter has been tampered with, the following meter tampering charges will apply:

| <b>Service</b>                       | <b>Municipal</b> | <b>Regional</b> | <b>Incorporated</b> |
|--------------------------------------|------------------|-----------------|---------------------|
| Replacing damaged meter and/or parts | \$200.00         | \$200.00        | \$200.00            |

(2000 Code, § 18-102, as amended by Ord. #45-12, Aug. 2009, Ord. #46-12, June 2010, Ord. #47-9, July 2011, Ord. #48-8, July 2012, Ord. #50-9, June 2014, and Ord. #51-14, July 2015)

**18-103. Sprinkler systems and private fire hydrants.** (1) Sprinkler systems shall be installed at the expense of the user and charges for all non-metered service connections shall be made monthly at the following rates:

| <u>No. sprinkler heads</u> | <u>Municipal</u> | <u>Regional</u> | <u>Incorporated</u> |
|----------------------------|------------------|-----------------|---------------------|
| Minimum rates              | \$4.50           | \$6.75          | \$10.15             |
| 1-150                      | \$4.50           | \$6.75          | \$10.15             |
| 151-250                    | \$5.15           | \$7.85          | \$11.80             |
| 251-350                    | \$6.25           | \$9.35          | \$14.05             |
| 351-550                    | \$8.00           | \$12.00         | \$18.00             |
| 551-750                    | \$9.75           | \$14.60         | \$21.95             |
| 751-950                    | \$11.50          | \$17.25         | \$25.85             |
| 951-1,150                  | \$13.25          | \$19.85         | \$29.80             |
| 1,151-1,350                | \$15.00          | \$22.50         | \$33.75             |
| 1,351-1,550                | \$16.75          | \$25.10         | \$37.65             |
| *All over 1,500/100        | \$1.00/100       | \$1.50/100      | \$2.25/100          |

\*rounded to the nearest 100 heads.

(2) Sprinkler systems. Sprinkler systems installed by the owner on metered service lines shall not have any additional monthly service charge.

(3) Fire hydrants. Fire hydrants installed on metered lines shall not be charged any additional monthly fees.

(4) Fire hydrants. Fire hydrants installed on non-metered lines shall be charged fees in accordance with the following schedule.

|                  |                 |                     |
|------------------|-----------------|---------------------|
| <b>Municipal</b> | <b>Regional</b> | <b>Incorporated</b> |
| \$5.00/month     | \$7.50/month    | \$11.25/month       |

Fire hydrants installed by individuals on private property shall be used solely for fire purposes and shall be billed for each hydrant installed at the above rates.

(5) Abuse of un-metered fire hydrants and sprinkler systems. If any individual or corporation is found using sprinkler systems or fire hydrants for any purpose other than for fires, said individual or corporation shall pay a fee of five hundred dollars (\$500.00) (minimum estimate of previously used un-metered water) and be metered at owner's expense. The owner shall thereafter be billed regularly according to the appropriate water rate schedule set forth in § 18-102. (2000 Code, § 18-103)

**18-104. Tap fees and deposits.** Tap fees and deposits for water connections shall be as hereinafter set forth and the water department shall make no connections for water without having first collected the fees as fixed in this section, to-wit:

(1)

| <u>Tap and meter size</u> | <u>Municipal</u> | <u>Regional</u> | <u>Incorporated</u> |
|---------------------------|------------------|-----------------|---------------------|
| 5/8" x 3/4"               | \$650.00         | \$1,200.00      | \$1,500.00          |
| 3/4"                      | \$750.00         | \$1,300.00      | \$1,600.00          |
| 1"                        | \$850.00         | \$1,400.00      | \$1,800.00          |
| 1-1/2"                    | \$950.00         | \$1,500.00      | \$2,000.00          |
| 2"                        | \$1,400.00       | \$1,900.00      | \$2,200.00          |
| 3"                        | \$2,600.00       | \$3,600.00      | \$5,000.00          |
| 4"                        | \$3,000.00       | \$4,500.00      | \$6,000.00          |
| 6"                        | \$5,000.00       | \$7,200.00      | \$10,000.00         |
| 8"                        | \$7,000.00       | \$9,600.00      | \$14,000.00         |

All others size cost, plus 15% 30% 40%  
on labor, material, and overhead to property line.

a. Discontinued service on water taps not on public right-of-way. Anytime service is discontinued on a tap resulting in a deposit refund. If that water tap is not located on the public right-of-way, the tap will be relocated to the nearest practical location on public right-of-way prior to service being reinstated. Relocation of the tap will be at the utility fund expense. Relocation of the lateral line to the property serviced will be at the property owner's expense.

b. Abandoned water taps. Water taps that have been previously used but have been abandoned due to the razing of the building structure or other reasons, may be used in connection with the new structure without a fee for tapping provided that the water tap is undamaged and requires only the replacement of the meter to provide

service. Such existing taps shall be examined and tested by the public works director or designee and must meet all requirements of this chapter. If the tap is damaged or destroyed, a replacement tap fee of fifty percent (50%) of the applicable prevailing tap fee will be charged; unless tap relocation to public right-of-way is required, in which case, provisions of § 18-104(1)(a) would apply.

c. Dry tap fees. If an individual or contractor anticipates needing future water taps and desires to pay for them at the current prevailing fee, then the tap fee can be paid and will be honored when requested in the future. However, said request must be submitted in writing with the address for the future tap, for approval of the public works director or his designee. Taps will not be approved for areas where a water supply line with sufficient capacity is not readily available. For sales of this nature, a water tap certificate will be issued. The certificate must be presented for redemption when the tap is required and is good only for the address originally specified. Lost tap deposit certificates can not be honored.

d. Commercial office buildings and shopping centers. Commercial office buildings and shopping centers require an individual water tap for each tenant.

(2) Fire line tap charges.

| <u>Hydrant Line Size</u> | <u>Municipal</u> | <u>Regional</u> | <u>Incorporated</u> |
|--------------------------|------------------|-----------------|---------------------|
| 6"                       | \$1,500.00       | \$2,250.00      | \$2,815.00          |
| 8"                       | \$1,800.00       | \$2,700.00      | \$3,375.00          |
| 10"                      | \$2,000.00       | \$3,000.00      | \$3,750.00          |
| 12"                      | \$2,500.00       | \$3,750.00      | \$4,690.00          |

Open cuts or bores under streets will be billed cost of labor, material and overhead plus fifteen percent (15%) for construction to property line.

(3)(a) Meter deposits for owners.

| <u>Meter size</u> | <u>Municipal</u> | <u>Regional</u> | <u>Incorporated</u> |
|-------------------|------------------|-----------------|---------------------|
| 5/8" x 3/4"       | \$40.00          | \$80.00         | \$100.00            |
| 3/4"              | \$50.00          | \$100.00        | \$120.00            |
| 1"                | \$60.00          | \$110.00        | \$130.00            |
| 1 1/2"            | \$90.00          | \$125.00        | \$150.00            |
| 2"                | \$150.00         | \$200.00        | \$250.00            |
| 3"                | \$300.00         | \$450.00        | \$525.00            |
| 4"                | \$500.00         | \$650.00        | \$750.00            |
| 6"                | \$900.00         | \$1,000.00      | \$1,200.00          |
| 8"                | \$1,600.00       | \$2,000.00      | \$2,500.00          |

## (b) Meter deposits for non-owners.

| <u>Meter size</u> | <u>Municipal</u> | <u>Regional</u> | <u>Incorporated</u> |
|-------------------|------------------|-----------------|---------------------|
| 5/8"x3/4"         | \$60.00          | \$120.00        | \$150.00            |
| 3/4"              | \$75.00          | \$150.00        | \$200.00            |
| 1"                | \$120.00         | \$165.00        | \$225.00            |
| 1 1/2"            | \$180.00         | \$300.00        | \$350.00            |
| 2"                | \$300.00         | \$500.00        | \$600.00            |
| 3"                | \$600.00         | \$700.00        | \$800.00            |
| 4"                | \$1,000.00       | \$1,200.00      | \$1,300.00          |
| 6"                | \$1,800.00       | \$2,200.00      | \$2,400.00          |
| 8"                | \$3,200.00       | \$3,600.00      | \$4,000.00          |

c. Meter deposit refunds. Meter deposits will be refunded if a customer discontinues service. The final bill will be adjusted by the amount of the deposit and the balance will either be refunded to the customer or the customer will be billed the difference of the final bill minus the meter deposit if the deposit does not cover the final bill. If a customer maintains a good water bill payment history, the deposit will be refunded as credit on the bill after twenty (20) years.

(4) Utility districts. No tap or deposit fee shall be charged to other water utilities, however those utilities are subject to the minimum monthly billing. (2000 Code, § 18-104)

**18-105. Water line maintenance**. The municipal water system is responsible for the installation and replacement of water mains and meters. Residential meters shall be set within the established public rights-of-way. Commercial and multi-residential meters may only be placed beyond the public rights-of-way on private property in certain circumstances provided such placement has been approved in advance by the public works director and the city has been provided a formal utility easement to access such meters. In instances where water meters have been improperly installed outside of a public right-of-way, such meter(s) shall be relocated by the municipal water system within the public right-of-way. The city is responsible for providing a continuous required pressure twenty (20) psi to the meter. The water customer is responsible for the repair, maintenance, and replacement of lateral service lines connecting from the meter to the point of use. (2000 Code, § 18-105)

**18-106. Unauthorized water service connection or tampering**. No unauthorized person shall cover, uncover, make any connections with or opening in to use, alter, or destroy any public water main, tap, hydrant, or appurtenances thereof, without first obtaining a written permit from the public works director. Costs associated with such activity and corrective action required by the city as a result of such activity shall be assessed to the

unauthorized user. In addition to direct costs incurred (labor, lab tests, and material), a twenty-five percent (25%) indirect cost fee will be assessed with the minimum assessment being fifty dollars (\$50.00). Criminal prosecution may also be pursued in accordance with Tennessee Code Annotated § 39-14-101. (2000 Code, § 18-106)

**18-107. Adjustments to water bills due to leaks.** This section applies to verifiable leaks on the customer's side of the meter which have been corrected by the customer. The city reserves the right to refuse adjustments deemed frequent, unnecessary, questionable, or unreasonable based on facts available in each case.

1. Line maintenance on the customer's side of the meter is totally an individual's responsibility. The city has no legal obligation to adjust billing for any such problem.

2. If a verifiable leak has been discovered by the customer or by city employees which is on the customer's side of the meter and which has resulted in a significant increase in billing (twenty percent (20%) higher or more), then the customer may request an adjustment in billing of fifty percent (50%) of the amount over ordinary usage in accordance with the following provisions:

a. The request is made by the customer in writing, including a description of the problem, dates the problem first occurred, what was done to correct the problem, when it was corrected, and copies of receipts or other evidence acceptable to city utility billing personnel showing the problem existed and has been corrected.

b. If deemed necessary, additional information may be requested by utility billing personnel. After utility billing personnel have adequate documentation, they are authorized to adjust the billing in accordance with the following provisions:

i. If the customer has one (1) year or more billing history, use the average gallons usage of the same quarter the previous year. If there is not one (1) year's usage history, use the average usage for the immediate prior three (3) months.

ii. Subtract the average usage obtained in the above calculation from the current bill usage. Multiply the difference or overage by fifty percent (50%).

iii. Add the fifty percent (50%) overage amount back to the average bill. Apply the current rate structure to the gallons computed to derive the adjusted bill amount.

c. Only one (1) adjustment will be allowed for an account in a six (6) month period. That adjustment can include one (1) or two (2) consecutive months within the six (6) month period.

d. If an additional leak occurs during the six (6) month time frame covered by the first leak adjustment; and the billing for the second leak is more than the first leak; and the customer has a good payment

history with no cut-offs for non-payment of bill, then the adjustment may be applied to the larger of the two (2) bills, with the customer paying one hundred percent (100%) of the lesser bill and the adjustment for the larger bill.

e. Adjustments do not apply in the following or similar situations:

- (i) Seasonal usage.
- (ii) Faucets accidentally or maliciously left on or turned on (inside or outside).
- (iii) Cut-offs that are turned back on when faucets have been left on.
- (iv) Customers filling pools. (2000 Code, § 18-107)

**18-108. 2020 COVID-19 authority and response.** (1) The City Manager of the City of Elizabethton is hereby authorized to develop any and all policies necessary to assist the customers of the Elizabethton Water Resources Department with late fees, cut off and installation fees and, the cut off of water services for the failure to pay a bill to the City of Elizabethton as the City Manager shall determine.

(2) That the Elizabethton City Manager shall have no authority to reduce the bills for the actual amount of water provided to customers of the City of Elizabethton Water Resources Department.

(3) This ordinance shall take effect immediately and the city manager's authority granted herein shall end on May 31, 2020. (as added by Ord. #56-9, March 2020 *Ch2\_03-11-21*)

**CHAPTER 2****SEWER USE<sup>1</sup>****SECTION**

- 18-201. Purpose and policy.
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- 18-232. National categorical pretreatment standards.
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<sup>1</sup>Municipal code references

Plumbing code: title 12, chapter 2.

Water and sewer system administration: title 18.

Wastewater treatment: title 18.

- 18-234. Exceptions to discharge criteria.
- 18-235. Publication of users in significant noncompliance.
- 18-236. Administrative enforcement remedies.
- 18-237. Judicial enforcement remedies.
- 18-238. Affirmative defenses to discharge violations.
- 18-239. Enforcement response plan.
- 18-240. Wastewater regulations appeals board.
- 18-241. Wastewater rates, fees and charges.
- 18-242. Severability and effective date.
- 18-243. 2020 COVID-19 authority and response.

**18-201. Purpose and policy.** This chapter sets forth uniform requirements for discharges into the Publicly Owned Treatment Works (wastewater collection system and treatment works) of the City of Elizabethton, Tennessee and enables the city to comply with the provisions of all applicable state laws, including Tennessee Code Annotated §§ 6-54-501 and 6-54-502; Public Chapter 111, Acts of 1987, amending Tennessee Code Annotated, title 69, chapter 3, part 1; the state pretreatment requirements (Tennessee Rule 1200-4-14); and federal laws, including the Clean Water Act (33 United States Code, section 125, et seq.); and the general pretreatment regulations (title 40 of the Code of Federal Regulations (CFR), part 403) to derive maximum public benefit by regulating the quality and quantity of wastewater discharged into the city's Publicly Owned Treatment Works (hereinafter referred to as POTW). This chapter establishes pretreatment requirements for nonresidential, commercial and industrial waste before discharge into the POTW as required in 40 CFR, part 403, and provides measures for the enforcement of its provisions and abatement of violations thereof. In case of any inconsistency or conflict between the provisions of any part of this chapter, as amended, and the provisions of any applicable state or federal law, regulation or rule, the applicable state or federal law, regulation or rule shall prevail.

The main objectives of this chapter are:

- (1) To prevent the introduction of pollutants into the POTW that will interfere with its operation or contaminate the sewage sludge;
- (2) To prevent the introduction of pollutants into the POTW that will interfere with its operation and/or pass through the POTW inadequately treated into the receiving waters, or otherwise be incompatible with the POTW;
- (3) To protect POTW personnel, who may be affected by wastewater and sludge in the course of their employment, and the general public;
- (4) To promote reuse and recycling of industrial wastewater and sludge from the POTW;
- (5) To enable the city to comply with its National Pollution Discharge Elimination System (NPDES) permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the POTW is subject.

This chapter shall apply to all users of the POTW. The chapter authorizes the issuance of individual wastewater discharge permits; provides for

monitoring, compliance, and enforcement activities; establishes administrative review procedures; and requires user reporting. (Ord. #48-17, Sept. 2012)

**18-202. Administration.** The city manager shall administer, implement, and enforce the provisions of this chapter, except as otherwise provided herein. Any powers granted to, or duties imposed upon, the city manager may be delegated by the city manager to a duly authorized city employee. (Ord. #48-17, Sept. 2012)

**18-203. Abbreviations.** The following abbreviations, when used in this chapter, shall have these designated meanings:

- |      |       |   |
|------|-------|---|
| (1)  | BOD   | Biochemical Oxygen Demand;                        |
| (2)  | BMP   | Best Management Practice;                         |
| (3)  | BMR   | Baseline Monitoring Report;                       |
| (4)  | CFR   | <u>Code of Federal Regulations</u> ;              |
| (5)  | CIU   | Categorical Industrial User;                      |
| (6)  | COD   | Chemical Oxygen Demand;                           |
| (7)  | EPA   | U.S. Environmental Protection Agency;             |
| (8)  | gpd   | Gallons per day;                                  |
| (9)  | IU    | Industrial User;                                  |
| (10) | mg/l  | Milligrams per liter;                             |
| (11) | NPDES | National Pollutant Discharge Elimination System;  |
| (12) | NSCIU | Non-Significant Categorical Industrial User;      |
| (13) | POTW  | Publicly Owned Treatment Works;                   |
| (14) | RCRA  | Resource Conservation and Recovery Act;           |
| (15) | SIU   | Significant Industrial User;                      |
| (16) | SNC   | Significant Noncompliance;                        |
| (17) | TSS   | Total Suspended Solids. (Ord. #48-17, Sept. 2012) |

**18-204. Definitions.** For purposes of this chapter, the following words, terms, and phrases, wherever used in this chapter, shall have the meanings respectively ascribed to them in this section, unless the context plainly indicates otherwise, or that a more restricted or extended meaning is intended.

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

(2) "Approval authority." The director of the Division of Water Pollution Control, Tennessee Department of Environment and Conservation or his/her representatives.

(3) "Authorized representative of the user." (a) If the user is a corporation:

(i) The president, 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 operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents 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 city manager or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(d) The individuals described in subsections (a) through (c) above may designate a duly authorized representative if the authorization is 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, and the written authorization is submitted to the city.

(4) "Best Management Practices (BMPs)." Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in § 18-219(1) and (2). BMPs include treatment requirements, operating procedures, practices to control plant site runoff, spillage or leaks, sludge or waste disposal, drainage from raw materials storage, or the reduction of Fats, Oils and Grease (FOG) and trap or interceptor clean-out procedures.

(5) "Biochemical Oxygen Demand (BOD)." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees Centigrade (20°C), usually expressed as a concentration in milligrams per liter (mg/l).

(6) "Board." Wastewater regulations appeals board.

(7) "Building sewer." The connecting sewer pipe beginning five feet (5') outside the building wall conveying wastewater from the building drain to the public sewer or other place of disposal.

(8) "Categorical industrial user." An industrial user subject to a categorical pretreatment standard or a categorical standard.

(9) "Categorical pretreatment standard" or "categorical standard." Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of users and that appear in 40 CFR chapter I, subchapter N, parts 405-471.

(10) "City." The City of Elizabethton, Tennessee, a municipal corporation.

(11) "City manager." The city manager of the city or duly authorized agents or representatives.

(12) "Chemical Oxygen Demand (COD)." A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

(13) "Control authority." The city.

(14) "Commercial." small businesses such as service stations, office buildings, restaurants, laundromats, warehouses, and other non-industrial businesses.

(15) "Compatible pollutant." Biochemical oxygen demand, suspended solids, pH and fecal coliform bacteria, plus any additional pollutants as are now, or may be in the future, identified in the POTW NPDES permit, for which the POTW is designed to treat such pollutants and in fact does remove such pollutants in compliance with the NPDES permit.

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

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

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

(17) "Connection." Any physical tie or hookup made to a sewer line owned, operated, and maintained by the city.

(18) "Cooling water." The water used for heat exchange and discharged from any system of condensation, air conditioning, cooling, refrigeration, or other such system, but which has not been in direct contact with any pollutant except heat.

(19) "Daily maximum." The arithmetic average of all effluent samples for a pollutant (except pH) collected during a calendar day.

(20) "Daily maximum limit." The maximum allowable discharge limit of a pollutant during a calendar day. Where daily maximum limits are expressed in units of mass, the daily discharge is the total mass discharged over the course

of the day. Where daily maximum limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

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

(22) "Domestic waste." Liquid and waterborne pollutants from single-family, multi-family, apartment, or other dwelling units, and from the similar domestic sanitary facilities of commercial, industrial and institutional facilities.

(23) "Environmental Protection Agency (EPA)." The United States Environmental Protection Agency, or where appropriate the term may also be used as a designation of the administrator or other duly authorized officials of said agency.

(24) "Existing source." Any source of discharge that is not a new source.

(25) "Extra strength wastewater." Any wastewater that has any characteristic or combination of characteristics exceeding the characteristics of normal domestic wastewater and that require effort or expenditure over and above that required for treatment of normal domestic wastewater.

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

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

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

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

(30) "Grease interceptor." A device utilized to effect the separation of grease and oils in wastewater effluent from food service establishment. An interceptor is a vessel of the outdoor type from any non-domestic source regulated under section 307(b) and (c) of the Act, underground type, normally of one thousand (1,000) gallon capacity or more, constructed of concrete, steel, or fiberglass.

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

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

(33) "Incompatible pollutant." Any pollutant that is not a compatible pollutant as defined herein.

(34) "Indirect discharge" or "discharge." The discharge or introduction of pollutants from any non-domestic source regulated under section 307(b), (c), or (d) of the Act, including holding tank waste, discharged into the POTW for treatment before direct discharge to the waters of the State of Tennessee.

(35) "Industrial user." Any user of the POTW who discharges industrial wastes, as defined herein, into the POTW.

(36) "Industrial waste." The liquid and waterborne wastes resulting from processes or operations employed in industrial facilities.

(37) "Industry" and "industrial facilities." Any mill or factory in any branch of trade, production, or manufacturing, or all of these collectively, as determined by the city manager.

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

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

(40) "Instantaneous limit." The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

(41) "Interference." A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; or exceeds the design capacity of the treatment works or the collection system.

(42) "Local limit." Specific discharge limits developed and enforced by the city upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in Tennessee Rule 1200-4-14-.05(1)(a) and (2).

(43) "May." Permissive.

(44) "Maximum concentration." The maximum amount of a specified pollutant into a specified volume of water or wastewater.

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

(46) "Monthly average." The sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

(47) "Monthly average limit." The highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

(48) "Multi-dwelling." A dwelling unit or units in a complex or area wherein more than one (1) individual or one (1) family resides, with more than one (1) unit being supplied by a single water meter. This definition encompasses, among other things, apartment complexes, mobile home complexes or parks, and any unit or area which houses more than one (1) individual or family.

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

(50) "National pretreatment standards" or "pretreatment standards." Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act which applies to industrial users and/or this chapter.

(51) "Natural outlet." Any point of discharge into a watercourse, pond, ditch, lake, stream, or other body of surface or ground water.

(52) "New source." (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 that 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; or

(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 subsection (a)(ii) or (iii) above but otherwise alters, replaces, or adds to existing process or production equipment.

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

(i) Begun, or caused to begin, as part of a continuous onsite construction program:

(A) Any placement, assembly, or installation of facilities or equipment; or

(B) 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.

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

(54) "Normal domestic wastewater." Daily average concentrations of wastewater containing suspended solids, BOD, animal and vegetable oil and grease, and ammonia that do not exceed the limitations on wastewater strength as established herein, and if it contains only compatible pollutants as defined herein.

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

(56) "Person." Any and all persons, including individuals, partnerships, firms, companies, associations, public or private institutions, state and federal agencies, municipalities or political subdivisions, or officers thereof, departments, agencies, or instrumentalities, or public or private corporations, or officers thereof, organized or existing under the laws of the state or any other state or country. The masculine gender shall include the feminine and the singular should include the plural where indicated by the context.

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

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

(59) "Premises." A parcel of real estate or portion thereof, including any improvements thereon, which is determined by the city manager to be a single user for purposes of receiving, using, and paying for wastewater services.

(60) "Pretreatment." The reduction of the amount of pollutants, the elimination of the 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 the POTW. The reduction or alteration can be obtained by physical, chemical, or biological processes; by changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

(61) "Pretreatment coordinator." The city manager, or the authorized designee of the city manager.

(62) "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

(63) "Pretreatment standards." Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.

(64) "Private wastewater disposal system." Any facilities for wastewater treatment and disposal not owned, operated and maintained by the city.

(65) "Prohibited discharges." Absolute prohibitions against the discharge of certain substances; any pollutant or other discharge deemed "prohibited" by this chapter.

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

(67) "Public sewer." A pipe, conduit, pump station or other appurtenance for conveying wastewater that is owned and controlled by the city.

(68) "Publicly Owned Pretreatment Works (POTW)." A treatment works, as defined by section 212 of the Act (33 U.S.C., section 1292), which is owned by the city. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater of all types to a treatment plant owned by the city.

(69) "Receiving stream." The body of water, stream, or watercourse receiving the treated discharge from a POTW.

(70) "Residential." A single-family dwelling unit.

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

(72) "Sanitary sewer overflow." An unintentional occurrence where wastewater discharges from the POTW to the surrounding ground surface and/or to the waters of the state.

(73) "Sanitary wastewater" or "sanitary sewage." Wastewater discharged from the sanitary conveniences of dwellings, including apartment houses and hotels, office buildings, industries, and institutions, and free from storm water, ground water and surface water.

(74) "Septic tank waste." Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum truck wastes.

(75) "Sewage." Human excrement and gray water (household showers, wash basins, dishwashing and laundry operations, etc.).

(76) "Shall." Mandatory.

(77) "Significant Industrial User (SIU)." Means, except as provided in subsections (c) and (d) of this subsection, a significant industrial user is:

(a) An industrial user subject to categorical pretreatment standards; or

(b) An industrial user that:

(i) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, non-contact cooling and boiling blow-down 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 the POTW treatment plant; or

(iii) Is designated as such by the city on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

(c) The city may determine that an industrial user subject to categorical pretreatment standards is a non-significant categorical industrial user rather than a significant industrial user on a finding that the industrial user never discharges more than one hundred (100) gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:

(i) The industrial user, prior to city's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;

(ii) The industrial user annually submits the certification statement required in § 18-228(12)(b) [Tennessee Rule 1200-4-14-.12(17)], together with any additional information necessary to support the certification statement; and

(iii) The industrial user never discharges any untreated concentrated wastewater.

(d) Upon a finding that a user meeting the criteria in subsection (b) of this section has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the city may at any time, on its own initiative or in response to a petition received from an industrial user, and in accordance with procedures in Tennessee Rule 1200-4-14-.08(6)(f), determine that such user should not be considered a significant industrial user.

(78) "Significant violations." Violations that meet one (1) or more of the following criteria:

(a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits as defined in § 18-233;

(b) Technical Review Criteria (TRC) violations defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equal or exceed the product of a numeric pretreatment standard or requirement including instantaneous limits as defined in § 18-204(40) multiplied by the applicable criteria (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 standard or requirement as defined by § 18-204(62) or (63) respectively (daily maximum, long-term average, instantaneous limit, or narrative standard) that the control authority determines has caused, alone or in combination with other discharges, interference, or pass through; including endangering the health of POTW personnel or the general public;

(d) Any discharge of a pollutant that has caused endangerment to human health, welfare, or to the environment or has resulted in the POTW's exercise of its emergency authority 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.

(79) "Slug load" or "slug discharge." Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards of this chapter. A slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, local limits or permit conditions.

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

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

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

(83) "Storm water." Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

(84) "Storm sewer" or "storm drain." A pipe or conduit, ditch, or channel which carries storm water, cooling water or other water, but excludes wastewater.

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

(86) "Total suspended solids" or "suspended solids." The total suspended matter that either floats on the surface of, or is in suspension in wastewater, water or other liquid, and which is measurable as prescribed by Standard Methods and expressed in milligrams per liter.

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

(88) "Treatment works." Any devices and systems used in the storage, treatment, recycling, and reclamation of domestic wastewater and industrial wastes of a liquid nature including interceptor sewers, outfall sewers, sewer collection systems, pumping, power or other equipment and appurtenances; extension, improvements, remodeling, additions, and alterations thereof; elements essential to provide reliable recycle supply such as stand-by treatment units and clear well facilities; and any works, including land, that will be an integral part of a treatment process or is used for ultimate disposal of residues resulting from such treatment.

(89) "Unpolluted water." Water to which no constituent has been added, either intentionally or accidentally, which would render such water

unacceptable to the state or EPA having jurisdiction thereof for disposal to storm or natural drainage, or directly to surface waters.

(90) "User." Any person, facility or occupied property or premise having a connection to the POTW or having access thereto.

(91) "Waste." Sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, of human or animal origin, or from any producing, manufacturing, or processing operation of whatever nature, including such waste placed within containers or whatever nature prior to, and for purposes of, disposal.

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

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

(94) "Wastewater constituents and characteristics." The individual chemical, physical, bacteriological, and radiological parameters, including volume and flow rate and such other parameters as served to define, classify, or measure the contents, quantity, quality, and strength of wastewater. Terms not otherwise defined herein shall be as adopted in the latest edition of Standard Methods.

(95) "Wastewater treatment plant" or "wastewater plant." That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste. (Ord. #48-17, Sept. 2012)

**18-205. Unlawful disposal.** 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, any human or animal excrement, garbage, or other objectionable waste; and it shall be unlawful to discharge to any natural outlet within the service area of the city any wastewater or other polluted waters except where suitable treatment has been provided in accordance with this chapter. Except as hereinafter 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. (Ord. #48-17, Sept. 2012)

**18-206. Private wastewater disposal.** Where a public sanitary sewer is not available, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this chapter. A formal

application for either original or additional service utilizing a private wastewater disposal system must be made to the city and be duly approved before construction or reconstruction is commenced. (Ord. #48-17, Sept. 2012)

**18-207. Septic tank and disposal field requirements.** The septic tank and disposal field shall be constructed or reconstructed only in locations which have been approved by the city manager, the Carter County Health Department, and/or the Tennessee Department of Environment and Conservation after making such tests and examinations of the site as deemed essential to determine if the soil absorption, topography, drainage area, etc., are satisfactory for underground disposal. 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.

The type, capacity, location, and layout of a private wastewater disposal system shall comply with all requirements of the Department of Environment and Conservation of the State of Tennessee and the Carter County Health Department. No septic tank or cesspool shall be permitted to discharge to any natural outlet. (Ord. #48-17, Sept. 2012)

**18-208. Private system permit.** A permit for a private wastewater disposal system shall not become effective until installation is completed to the satisfaction of the Carter County Health Department and/or the Tennessee Department of Environment and Conservation and such written documentation is provided to the city manager. (Ord. #48-17, Sept. 2012)

**18-209. Public sewer connection and maintenance.** The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the service area and abutting any street, alley, or right-of-way in which there is now located or may in the future be located a public gravity sanitary sewer is hereby required, at his expense, to install suitable sanitary facilities therein, and a direct connection to the public gravity sanitary sewer shall be made within ninety (90) days after date of official notice from the city manager to do so, provided the sewer is available. When a public sewer becomes available to a property served by a private wastewater disposal system, a direct connection shall be made to the public sewer in compliance with this chapter, and any septic tanks, cesspools, and similar private wastewater disposal facilities shall be abandoned and filled with suitable materials.

The sewer shall be considered available where the public gravity sanitary sewer is within a public right-of-way and two hundred feet (200') of the first floor of the closest part of the improvement or improvements to be served. If complications of any kind make the use of a pump necessary to access the public gravity sanitary sewer, the pump and appurtenances are to be purchased, installed, owned and maintained by the property owner. Where sewer is

available, the wastewater from the premises will be discharged either directly or indirectly into the public sewer, and the property shall be billed for sewerage service. However, if the making of connection is delayed, the property shall be subject to billing charges thirty (30) days after the sewer is accepted by the city manager. An extension of time may be granted by the city manager for cause.

Sewer line extension and maintenance shall be conducted as follows:

(1) The city shall solely determine the size, extent, layout, and details of any sewer extension that will be owned, operated and maintained by the city, including whether the sewer extension will be gravity sewer or low pressure sewer.

(2) Sewer mains. The city shall maintain its gravity and pressure sanitary sewer mains.

(3) Sewer clean-outs. Sanitary sewer customers at their expense shall install an approved clean-out at the property boundary line. In the event no clean-out exists the city shall insure that the main sewer line is free flowing and fully operational, but shall perform no work on any part of the lateral service line. In instances where the city is engaged in work and has an open excavation right at the property boundary line, the city may install or replace sewer clean-outs.

(4) Lateral lines and sewer lines on private property. The city shall perform no work on customer-owned sewers on private property or on lateral service lines outside the city's right-of-way, nor on any lateral line which has no approved clean-out installed. The city will assist sanitary sewer customers in locating blockages or breakdowns in the lateral service lines between the sewer main located in a street right-of-way or established easement and the customer's property line, provided there is a property installed clean-out at the property boundary.

(5) Privately owned/operated pumps, controls and pressure lines. The city will not maintain any privately owned pumps, control systems or pressure lines.

(6) All pumps and appurtenances currently located on private property that have been heretofore prior to the latest effective date of this chapter maintained by the city shall continue to be maintained by the city upon written indemnification of the city by the private property owner of any liability for entering into such private property and conducting the pump and appurtenance maintenance activities. A lack of such indemnification of the city shall be cause for the city to terminate such maintenance. (Ord. #48-17, Sept. 2012)

**18-210. Building sewers and connections.** No unauthorized person shall cover, uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the city manager. A separate and independent building sewer shall be provided for every building. The connection of the building sewer into the public sewer shall conform to the rules and regulations the city may

establish. The finished floor elevation of the building shall be at least one foot (1') (twelve inches (12")) higher than the ground elevation at the point where the lateral connection sewer line connects to the main sewer in the city easement. Any parts of the building that have an elevation difference less than twelve inches (12") between the finished floor level and the outside ground elevation as described above must be elevated to meet that standard, otherwise the building connection shall include a low pressure grinder pump and related appurtenances. All such connections shall be made gastight and watertight.

Any deviations from the prescribed procedures and materials must be approved by the city manager before installation. The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city. 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.

No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, basement drains, or other sources of surface runoff or ground water to a building sewer which in turn is connected directly or indirectly to a public sanitary sewer.

All costs and expense 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. (Ord. #48-17, Sept. 2012)

**18-211. Building sewer inspection.** The sewer connection and all sewer laterals from the building to the sewer main line shall be inspected by an inspector of the city before any underground portion is covered. (Ord. #48-17, Sept. 2012)

**18-212. Use of existing building sewers.** Sewer taps and building sewers which have been previously used, but have been abandoned due to the razing of the building structure or for other reasons, may be used in connection with a new structure without a new tap fee to the extent that the existing tap and building sewer is adequate in the opinion of the city manager. Such existing taps and building sewers shall be examined and tested by the city manager and must meet all requirements of this chapter. All existing taps and building sewers determined to be noncompliant must be sealed or removed to the specifications of the city. Each individual property owner or user of the POTW 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 by the city manager to meet specifications of the city. (Ord. #48-17, Sept. 2012)

**18-213. Easements.** The city manager and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purposes of inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved. (Ord. #48-17, Sept. 2012)

**18-214. Interruption of service.** In cases of emergency, the city shall have the right to restrict the use of any portion of its POTW in any reasonable manner for the protection of the city and the POTW. (Ord. #48-17, Sept. 2012)

**18-215. Discontinuance of service/refusal of service.** The city manager shall, after written notice and allowance of a reasonable time for remedial action, have the right to discontinue service or to refuse to render service for a violation of, or a failure to comply with, this chapter, the rules and regulations, the customer's application and agreement for service, or the payment of any obligation due to the city. Such right to discontinue service shall apply to all service received through a single tap or service, even though more than one (1) customer or tenant is furnished service therefrom, and even though the delinquency or violation is limited to only one (1) such customer or tenant. Discontinuance of service by the city manager for any causes stated in this chapter shall not release the customer from liability for service already received or from liability for payments that thereafter become due under the minimum bill provisions or other provisions of the customer's agreement. The city manager shall have the right to refuse to render service to any applicant whenever the applicant or any member of the household, apartment, or dwelling unit to which such service is to be furnished is in default in the payment of any obligation to the city or has heretofore had his service disconnected because of a violation of this chapter or the rules and regulations of the city. (Ord. #48-17, Sept. 2012)

**18-216. Discontinuance of service upon noncompliance.** The city shall have the right to discontinue city water and/or sewer service to any person or owner who violates any provisions of this chapter or who fails to make sewer service charge payments when due, or who fails to pay the necessary tap fees when due, or who fails, after notice, to connect his property to said available sewer. However, no such service shall be discontinued without notice to the person and opportunity to be heard, and in this connection there is hereby incorporated by reference and adopted the provisions of Tennessee Code

Annotated, §§ 68-221-208 and 68-221-209, as amended. (Ord. #48-17, Sept. 2012)

**18-217. Users outside city limits.** (1) Application. Persons residing or owning property outside the corporate limits of the City of Elizabethton may request and make application for a sewer tap which application in turn will be directed to the city council, which has the absolute right to allow or refuse said application or request.

(2) Regulations. Any application or request by outside users of the city sanitary sewer system will be subject to the same rules and regulations as inside users. It is further provided that any other person or persons are prohibited from tapping onto the sanitary sewer line and the outside user will not allow any other person or persons to tap onto the established line.

(3) Fees. Persons residing or owning property outside the corporate limits of the City of Elizabethton shall be subject to the schedule of charges and fees applied to all outside users.

(4) Revocation of service. The city is hereby granted authority to discontinue sewer service to any outside user who violates any of the provisions of this chapter or fails to pay the entire sewer installation cost and tap fee when due.

(5) Penalties. Any person or persons violating any of the provisions of this subsection shall be liable to the City of Elizabethton for any and all expenses, losses, or damages resulting to the public and/or POTW, by reason of such violation. It is further provided any person violating any provisions of this subsection shall be subject to the penalties imposed under § 18-236 of this chapter. (Ord. #48-17, Sept. 2012)

**18-218. Wastewater disposal services.** No person, firm, or corporation engaged in the business of cleaning out septic tanks or any other type of excreta disposal shall discharge any waste to a sanitary sewer or the POTW. (Ord. #48-17, Sept. 2012)

**18-219. Prohibited wastewater discharges.** All users of the POTW shall comply with the following regulations and restrictions before discharging, or causing to be discharged, any wastewater to the POTW. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of Standard Methods.

(1) General prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions 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) Specific prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

(a) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed-cup flashpoint of less than one hundred forty degrees Fahrenheit (140° F) (sixty degrees Centigrade [60° C]) using the test methods specified in 40 CFR 261.21;

(b) Wastewater having a pH less than 5.5 or more than 9.5 or otherwise causing corrosive structural damage to the POTW or equipment;

(c) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than one and one-half inch(es) (1 1/2") in any dimension;

(d) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;

(e) Wastewater having a temperature greater than one hundred forty degrees Fahrenheit (140° F) (sixty degrees Centigrade (60° C)), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed one hundred four degrees Fahrenheit (104° F) (forty degrees Centigrade (40° C));

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

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

(h) Trucked or hauled pollutants, except with prior written approval and any permits as required by the city, including specific discharge points designated by the city;

(i) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;

(j) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent that violates the city's NPDES permit;

(k) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations;

(l) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the city;

(m) Sludges, screenings, or other residues from the pretreatment of industrial wastes;

(n) Medical wastes, except as specifically authorized by the city in an individual wastewater discharge permit;

(o) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail toxicity test;

(p) Detergents, surface-active agents, or other substances that might cause excessive foaming in the POTW;

(q) Fats, oils, or greases of animal or vegetable origin in concentrations greater than one hundred (100) mg/l.

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. All floor drains located in the process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting to the POTW. (Ord. #48-17, Sept. 2012)

**18-220. Fats, Oils and Grease (FOG).** (1) Standards and requirements for food service establishments. Food service establishments, as defined in this chapter, shall provide means of preventing grease and oil discharges to the POTW. Where a grease and oil interceptor currently exists or is required by the city, it shall be maintained for continuous, satisfactory, and effective operation by the owner, leaseholder, or operator at his expense. Grease and oil interceptors shall be of a type and capacity approved by the city and shall be located as to be readily accessible for cleaning and inspection.

(a) All food service establishments shall have grease-handling facilities approved by the city. Establishments whose grease-handling facilities or methods are not adequately maintained to prevent Fats, Oils, or Grease (FOG) from entering the wastewater system shall be notified in writing by the city manager of any noncompliance and required to provide a schedule whereby corrections will be accomplished.

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

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

(d) Food service establishments receiving two (2) consecutive unsatisfactory evaluations or inspections shall be subject to penalties or

other corrective actions as provided for in § 18-236 of this chapter. Two (2) consecutive satisfactory inspections need to be conducted to bring the facility into compliance.

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

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

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

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

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

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

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

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

(l) Food service establishments shall adopt Best Management Practices (BMPs) for handling sources of floatable FOG originating within

their facility. A notice shall be permanently posted at a prominent place in the facility advising employees of the BMPs to be followed. The city may render advice regarding the minimization of waste.

(m) Food service establishments shall develop and implement a waste minimization plan pertaining to the disposal of FOG and food particles.

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

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

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

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

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

(e) Where automatic dishwashers are not installed, the discharge from dishwashing will pass directly into the building drainage system without passing through a grease trap, unless otherwise directed by the city.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(j) The exclusive use of enzymes, grease solvents, emulsifiers, etc., is not considered acceptable grease trap maintenance practice. All grease interceptors must be cleaned based on the twenty-five percent (25%) rule. (Ord. #48-17, Sept. 2012)

**18-221. Application for domestic and commercial service.** A formal application for either original or additional domestic or commercial service must be made at the office of the city manager and be duly approved before connection is made. 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, except that conditional waivers for additional services may be granted by the city manager for interim periods if compliance may be assured within a reasonable period of time. (Ord. #48-17, Sept. 2012)

**18-222. Application for industrial service.** (1) An application for original, additional, or continuation of industrial service must be made at the office of the city manager, and must be duly approved before connection is made. The application shall be in the prescribed form of the city and shall include to the extent reasonably available the estimated pH, temperature, volume, and concentration of BOD, COD, suspended solids, grease, toxic substances, and/or metals together with a drawing to approximate scale showing plan of property, water distribution system and sewer layout indicating existing and proposed pretreatment and/or equalization facilities. The receipt by the city of a prospective user'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 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.

(2) All information and data for a user obtained from reports, questionnaires, permit application, permits, monitoring programs, and inspection shall be available to the public or any other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the city manager that the release of such information would divulge information, processes, or methods which would be detrimental to the user's competitive position. When requested by the person furnishing the report, the portions of a report which might disclose trade secrets

or confidential processes shall not be made available for inspection by the public, but shall be made available to public governmental agencies for use in making studies; 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 manager as confidential shall not be transmitted to any public governmental agency or to the general public by the city manager until and unless prior and adequate notification is given to the potential industrial user. (Ord. #48-17, Sept. 2012)

**18-223. Application for industrial wastewater discharge permit.**

(1) Permit requirements. All industrial users proposing to connect to and discharge wastewater into any part of the POTW that will qualify for the city's pretreatment program must first apply for a discharge permit therefore. No significant industrial user shall discharge wastewater into the POTW without first obtaining an individual wastewater discharge permit from the city, except that a significant industrial user that has an existing connection to the POTW and has filed a timely application pursuant to this chapter may continue to discharge for the time period specified herein.

(a) The city may require other users to obtain individual wastewater discharge permits as necessary to carry out the purposes of this chapter.

(b) Any violation of the terms and conditions of an individual wastewater discharge permit shall be deemed a violation of this chapter and subjects the wastewater discharge permittee to the sanctions set out in §§ 18-236 and 18-237 of this chapter. Obtaining an individual wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state, and local law.

(2) Existing connections. Any user required to obtain an individual wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of the ordinance comprising this chapter and who wishes to continue such discharges in the future, shall, within ninety (90) days after said date, apply to the city for an individual wastewater discharge permit in accordance with this chapter, and shall not cause or allow discharges to the POTW to continue after ninety (90) days of the effective date of this chapter except in accordance with an individual wastewater discharge permit issued by the city.

(3) New connections. Any user required to obtain an individual wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this individual wastewater discharge

permit, in accordance with this chapter, must be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence.

(4) Permit applications. Users seeking a wastewater discharge permit shall complete and file with the city manager an application in the form prescribed by the city manager. In support of this application, the user shall submit the following information:

(a) Identifying information. (i) The name and address of the facility, including the name of the operator and owner.

(ii) Contact information, description of activities, facilities, and plant production processes on the premises.

(b) Environmental permits. A list of any environmental control permits held by or for the facility.

(c) Description of operations. (i) A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes;

(ii) Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;

(iii) Number and type of employees, hours of operation, and proposed or actual hours of operation;

(iv) Type and amount of raw materials processed (average and maximum per day);

(v) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge.

(d) Time and duration of discharges.

(e) The location for monitoring all wastes covered by the permit.

(f) Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in § 18-232(2) [Tennessee Rule 1200-4-14-.06(5)].

(g) Measurement of pollutants. (i) The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for existing sources.

(ii) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the city, of regulated pollutants in the discharge from each regulated process.

(iii) Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported.

(iv) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in § 18-228(9) of this chapter. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the city or the applicable standards to determine compliance with the standard.

(v) Sampling must be performed in accordance with procedures set out in § 18-228(10) of this chapter.

(h) Any other information as may be deemed necessary by the city to evaluate the permit application.

(5) Application signatories and certifications. All wastewater discharge permit applications, user reports and certification statements must be signed by an authorized representative of the user and contain the certification statement in § 18-228(12). If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this section must be submitted to the city manager prior to or together with any reports to be signed by an authorized representative.

(6) The city will evaluate the data furnished by the user and may require additional information. Within ninety (90) days of receipt of a complete permit application, the city will determine whether to issue an individual wastewater discharge permit. The city may deny any application for an individual wastewater discharge permit.

The city manager 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 manager 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 manager, the city manager shall deny the application and notify the applicant in writing of such action. (Ord. #48-17, Sept. 2012)

#### **18-224. Issuance of industrial wastewater discharge permit.**

(1) Permit duration. An individual wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. An individual wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the city manager. Each individual wastewater discharge permit will indicate a specific date upon which it will expire.

(2) Permit contents. An individual wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the city manager

to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

(a) Individual wastewater discharge permits must contain:

(i) A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date.

(ii) A statement that the wastewater discharge permit is nontransferable without prior notification to the city in accordance with this chapter, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit.

(iii) Effluent limits, including best management practices, based on applicable pretreatment standards.

(iv) Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practices) to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law.

(v) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.

(vi) Requirements to control slug discharge, if determined by the city manager to be necessary.

(vii) Any grant of the monitoring waiver by the city manager must be included as a condition in the user's permit.

(b) Individual wastewater discharge permits may contain, but need not be limited to, the following conditions:

(i) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

(ii) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

(iii) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;

(iv) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

(v) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;

(vi) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;

(vii) A statement that compliance with the individual wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the individual wastewater discharge permit; and

(viii) Other conditions as deemed appropriate by the city manager to ensure compliance with this chapter, and state and federal laws, rules, and regulations.

(3) Permit modification. The city manager may modify an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(a) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;

(b) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of the individual wastewater discharge permit issuance;

(c) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(d) Information indicating that the permitted discharge poses a threat to the city's POTW, city personnel, or the receiving waters;

(e) Violation of any terms or conditions of the individual wastewater discharge permit;

(f) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

(g) Revision of or a grant of variance from categorical pretreatment standards pursuant to Tennessee Rule 1200-4-14-.13;

(h) To correct typographical or other errors in the individual wastewater discharge permit; or

(i) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with this chapter.

(4) Permit transfer. Individual wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least ninety (90) days' advance notice to the city manager and the city manager approves the individual wastewater discharge permit transfer. The notice to the city manager must include a written certification by the new owner or operator which:

(a) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;

(b) Identifies the specific date on which the transfer is to occur;  
and

(c) Acknowledges full responsibility for complying with the existing individual wastewater discharge permit.

Failure to provide advance notice of a transfer renders the individual wastewater discharge permit void as of the date of facility transfer.

(5) Permit revocation. The city manager may revoke an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(a) Failure to notify the city manager of significant changes to the wastewater prior to the changed discharge;

(b) Failure to provide prior notification to the city manager of changed conditions pursuant to this chapter;

(c) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

(d) Falsifying self-monitoring reports and certification statements;

(e) Tampering with monitoring equipment;

(f) Refusing to allow the city manager timely access to the facility premises and records;

(g) Failure to meet effluent limitations;

(h) Failure to pay fines;

(i) Failure to pay sewer charges;

(j) Failure to meet compliance schedules;

(k) Failure to complete a wastewater survey or the wastewater discharge permit application;

(l) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or

(m) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this chapter.

Individual wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All individual wastewater discharge permits issued to a user are void upon the issuance of a new individual wastewater discharge permit to that user.

(6) Permit reissuance. A user with an expiring individual wastewater discharge permit shall apply for individual wastewater discharge permit reissuance by submitting a complete permit application, in accordance with this chapter, a minimum of ninety (90) days prior to the expiration of the user's existing individual wastewater discharge permit. (Ord. #48-17, Sept. 2012)

**18-225. Pretreatment of wastewater.** (1) Pretreatment facilities. Users shall provide wastewater treatment as necessary to comply with this chapter and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in § 18-219 of this chapter

within the time limitations specified by EPA, the state, or the city 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 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 city manager for review, and shall be acceptable to the city manager before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the city under the provisions of this chapter.

(2) Additional pretreatment measures. (a) Whenever deemed necessary, the city may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or 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 the requirements of this chapter.

(b) The city may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. An individual wastewater discharge permit may be issued solely for flow equalization.

(c) Grease, oil, and sand interceptors shall be provided when, in the opinion of the city, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of a type and capacity approved by the city, shall comply with § 18-220 of this chapter, and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired by the user at their expense in accordance with § 18-220 of this chapter.

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

(3) Accidental discharge/slug discharge control plans. The city manager shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control slug discharges. The city manager may require any user to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control slug discharges. Alternatively, the city manager may develop such a plan for any user. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:

(a) Description of discharge practices, including non-routine batch discharges;

(b) Description of stored chemicals;  
(c) Procedures for immediately notifying the city of any accidental or slug discharge, as required by § 18-228(6)(a) of this chapter; and

(d) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

(4) Hauled wastewater. (a) Septic tank waste may be introduced into the POTW only at locations designated by the city, and at such times as are established by the city manager. Such waste shall not violate any of the requirements of this chapter or any other requirements established by the city. The city may require septic tank waste haulers to obtain individual wastewater discharge permits.

(b) The city may require haulers of industrial waste to obtain individual wastewater discharge permits. The city may require generators of hauled industrial waste to obtain individual wastewater discharge permits. The city also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this chapter.

(c) Industrial waste haulers may discharge loads only at locations designated by the city manager. No load may be discharged without prior consent of the city manager. The city may collect samples of each hauled load to ensure compliance with applicable standards. The city may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

(d) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes. (Ord. #48-17, Sept. 2012)

#### **18-226. Industrial and commercial pretreatment facilities.**

(1) Design and construction. All commercial or industrial users of the wastewater treatment works who elect or are required to construct new or additional facilities for pretreatment shall submit plans, specifications, and other pertinent information relative to the proposed construction to the city manager 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. Written approval of the city manager must be obtained before construction of new or additional facilities may begin. The plans, specifications, and other pertinent information submitted to the city for approval will be retained as file material for future reference with one (1) approved copy returned to the user.

(2) Inspection of facilities. A permit for the operation of a new or existing pretreatment or equalization system shall not become effective until the installation is completed to the satisfaction of the city manager and written approval for operation is issued to the owner by the city manager. The city manager or his representative shall be allowed to inspect the work at any stage of construction, and in any event, the applicant for the permit shall notify the city manager when the work is ready for final inspection. In addition, the city manager shall be allowed to make periodic inspections of the facilities in operation as he deems necessary. The city manager may 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 manager or their representatives ready access at all reasonable times to parts of the premises for the purposes of inspection or sampling or in the performance of any of their duties. The city manager shall have the right to set up on the user's property such devices as are necessary to conduct sampling or metering operations. If the user is found to be in violation of the discharge permit, then such user shall be financially responsible and shall pay for any and all civil penalties and damages, including sampling and analytical costs.

(3) Maintenance of facilities. It shall be the responsibility of the owner to maintain all wastewater treatment or equalization facilities in good working order at all times. The city must be notified in writing when pretreatment facilities will not be or are not operative by reason of equipment malfunction, emergency or routine maintenance, or any reason whatsoever. It shall be the responsibility of the owner to repair and maintain all pretreatment facilities on a high priority basis. (Ord. #48-17, Sept. 2012)

**18-227. Monitoring facilities.** All users who propose to discharge wastewater with flows, constituents, and characteristics different from normal domestic wastewater, or whose source of water is supplied from other than the city's water system, shall be required to install a monitoring facility. The monitoring facility shall be a manhole or other suitable facility approved by the city manager.

When, in the judgment of the city manager, there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user, the city manager 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 the user. If sampling or metering equipment is also required by the city manager, such sampling and metering equipment shall be required by the city manager only after sampling and metering by the city establishes the existence of significant variations in concentrations or constituents of the user's discharge. Wastewater samples will be made available to the industry if requested.

The monitoring facility will normally be required to be located on the user's premises outside the building. The city manager 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.

If the monitoring facility is inside the user's fence, there shall be accommodations to allow safe and immediate access for city personnel.

Whether constructed on public or private property, the monitoring facilities shall be constructed in accordance with the city manager's requirements and all applicable local agency construction standards and specifications. When, in the judgment of the city manager, an existing user requires a monitoring facility, the user will be so notified in writing. Construction must be completed within one hundred eighty (180) days following written notification unless an extension is granted by the city manager. (Ord. #48-17, Sept. 2012)

**18-228. Industrial user reporting requirements.** (1) Baseline monitoring reports. (a) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under Tennessee Rule 1200-4-14-.06(1)(d), whichever is later, existing categorical industrial users currently discharging to or scheduled to discharge to the POTW shall submit to the city a report which contains the information listed in subsection (b) below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical industrial users subsequent to the promulgation of an applicable categorical standard, shall submit to the city a report which contains the information listed in subsection (b) below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(b) Users described above shall submit the information set forth below:

(i) All information required in §§ 18-223(4)(a)(i), 18-223(4)(b), 18-223(4)(c)(i), and 18-223(4)(f).

(ii) Measurement of pollutants. (A) The user shall provide the information required in § 18-223(4)(g)(i) through (iv).

(B) The user shall take a minimum of one (1) representative sample to compile that data necessary to comply with the requirements of this subsection.

(C) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the user should measure the flows and concentrations necessary to allow use of the combined waste stream formula in Tennessee Rule 1200-4-14-.06(5) to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with Tennessee Rule 1200-4-14-.06(5) this adjusted limit along with supporting data shall be submitted to the control authority.

(D) Sampling and analysis shall be performed in accordance with §§ 18-228(9) and 18-228(10).

(E) The city may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.

(F) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.

(c) Compliance certification. A statement, reviewed by the user's authorized representative as defined by § 18-204(3) and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional Operation and Maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(d) Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in § 18-228(2) of this chapter.

(e) Signature and report certification. All baseline monitoring reports must be certified in accordance with § 18-228(12)(a) of this chapter and signed by an authorized representative as defined in § 18-204(3).

(2) Compliance schedule progress reports. The following conditions shall apply to the compliance schedule required by § 18-228(1)(d) of this chapter:

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

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

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

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

(3) Reports on compliance with categorical pretreatment standard deadline. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the city a report containing the information described in §§ 18-223(4) and 18-228(1)(b) of this chapter. For users subject to equivalent mass or concentration limits established in accordance with the procedures in § 18-232, this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with § 18-228(12)(a) of this chapter. All sampling will be done in conformance with § 18-228(10).

(4) Periodic compliance reports. (a) All significant industrial users must, at least twice a year or at a higher frequency determined by the city, submit reports indicating the nature, concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires

compliance with a Best Management Practice (BMP) or pollution prevention alternative, the user must submit documentation required by the city or the pretreatment standard necessary to determine the compliance status of the user.

(b) All periodic compliance reports must be signed and certified in accordance with § 18-228(12)(a) of this chapter.

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

(d) If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the city, using the procedures prescribed in § 18-228(10) of this chapter, the results of this monitoring shall be included in the report.

(5) Reports of changed conditions. Each user must notify the city of any significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least sixty (60) days before the change.

(a) The pretreatment coordinator may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application.

(b) The city may reissue an individual wastewater discharge permit or modify an existing wastewater discharge permit in response to changed conditions or anticipated changed conditions.

(c) No industrial user shall implement the planned changed condition(s) until and unless the city has responded to the industrial user's notice.

(d) For purposes of this requirement, flow increases of ten percent (10%) or greater, or the discharge of any previously unreported pollutants shall be deemed significant.

(6) Reports of potential problems. (a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, a slug discharge or slug load, that might cause potential problems for the POTW (including a violation of the prohibited discharge standards in § 18-219 of this chapter), the user shall immediately telephone and notify the pretreatment coordinator of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(b) Within five (5) days following such discharge, the industrial user shall, unless waived by the city, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the industrial user to prevent similar future occurrences. Such notification shall not relieve the industrial user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the industrial user of any administrative penalties, civil penalties, or other liability which may be imposed by this chapter.

(c) Failure to notify the city of potential problem discharges shall be deemed a separate violation of this chapter.

(d) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in subsection (a) above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

(e) Significant industrial users are required to notify the pretreatment coordinator immediately of any changes at their facility affecting the potential for a slug discharge.

(7) Reports from unpermitted users. All users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to the pretreatment coordinator as the city may require.

(8) Notice of violation/repeat sampling and reporting. If sampling performed by a user indicates a violation, the user must notify the pretreatment coordinator within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the pretreatment coordinator within thirty (30) days after becoming aware of the violation. Re-sampling by the industrial user is not required if the city performs sampling at the user's facility at least once a month, or if the city performs sampling at the user between the time when the initial sampling was conducted and the time when the user or the city receives the results of this sampling, or if the city has performed the sampling and analysis in lieu of the industrial user. If the city performed the sampling and analysis in lieu of the industrial user, the city will perform the repeat sampling and analysis unless the city notifies the user of the violation and requires the user to perform the repeat sampling and analysis.

(9) Analytical requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the part 136 sampling and analytical

techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the city or other parties approved by the EPA.

(10) Sample collection. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

(a) Except as indicated in (b) and (c) below, the user must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the city. Where time-proportional composite sampling or grab sampling is authorized by the city, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the city as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.

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

(c) For sampling required in support of baseline monitoring and 90-day compliance reports required in §§ 18-228(1) and 18-228(3) [Tennessee Rule 1200-4-14-.12(2) and (4)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist. For the reports required by § 18-228(4) [Tennessee Rule 1200-4-14-.12(5) and (8)], the industrial user is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.

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

(12) Certification statements. (a) Certification of permit applications, user reports and initial monitoring waiver. The following certification statement is required to be signed and submitted by users submitting permit applications in accordance with § 18-223; users submitting

baseline monitoring reports under § 18-228(1)(e); users submitting reports on compliance with the categorical pretreatment standard deadlines under § 18-228(3); and users submitting periodic compliance reports required by § 18-228(4). The following certification statement must be signed by an authorized representative as defined in § 18-204(3):

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

(b) Annual certification for non-significant categorical industrial users. A facility determined to be a non-significant categorical industrial user by the city pursuant to § 18-204(77)(a)(iii) must annually submit the following certification statement signed in accordance with the signatory requirements in § 18-204(3). This certification must accompany an alternative report required by the city:

Based on my inquiry of the person or persons directly responsible for managing compliance with the Categorical Pretreatment Standards under 40 CFR \_\_\_\_\_, I certify that, to the best of my knowledge and belief that during the period from \_\_\_\_\_, \_\_\_\_\_ to \_\_\_\_\_ [months, days, year]:

The facility described as \_\_\_\_\_ [facility name] met the definition of a Non-significant Categorical Industrial User as described in § 18-204(77)(a)(iii); and the facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and the facility never discharged more than one hundred (100) gallons of total categorical wastewater on any given day during this reporting period.

This compliance certification is based on the following information:  
[Attach supporting information].

(13) Hazardous material reporting. The industrial user shall notify the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities in writing of any discharge into the POTW of a substance, which, if otherwise disposed of, would be a hazardous waste under Tennessee 1200-1-11.

(a) Such notification must include the name of the hazardous waste as set forth in Tennessee 1200-1-11, the EPA hazardous waste number, and the type of discharge (continuous, batch or other). If the industrial user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the industrial user: An identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream discharged during the calendar month and an estimation of the mass of the constituents in the waste stream expected to be discharged during the following twelve (12) months. All notifications must take place within one hundred eighty (180) days of the effective date of this rule. Industrial users who commence discharging after the effective date of this rule shall provide the notification no later than one hundred eighty (180) days after the discharge of the listed or characteristic hazardous waste. Any notification under this subsection need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under Tennessee 1200-4-14-.12(10). The notification requirement in this rule does not apply to pollutants already reported under the self monitoring requirements of Tennessee 1200-4-14-12(2), (4) and (5).

(b) Dischargers are exempt from the requirements of subsection (13)(a) of this section during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in Tennessee 1200-1-11-.02(4)(a) and (4)(d). Discharge of more than fifteen (15) kilograms of non-acute hazardous waste in a calendar month, or of any acute hazardous wastes as specified in Tennessee 1200-1-11-.02(4)(a) and (4)(d), requires a one (1) time notification. Subsequent months during which the industrial user discharges more than such quantities of any hazardous waste do not require additional notification.

(c) In the case of any new regulations under section 3001 of the Resource Conservation and Recovery Act (RCRA) identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the industrial user must notify the POTW, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of discharge of such substance within ninety (90) days of the effective date of such regulations.

(d) In the case of any notification made under this subsection, the industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical. (Ord. #48-17, Sept. 2012)

**18-229. Maintenance of records by industrial users.** Any industrial user subject to the reporting requirements established in this chapter shall maintain records of all information resulting from any monitoring activities required by this chapter. Such records shall include for all samples:

- (1) The date, exact place, method, and time of sampling and the names of the persons taking the samples;
- (2) The dates analyses were performed;
- (3) Who performed the analyses;
- (4) The analytical techniques/methods used; and
- (5) The results of such analyses.

Any industrial user subject to the reporting requirement established in this chapter shall be required to retain for a minimum of three (3) years any records of monitoring activities and results (whether or not such monitoring activities are required by this section) including documentation associated with best management practices established under § 18-233(2)(c), and shall make such records available for inspection and copying by the city manager, the Director of the Division of Water Quality Control, Tennessee Department of Health, the Environmental Protection Agency or the Tennessee Division of Water Pollution Control. This period of retention shall be extended during the course of any unresolved litigation involving the POTW and the industrial user or when requested by the city manager, the approval authority, the Environmental Protection Agency or the Tennessee Department of Environment and Conservation. (Ord. #48-17, Sept. 2012)

**18-230. Compliance monitoring.** (1) Right of entry for inspection and sampling. The city manager shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this chapter and any individual wastewater discharge permit or order issued hereunder. Users shall allow the city 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.

- (a) 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 city manager shall be permitted to enter without delay for the purposes of performing specific responsibilities.

(b) The city 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/or metering of the user's operations.

(c) The city manager may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated semi-annually to ensure their accuracy.

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

(e) Unreasonable delays in allowing the city manager access to the user's premises shall be a violation of this chapter.

(2) Search warrants. If the city manager has been refused 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 this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the city designed to verify compliance with this chapter or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the city manager may seek issuance of a search warrant from the appropriate court of jurisdiction. (Ord. #48-17, Sept. 2012)

**18-231. Confidential information.** Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, individual wastewater discharge permits, and monitoring programs, and from the city manager's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the city manager, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, 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 immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined at 40 CFR 2.302 shall not be recognized as confidential

information and shall be available to the public without restriction. (Ord. #48-17, Sept. 2012)

**18-232. National categorical pretreatment standards.** Users must comply with the categorical pretreatment standards found at 40 CFR chapter I, subchapter N, parts 405-471.

(1) When the limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the city may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual industrial users.

(2) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the city shall impose an alternate limit in accordance with Tennessee Rule 1200-4-14-.06(5).

(3) Not used.

(4) A CIU may obtain a net/gross adjustment to a categorical pretreatment standard in accordance with subsections (a)--(b)(iv) of this section:

(a) Categorical pretreatment standards may be adjusted to reflect the presence of pollutants in the industrial user's intake water from the city's water system in accordance with this section. Any industrial user wishing to obtain credit for intake pollutants from the city's water system must make application to the city. Upon request of the industrial user, the applicable standard will be calculated on a "net" basis (i.e., adjusted to reflect credit for pollutants in the intake water) if the requirements of subsection (2) of this section are met.

(b) Criteria. (i) Either:

(A) The applicable categorical pretreatment standards contained in 40 CFR subchapter N specifically provide that they shall be applied on a net basis; or

(B) The industrial user demonstrates that the control system it proposes or uses to meet applicable categorical pretreatment standards would, if properly installed and operated, meet the standards in the absence of pollutants in the intake waters.

(ii) Credit for generic pollutants such as Biochemical Oxygen Demand (BOD), Total Suspended Solids (TSS), and oil and grease should not be granted unless the industrial user demonstrates that the constituents of the generic measure in the user's effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.

(iii) Credit shall be granted only to the extent necessary to meet the applicable categorical pretreatment standard(s), up to

a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with standard(s) adjusted under this section.

(iv) Credit shall be granted only if the user demonstrates that the intake water is drawn from the city's water system. (Ord. #48-17, Sept. 2012)

**18-233. State pretreatment standards.** (1) Users must comply with State of Tennessee Pretreatment Standards codified at Tennessee Code Annotated, §§ 69-3-101, et seq. and 4-5-120, et seq.

(2) Local limits. (a) The city is authorized to establish local limits pursuant to Tennessee Rule 1200-4-14-.05(3).

(b) The following pollutant parameters are established to protect against pass through and interference. No user shall discharge wastewater containing in excess of the daily maximum limits established by the city, and are applicable at the point where the wastewater is discharged into the POTW. Local limit calculations will be maintained on file by the city. Local limits have been established for the following pollutants:

|                      |                           |
|----------------------|---------------------------|
| BOD                  | Total toxic organics      |
| TSS                  | Mercury                   |
| Oil and grease       | Molybdenium               |
| Aluminum             | Naphthalene               |
| Arsenic              | Nickel                    |
| Ammonia              | Phenols (total)           |
| Benzene              | Phthalates (total)        |
| Cadmium              | Silver                    |
| Carbon tetrachloride | Selenium                  |
| Chloroform           | Tetrachloroethylene       |
| Chromium (total)     | Toluene                   |
| Copper               | 1,2 TransDichloroethylene |
| Cyanide              | 1,1,1 Trichloroethane     |
| Ethylbenzene         | Trichloroethane           |
| Lead                 | MBAS                      |
| Methylene chloride   | Zinc                      |
| Free oil and grease  | pH                        |

(c) The city may develop Best Management Practices (BMPs) in individual wastewater discharge permits to implement local limits and the requirements of this chapter.

(d) Dilution. No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The city may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate at the sole discretion of the city. (Ord. #48-17, Sept. 2012)

**18-234. Exceptions to discharge criteria.** (1) Application for exception. Non-residential users of the POTW may apply for a temporary exception to the prohibited and restricted wastewater discharge criteria listed in §§ 18-219 and 18-233 of this chapter. Exceptions can be granted according to the following guidelines subject to the appeals procedure provided under this chapter.

The city manager may allow applications for temporary exceptions at any time, in accordance with the conditions set forth in subsection (2) of this section. However, the city manager shall not accept an application if the applicant has submitted the same or substantially similar application within the preceding year and the same has been denied by the city.

All applications for an exception shall be in writing, and shall contain sufficient information for evaluation of each of the factors to be considered by the city in its review of the application.

(2) Conditions. All exceptions granted under this section shall be temporary and subject to revocation at any time by the city manager upon reasonable notice.

The user requesting the exception must demonstrate to the city manager that he is making a concentrated and serious effort to maintain high standards of operation control and housekeeping levels, etc., so that discharges to the POTW are being minimized. If negligence is found, permits will be subject to termination. The user requesting the exception must demonstrate that compliance with stated concentration and quantity standards is technically or economically infeasible and the discharge, if exempted, will not:

(a) Interfere with the normal collection and operation of the wastewater treatment system.

(b) Limit the sludge management alternatives available and increase the cost of providing adequate sludge management.

(c) Pass through the POTW in quantities and/or concentrations that would cause the POTW to violate its NPDES permit.

The user must show that the exception, if granted, will not cause the discharger to violate its in-force federal pretreatment standards unless the exception is granted under the provisions of the applicable pretreatment regulations. A surcharge shall be applied to any exception granted under this section. These surcharges shall be applied for that concentration of the pollutant for which the variance has been granted in excess of the concentration stipulated in this chapter based on the average daily flow of the user. At such time that the levels of pollutants must be reduced because of violations of any of the provisions of this section, the following method shall be used to reduce the discharge levels: All users shall be required to reduce their discharge levels by a sufficient amount to meet the standard being violated. Users shall be required to reduce their discharge levels in proportion to their contribution to the system.

(3) Review of application by the city manager. All applications for an exception shall be reviewed by the city manager. If the application does not contain sufficient information for complete evaluation, the city manager shall notify the applicant of the deficiencies and request additional information. The applicant shall have thirty (30) days following notification by the city manager to correct such deficiencies. This thirty (30) day period may be extended by the city upon application and for just cause shown. Upon receipt of a complete application, the city manager shall evaluate same within thirty (30) days and shall submit his recommendations to the city at its next regularly scheduled meeting.

(4) Review of application by the city. The city shall review and evaluate all applications for exceptions and shall take into account the following factors:

(a) Whether or not the applicant is subject to a national pretreatment standard containing discharge limitations more stringent than those in §§ 18-219 and 18-233 and grant an exception only if such exception may be granted within limitations of applicable federal regulations;

(b) Whether or not the exception would apply to discharge of a substance classified as a toxic substance under regulations promulgated by the Environmental Protection Agency under the provisions of section 307(a) of the Act, and then grant an exception only if such exception may be granted within the limitations of applicable federal regulations;

(c) Whether or not the granting of an exception would create conditions that would reduce the effectiveness of the treatment works taking into consideration the concentration of said pollutant in the treatment works' influent and the design capability of the treatment works;

(d) The cost of pretreatment or other types of control techniques which would be necessary for the user to achieve effluent reduction, but prohibitive cost alone shall not be the basis for granting an exception;

(e) The age of equipment and industrial facilities involved to the extent that such factors affect the quality or quantity of wastewater discharge;

(f) The process employed by the user and process changes available which would affect the quality or quantity of wastewater discharge;

(g) The engineering aspects of various types of pretreatment or other control techniques available to the user to improve the quality or quantity of wastewater discharge. (Ord. #48-17, Sept. 2012)

**18-235. Publication of users in significant noncompliance.** The city shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the city, a list of the users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall be applicable to all significant industrial users (or any other industrial user that violates subsections (3), (4) or (8) of this section) and shall mean:

(1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement as defined in § 18-233;

(2) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined in § 18-204(40) multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

(3) Any other violation of a pretreatment standard or requirement as defined by § 18-233 (daily maximum, long-term average, instantaneous limit, or narrative standard) that the city determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;

(4) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the city's exercise of its emergency authority to halt or prevent such a discharge;

(5) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(6) Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance

with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(7) Failure to accurately report noncompliance; or

(8) Any other violation(s), which may include a violation of best management practices, which the city determines will adversely affect the operation or implementation of the local pretreatment program. (Ord. #48-17, Sept. 2012)

**18-236. Administrative enforcement remedies.** (1) Notification of violation. When the city manager finds that a user has violated, or continues to violate, any provisions of this chapter, or an individual wastewater discharge permit, or an order issued hereunder, or any other pretreatment standard or requirement, the city manager may serve upon that user a written notice of violation. Within thirty (30) days of the receipt of such notice, an 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 city manager. Submission of such a 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 city manager to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(2) Consent orders. The city manager may enter into consent orders, assurances of 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 by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to this chapter and shall be judicially enforceable.

(3) Show cause hearing. The city manager may order a user which has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, to appear before the city 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 meeting, 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 meeting 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 as defined in this chapter. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

(4) Compliance orders. When the city manager finds that a user has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other

pretreatment standard or requirement, the city 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 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.

(5) Cease and desist orders. When the city manager finds that a user has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the city manager may issue an order to the user directing it to cease and desist all such violations and directing the user to:

(a) Immediately comply with all requirements; and

(b) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or 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.

(6) Administrative penalties. (a) When the city manager finds that a user has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the city manager may penalize such user in an amount not to exceed ten thousand dollars (\$10,000.00), or the maximum penalty allowed under the State of Tennessee law, whichever is greater at the time of violation. Such fines shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.

(b) Unpaid charges and penalties may, after thirty (30) calendar days, be assessed an additional penalty of one percent (1%) of the unpaid balance, and interest shall accrue thereafter at a rate of one percent (1%) per month. A lien against the user's property may be sought for unpaid charges and penalties.

(c) Users desiring to dispute such penalties must file a written request for the city manager to reconsider the fine along with full payment of the fine amount within fifteen (15) days of being notified of the fine. Where a request has merit, the city manager may convene a

hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The city manager may add the costs of preparing administrative enforcement actions, such as notices and orders, to the penalty.

(d) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

(7) Emergency suspensions. The city manager may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge, which reasonably appears to present, or cause an imminent or substantial endangerment to the health or welfare of persons. The city manager may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

(a) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the city manager may take such steps as deemed necessary, including immediate severance of the POTW connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The city manager may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the city manager that the period of endangerment has passed, unless the termination proceedings in this chapter are initiated against the user.

(b) 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 city manager prior to the date of any show cause or termination hearing under this chapter.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

(8) Termination of discharge. In addition to the other provisions of this chapter, any user who violates the following conditions is subject to discharge termination:

(a) Violation of individual wastewater discharge permit conditions;

(b) Failure to accurately report the wastewater constituents and characteristics of its 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; or

(e) Violation of the pretreatment standards of this chapter.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under the provisions of this chapter why the proposed action should not be taken. Exercise of this option by the city manager shall not be a bar against, or a prerequisite for, taking any other action against the user. (Ord. #48-17, Sept. 2012)

**18-237. Judicial enforcement remedies.** (1) Injunctive relief. When the city manager finds that a user has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the city manager may petition the appropriate court of jurisdiction through the city's attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the individual wastewater discharge permit, order, or other requirement imposed by this chapter on activities of the user. The city manager may also seek such other action as is appropriate for legal and/or 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.

(2) Civil penalties. (a) A user who has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the city for a maximum civil penalty of ten thousand dollars (\$10,000.00) or the maximum fine allowed under State of Tennessee law, whichever is greater at the time of violation, but not less than one thousand dollars (\$1,000.00) per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

(b) The city manager may recover reasonable attorney's fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the city.

(c) In determining the amount of civil liability, the court shall take into account 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 as justice requires.

(d) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

(3) Criminal prosecution. (a) A user who willfully or negligently violates any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard

or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than ten thousand dollars (\$10,000.00) or the maximum fine allowed under State of Tennessee law, whichever is greater at the time of violation, per violation, per day, or imprisonment, or both.

(b) A user who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a monetary penalty, or be subject to imprisonment, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.

(c) A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this chapter, individual wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter shall, upon conviction, be punished by a fine of not more than ten thousand dollars (\$10,000.00) or the maximum fine allowed under State of Tennessee law, whichever is greater at the time of violation, per violation, per day, or imprisonment, or both.

(d) In the event of a second conviction, a user shall be punished by a fine of not more than ten thousand dollars (\$10,000.00) or the maximum fine allowed under State of Tennessee law, whichever is greater at the time of violation, per violation, per day, or imprisonment, or both.

(4) **Remedies nonexclusive.** The remedies provided for in this chapter are not exclusive. The city 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 city's enforcement response plan. However, the city manager may take other action against any user when the circumstances warrant. Further, the city manager is empowered to take more than one (1) enforcement action against any noncompliant user. (Ord. #48-17, Sept. 2012)

**18-238. Affirmative defenses to discharge violations.** (1) Upset.

(a) For the purposes of this section, upset means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subsection (c), below, are met.

(c) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

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

(ii) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

(iii) The user has submitted the following information to the city within twenty-four (24) hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five (5) days):

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

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

(C) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

(d) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

(e) Users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(f) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

(2) Prohibited discharge standards. (a) General prohibitions.

(i) A user may not introduce into the POTW any pollutant(s) which cause pass through or interference. These general prohibitions and the specific prohibitions in subsection (b) of this rule apply to each user introducing pollutants into the POTW whether or not the user is subject to other national pretreatment standards or any national, state, or local pretreatment requirements.

(ii) Affirmative defense. A user shall have an affirmative defense in any action brought against it alleging a violation of the general prohibitions established in subsection (a)(i) of this rule and

the specific prohibitions in subsections (b)(iii), (b)(iv), (b)(v), (b)(vi) and (b)(vii) of this rule where the user can demonstrate that:

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

(B) A local limit designed to prevent pass through and/or interference, as the case may be, fits one of the following descriptions:

(1) The local limit was developed in accordance with subsection (c) of this rule for each pollutant in the user's discharge that caused pass through or interference, and the user was in compliance with each such local limit directly prior to and during the pass through or interference; or

(2) The local limit has not been developed in accordance with subsection (c) of this rule for the pollutant(s) that caused pass through or interference, the user's discharge directly prior to and during the pass through or interference did not differ substantially in nature or constituents from the user's prior discharge activity when the POTW was regularly in compliance with the POTW's NPDES permit requirements and, in the case of interference, applicable requirements for sewage sludge use or disposal.

(b) Specific prohibitions. (i) Pollutants which create a fire or explosion hazard in the POTW, including but not limited to, waste streams with a closed cup flashpoint of less than one hundred forty degrees Fahrenheit (140° F) or sixty degrees Centigrade (60° C) using the test methods specified in 40 CFR 261.21;

(ii) Pollutants which will cause corrosive structural damage to the POTW, but in no case discharges with pH lower than 5.5, unless the works is specifically designed to accommodate such discharges;

(iii) Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW resulting in interference;

(iv) Heat in the amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the POTW treatment plant exceeds one hundred four degrees Fahrenheit (104° F) or forty degrees Centigrade (40° C) unless the approval authority,

upon request of the POTW, approves alternative temperature limits;

(v) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through;

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

(vii) Any trucked or hauled pollutants, except at discharge points designated by POTW.

(c) When specific limits have been developed by POTW.

(i) The POTW shall enforce the limits of their pretreatment program and shall continue to develop these limits as necessary.

(ii) The POTW shall update and adjust their limits when necessary to correspond with the pass through limits specified in the most recent NPDES permit or to remain in compliance with the POTW sludge use and disposal practices.

(iii) Specific effluent limits shall not be developed and enforced without individual notice to persons or groups who have requested such notice and an opportunity to respond.

(iv) POTWs may develop Best Management Practices (BMPs) to implement subsections (i) and (ii) of this section. Such BMPs shall be considered local limits and pretreatment standards for the purposes of this rule chapter.

(d) Local limits. Where specific prohibitions or limits on pollutants or pollutant parameters are developed by the POTW in accordance with subsection (2)(c) of this rule, such limits shall be deemed pretreatment standards for the purpose of this rule chapter.

(e) State enforcement actions. If, within thirty (30) days after notice of an interference or pass through violation has been sent by the approval authority to the POTW, and to persons or groups who have requested such notice, the POTW fails to commence appropriate enforcement action to correct the violation, the approval authority may take the appropriate enforcement action under the authority provided in Tennessee Code Annotated § 69-3-115.

(3) Bypass. (a) For the purposes of this section:

(i) Bypass means the intentional diversion of waste streams from any portion of a user's treatment facility.

(ii) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur

in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of subsections (c) and (d) of this section.

(c) Bypass notifications. (i) If a user knows in advance of the need for a bypass, it shall submit prior notice to and receive written permission from the pretreatment coordinator, at least ten (10) days before the date of the bypass, if possible.

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

(d) Bypass. Bypass is prohibited, and the city may take an enforcement action against a user for a bypass, unless:

(i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(iii) The user submitted prior notice to and received written permission from the pretreatment coordinator as required under subsection (c) of this section.

The city may approve an anticipated bypass, after considering its adverse effects, if the city determines that it will meet the three (3) conditions listed in subsection (d)(i) of this section. (Ord. #48-17, Sept. 2012)

**18-239. Enforcement response plan.** The documented plan, entitled, "Enforcement Response Plan for Elizabethton, Tennessee," which is made a part hereof, annexed herewith, and incorporated herein by reference, which contains the Enforcement Response Plan of the City of Elizabethton, Tennessee, hereby is adopted and declared to be the Enforcement Response Plan for the City of Elizabethton, Tennessee. (Ord. #48-17, Sept. 2012)

**18-240. Wastewater regulations appeals board.** (1) Establishment and organization. The wastewater regulations appeals board shall consist of three (3) members appointed by the mayor and approved by the city council. The term of each appointee shall be for two (2) years unless designated otherwise by the mayor and the city council. The terms of only two (2) appointees shall coincide at any given interval to promise continuity in the decisions and policies set by the board.

(2) Qualifications of members. The chairman of the board will be a city council member designated by the mayor. The second appointee will be a local citizen selected from the business or industrial community. The third appointee will be a local citizen from the engineering or public health community, preferably one who is knowledgeable in the field of wastewater treatment and control.

(3) Duties and powers. (a) The board shall review actions or decisions other than the refusal of applications for exceptions and/or conditions of discharge permits to determine whether or not the decision, action, or determination made by the city manager is reasonable and necessary to protect the POTW and/or to effectuate the provisions of this chapter. The enforcement response plan may be found in title 18, chapter 3 of this municipal code.

(b) The board shall review actions involving refusal of applications for exceptions and/or conditions on discharge permits to determine whether or not the party appealing said decision has met the conditions prescribed in § 18-223.

(c) The board shall have the power to conduct hearings on appeals from decisions of the city manager in actions taken pursuant to this chapter.

(d) The board shall have the power to issue subpoenas requiring attendance and testimony of witnesses and production of evidence relevant to any matter involved in hearings before the board. This power may be exercised by the board on its own initiative or upon application of the parties.

(e) The chairman or chairman pro tem shall be authorized to administer oaths. All testimony before the board shall be under oath.

(f) To prescribe such rules and regulations for the convening of the board and the conduct of hearings and all matters pertaining to and

in furtherance of the authority and power herein granted. (Ord. #48-17, Sept. 2012)

**18-241. Wastewater rates, fees and charges.** (1) Purpose and authority. It is the purpose of this section to provide for the equitable and reasonable recovery of costs from users of the POTW, including costs of operation, maintenance, administration, bond service costs, capital improvements, depreciation, and equitable cost recovery of EPA administered federal wastewater grants. The legal authority of the city manager to enforce the rates, fees and charges is provided by this chapter.

(2) Types of charges and fees. Fees and charges are payable at a time deemed appropriate by the city manager for the specific charge or fee. The charges and fees established in the city's rate chapters may include, but are not limited to:

- (a) Building and sewer permit and inspection fees;
- (b) Grease trap and interceptor permits and inspections;
- (c) Tapping fees;
- (d) Sewer use charges;
- (e) Surcharge fees;
- (f) Fees for applications to discharge;
- (g) Industrial wastewater discharge permit fees;
- (h) Fees for industrial discharge monitoring;
- (i) Fees for reviewing and responding to accidental discharge procedures and construction;
- (j) Fees for filing appeals;
- (k) Fees to recover administrative and legal costs associated with the enforcement activity taken by the city manager to address noncompliance;
- (l) Fees for hauled waste; and
- (m) Other fees as the city manager may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this chapter and are separate from all other fees, fines, and penalties chargeable by the city.

(3) Classification of users for charges and fees. Users of the wastewater system shall be classified into two (2) general classes or categories depending on the user's contribution of wastewater strength. The classes are defined in general terms. The city manager may decide to select the class for a user based on loading conditions not specifically defined. Each class user is identified as follows:

- (a) Class I or domestic. Those users whose average BOD demand is two hundred milligrams per liter (200 mg/l) by weight or less, and whose suspended solids discharge is two hundred milligrams per liter (200 mg/l) by weight or less).

(b) Class II or non-domestic. Those users whose BOD demand exceeds two hundred milligrams per liter (200 mg/l) by weight and whose suspended solids discharge exceeds two hundred milligrams per liter (200 mg/l).

(4) Determination of costs. (a) The city shall establish monthly rates and charges for the use of the POTW and the services supplied by the POTW. Said charges shall be based upon the cost categories of administrative costs, including but not limited to, billing and accounting costs; operation and maintenance costs of the POTW; and debt service costs.

(b) The determination of costs will be made on an annual basis. Adjustments to charges and fees may be made at any time in the fiscal year at the discretion of the city manager with the approval of the city council.

(c) All users shall pay a single unit charge expressed as dollars per thousand of gallons (\$/1,000.00 gallons) purchased. The rate shall be the total cost to pay debt service, operate, and maintain the POTW divided by the total volume of wastewater from all users per year as determined from one (1) fiscal year to the next.

(d) The volume of water purchased which is used in the calculation of sewer use charges may be adjusted by the city manager if a user purchases a significant volume of water for consumptive use and does not discharge it to the public sewer such as filling swimming pools, industrial heating and humidifying equipment, etc. The user shall be responsible for documenting the quantity of waste discharged to the POTW and applying for a reduction.

(e) All Class II users shall pay a surcharge rate on the excessive amounts of pollutants discharged in direct proportion to the actual discharge quantities. The surcharges include, but are not limited to, any pollutant that increases the cost of operating and maintaining the POTW. The surcharge cost shall be determined by multiplying the volume of wastewater discharged by the difference between the actual and maximum discharge pollutant concentrations. The pollutant mass discharged is then multiplied by the cost to treat the pollutant.

(5) Other surcharge fees. If it is determined by the city that the discharge of other loading parameters or wastewater substances are creating excessive operation and maintenance costs within the wastewater system, whether collection or treatment, then the monetary effect of such a parameter or parameters shall be borne by the dischargers of such parameters in proportion to the amount of discharge.

(6) Wastewater rate and fee schedule. (a) Free service prohibited. Wastewater service shall not be furnished or rendered free of charge to any person or user, as defined in § 18-241.

(b) Wastewater usage rates. Wastewater service shall be charged at rates established by the City of Elizabethton. Users will be charged a minimum base charge based on the number of water meters installed plus an additional charge for all consumption per one thousand (1,000) gallons unless one (1) water meter is used to serve multiple units. In such cases, the sewer rates shall be calculated as follows:

- Step 1. Multiply the number of units by the appropriate base rates.  
 Step 2. Multiply the water consumption for all water consumed in 1,000 gallons by cost per 1,000 gallons.  
 Step 3. Add the result of steps 1 and 2.

The monthly wastewater rate schedule has been established with increasing fees each fiscal year through 2020/2021 and shall be as shown in exhibit A, attached hereto and incorporated herein. Municipal rates shall apply to those customers located in areas within the incorporated limits of the City of Elizabethton. Regional rates shall apply to those customers located in areas outside of the incorporated limits of the City of Elizabethton.

City of Elizabethton  
 Wastewater Usage Rate Schedule  
 Fiscal year July 1, 2017 to June 30, 2018

| Cost per 1,000 gallons | Municipal | Regional |
|------------------------|-----------|----------|
| Base rate              | \$16.29   | \$20.56  |
| 0-9,000 gallons        | \$3.40    | \$6.36   |
| Over 9,000 gallons     | \$3.40    | \$4.63   |

Wastewater Usage Rate Schedule  
 Fiscal year July 1, 2018 to June 30, 2019

| Cost per 1,000 gallons | Municipal | Regional |
|------------------------|-----------|----------|
| Base rate              | \$16.94   | \$21.38  |
| 0-9,000 gallons        | \$3.53    | \$6.61   |
| Over 9,000 gallons     | \$3.53    | \$4.81   |

Wastewater Usage Rate Schedule  
Fiscal year July 1, 2019 to June 30, 2020

| Cost per 1,000 gallons | Municipal | Regional |
|------------------------|-----------|----------|
| Base rate              | \$17.62   | \$22.24  |
| 0-9,000 gallons        | \$3.60    | \$6.75   |
| Over 9,000 gallons     | \$3.60    | \$4.91   |

Wastewater Usage Rate Schedule  
Fiscal year July 1, 2020 to June 30, 2021

| Cost per 1,000 gallons | Municipal | Regional |
|------------------------|-----------|----------|
| Base rate              | \$18.32   | \$23.13  |
| 0-9,000 gallons        | \$3.67    | \$6.88   |
| Over 9,000 gallons     | \$3.67    | \$5.01   |

(c) Tap fees. Each person desiring to tap a public sewer, or any sewer connected with the sewerage system of the City of Elizabethton, shall first obtain a permit therefor, from the city and pay the city fee as hereinafter provided for each tap at the time of the issuance of the permit:

City of Elizabethton  
Tap Fee Schedule

| Sewer Tap Fee  | Municipal  | Regional   | Incorporated |
|--|------------|------------|--------------|
| New residence  | \$1,400.00 | \$2,000.00 | \$2,800.00   |
| New residence within a new subdivision where all lines and taps are installed by the developer per city standards/approval | \$600.00   | \$800.00   | \$1,000.00   |
| Additional residential units on same lot--connected with existing tap*   | \$400.00   | \$650.00   | \$850.00     |

| Sewer Tap Fee  | Municipal  | Regional   | Incorporated |
|--|------------|------------|--------------|
| Small commercial users, service stations, etc.   | \$1,400.00 | \$2,200.00 | \$3,000.00   |
| Car wash per bay   | \$1,600.00 | \$2,200.00 | \$3,800.00   |
| Apartments, mobile home parks, condominiums, multi-dwelling complexes: 50 units or less, per unit                | \$1,400.00 | \$2,200.00 | \$3,000.00   |
| Apartments, mobile home parks, condominiums, multi-dwelling complexes: over 50 units, per unit                   | \$1,000.00 | \$1,250.00 | \$2,145.00   |
| Factories (first 10,000 sq. ft. floor space), also shopping centers, warehouses, office buildings, schools, etc. | \$1,800.00 | \$2,400.00 | \$3,800.00   |
| Each additional 10,000 sq. ft. of floor space  | \$950.00   | \$1,400.00 | \$1,900.00   |
| Hotels, motels, hospitals, nursing homes, retirement homes for each rental room                                  | \$900.00   | \$1,200.00 | \$2,000.00   |
| Residences which cannot use the available public gravity sewer without the necessity of a sewer pump**           | \$900.00   | \$1,200.00 | \$2,000.00   |

\* Unauthorized taps: If an additional unit on the same lot or connecting lots is found to be connected to the Elizabethton Sewer System without authorization and payment of the above fee, the fee assessed will be double.

\*\*This requires a written evaluation by the water resources division and approval by the city manager. Sewage pumps and tanks must be purchased and installed by the customer. Said pumps and tanks remain the property of the customer and must be maintained by the customer.

(Ord. #51-13, July 2015, as amended by Ord. #53-24, Dec. 2017 *Ch1\_12-13-18*)

**18-242. Severability and effective date.** (1) Severability. If any provision of this chapter is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

(2) Effective date. This chapter shall be in full force and effect immediately following passage, approval, and publication. (Ord. #48-17, Sept. 2012)

**18-243. 2020 COVID-19 authority and response.** (1) The City Manager of the City of Elizabethton is hereby authorized to develop any and all policies necessary to assist the customers of the Elizabethton Water Resources Department with late fees, cut off and installation fees and, the cut off of sewer services for the failure to pay a bill to the City of Elizabethton as the City Manager shall determine.

(2) That the Elizabethton City Manager shall have no authority to reduce the bills for the actual amount of wastewater services provided to customers of the City of Elizabethton Water Resources Department.

(3) This ordinance shall take effect immediately and the city manager's authority granted herein shall end on May 31, 2020. (as added by Ord. #56-9, March 2020 *Ch2\_03-11-21*)

## CHAPTER 3

### ENFORCEMENT RESPONSE PLAN

#### SECTION

- 18-301. Purpose.
- 18-302. Enforcement authority.
- 18-303. Insignificant and significant noncompliance.
- 18-304. Notice of violation.
- 18-305. Schedule of compliance.
- 18-306. Administrative penalty.
- 18-307. Administrative orders.
- 18-308. Penalty assessments.
- 18-309. Enforcement response table.
- 18-310. Penalty assessment form.

**18-301. Purpose.** This enforcement response plan provides for fair and consistent enforcement for pretreatment of wastewater discharged into the Publicly Owned Treatment Works (wastewater collection system and treatment works) of the City of Elizabethton, Tennessee, and enables the city to monitor and assess penalties for noncompliance with the city's Sewer Use Ordinance (SUO). The city's Publicly Owned Treatment Works (POTW) must comply with all applicable state laws, including Tennessee Code Annotated §§ 6-54-501 and 6-54-502; Public Chapter 111, Acts of 1987, amending Tennessee Code Annotated, title 69, chapter 3, part 1; the state pretreatment requirements (Tennessee Rule 1200-4-14); and federal laws, including the Clean Water Act (33 United States Code, section 125, et seq.); and the general pretreatment regulations (title 40 of the Code of Federal Regulations (CFR), page 403). (Ord. #48-18, Sept. 2012)

**18-302. Enforcement authority.** The city manager shall be responsible for enforcement of the sewer use ordinance. Any powers granted to or duties imposed upon the city manager may be delegated by the city manager to a duly authorized designee per § 18-202 of the sewer use ordinance. The wastewater regulations appeals board (SUO § 18-240) has certain oversight responsibilities in the enforcement of the sewer use ordinance. (Ord. #48-18, Sept. 2012)

**18-303. Insignificant and significant noncompliance.**

(1) Insignificant (minor) noncompliance. Insignificant noncompliance is defined as relatively minor or infrequent violations of pretreatment standards or requirements. Instances of insignificant noncompliance will be responded to with a Notice of Violation (NOV) or an Administrative Order (AO). Examples of

violations that may be addressed as an insignificant or minor noncompliance include, but are not limited to, the following:

- (a) Failure to file a permit renewal application but continuing to comply with the expired permit.
- (b) A reported spill with no known adverse effects.
- (c) Isolated (once per six (6) month period and not in consecutive sampling events) and insignificant excessiveness (not more than 1.5 times the limit) of discharge limits.
- (d) Inadvertently using incorrect sample collection procedures.
- (e) First instance of failure in a twelve (12) month period to properly sign or certify monitoring reports.
- (f) Failure to notify of slug load that has no known adverse effects.
- (g) Missed interim or final compliance deadline by less than thirty (30) days.
- (h) Filing a late report, including compliance schedule reports, less than thirty (30) days late.
- (i) Any other violation that:
  - (i) Causes no known adverse conditions in the POTW;
  - (ii) Is deemed insignificant by the city manager; and
  - (iii) Is not defined as significant noncompliance by the Environmental Protection Agency in the general pretreatment regulations, 40 CFR 403.

(2) Significant noncompliance. The U.S. Environmental Protection Agency (EPA) has defined significant noncompliance as violations that meet one (1) or more of the following criteria:

- (a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the 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 here as those in which thirty-three percent (33%) or more of all of the measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of the daily average maximum limit, or the average limit, multiplied by the applicable TRC (TRC equals 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH). BOD, TSS, and FOG are exempt from TRC consideration if they exceed the surcharge level but do not exceed the upper ceiling.
- (c) Any other violations of a pretreatment effluent limit (daily maximum or longer-term average) that the city manager or his designee determines has caused, alone or in combination with other discharges, interference or passthrough and/or endangered 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 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 NOV or an AO for starting construction, completing construction, and 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 progress or completion with compliance schedules.

(g) Failure to accurately report noncompliance.

(h) Any other violation or group of violations that the city manager or his designee determines will adversely affect the operation, management or implementation of the city's pretreatment program.

Generally an isolated instance of noncompliance or a Category 0 violation can result in an informal response or a Notice of Violation (NOV). Any Category 1 to Category 4 violations will result in an enforceable order that requires a return to compliance by a specific deadline. (Ord. #48-18, Sept. 2012)

**18-304. Notice of violation.** Generally issued by the city manager or his designee, the Notice of Violation (NOV) is an official communication from the city to the noncompliant user that informs the user that the violation has occurred. The NOV is issued for relatively minor or infrequent violations of pretreatment standards and requirements and should be issued within five (5) working days of the identification of a violation. A NOV does not contain assessment of penalties or cost recovery. The NOV provides the user with an opportunity to correct the noncompliance on its own initiative rather than according to a schedule of actions determined by the city. The NOV records the initial attempts of the city to resolve the noncompliance. Authenticated copies of NOV's may serve as evidence in judicial proceedings. (Ord. #48-18, Sept. 2012)

**18-305. Schedule of compliance.** A schedule of compliance is a detailed list of the steps to be taken by a noncompliant industry whereby compliance with all pretreatment regulations will be achieved. This schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g. hiring an engineer, completing preliminary plans, executing contracts for components, commencing construction, etc.). (Ord. #48-18, Sept. 2012)

**18-306. Administrative penalty.** An administrative penalty is a monetary penalty assessed by the city for violations of pretreatment standards and requirements. Administrative penalties are to be used as an escalated enforcement action and are punitive in nature and are not related to a specific cost borne by the city. Instead, the amount of the penalty should recapture any economic benefit gained by noncompliance and/or deter future violations. An administrative order is to be used to assess an administrative penalty. (Ord. #48-18, Sept. 2012)

**18-307. Administrative orders.** Administrative orders are to be issued by the city manager or his designee. Administrative orders are enforcement documents that direct users to undertake and/or to cease specified activities. Administrative orders are to be used as the first formal response to significant noncompliance, and may incorporate compliance schedules, administrative penalties, assessments for costs incurred during investigation and/or enforcement, attorney's fees, assessments for damages and termination services. The city has adopted four (4) general types of AOs: Compliance orders, show cause orders, cease and desist orders, and agreed orders.

(1) **Compliance order.** A compliance order directs the user to achieve or restore compliance by a specified date and is the primary means of assessing penalties and costs. The compliance order will document the noncompliance and state required actions to be accomplished by specific dates and is issued by the city manager or his designee.

(2) **Show cause order.** An order to show cause directs the user to appear before the city, explain its noncompliance, and show cause why more severe enforcement action should not be pursued. The hearing is open to the public and may be formal (i.e. conducted according to the rules of evidence, with verbatim transcripts and cross-examination of witnesses) or informal. The results of all hearings along with any data and testimony (recorded by tape machine or stenographer) submitted as evidence, are available to the public and may serve as evidentiary support for future enforcement actions.

(3) **Cease and desist order.** A cease and desist order directs a noncompliant user to cease illegal or unauthorized discharge immediately or to terminate discharge altogether. To preserve the usefulness of this order in emergency situations, penalties should not be assessed in this document. A cease and desist order will be used in situations where the discharge is causing interference, pass through, environmental harm, or otherwise creating an emergency situation. The order may be issued immediately upon discovery of an emergency situation or following a hearing. In an emergency, the order to cease and desist may be given by telephone with a subsequent written order to be served by the city before the close of business on the next working day. If the user fails to comply with the order, the city may take independent action to halt the discharge.

(4) Agreed order. The agreed order is an agreement between the city and the user. The agreed order normally contains three (3) elements:

- (a) Compliance schedules with specific milestone dates;
- (b) Stipulated penalties, damages, and/or remedial actions; and
- (c) Signature by the city manager and the user representative.

An agreed order is appropriate when the user assumes the responsibility for its noncompliance and is willing to correct the causes. (Ord. #48-18, Sept. 2012)

**18-308. Penalty assessments.** Determining a penalty amount that reflects the significance of the violation is extremely important. If the penalty is too small, its deterrent value is lost and the user may regard the amount as a nominal charge to pollute. If the penalty is too great, it could bankrupt the user making necessary investment in pretreatment equipment impossible or potentially forcing unnecessary closure. The city has categorized the various types of violations, and assigned a penalty range to each category. Penalty categories are determined by using the attached Enforcement Response Table (Appendix A).<sup>1</sup> All penalty assessments will be approved and signed by the city manager or his designee. Penalty amounts determined by following the penalty assessment form are considered to be an economic deterrent to the illegal activity. Penalty ranges have been designed to recover any economic benefit gained by the violator through noncompliance.

Category 0 = No penalty

Category 1 = \$1.00 to \$500.00

Category 2 = \$1.00 to \$1,000.00

Category 3 = \$1.00 to \$10,000.00

Category 4 = Direct legal action

Any penalties and/or costs to be assessed at the maximum penalty allowable by applicable law and included as part of the legal action.

Assessments for damages or destruction of the facilities of the POTW, and any penalties, costs, and attorney's fees incurred by the city as the result of the illegal activities, as well as the expenses involved in enforcement, are not part of this penalty assessment procedure. (Ord. #48-18, Sept. 2012)

**18-309. Enforcement response table.** The Enforcement Response Table is used as follows:

- (1) Locate the type of noncompliance in the first column and identify the most accurate description of the violation in the second column.

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<sup>1</sup>The Enforcement Response Table is included in § 18-310 as appendix A of that section.

(2) Assess the appropriateness of the recommended response(s) in the third column. Use the penalty assessment form to determine any penalty amounts, using the criteria of:

- (a) Magnitude of the noncompliance;
- (b) Effects on the receiving stream and the Publicly Owned Treatment Works (POTW);
- (c) Compliance history of the user; and
- (d) Good faith of the user.

(3) Apply the enforcement response to the user specifying corrective actions, penalty amounts and/or other actions required of the user. The fourth column identifies the responsible personnel for the city.

(4) Track the user's response and compliance status and follow up with escalated enforcement action if a response is not received or violation continues.

(5) The knowledge, intent, and/or negligence of the user should not be taken into consideration, except when deciding to pursue criminal prosecution. (Ord. #48-18, Sept. 2012)

**18-310. Penalty assessment form.** (1) Locate the type of noncompliance in the Enforcement Response Table (e.g., Discharge Limit; Monitoring; Compliance; Other, etc.).

(2) Select the most accurate description of "Nature of Violation."

(3) Identity the corresponding Penalty Category and write it in the space provided below.

(4) Evaluate the appropriateness of the recommended response(s) using the criteria of: **Magnitude, Effects, Compliance History, and Good Faith.** Assign a numerical value from between 0.0 to 1.0 to each criterion (in increments of 0.1) and write in the appropriate space below.

(5) Average the **FOUR** (4) criteria ratings to obtain an **AVERAGE CRITERION RATING** and enter it into the space provided.

(6) Multiply the Average Criterion Rating by the maximum penalty amount allowed in the applicable penalty category selected in Step Three (3).

(7) Multiply the penalty amount by the number of violation days (e.g. monthly limit, multiply by 30).

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USERS NAME: \_\_\_\_\_ PARAMETER: \_\_\_\_\_

PERMIT LIMIT: \_\_\_\_\_ OBSERVED CONC: \_\_\_\_\_ PERMIT # \_\_\_\_\_

LIMIT TYPE: \_\_\_\_\_ (Daily, Monthly, etc.) DATE OF VIOLATION \_\_\_\_\_

CATEGORY OF THIS VIOLATION \_\_\_\_\_

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**Magnitude 0.1 0.2 0.3 0.4 0.5 0.6 0.7 0.8 0.9 1.0** \_\_\_\_\_

This criterion considers the severity of the discharge. Magnitude is determined by assigning 0.1 to the lowest violation factor of the category and 1.0 to the highest violation factor of the category and then determining where the violation falls within the range.

**Effects 0.1 0.2 0.3 0.4 0.5 0.6 0.7 0.8 0.9 1.0** \_\_\_\_\_

This criterion considers the effects of the discharge upon the quality of the receiving waters as well as adverse physical and operational effects experienced by the POTW. The Effects Rating is a subjective determination within the following guidelines. (no effect = 0.0; slight effect = 0.1--0.3; moderate effect = 0.4--0.6; heavy effect = 0.7--0.9; severe effect or damage = 1.0).

**Compliance History**

This rating will generally follow the number of NOV's issued in the past fifteen (15) months (TRC and/or Chronic violations are factors in determination) (i.e.: no violations = 0.0; NOVs = 0.5)

**Good Faith**

"The Clean Water Act requires industry to take extraordinary efforts if the vital and ambitious goals of the Congress are to be met. This means that business-as-usual is not enough. Prompt, vigorous, and in many cases expensive pollution control measure must be initiated and completed as promptly as possible." Therefore the criteria of "Good Faith" should consider the speed and effectiveness of actions taken by the violator to cease or reduce the magnitude of the violation. Prompt, vigorous response = 0.0; Reluctant, minimal response = 0.5; No response/continued violation = 1.0

SUM \_\_\_\_\_

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= AVERAGE CRITERIA RATING = (Sum/4) \_\_\_\_\_

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= PENALTY AMOUNT (A.C.R. X Category Maximum) = \_\_\_\_ x \_\_\_\_ = \_\_\_\_

(Ord. #48-18, Sept. 2012)



## CHAPTER 4

### CROSS-CONNECTIONS, AUXILIARY INTAKES, ETC.<sup>1</sup>

#### SECTION

- 18-401. Definitions.
- 18-402. Standards.
- 18-403. Construction, operation, and supervision.
- 18-404. Statement required.
- 18-405. Inspections required.
- 18-406. Right of entry for inspections.
- 18-407. Use of protective devices.
- 18-408. Correction of deficiencies and violations.
- 18-409. Non-potable water to be labeled.
- 18-410. Applicability of chapter.
- 18-411. Severability.
- 18-412. Violations and penalty.
- 18-413.--18-414. Deleted.

**18-401. Definitions.** For the purpose of this chapter, 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.

For the purpose of this chapter, the following definitions shall apply:

- (1) "Air gap." A physical separation between the free flowing discharge end of a potable water supply line and an open or non-pressurized receiving vessel.
- (2) "Approved air gap." An air gap separation with a minimum distance of at least twice the diameter of the supply line when measured vertically above the overflow rim of the vessel, but in no case less than one inch (1").
- (3) "Approved." Any condition, method, device, or procedure accepted by the Tennessee Department of Environment and Conservation, and City of Elizabethton.

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<sup>1</sup>Municipal code references

Plumbing code: title 12, chapter 2.

Water and sewer system administration: title 18.

Wastewater treatment: title 18.

(4) "Auxiliary intake." Any piping connection or other device whereby water may be secured from any sources other than from the public water system.

(5) "Backflow." The reversal of the intended direction of flow of water or mixtures of water and other liquids, gases, or other substances into the distribution pipes of a potable water system from any source.

(6) "Backpressure." A pressure in the downstream piping that is higher than the supply pressure.

(7) "Backsiphonage." Negative or sub-atmospheric pressure in the supply piping.

(8) "Backflow prevention assembly." An approved assembly designed to prevent backflow.

(9) "Bypass." Any system of piping, or other arrangement, whereby water may be diverted around a backflow prevention assembly, meter, or other public water system controlled device.

(10) "Certified backflow inspector." An individual who possesses a valid certificate of competency in testing and evaluation of backflow prevention assemblies issued by the Tennessee Department of Environment and Conservation.

(11) "City." The City of Elizabethton, Tennessee; Elizabethton Water Resources Department.

(12) "City manager." The manager of the City of Elizabethton or his/her designee, who is responsible for the implementation of the provisions of this chapter.

(13) "Contamination." The introduction or admission of any foreign substances that may cause illness or death.

(14) "Contaminant." Any substance introduced into the public water system that may cause illness or death.

(15) "Cross-connection." Any physical arrangement whereby public water supply is connected, directly or indirectly, with any other water supply system, sewer, drain, conduit, pool, storage reservoir, plumbing fixture, or other device which contains, or may contain, contaminated water, sewage, or other waste or liquid of unknown or unsafe quality, which may be capable of contaminating the public water supply as a result of backflow caused by the manipulation of valves; because of ineffective check valves, backpressure valves, or any other arrangement.

(16) "Customer." Any person, business, industry, or governmental entity that obtains water, by purchase or without charge, from the water provider.

(17) "Direct cross-connection." An actual or potential cross-connection subject to backsiphonage and backpressure.

(18) "Failed" The status of a backflow prevention assembly as determined by a performance evaluation based on the failure to meet any of the minimums set forth by the approved testing procedure.

(19) "Hazard, degree of." A term derived from evaluation of the potential risk to public health and the adverse effect of the hazard upon the public water system.

(20) "Hazard, health." A cross-connection or potential cross-connection involving any substance that could, if introduced to the public water supply, cause death, illness, and spread disease; also known as a high hazard.

(21) "Hazard, plumbing." A cross-connection in a customer's potable water system plumbing that is not properly protected by an approved air gap or backflow prevention assembly.

(22) "Industrial fluid." Any fluid, suspension, or solution that may chemically, biologically, or otherwise contaminate or pollute in a form or concentration that could constitute a hazard if introduced into the public water supply.

(23) "Inspection." An on-site evaluation of an establishment to determine if backflow prevention assemblies are needed by the customer to protect the public water system from actual or potential cross-connections.

(24) "Interconnection." Any system of piping or other arrangement whereby public water supply is connected directly with a sewer, drain, conduit, or other non-potable water device.

(25) "Nontoxic." Not poisonous; a substance that cannot cause illness or discomfort if ingested.

(26) "Owner" or "property owner." The legal owner of the property as recorded in the Register of Deeds Office for Carter County, Tennessee, including a lessee, guardian, receiver or trustee, operator of a business, or the said person's duly authorized agent.

(27) "Parallel devices." Two (2) backflow prevention devices located adjacent to one another with approved plumbing and installed in such a way to keep water from being shut off during repair or replacement of a single device.

(28) "Passed." The status of a backflow prevention assembly as determined by a performance evaluation in which the assembly meets all minimums set forth by the approved testing procedure.

(29) "Performance evaluation." An evaluation of an approved Reduced Pressure Principle Assembly (including approved detector assemblies) using the latest approved testing procedures in determining the status of the assembly.

(30) "Person." Any individual, firm, corporation, partnership, association, organization, entity, including governmental entities, or any combination thereof.

(31) "Pollutant." A substance in the public water system that could constitute a hazard of any degree or could be aesthetically objectionable if introduced into the public water supply.

(32) "Pollution." The presence of a pollutant or substance in the public water system that degrades its quality so as to constitute a hazard of any degree.

(33) "Potable water." Water that is safe for human consumption as prescribed by the Tennessee Department of Environment and Conservation and Elizabethton Water Resources.

(34) "Public water supply." Elizabethton Water Resources or any other entity that furnishes potable water for general use and which is recognized as a public water supply by the Tennessee Department of Environment and Conservation.

(35) "Public water system." Elizabethton Water Resources or any other water system furnishing water to the public for general use which is recognized as a public water supply by the State of Tennessee.

(36) "Reduced Pressure Principle Assembly or Reduced Pressure Zone Backflow Preventer ("RP" or "RPZ")." An Assembly consisting of two (2) independently acting approved check valves together with hydraulically operating, mechanically independent, pressure differential relief valves located between the check valves and downstream from the first check valve. These units exist as an assembly equipped with resilient seated test cocks, located between two (2) tightly closing resilient seated shut-off valves.

(37) "Reduced pressure principle detector assembly." A specially designed assembly composed of a line-size approved reduced pressure principle backflow prevention assembly with a bypass containing a water meter and approved reduced pressure principle backflow prevention assembly specifically designed for such application.

(38) "Service connection." The point of delivery to the customer's water system; the terminal end of a service connection from the public water system where water resources loses direct control over the water. "Service connection" includes connections to fire hydrants and all temporary or emergency water service connections made to the public water system.

(39) "State." The State of Tennessee, Tennessee Department of Environment and Conservation.

(40) "Survey." An evaluation of a premises by a water system performed for the determination of actual or potential cross-connection hazards and the appropriate backflow prevention needed.

(41) "Water system." The water system operated, whether located inside or outside the corporate limits of the City of Elizabethton, shall be considered as made up of two (2) parts, the utility system and the customer system.

(a) The utility System shall consist of the facilities for the production, treatment, storage, and distribution of water, and shall include all those facilities of the water system under the complete control of Elizabethton Water Resources, up to the point where the customer's system begins downstream of the water meter.

(b) The Customer System shall include those parts of the facilities beyond the termination of Elizabethton Water Resources' distribution system. (2000 Code, § 18-401, as replaced by Ord. #58-18, May 2018 *Ch1\_12-13-18*)

**18-402. Standards.** Elizabethton Water Resources must comply with Tennessee Code Annotated, § 68-221-711, as well as the rules and regulations for public water supplies, legally adopted in accordance with this code, which pertain to cross-connections, auxiliary intakes, bypasses, and interconnections, and establish an effective, ongoing program to control these undesirable water uses. (2000 Code, § 18-402, as replaced by Ord. #58-18, May 2018 *Ch1\_12-13-18*)

**18-403. Construction, operation, and supervision.** It shall be unlawful for any person to cause a cross-connection to be made; or allow one to exist for any purpose whatsoever, unless the construction and operation of same have been approved by the Tennessee Department of Environment and Conservation and the operation of such cross-connection, auxiliary intakes, bypass or interconnection is at all times under the direct supervision of the city manager. (2000 Code, § 18-403, as replaced by Ord. #58-18, May 2018 *Ch1\_12-13-18*)

**18-404. Statement required.** Any person whose premises are supplied with water from the public water supply, and who also has on the same premises a separate source of water supply, or stores water in a reservoir from which the water stored therein is circulated through a piping system, shall file a statement with the city manager. The statement shall declare that there are no unapproved or unauthorized auxiliary intakes, bypasses, or interconnections and shall also contain an agreement that no cross-connection, auxiliary intake, bypass, or interconnection shall be permitted upon the premises. (2000 Code, § 18-404, as replaced by Ord. #58-18, May 2018 *Ch1\_12-13-18*)

**18-405. Inspections required.** (1) It shall be the duty of Elizabethton Water Resources to inspect all properties served by the public water supply where cross-connections are deemed possible. The city manager shall establish the frequency of inspections and re-inspections based on potential health hazards to the City of Elizabethton Public Water Supply and as approved by the Tennessee Department of Environment and Conservation.

(2) The City of Elizabethton may contract with a licensed inspection company employing certified backflow inspectors to conduct annual testing of all backflow prevention devices. When devices fail, it shall be the customer's responsibility to repair or replace and have the assembly retested by a city approved inspector. Customers who are required to test annually may be assessed a fee to cover the cost of inspection services.

(3) All inspectors shall be approved by the State of Tennessee and the City of Elizabethton. Before conducting an inspection, inspectors shall have up-to-date state and test kit calibration certifications on file with the city. Inspectors are responsible for submitting inspection reports to the city within ten (10) days of inspection. Copies of reports shall also be left with the customer.

(a) Reports shall clearly indicate whether the device passed or failed and shall include: inspector's name, signature, and certification number; name and address of premises; device location, size, manufacturer, type, serial number, and full model number; date of inspection; test values; and comments.

(b) If an existing device is being replaced, the original serial number shall be listed under the new device serial number with the word "old" labeled beside it. If the device serial number and model number cannot be verified, the device shall be replaced.

(4) All new devices shall be inspected at installation. All devices for new construction shall be inspected prior to the issuance of a certificate of occupancy. Existing devices shall be inspected at a minimum once every twelve (12) months and shall not exceed ninety (90) days beyond their anniversary date.

(5) If an inspector fails to comply with the city's inspection criteria or is knowingly falsifying information, the inspector shall have all privileges suspended and shall not be allowed to test backflow assemblies in the City of Elizabethton or its facilities. Length of suspension is at the discretion of the city manager. Lack of compliance may result in the inspector being taken off the city's approved list and notification being sent to the State of Tennessee. (2000 Code, § 18-405, as replaced by Ord. #58-18, May 2018 *Ch1\_12-13-18*)

**18-406. Right of entry for inspections.** The city manager shall have the right to enter at any reasonable time, any property, connected to the City of Elizabethton public water supply for the purpose of inspecting the piping system or systems thereof for cross-connections, auxiliary intakes, bypasses, or interconnections. On request, the owner, lessee, or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal to provide such information or refusal of access, when requested, shall be deemed evidence of the presence of cross-connections, thereby subjecting the premises to the penalties and enforcement as defined under this chapter. (2000 Code, § 18-406, as replaced by Ord. #58-18, May 2018 *Ch1\_12-13-18*)

**18-407. Use of protective devices.** (1) Where any of the following conditions exist, the city manager shall require the use of an approved protective device on the line serving the premises to assure that any contaminant that may originate in the customer's premises is contained therein:

(a) An effective air-gap separation cannot be provided,

(b) The owner and/or occupant of the premises cannot demonstrate to the city that the water use and protective features of the plumbing are such as to pose no threat to the safety of the public water supply,

(c) The nature and mode of operation within a premise are such that frequent alterations are made to the plumbing.

(d) There is a likelihood that protective measures may be subverted, altered, or disconnected.

The protective device shall be a Reduced Pressure Zone back-flow preventer (RPZ) approved by the Tennessee Department of Environment and Conservation and the City of Elizabethton.

(2) The method of installation of back-flow protective devices shall be approved by the city manager prior to installation and shall meet or exceed the criteria set forth by the Tennessee Department of Environment and Conservation. The installation shall be at the expense of the owner or occupant of the premises.

(a) All RPZs shall be installed in a horizontal position with the relief port down. Exception: existing fire lines that require a change out with major reconstruction of plumbing may be a vertical installation as long as the device and installation is approved by the City of Elizabethton in writing.

(b) Strainers shall be installed ahead of the device. No strainer is to be used in a fire line without the written approval of the fire official having jurisdiction.

(c) RPZs shall never be installed in a pit or other area that could flood. RPZs shall have protection from freezing and vandalism. RPZs shall be installed where they are easily accessible for testing and maintenance.

(d) All devices shall be at least three (3) times the pipe diameter from wall, a minimum of twelve inches (12") above the floor, and a maximum height of sixty inches (60") from floor level.

(e) The RPZ shall have a drain adequate to keep the area from flooding. The relief valve shall never be plugged, and a device shall be installed with an air gap if a drain system is connected to the relief port.

(f) All strainers, pressure reducers, valves, and shutoffs pertaining to the back-flow assembly shall meet the installation requirements set forth by the State of Tennessee, the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research, and the City of Elizabethton.

(3) Duplicate parallel devices shall be required to avoid the necessity of discontinuing water service to test or repair the protective device or devices where the use of water is critical to the continuance of normal operations or protection of life, health, property, or equipment. If it is found that only one (1) unit has been installed and the continuance of service is critical, the city manager shall notify, in writing, the occupant of the premises that parallel devices shall be required for future testing.

(4) Residential and commercial fire service lines shall require a reduced pressure principal detector assembly to be installed. The device meter

shall register accurately for very low flow rates of flows up to three (3) gallons per minute and shall show registration for all flow rates.

(5) Fire lines and systems containing contaminants or industrial fluids shall not be connected to the public water supply and this condition shall not be mitigated by the use of protective devices under this chapter. (2000 Code, § 18-407, as replaced by Ord. #58-18, May 2018 *Ch1\_12-13-18*)

**18-408. Correction of deficiencies and violations.** Following an inspection where deficiencies or violations are identified, the following time frames shall apply:

(1) Backflow prevention assemblies shall be replaced or repaired in accordance with the type of hazard and the possibility of contamination. Hazard and level of hazard shall be determined by Water Resources personnel.

(a) High risk premises shall be allowed a maximum of up to seven (7) days to have the assembly rebuilt or replaced, and re-tested.

(b) All high hazard premises that pose an immediate or imminent risk of contamination shall have assemblies repaired and retested immediately.

(c) Where plumbing hazards are present and there is no immediate risk of cross-connections and/or an imminent risk of contamination, failed devices shall be repaired and retested within thirty (30) calendar days and shall not exceed a maximum of ninety (90) days.

(2) Following failure of an inspection, the certified inspector shall notify Water Resources immediately for a high hazard, and within forty-eight (48) hours for all other hazards. A written plan of action shall also accompany notification which shall include: date of notification; name and address of premises; device model, size, and manufacturer; timetable for repair or replacement of the assembly; and recommendations for any other action necessary to be taken. All costs associated with inspections, including repairs or replacement, shall be the responsibility of the property owner or occupant.

(3) The failure to correct conditions threatening the safety of the public water system as prohibited by this chapter and Tennessee Code Annotated, § 68-221-711, within the time limits set by this code shall be grounds for denial of water service. If, after the specified time, proper protection has not been provided against a high hazard, water service shall be discontinued immediately. If proper protection has not been provided after the designated time for all other hazards, the city shall give the customer legal notification that water service is to be discontinued, and physically separate the public water supply from the customer's on-site piping system in such a manner that the two (2) systems cannot be reconnected by an unauthorized person.

(4) Where cross-connections, interconnections, auxiliary intakes, or bypasses are found that constitute an extreme hazard by posing an immediate concern of contaminating the public water system, the city manager shall require immediate corrective action to be taken to eliminate the threat. This

action includes the disconnection of the public water supply from the on-site piping system in the event that the imminent hazards cannot be corrected immediately. (2000 Code, § 18-408, as replaced by Ord. #58-18, May 2018 *Ch1\_12-13-18*)

**18-409. Non-potable water to be labeled.** The potable water supply made available to premises served by Elizabethton Water Resources is protected from possible contamination as specified herein. Any water outlet which could be used for potable or domestic purposes and which is not supplied by Elizabethton Water Resources shall be labeled in a conspicuous manner as:

#### WATER UNSAFE FOR DRINKING

Minimum acceptable signs shall have black letters at least one inch (1") high located on a brightly colored or white background, outlined in red. (2000 Code, § 18-409, as replaced by Ord. #58-18, May 2018 *Ch1\_12-13-18*)

**18-410. Applicability of chapter.** The requirements contained herein shall apply to all premises served by Elizabethton Water Resources whether located inside or outside the corporate limits, and are a part of the conditions required to be met for the city to provide water services to any premises. Such action, being essential for the protection of the water distribution system against the entrance of contamination which may render the water unsafe, or otherwise undesirable, shall be enforced rigidly without regard to location of the premises, whether inside or outside the City of Elizabethton corporate limits. (2000 Code, § 18-410, as replaced by Ord. #58-18, May 2018 *Ch1\_12-13-18*)

**18-411. Severability.** (1) Each separate provision of this chapter is deemed independent of all other provisions herein so that if any provision or provisions of this chapter shall be declared invalid, all other provisions thereof shall remain enforceable.

(2) If any provisions of this chapter and any other provisions of the law impose overlapping or contradictory regulations, or contain any restrictions covering any of the same subject matter, that provision which is more restrictive or imposes higher standards or requirements shall govern. (2000 Code, § 18-412, as replaced by Ord. #58-18, May 2018 *Ch1\_12-13-18*)

**18-412. Violations and penalties.** Any person who neglects or refuses to comply with any of the provisions of this chapter shall be deemed guilty of misdemeanor and, upon conviction thereof, shall be fined not less than ten dollar (\$10.00) nor more than fifty dollars (\$50.00), and each day of continued violation after conviction shall constitute a separate offense. In addition to the foregoing fine and penalties, the city manager of the City of Elizabethton, shall discontinue the public water supply service at any premises upon which there

is found to be a cross-connection, auxiliary intake, bypass, or interconnection, and service shall not be restored until such cross-connection, auxiliary intake, bypass, or interconnection, has been discontinued. (2000 Code, § 18-413, as replaced by Ord. #58-18, May 2018 *Ch1\_12-13-18*)

**18-413.--18-414. Deleted.** (2000 Code, §§ 18-414, 18-411, as deleted by Ord. #58-18, May 2018 *Ch1\_12-13-18*)

## CHAPTER 5

### STORMWATER DISCHARGE CONTROL

#### SECTION

- 18-501. Purpose.
- 18-502. Definitions.
- 18-503. Illicit discharges.
- 18-504. Elimination of discharges or connections.
- 18-505. Notification of spills.
- 18-506. Enforcement.

**18-501. Purpose.** It is the purpose of this chapter to:

1. Protect, maintain, and enhance the environment of the City of Elizabethton and the public health, safety and 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.

2. Maintain and improve the quality of the receiving waters into which stormwater runoff flows, including without limitation, lakes, rivers, streams, ponds, and wetlands.

3. Enable the City of Elizabethton to comply with the National Pollution Discharge Elimination System (NPDES) permit and applicable regulations, 40 CFR 122.26 for stormwater discharges. (2000 Code, § 18-501)

**18-502. Definitions.** For the purposes 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.

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

2. "City." The City of Elizabethton , Tennessee.

3. "Containment." Any physical, chemical, biological, or radiological substance or matter in water.

4. "Director." The public works director of the city or his/her designee, who is responsible for the implementation of the provisions of this chapter.

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

6. "Illicit connections." Illegal and/or unauthorized connections to the municipal separate stormwater system whether or not such connections result in discharges into that system.

7. "Municipal Separate Storm Sewer System (MS4)." The conveyances owned or operated by the municipality for the collection and transportation of stormwater, including but not limited to, the roads and streets and their drainage systems, catch basins, curbs, gutters, ditches, man-made channels, and storm drains.

8. "National Pollutant Discharge Elimination System (NPDES) permit." A permit issued pursuant to 33 U.S.C. 1342.

9. "Pollutant." Sewage, industrial wastes, other wastes or materials (liquids or solids).

10. "Stormwater runoff (also called stormwater)." That portion of the precipitation on a drainage area that is discharged from the area into the municipal separate storm sewer system.

11. "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.

12. "TDEC." The Tennessee Department of Environment and Conservation.

13. "Waters" or "waters of the state." Any and all waters, public or private, on or beneath the surface of the ground, which are contained within, flow through or border upon Tennessee or any portion thereof except those bodies of water confined to and retained within the limits of private property in single ownership which do not combine or effect a junction with natural surface or underground waters. (2000 Code, § 18-502)

**18-503. Illicit discharges.** 1. Applicability. This section shall apply to any discharge entering the municipal separate storm sewer system that is not composed entirely of stormwater.

2. Prohibition of illicit discharges. a. No person shall introduce or cause to be introduced into the municipal separate storm system any discharge that is not composed entirely of stormwater. The commencement, conduct, or continuance of any non-stormwater discharge to the municipal separate storm sewer system is prohibited.

b. Exceptions. Uncontaminated discharges from the following sources are permitted:

i. Landscape irrigation or lawn watering with potable water or water from a natural surface water source;

- ii. Diverted stream flows permitted by the State of Tennessee;
- iii. Rising groundwater;
- iv. Groundwater infiltration (as defined at 40 CFR 35.2005(20)) to separate storm sewers;
- v. Pumped groundwater;
- vi. Foundation or footing drains;
- vii. Water discharged from crawl space pumps;
- viii. Air conditioning condensate;
- ix. Springs;
- x. Individual noncommercial residential washing of vehicles; or vehicle washing for a charity, non-profit fundraising or similar noncommercial purpose;
- xi. Flows from natural riparian habitat or wetlands;
- xii. Swimming pools (if dechlorinated--typically less than one (1) part per million chlorine);
- xiii. Street wash waters resulting from normal street cleaning operations;
- xiv. Discharges resulting from emergency fire fighting activities;
- xv. Discharges pursuant to a valid and effective NPDES permit issued by the State of Tennessee;
- xvi. Discharges necessary to protect public health and safety, as specified in writing by the city;
- xvii. Discharges related to de-icing operations;
- xviii. Dye testing permitted by the city; and
- xix. Discharges resulting from emergency public utility repair activities for breaks in water and sewer lines, discharges from water line flushing and blow-offs.

3. Prohibition of illicit connections. a. The construction, use, maintenance, and continued existence of illicit connections to the separate municipal storm sewer system is prohibited.

b. This prohibition expressly includes, without limitations, 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. (2000 Code, § 18-503)

**18-504. Elimination of discharges or connections.** 1. Any person, owner or operator responsible for a property or premises, which is the source of an illicit discharge, shall be required to implement, at the person's expense, the best management practices necessary to prevent the further discharge of pollutants to the municipal separate storm sewer system.

2. Any person responsible for a property or premises where an illicit connection is located shall be required, at the person's expense, to eliminate the connection to the municipal separate storm sewer system.

3. 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. (2000 Code, § 18-504)

**18-505. Notification of spills.** 1. 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 stormwater and/or the municipal separate stormwater system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release.

2. In the event of a release of hazardous materials, the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. The person shall notify the director in person or by telephone or facsimile no later than the next business day.

3. In the event of a release of non-hazardous materials, the person shall notify the director in person or by telephone or facsimile no later than the next business day.

4. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the director within three (3) business days of the telephone notice.

5. 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 five (5) years. (2000 Code, § 18-505)

**18-506. Enforcement.** 1. Authority. a. The director shall have the authority to issue notices of violation and citations.

b. The director may require reports or records from the permittee or person responsible for eliminating the illicit discharge or illicit connection to insure compliance.

2. Inspections by the city. a. The director shall have the right to enter onto private properties for the purposes of investigating a suspected violation of this chapter.

b. The owner/operator of any facility, operation, or residence where an illicit discharge or illicit connection is known or suspected shall allow the director or his/her authorized representative to have access to and copy at reasonable times, any applicable state or federal permits

related to the suspected or known discharge or connection, or any reports or records kept as a condition of this chapter.

c. Failure on the part of an owner or operator to allow such inspections by the director shall be cause for the issuance of a stop work order, withholding of a certificate of occupancy, and/or civil penalties.

3. Enforcement, penalties and liability. a. Any person in violation of this chapter shall be subject to a civil penalty, stop work order, withholding of a certificate of occupancy, and civil damages.

b. In order to gain compliance, the director may notify other city departments to deny service to the property until the site, facility, activity and/or residence has been brought into compliance with this chapter.

c. Any person who violates any provisions of this chapter may also be liable to the city in a civil action for damages.

d. The remedies provided for in this chapter are cumulative and not exclusive, and shall be in addition to any other remedies provided by law.

e. Neither the approval of a discharge under the provisions of this chapter nor compliance with the conditions of such approval shall relieve any person of responsibility for damage to other persons or property or impose any liability upon the city for damage to other persons or property.

f. The City of Elizabethton, pursuant to Tennessee Code Annotated § 68-221-1106, hereby declares that any person who violates this chapter is subject to a civil penalty of not less than fifty dollars (\$50.00) or more than five thousand dollars (\$5,000.00) per day for each day of violations. Each day of violation constitutes a separate violation.

g. In assessing a civil penalty, the following factors may be considered:

i. The harm done to the public health or the environment;

ii. Whether or not the civil penalty imposed will be a substantial economic deterrent to the illegal activity;

iii. The economic benefit gained by the violator from the violation;

iv. The amount of effort put forth by the violator to remedy this violation;

v. Any unusual or extraordinary enforcement costs incurred by the City of Elizabethton; and

vi. Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

h. The City of Elizabethton may also assess damages proximately caused by the violator to the city which may include any

reasonable expenses incurred in investigating and enforcing violations of this chapter or any actual damages caused by the violation.

i. Appeal from any assessment of civil penalty or damages or both shall be to a three (3) member panel comprising the director, the city attorney, and the city council member who represents the City of Elizabethton Regional Planning Commission. A written petition for review of such damage assessment or civil penalty shall be filed by the aggrieved party in the office of the director within thirty (30) days after the damage assessment or civil penalty is served upon the violator, either personally or by certified mail, or return receipt requested. Failure on part of the violator to file a petition for appeal in the office of the director shall be deemed consent to the damage assessment or civil penalty and shall become final.

j. Whenever any damage assessment or civil penalty has become final because of a violator's failure to appeal the city's damage assessment or civil penalty, the city may apply to the chancery court for a judgment and seek execution of the same. (2000 Code, § 18-506)

**CHAPTER 6****STORMWATER AND WATER QUALITY ISSUES****SECTION**

- 18-601. General provisions.
- 18-602. Definitions.
- 18-603. Authority.
- 18-604. Water quality management.
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**18-601. General provisions.** 1. Purpose. It is the purpose of this chapter to:

- a. Apply to all areas located within the jurisdiction of the City of Elizabethton, Tennessee.
- b. Protect, maintain, and enhance the environment of the City of Elizabethton and the public health, safety and the general welfare of the citizens of the city, by controlling discharges of pollutants to the public stormwater system, with the intent of maintaining and improving 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.
- c. Enable the City of Elizabethton to comply with the National Pollutant Discharge Elimination System (NPDES) permit and applicable regulations, 40 CFR 122.26 for stormwater discharges.
- d. Allow the City of Elizabethton to exercise the powers granted in Tennessee Code Annotated § 68-221-1105, which provides that, among other powers municipalities have with respect to water quality management facilities, they have the power by ordinance or resolution to:
  - i. Exercise general regulation over the planning, location, construction, and operation and maintenance of water quality management facilities in the municipality, whether or not owned and operated by the municipality;
  - ii. Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute;
  - iii. Establish standards to regulate stormwater contaminants as may be necessary to protect water quality;

iv. Review and approve plans and plats for water quality management in proposed subdivisions or commercial developments;

v. Issue permits for stormwater discharges or for the construction, alteration, extension, or repair of water quality management 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. Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of stormwater contamination, whether public or private.

2. Administration. The city manager and the staff under the city manager's supervision shall administer the provisions of this chapter. (2000 Code, § 18-601)

**18-602. Definitions.** For purposes of this chapter, 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.

For the purpose of this chapter, the following definitions shall apply:

1. "BMP" or "BMPs." Best Management Practices. Schedules of activities, prohibitions of practices, maintenance procedures, water quality management facilities, structural controls and other management practices designed to prevent or reduce the pollution of waters of the United States. Water quality BMPs may include structural devices, such as water quality management facilities, or non-structural practices such as buffers or natural open spaces.

2. "CFR" Code of Federal Regulations.

3. "Channel." A natural or man-made watercourse of perceptible extent, with definite bed and banks to confine and conduct continuously or periodically flowing water.

4. "City." City of Elizabethton, Tennessee

5. "City manager." The City Manager of the City of Elizabethton, Tennessee, or their designee.

6. "Construction." Any placement, assembly, or installation of facilities or equipment (including contractual obligations to purchase such facilities or equipment) at the premises where such equipment will be used, including preparation work at such premises.

7. "Covenant for permanent maintenance of water quality facilities and best management practices." A legal document executed by the property owner, or a homeowners' association as owner of record, and recorded with the

Register of Deeds in Carter County, Tennessee, which guarantees perpetual and proper maintenance of water quality management facilities and best management practices.

8. "Development." Any land change that alters the hydrologic or hydraulic conditions of any property. Often referred to as "site development." Development includes, but is not limited to, providing access to a site, clearing of vegetation, grading, earth moving, providing utilities, roads and other services such as parking facilities, water quality management facilities and erosion control systems, potable water and wastewater systems, altering land forms, or construction or demolition of a structure on the land.

9. "Development plan." Detailed engineered/architectural drawing(s) of a commercial, industrial, institutional or residential development project, showing existing site conditions and proposed improvements with sufficient detail (e.g. technical reports, specifications, survey) for city review, approval, and then subsequent construction. The contents of a development plan are further defined by the Elizabethton Regional Planning Commission, the city zoning ordinance, subdivision regulations, building code and other city departmental standards for constructing developments and public works projects.

10. "Existing stormwater facility." Any existing structural feature that slows, treats, filters, or infiltrates runoff after a rainfall event.

11. "Hotspot." An area where the land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.

12. "Lake." An inland body of standing water, usually of considerable size.

13. "NPDES." National Pollutant Discharge Elimination System. NPDES is the program administered by the United States Environmental Protection Agency to eliminate or reduce pollutant discharges to the waters of the United States.

14. "Owner" or "property owner." The legal owner of the property as recorded in the Register of Deeds Office for Carter County, Tennessee, including a lessee, guardian, receiver or trustee, operator of a business, and the said person's duly authorized agent.

15. "Person." Any individual, firm, corporation, partnership, association, organization or entity, including governmental entities, or any combination thereof.

16. "Pond." An inland body of standing water that is usually smaller than a lake.

17. "Redevelopment." The improvement of a lot or lots that have been previously developed.

18. "Sediment." Solid material, either mineral or organic, that is in suspension, is being transported, or has been moved from its site of origin by erosion.

19. "Stormwater." Also "stormwater runoff" or "runoff." Surface water resulting from rain, snow or other form of precipitation, which is not absorbed into the soil and results in surface water flow and drainage.

20. "Stream." For the specific purpose of vegetated buffers, a stream is defined as a linear surface water conveyance that can be characterized with either perennial or ephemeral base flow and:

a. Is regulated by the city as a Special Flood Hazard Area (SFHA); or

b. Is, or has been, identified by the city, the United States Army Corps of Engineers or the Tennessee Department of Environment and Conservation as a stream.

21. "Structure." Anything constructed or erected such that the use of it requires a more or less permanent location on or in the ground. Such construction includes, but is not limited to, objects such as buildings, towers, smokestacks, overhead transmission lines, carports and walls.

22. "TMDL." Total Maximum Daily Load. A TMDL is a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards, and an allocation of that amount to the source(s) of the pollutant.

23. "Transporting." Any moving of earth materials from one place to another, other than such movement incidental to grading, as authorized on an approved plan.

24. "Vegetated buffer." A use-restricted vegetated area that is located along the perimeter of streams, ponds, lakes or wetlands, containing natural vegetation and grasses, or enhanced or restored vegetation.

25. "Water Quality BMP Manual." A document prepared and maintained by the city which contains policies, design standards and criteria, technical specifications and guidelines, maintenance guidelines, and other supporting documentation to be used as the policies and technical guidance for implementation of the provisions of this chapter.

26. "Water quality management facilities." Structures and constructed features designed to prevent or reduce the discharge of pollution in stormwater runoff from a development or redevelopment. Water quality management facilities can often be referred to as BMPs.

27. "Water quality management plan." An engineering plan for the design of water quality management facilities and best management practices within a proposed development or redevelopment. The water quality management plan includes a map showing the extent of the land development activity and location of water quality management facilities and BMPs, design calculations for water quality management facilities and BMPs, and may contain record drawings/certifications and covenants for permanent maintenance of water quality facilities and best management practices.

28. "Water quality volume reduction." A decrease in the water quality volume for one (1) or more areas of a proposed development which is obtained

only for specific site development features or approaches that can reduce or eliminate the discharge of pollutants in stormwater runoff. Water quality volume reductions can only be obtained when specific guidelines presented in the water quality BMP manual are met.

29. "Water quality volume reduction areas." Areas with the proposed development or redevelopment for which a water quality volume reduction can be obtained.

30. "Wetland." An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetland determination shall be made by the United States Army Corps of Engineers, and/or the Tennessee Department of Environment and Conservation, and/or the Natural Resources Conservation Service. (2000 Code, § 18-602)

**18-603. Authority.** 1. The city manager is authorized to adopt additional policies, criteria, specifications and standards for the proper implementation of the requirements of this chapter in a water quality BMP manual. The policies, criteria and requirements of the water quality BMP manual shall be enforceable, consistent with other provisions of this chapter.

2. The city manager shall have the authority to prepare, or have prepared, master plans for drainage basins and to establish regulations, or direct capital improvements to carry out said master plans.

3. In the event that the city manager determines that a violation of any provision of this chapter has occurred, or that work does not have a required plan or permit, or that work does not comply with an approved plan or permit, the city manager may issue a notice of violation to the permittee or property owner and/or any other person or entity having responsibility for construction work performed at a site development. (2000 Code, § 18-603)

**18-604. Water quality management.** 1. General requirements.

a. Owners of land development activities not exempted under § 18-604(3) herein must submit a water quality management plan. The water quality management plan shall be submitted as part of the development plan.

b. The water quality management plan shall include the specific required elements that are listed and/or described in the water quality BMP manual. The city manager may require submittal of additional information in the water quality management plan as necessary to allow an adequate review of the existing or proposed site conditions.

c. The water quality management plan shall be subject to any additional requirements set forth in the subdivision regulations, zoning ordinances, or other city ordinances and regulations.

d. Water quality management plans shall be prepared and stamped by an engineer, landscape architect, or architect competent in civil and site design and licensed to practice in the State of Tennessee. Portions of the plan that require hydraulic or hydrologic calculations and design shall be prepared and stamped by a licensed professional competent in civil and site design and licensed to practice in the State of Tennessee.

e. The approved water quality management plan shall be adhered to during grading and construction activities. Under no circumstance is the owner or operator of land development activities allowed to deviate from the approved water quality management plan without prior approval of a plan amendment by the city manager.

f. The approved water quality management plan shall be amended if the proposed site conditions change after plan approval is obtained, or if it is determined by the city manager during the course of grading or construction that the approved plan is inadequate.

g. The water quality management plan shall include a listing of any legally protected state or federally listed threatened or endangered species and/or critical habitat (if applicable) located in the area of land disturbing activities, and a description of the measures that will be used to protect them during and after grading and construction.

h. Water quality management facilities, BMPs, vegetated buffers and water quality volume reduction areas shown in water quality management plans shall be maintained through the declaration of a protective covenant, entitled covenants for permanent maintenance of water quality facilities and best management practices (covenant). The covenant must be approved and shall be enforceable by the city. The covenant shall be recorded with the deed and shall run with the land and continue in perpetuity.

i. Water quality management facilities, BMPs, vegetated buffers and water quality volume reduction areas shall be placed into a permanent water quality easement that is recorded with the deed to the parcel and held by the city.

j. A maintenance right-of-way or easement, having a minimum width of twenty feet (20') shall be provided to all water quality management facilities, BMPs, vegetated buffers and water quality volume reduction areas from a driveway, public road or private road.

k. Owners of land development activities not exempted from submitting a water quality management plan may be subject to additional watershed or site-specific requirements than those stated in § 18-604(2) of this chapter in order to satisfy local or state NPDES, TMDL or other regulatory water quality requirements. Areas subject to additional requirements may also include developments, redevelopments or land uses that are considered pollutant hotspots or areas where the

city manager has determined that additional restrictions are needed to limit adverse impacts of the proposed development on water quality or channel protection.

l. The city manager may waive or modify any of the requirements of § 18-604(4) of this chapter if adequate water quality treatment and channel protection are suitably provided by a downstream or shared off-site water quality management facility, or if engineering studies determine that installing the required water quality management facilities or BMPs would actually cause adverse impact to water quality or cause increased channel erosion or downstream flooding.

m. This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, deed restrictions, or existing ordinances and regulations. However, where the provisions of this chapter and another regulation conflict or overlap, that provision which is more restrictive or imposes higher standards or requirements shall prevail. It is required that the city manager be advised of any such regulatory conflicts upon submittal of the water quality management plan.

2. Design criteria. a. All developments or redevelopments that must submit a water quality management plan shall provide treatment of stormwater runoff in accordance with the following requirements:

i. Stormwater runoff-site must be treated for water quality prior to discharge from the development or redevelopment site in accordance with the stormwater treatment standards and criteria provided in the water quality BMP manual.

ii. The treatment of stormwater runoff shall be achieved through the use of one (1) or more water quality management facilities and/or BMPs that are designed and constructed in accordance with the design criteria, guidance, and specifications provided in the water quality BMP manual.

iii. Methods, designs or technologies for water quality management facilities or BMPs that are not provided in the water quality BMP manual may be submitted for approval by the city manager if it is proven that such methods, designs or technologies will meet or exceed the stormwater treatment standards set forth in the water quality BMP manual and this chapter. Proof of such methods, designs, or technologies must meet the minimum testing criteria set forth in the water quality BMP manual.

iv. BMPs shall not be installed within public rights-of-way or on public property without prior approval of the city manager.

b. All owners of developments or redevelopments who are required to submit a water quality management plan shall provide downstream channel erosion protection in accordance with design criteria

stated in the water quality BMP manual. Downstream channel erosion protection can be provided by an alternative approach in lieu of controlling the channel protection volume subject to prior approval by the city manager. Sufficient hydrologic and hydraulic analysis that shows that the alternative approach will offer adequate channel protection from erosion must be presented in the water quality management plan.

c. All developments or redevelopments that must submit a water quality management plan shall establish, protect and maintain a vegetated buffer in accordance with the policies, criteria and guidance set forth in the water quality BMP manual along all streams, ponds, lakes and wetlands. Exemptions from this requirement are as follows:

i. Vegetated buffers are not required around the perimeter of ponds that have no known connection to streams, other ponds, lakes or wetlands.

ii. Vegetated buffers are not required around water quality management facilities or BMPs that are designed, constructed and maintained for the purposes of water quality and/or quantity (i.e., stormwater drainage) control, unless expressly required by the design standards and criteria for the facility that are provided in the water quality BMP manual.

d. In addition to the above requirements, all owners of developments or redevelopments that must submit a water quality management plan shall:

i. Provide erosion prevention and sediment control in accordance with the ordinances and regulations of the city;

ii. Control stormwater drainage and provide peak discharge/volume control in accordance with the ordinances and regulations of the city;

iii. Adhere to all local floodplain development requirements in accordance with the ordinances and regulations of the city.

3. Exemptions. a. Owners of developments and redevelopments who conform to the criteria in § 18-604(3)(c) are exempt from the requirements of this chapter, unless the city manager has determined that treatment of stormwater runoff for water quality is needed in order to satisfy local or state NPDES, TMDL or other regulatory water quality requirements, or the proposed development will be a pollutant hotspot, or to limit adverse water quality or channel protection impacts of the proposed development.

b. The exemptions listed in § 18-604(3)(c) shall not be construed as exempting these owners of developments and redevelopments from compliance with stormwater requirements stated

in the subdivision regulations,<sup>1</sup> zoning ordinance,<sup>2</sup> or other city ordinances and regulations.

c. The following developments and redevelopments are exempt from the requirements for a water quality management plan:

i. Developments or redevelopments that disturb less than one (1) acre of land. No exemption is granted if the development or redevelopment is part of a larger common plan of development or sale that would disturb one (1) acre or more, and the stormwater runoff from the development or redevelopment is not treated for water quality via a downstream or regional water quality management facility or BMP that meets the requirements of this chapter;

ii. Minor land disturbing activities such as residential gardens and residential or non-residential repairs, landscaping, or maintenance work;

iii. Individual utility service connections, unless such activity is carried out in conjunction with the clearing, grading, excavating, transporting, or filling of a lot or lots for which a water quality management plan would otherwise be required;

iv. Installation, maintenance or repair of individual septic tank lines or drainage fields, unless such activity is carried out in conjunction with the clearing, grading, excavating, transporting, or filling of a lot or lots for which a water quality management plan would otherwise be required;

v. Installation of posts or poles;

vi. Farming activities;

vii. Emergency work to protect life, limb or property, and emergency repairs.

4. Performance bonds. a. A performance bond which guarantees satisfactory completion of construction work related to water quality management facilities, channel protection, and/or the establishment of vegetated buffers may be required.

b. Performance bonds shall name the City of Elizabethton, Tennessee, as beneficiary and shall be guaranteed in the form of a surety bond, cashier's check, or letter of credit from an approved financial institution or insurance carrier. The surety bond, cashier's check, or letter of credit shall be provided in a form and in an amount to be determined by the city manager. The actual amount shall be based on submission of

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<sup>1</sup>The subdivision regulations are of record in the planning and development office.

<sup>2</sup>Municipal code reference

Zoning ordinance: title 14, chapters 2--8.

plans and estimated construction, installation or potential maintenance and/or remediation expenses.

c. The city manager may refuse brokers or financial institutions the right to provide a surety bond, letter of credit, or cashier's check based on past performance, ratings of the financial institution, or other appropriate sources of reference information.

5. Special pollution abatement requirements. a. A special pollution abatement plan shall be required for the following land uses, which are considered pollutant hotspots:

i. Vehicle, truck or equipment maintenance, fueling, washing or storage areas including but not limited to: automotive dealerships, automotive repair shops, and car wash facilities;

ii. Recycling and/or salvage yard facilities;

iii. Restaurants, grocery stores, and other food service facilities;

iv. Commercial facilities with outside animal housing areas including animal shelters, fish hatcheries, kennels, livestock stables, veterinary clinics, or zoos;

v. Developments or redevelopments occupying potentially hazardous locations as follows:

(1) Any site on a list, register, or database compiled by the United States Environmental Protection Agency (EPA), the State of Tennessee Department Environment and Conservation (TDEC), or the city, for investigation, clean up, or other action regarding contaminants under any federal or state environmental law shall be a potentially hazardous location under this subsection. When the EPA or TDEC removes the site from the list, register or database, or when the owner otherwise establishes that contaminants do not pose a present or potential threat to human health or the environment, the site will no longer be considered a potentially hazardous location.

(2) The following properties may also be designated by the city manager as potentially hazardous locations:

(a) Existing and abandoned solid waste disposal sites;

(b) Hazardous waste treatment, storage, or disposal facilities, all as defined by the Federal Solid Waste Disposal Act, 42 U.S.C. 6901, et seq.

(c) Sites in which historical knowledge of land use or known past land use activity on the site requires designation as a potentially hazardous

location. When the owner provides evidence satisfactory to the city manager that contaminants do not pose a present or potential threat to human health or the environment, the site will no longer be considered a potentially hazardous location.

vi. Other producers of pollutants identified by the city manager as a pollutant hotspot using information provided to or collected by the city manager or their authorized representatives, or reasonably deduced or estimated by the city manager or their authorized representatives from engineering or scientific study.

b. A special pollution abatement plan may be required for land uses or activities that are not identified by this chapter as hotspot land uses, but are deemed by the city manager to have the potential to generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.

c. The special pollution abatement plan shall be submitted as part of the water quality management plan, and the BMPs submitted on the plan shall be subject to all other provisions of this chapter. Technical requirements for the plan shall be based on the provisions and guidelines set forth in the water quality BMP manual.

d. Best management practices specified in the special pollution abatement plan must be appropriate for the pollutants targeted at the site and must be approved with the water quality management plan.

e. A special pollution abatement plan will be valid for a period of five (5) years, at which point it must be renewed. At the time of renewal, any deficiency in the pollutant management method must be corrected. (2000 Code, § 18-604)

**18-605. NPDES permits.** Persons or entities who hold NPDES general, individual and/or multi-sector permits shall provide either a copy of such permit or the permit number assigned to them by the Tennessee Department of Environment and Conservation (TDEC) to the city manager no later than sixty (60) calendar days after issuance of the permit. (2000 Code, § 18-605)

**18-606. Record drawings/design certification.** 1. Prior to the release of a bond, or before a certificate of occupancy is granted, record drawings shall be provided to the city manager, certifying that all water quality management facilities and BMPs comply with the design shown on the approved water quality management plan(s). Features such as the boundaries of vegetated buffers and water quality volume reduction areas shall be provided to verify approved plans. Other contents of the record drawings must be provided in accordance with guidance provided in the water quality BMP manual.

2. Record drawings shall include sufficient design information to show that water quality management facilities required by this chapter will operate as approved. This shall include all necessary computations used to determine percent pollutant removal and the flow rates and treatment volumes required to size water quality management facilities and BMPs.

3. The record drawings shall be stamped by the appropriate design professional required to stamp the water quality management plan, as stated in § 18-604(1) of this chapter, and/or a registered land surveyor licensed to practice in the State of Tennessee. (2000 Code, § 18-606)

**18-607. Inspections and maintenance.** 1. Right of entry.

a. During and after construction, the city manager may enter upon any property which has a water quality management facility, BMP, vegetated buffer or water quality volume reduction area during all reasonable hours to inspect for compliance with the provisions of this chapter, or to request or perform corrective actions.

b. Failure of a property owner to allow such entry onto a property for the purposes set forth in § 18-607(1)(a) above shall be cause for the issuance of a stop work order, withholding of a certificate of occupancy, and/or civil penalties and/or damage assessments in accordance with § 18-611 of this chapter.

2. Requirements. a. The owner(s) of existing stormwater facilities, water quality management facilities, BMPs, vegetated buffers and water quality volume reduction areas shall at all times inspect and properly operate and maintain all facilities and systems of water quality treatment and drainage control (and related appurtenances), and all vegetated buffers and water quality volume reduction areas in such a manner as to maintain the full function of the facilities or best management practices which are installed or used by the property owner(s) to achieve compliance with this chapter.

b. Inspection and maintenance of privately-owned facilities, including existing stormwater facilities, water quality management facilities, best management practices, vegetated buffers and water quality volume reduction areas shall be performed at the sole cost and expense of the owner(s) of such facilities/areas.

c. Inspections and maintenance shall be performed in accordance with specific requirements and guidance provided in the water quality BMP manual. Inspection and maintenance activities shall be documented by the property owner (or their designee), and such documentation shall be maintained by the property owner for a minimum of three (3) years, and shall be made available for review by the city manager upon request.

d. The city manager has the authority to impose more stringent inspection requirements as necessary for purposes of water quality protection and public safety.

e. Prior to the release of the performance bond, or before a certificate of occupancy is granted, the property owner shall provide the city with an accurate record drawing of the property and an executed protective covenant for all BMPs, vegetated buffers, and areas that receive water quality volume reductions. The property owner shall record these items in the Office of the Register of Deeds for Carter County, Tennessee. The location of the best management practices, water quality management facilities, vegetated buffers and water quality volume reduction areas, and the water quality easements associated with these facilities/areas, shall be shown on a plat that is also recorded in the Office of the Register of Deeds for Carter County, Tennessee.

f. The removal of sediment and/or other debris from existing stormwater facilities, water quality management facilities and best management practices shall be performed in accordance with all city, state, and federal laws. Guidelines for sediment removal and disposal are referenced in the water quality BMP manual. The city manager may stipulate additional guidelines if deemed necessary for public safety.

g. The city manager may order corrective actions to best management practices, existing stormwater facilities, water quality management facilities, vegetated buffer areas and/or water quality volume reduction areas as are necessary to properly maintain the facilities/areas within the city for the purposes of water quality treatment, channel erosion protection, adherence to local performance standards, and/or public safety. If the property owner(s) fails to perform corrective action(s), the city manager shall have the authority to order the corrective action(s) to be performed by the city or others. In such cases where a performance bond exists, the city shall utilize the bond to perform the corrective actions. In such cases where a performance bond does not exist, the property owner shall reimburse the city for double its direct and related expenses. If the property owner fails to reimburse the city, it is authorized to file a lien for said costs against the property and to enforce the lien by judicial foreclosure proceedings.

h. This chapter does not authorize access to adjoining private property by the property owner or site operator. Arrangements concerning the removal of sediment or pollutants on adjoining property must be settled by the owner or operator with the adjoining landowner. (2000 Code, § 18-607)

**18-608. Permit controls and stormwater system integrity.** 1. Any alteration, improvement, or disturbance to water quality management facilities, vegetated buffers or water quality volume reduction areas shown in certified

record drawings shall be prohibited without authorization from the city manager. This does not include alterations that must be made in order to maintain the intended performance of the water quality management facilities or BMPs.

2. Other state and/or federal permits that may be necessary for construction in and around streams and/or wetlands shall be approved through the appropriate lead regulatory agency prior to submittal of a water quality management plan to the city. (2000 Code, § 18-608)

**18-609. Severability.** 1. Each separate provision of this chapter is deemed independent of all other provisions herein so that if any provision or provisions of this chapter shall be declared invalid, all other provisions thereof shall remain enforceable.

2. If any provisions of this chapter and any other provisions of law impose overlapping or contradictory regulations, or contain any restrictions covering any of the same subject matter, that provision which is more restrictive or imposes higher standards or requirements shall govern. (2000 Code, § 18-609)

**18-610. Responsibility.** This chapter does not imply a warranty or the assumption of responsibility on the part of the city for the suitability, fitness or safety of any structure with respect to flooding, water quality, or structural integrity. This chapter is a regulatory instrument only and is not to be interpreted as an undertaking by the city to design any structure or facility. (2000 Code, § 18-610)

**18-611. Violations and penalty.** 1. Violations of this chapter shall be cause for the requirement for corrective action(s), the issuance of a stop work order, withholding of a permit, withholding of permit inspections, withholding of a certificate of occupancy, and/or civil penalties and/or damage assessments as set forth below.

2. Any person who violates the provisions of this chapter shall be subject to a civil penalty of not less than fifty dollars (\$50.00) or more than five thousand dollars (\$5,000.00) per day for each day of each violation. Each day of violation may constitute a separate violation. The city shall give the alleged violator reasonable notice of the assessment of any civil penalty. The city may also recover all damages proximately caused to the city by such violations.

3. In assessing a civil penalty, the following factors may be considered:

- 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. In addition to the civil penalty in subsection (2) above, the city may also assess damages proximately caused by the violator to the city which may include any reasonable expenses incurred in investigating and enforcing violations of this part, or any other actual damages caused by the violation.

5. Notice of damage assessment and civil penalty shall be served upon the alleged violator by personal delivery or certified mail, return receipt requested. Service by mail shall be deemed complete upon mailing. If the alleged violator is dissatisfied, the alleged violator may appeal said civil penalty or damage assessment.

Appeal from any assessment of civil penalty or damages or both, shall be to a five (5) member panel comprised of the public works director or designee, the director of planning and development or designee, the city attorney, the city manager or designee, and a city council member who represents the city on the Elizabethton Regional Planning Commission.

Said appeal must be received by the city manager's office within thirty (30) days after service of the notice of damage assessment and civil penalty. The appeal shall be heard by the panel within thirty (30) days of receipt of this appeal. The panel may continue the hearing and allow continuances to either the city or the alleged violator for good cause shown. If a timely appeal of the damage assessment or civil penalty is not filed with the city manager's office, the violator shall be deemed to have consented to the damage assessment or civil penalty and it shall become final. If the alleged violator files a timely appeal with the city manager's office and the violator is dissatisfied with the decision of the panel, the alleged violator may appeal the decision of the panel pursuant to the provisions of Tennessee Code Annotated, title 27, chapter 8.

6. Whenever any damage assessment or civil penalty has become final because of a person's failure to appeal the damage assessment or civil penalty, the city may apply to the appropriate chancery court for a judgment and seek execution of such judgment. The court, in such proceedings, shall treat the failure to appeal such damage assessment or civil penalty as a confession of judgment. (2000 Code, § 18-611)