

**TITLE 18**

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

**CHAPTER**

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3. SEWAGE AND HUMAN EXCRETA DISPOSAL.
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**CHAPTER 1**

**WATER AND SEWERS<sup>2</sup>**

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<sup>1</sup>Ordinance No. 07-24 (June 4, 2007) adopts by reference the Water and Sewer Specifications approved by the Tennessee Department of Environment and Conservation, Division of Water Supply.

Ord. #08-45 (Sept. 15, 2008) adopting a program for grease management for new and remodeled facilities is available in the city recorder's office.

<sup>2</sup>Municipal code references

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Refuse disposal: title 17.

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**18-101. Application and scope.** The provisions of this chapter are a part of all contracts for receiving water and/or sewer service from the city and shall apply whether the service is based upon contract, agreement, signed application, or otherwise. (1980 Code, § 13-101)

**18-102. Definitions.** (1) "Customer" means any person, firm, or corporation who receives water and/or sewer service from the city under either an express or implied contract.

(2) "Household" means any two (2) or more persons living together as a family group.

(3) "Service line" shall consist of the pipe line extending from any water or sewer main of the city to private property. Where a meter and meter box are located on private property, the service line shall be construed to include the pipe line extending from the city's water main to and including the meter and meter box.

(4) "Discount date" shall mean the date ten (10) days after the date of a bill, except when some other date is provided by contract. The discount date is the last date upon which water and/or sewer bills can be paid at net rates.

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

(6) "Premises" means any structure or group of structures operated as a single business or enterprise, provided, however, the term "premise" shall not include more than one (1) dwelling. (1980 Code, § 13-102)

**18-103. Obtaining service.** A formal application for either original or additional service must be made and be approved by the city before connection or meter installation orders will be issued and work performed. (1980 Code, § 13-103)

**18-104. Application and contract for service.** Each prospective customer desiring water and/or sewer service will be required to sign a standard form of contract before service is supplied. If, for any reason, a customer, after signing a contract for service, does not take such service by reason of not

occupying the premises or otherwise, he shall reimburse the city for the expense incurred by reason of its endeavor to furnish said service.

The receipt of a prospective customer's application for service, regardless of whether or not accompanied by a deposit, shall not obligate the city to render the service applied for. If the service applied for cannot be supplied in accordance with the provisions of this chapter and general practice, the liabilities of the city to the applicant shall be limited to the return of any deposit made by such applicant. (1980 Code, § 13-104)

**18-105. Service charges for temporary service.** Customers requiring temporary service shall pay all costs for connection and disconnection incidental to the supplying and removing of service in addition to the regular charge for water and/or sewer service. (1980 Code, § 13-105)

**18-106. Connection charges.** Service lines will be laid by the city from its mains to the property line at the expense of the applicant for service. The location of such lines will be determined by the municipality.

Before a new water or service line will be laid by the city, the applicant shall make a deposit equal to the estimated cost of the installation.

This deposit shall be used to pay the cost of laying such new service line and appurtenant equipment. If such cost exceeds the amount of the deposit, the applicant shall pay to the city the amount of such excess cost when billed therefor. If such cost is less than the amount of the deposit, the amount by which the deposit exceeds such cost shall be refunded to the applicant.

When a service line is completed, the city shall be responsible for the maintenance and upkeep of such service line from the main to and including the meter and meter box, and such portion of the service line shall belong to the city. The remaining portion of the service line beyond the meter box (or property line, in the case of sewers) shall belong to and be the responsibility of the customer. (1980 Code, § 13-106)

**18-107. Fluoridation of public water.** The water department of the City of Portland is hereby authorized and instructed to make plans for the fluoridation of the water supply of the city; to submit such plans to the Department of Health of the State of Tennessee for approval, and upon approval to add such chemical as fluoride to the water supply in accord with such as will adequately provide for the fluoridation of said water supply. (1980 Code, § 13-107)

**18-108. Water and sewer main extensions.**<sup>1</sup> Persons desiring water and/or sewer main extensions must pay all of the cost of making such extensions.

For water main extensions cement-lined cast iron pipe, class 150 American Waterworks Association Standard or other construction approved by the city council, not less than six (6) inches in diameter shall be used to the dead end of any line and to form loops or continuous lines, so that fire hydrants may be placed on such lines at locations no farther than 1,000 feet from the most distant part of any dwelling structure and no farther than 600 feet from the most distant part of any commercial, industrial, or public building, such measurements to be based on road or street distances; cement-lined cast iron pipe or other construction approved by the superintendent of waterworks two (2) inches in diameter, to supply dwellings only, may be used to supplement such lines. For sewer main extensions eight-inch pipe of vitrified clay or other construction approved by the superintendent shall be used.

All such extensions shall be installed either by city forces or by other forces working directly under the supervision of the city in accordance with plans and specifications prepared by an engineer registered with the State of Tennessee.

Upon completion of such extensions and their approval by the city, such water and/or sewer mains shall become the property of the city. The persons paying the cost of constructing such mains shall execute any written instruments requested by the city to provide evidence of the city's title to such mains. In consideration of such mains being transferred to it, the city shall incorporate said mains as an integral part of the city water and sewer systems and shall furnish water and sewer service therefrom in accordance with these rules and regulations, subject always to such limitations as may exist because of the size and elevation of the mains. (1980 Code, § 13-108)

**18-109. Variances from and effect of preceding section as to extensions.** Whenever the city council is of the opinion that it is to the best interest of the city and its inhabitants to construct a water and/or sewer main extension without requiring strict compliance with the preceding section, such extension may be constructed upon such terms and conditions as shall be approved by the city council.

The authority to make water and/or sewer main extensions under the preceding section is permissive only and nothing contained therein shall be construed as requiring the city to make such extensions or to furnish service to any person or persons. (1980 Code, § 13-109)

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<sup>1</sup>Municipal code reference

Construction of building sewers: title 18, chapter 2.

**18-110. Meters.** (1) All meters shall be installed, tested, repaired, and removed only by the city.

(2) No one shall do anything which will in any way interfere with or prevent the operation of a meter. No one shall tamper with or work on a water meter without the written permission of the city. No one shall install any pipe or other device which will cause water to pass through or around a meter without the passage of such water being registered fully by the meter.

(3) Tampering with utility equipment or stealing service will be grounds for discontinuance of utility service. Theft of service shall include, but not be limited to the following:

(a) Opening valves at the curb or meter that have been turned off by utility personnel;

(b) Breaking, picking or damaging cutoff locks;

(c) By-passing meters in any way;

(d) Taking unmetered water from hydrants by anyone other than an authorized official of a recognized fire department, fire insurance company or utility for any purpose other than fire fighting, testing or flushing of hydrants;

(e) Use of sprinkler system water service for any purpose other than fire protection;

(f) Removing, disabling or adjusting meter registers, or transmitters;

(g) Connecting to or intentionally damaging water lines, valves or other appurtenances for the purpose of stealing or damaging utility equipment;

(h) Moving the meter or extending service without permission of the utility;

(i) Any other intentional act of defacement, destruction or vandalism to utility property or act that affects utility property;

(j) Any intentional blockage or obstruction of utility equipment.

(4) A "notice of violation" may be mailed or otherwise delivered at the discretion of the public works director if:

(a) Evidence suggests the possibility of theft of utility service at the customer's premises;

(b) The violation does not constitute an immediate threat of safety or equipment integrity to the system.

The customer will be ordered to immediately cease any unlawful practice.

(5) No "notice of violation" will be mailed or delivered and customer service is subject to immediate cutoff in any of the following situations:

(a) In the opinion of the public works director, theft of service is definitely evident on the customer's premises;

(b) When in the opinion of the public works director a situation exists that may endanger public health.

(6) In addition, the customer will be subject to a two hundred dollar (\$200.00) violation payment as well as service call charges, labor and replacement parts as detailed by the utility.

(7) If the utility determines theft of service has occurred, it reserves the right to adjust the customer's current bill and the bills for the past twelve (12) months' usage. If the approximate amount of service that was stolen cannot be reasonably determined, the customer's usage will be set at two to four (2--4) times the minimum bill, as set on a case by case basis by the governing board of the utility according to the facts of each case.

(8) Service will not be restored until all payments for the following are received by the utility:

- (a) Adjusted payment for utility service;
- (b) Violation payment (see section (6) above);
- (c) All service call charges;
- (d) Labor;
- (e) Replacement parts;
- (f) Reinstatement of service charge.

(9) Service will be reinstated only during regular working hours, Monday through Friday, except in the case of an emergency.

(10) Discontinuance of service by the utility shall not release the customer from liability for payment for service already received or from liability from payments that thereafter become due under the minimum bill provisions or other provisions of the customer's contract. (1980 Code, § 13-110, as amended by Ord. #12-08, March 2012)

**18-111. Meter tests.** The city will, at its own expense, make routine tests of meters when it considers such tests desirable.

In testing meters, the water passing through a meter will be weighed or measured at various rates of discharge and under varying pressures. To be considered accurate, the meter registration shall check with the weighed or measured amounts of water within the percentage shown in the following table:

<u>Meter Size</u>	<u>Percentage</u>
5/8", 3/4", 1", 2"	2%
3"	3%
4"	4%
6"	5%

The city will also change meters and make tests or inspections of its meters at the request of the customer at no cost to the customer. (1980 Code, § 13-111, as amended by Ord. #544, Sept. 1997; and Ord. #595, § 1, Feb. 1999)

**18-112. Multiple services through a single meter.** No customer shall supply water or sewer service to more than one dwelling or premise from a

single service line and meter without first obtaining the written permission of the city.

Where the city allows more than one dwelling or premise to be served through a single service line and meter, the amount of water used by all the dwellings and premises served through a single service line and meter shall be allocated to each separate dwelling or premise served. The water and/or sewer charges for each such dwelling or premise thus served shall be computed just as if each such dwelling or premise had received through a separately metered service the amount of water so allocated to it, such computation to be made at the city's applicable water rates schedule, including the provisions as to minimum bills. The separate charges for each dwelling or premise served through a single service line and meter shall then be added together, and the sum thereof shall be billed to the customer in whose name the service is supplied. (1980 Code, § 13-113)

**18-113. Billing.** Bills for residential water and sewer service will be rendered monthly.

Bills for commercial and industrial service may be rendered weekly, semimonthly, or monthly, at the option of the city.

Both charges shall be collected as a unit; no city employee shall accept payment of water service charges from any customer without receiving at the same time payment of all sewer service charges owed by such customer. Water service may be discontinued for non-payment of the combined bill.

Water and sewer bills must be paid on or before the due date shown thereon; otherwise, a penalty of ten percent (10%) for each delinquent month shall be charged on each such bill. Failure to receive a bill will not release a customer from payment obligation, nor extend the discount date.

In the event a bill is not paid on or before five (5) days after the due date, a written notice shall be mailed to the customer. The notice shall advise the customer that his service may be discontinued without further notice if the bill is not paid in full on or before ten (10) days after the due date. The city shall not be liable for any damages resulting from discontinuing service under the provisions of this section, even though payment of the bill is made at any time on the day that service is actually discontinued.

Should the final date of payment of bill at the net rate fall on Sunday or a holiday, the business day next following the final date will be the last day to obtain the net rate. A net remittance received by mail after the time limit for payment at the net rate will be accepted by the city if the envelope is date-stamped on or before the final date for payment of the net amount.

If a meter fails to register properly, or if a meter is removed to be tested or repaired, or if water is received other than through a meter, the city reserves the right to render an estimated bill based on the best information available. (1980 Code, § 13-114)

**18-114. Discontinuance or refusal of service.** The municipality shall have the right to discontinue water and/or sewer service or to refuse to connect service for a violation of, or a failure to comply with, any of the following:

- (1) These rules and regulations.
- (2) The customer's application for service.
- (3) The customer's contract for service.

Such right to discontinue service shall apply to all service received through a single connection or service, even though more than one (1) customer or tenant is furnished services therefrom, and even though the delinquency or violation is limited to only one such customer or tenant.

Discontinuance of service by the city for any cause stated in these rules and regulations shall not release the customer from liability for service already received or from liability for payments that thereafter become due under other provisions of the customer's contract. (1980 Code, § 13-115)

**18-115. Re-connection charges.** Whenever water service has been discontinued as provided for above, a re-connection charge shall be collected by the city before service is restored. (1980 Code, § 13-116)

**18-116. Termination of service by customer.** Customers who have fulfilled their contract terms and wish to discontinue service must give at least three (3) days written notice to that effect unless the contract specifies otherwise. Notice to discontinue service prior to the expiration of a contract term will not relieve the customer from any minimum or guaranteed payment under such contract or applicable rate schedule.

When service is being furnished to an occupant of premises under a contract not in the occupant's name, the city reserves the right to impose the following conditions on the right of the customer to discontinue service under such a contract:

(1) Written notice of the customer's desire for such service to be discontinued may be required; and the city shall have the right to continue such service for a period of not to exceed ten (10) days after receipt of such written notice, during which time the customer shall be responsible for all charges for such service. If the city should continue service after such ten (10) day period subsequent to the receipt of the customer's written notice to discontinue service, the customer shall not be responsible for charges for any service furnished after the expiration of the ten (10) day period.

(2) During the ten (10) day period, or thereafter, the occupant of premises to which service has been ordered discontinued by a customer other than such occupant, may be allowed by the city to enter into a contract for service in the occupant's own name upon the occupant's complying with these rules and regulations with respect to a new application for service. (1980 Code, § 13-117)



**18-117. Access to customers' premises.** The city's identified representatives and employees shall be granted access to all customers' premises at all reasonable times for the purpose of reading meters, for testing, inspecting, repairing, removing, and replacing all equipment belonging to the city, and for inspecting customers' plumbing and premises generally in order to secure compliance with these rules and regulations. (1980 Code, § 13-118)

**18-118. Inspections.** The city shall have the right, but shall not be obligated, to inspect any installation or plumbing system before water and/or sewer service is furnished or at any later time. The city reserves the right to refuse service or to discontinue service to any premises not meeting standards fixed by city ordinances regulating building and plumbing, or not in accordance with any special contract, these rules and regulations, or other requirements of the city.

Any failure to inspect or reject a customer's installation or plumbing system shall not render the city liable or responsible for any loss or damage which might have been avoided, had such inspection or rejection been made. (1980 Code, § 13-119)

**18-119. Customer's responsibility for system's property.** Except as herein elsewhere expressly provided, all meters, service connections, and other equipment furnished by or for the city shall be and remain the property of the city. Each customer shall provide space for and exercise proper care to protect the property of the city on his premises. In the event of loss or damage to such property, arising from the neglect of a customer to care for same, the cost of necessary repairs or replacements shall be paid by the customer. (1980 Code, § 13-120)

**18-120. Customer's responsibility for violations.** Where the city furnishes water and/or sewer service to a customer, such customer shall be responsible for all violations of these rules and regulations which occur on the premises so served. Personal participation by the customer in any such violations shall not be necessary to impose such personal responsibility on him. (1980 Code, § 13-121)

**18-121. Supply and resale of water.** All water shall be supplied within the city exclusively by the city and no customer shall, directly or indirectly, sell, sublet, assign, or otherwise dispose of the water or any part thereof, except with written permission from the city. (1980 Code, § 13-122)

**18-122. Unauthorized use of or interference with water supply.** No person shall turn on or turn off any of the city's stop cocks, valves, hydrants, spigots, or fire plugs without permission or authority from the city. (1980 Code, § 13-123)

**18-123. Limited use of unmetered private fire line.** Where a private fire line is not metered, no water shall be used from such line or from any fire hydrant thereon, except to fight fire or except when being inspected in the presence of an authorized agent of the city.

All private fire hydrants shall be sealed by the city, and shall be inspected at regular intervals to see that they are in proper condition and that no water is being used therefrom in violation of these rules and regulations. When the seal is broken on account of fire, or for any other reason, the customer taking such service shall immediately give the city a written notice of such occurrence. (1980 Code, § 13-124)

**18-124. Damages to property due to water pressure.** The city shall not be liable to any customer for damages caused to his plumbing or property by high pressure, low pressure, or fluctuations in pressure in the city's water mains. (1980 Code, § 13-125)

**18-125. Liability for cutoff failures.** The city's liability shall be limited to the forfeiture of the right to charge a customer for water that is not used but is received from a service line under any of the following circumstances:

(1) After receipt of at least ten (10) days' written notice to cut off water service, the city has failed to cut off such service.

(2) The city has attempted to cut off a service but such service has not been completely cut off.

(3) The city has completely cut off a service, but subsequently, the cutoff develops a leak or is turned on again so that water enters the customer's pipes from the city's main.

Except to the extent stated above, the city shall not be liable for any loss or damage resulting from cutoff failures. If a customer wishes to avoid possible damage for cutoff failures, the customer shall rely exclusively on privately owned cutoffs and not on the city's cutoff. Also the customer (and not the city) shall be responsible for seeing that his plumbing is properly drained and is kept properly drained, after his water service has been cut off. (1980 Code, § 13-126)

**18-126. Restricted use of water.** In times of emergencies or in times of water shortage, the city reserves the right to restrict the purposes for which water may be used by a customer and the amount of water which a customer may use. (1980 Code, § 13-127)

**18-127. Interruption of service.** The city will endeavor to furnish continuous water and sewer service, but does not guarantee to the customer any fixed pressure or continuous service. The city shall not be liable for any damage for any interruption of service whatsoever.

In connection with the operation, maintenance, repair, and extension of the city water and sewer systems, the water supply may be shut off without notice when necessary or desirable and each customer must be prepared for such emergencies. The city shall not be liable for any damage from such interruption of service or for damages from the resumption of service without notice after any such interruption. (1980 Code, § 13-128)

**18-128. Schedule of rates.** All water and sewer service shall be furnished under such rate schedules as the city may from time to time adopt by appropriate ordinance or resolution.<sup>1</sup> (1980 Code, § 13-112)

**18-129. [Deleted.]** This section was deleted by Ord. #01-21, July 2001. (1980 Code, § 13-129, as amended by Ord. #553, Dec. 1997, and deleted by Ord. #01-21, July 2001)

**18-130. Water shortage.** (1) Declaration of policy, purpose, and intent. Purpose: To achieve the greatest public benefit from domestic water use, sanitation, and fire protection, and to provide water for other purposes in an equitable manner, the City of Portland, Tennessee adopts the following regulations and restrictions on the delivery and consumption of water.

This section is hereby declared necessary for the preservation of public health, safety, and welfare and shall take effect upon its passage by the council of the City of Portland, Tennessee.

Whenever, in the judgment of the governing body of the City of Portland, Tennessee, it becomes necessary to conserve water in the service area, due to drought, the mayor of Portland, Tennessee is authorized to issue a Declaration that existing conditions prevent fulfillment of the usual water-use demands. The Declaration will be an attempt to prevent depleting the water supply to the extent that water-use for human consumption, sanitation, fire protection, and other essential needs become endangered. Immediately upon the issuance of such a Declaration, regulations and restrictions set forth under this section shall become effective and remain in effect until the water shortage is terminated and the Declaration rescinded.

Water uses, regulated or prohibited under this section are considered to be non-essential and continuation of such uses during times of water shortage are deemed to constitute a waste of water, subjecting the offender(s) to penalties (§ 18-130(8)).

The provisions of this section shall apply to customers of the City of Portland, Tennessee.

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<sup>1</sup>Administrative ordinances and resolutions are of record in the recorder's office.

(2) Definitions. For the purposes of this section, the following definitions shall apply:

(a) "Conservation." Reduction in water use to prevent depletion or waste of the resource.

(b) "Customer." Any person, company, or organization using water supplied by the City of Portland, Tennessee.

(c) "Domestic water use." Water use for personal needs or for household purposes such as drinking, bathing, heating, cooking, sanitation, including employees' use in business, industry, or institution.

(d) "Management phases."

(i) "Conservation." A conservation phase exists when specific factors or conditions, such as deficiencies in rainfall and runoff, a decline in soil moisture, lower ground water levels, increasing daily water demands, reduced storage, below normal water supply and/or inadequate water quality conditions, and possible-conflicts among various water user groups. Water use would be reduced by fifteen (15) percent and has been verified by best available information.

(ii) "Restrictions." A restrictions phase exists when characterized by a continued decline in available water supplies and water quality. Water use would be reduced by thirty (30) percent use during this phase, and has been verified by best available information.

(iii) "Emergency." An emergency phase exists when a water supply shortage situation characterized by severe water supply and water quality problems due to serious resource limitations which are well below the level needed to meet economically and socially important needs. Water use would be reduced by sixty (60) percent or more to alleviate these shortages. In addition to drought induced, a water supply emergency may be caused by a tornado, storm, flood, wind, earthquake, landslide, snowstorm, fire, explosion, civil disorder, dam failure, hazardous materials spill, power failure, nuclear attack or other catastrophes.

(e) "Even numbered address." Street addresses, box numbers or rural route numbers ending in 0, 2, 4, 6, 8, or letters A-M; and locations without addresses.

(f) "Institutional water use." Water used by government, public and private educational institutions, public medians and rights of way, churches and places of worship, water utilities, and other lands, buildings, and organizations.

(g) "Landscape water use." Water used to maintain gardens, trees, lawns, shrubs, flowers, athletic fields, rights of way and medians.

(h) "Odd numbered address." Street addresses, box numbers or rural route numbers ending in 1, 3, 5, 7, 9, or letters N-Z.

(i) "Water Management Advisory Group." A committee composed of local representatives, created for the purpose of coordinating responses to water shortages.

(j) "Water shortage." Lack of adequate available water to meet normal demands due to lower than normal precipitation, reduced stream flows or soil moisture, water levels in wells which cause water supplies to be less than usual, major water line breaks, chemical spills, etc., resulting in reduced water supplies.

(3) Water use classification system. (a) First class essential water uses. ("First Class Essential Water Uses" should correspond to the classification system established in the system's drought and emergency management plan.)

(b) Second class essential water uses. ("Second Class Essential Water Uses" should correspond to the classification system established in the system's drought or emergency management plan.)

(c) Third class essential water uses. ("Third Class Essential Water Uses" should correspond to the classification system established in the system's drought or emergency management plan.)

(d) Non-essential water uses. ("Non-Essential Water Uses" should correspond to the classification system established in the system's drought and emergency management plan.)

(4) Management phases. Three levels of water management are established: "Conservation," "Restrictions," and "Emergency." Declarations issued by the City of Portland shall specify the water management phase in effect and undertake the appropriate water management activities.

(a) Drought alert provisions and implementation. When a local, regional or statewide "Drought Alert" is issued by the Tennessee Office of Water Management, the City of Portland will begin, if not already underway, regular monitoring of supply and demand conditions applicable to the City of Portland. Users of the system will be alerted to the activation possibility of the water shortage management plan. Notice will be made to a newspaper of general circulation within the affected community or area. In addition, the City of Portland will encourage water users to assess their use of water.

(b) Conservation phase provisions. If conditions indicate that a moderate water shortage condition is present and is expected to persist, the City of Portland shall activate those requirements outlined in this section to reduce water use.

(i) Goal. (A) An overall water use reduction of fifteen (15) percent. Voluntary water use reductions would be requested for essential, economic, and social uses.

(B) Non-essential water uses would be banned.

(ii) General response. Issue a declaration of water shortage in a newspaper of general circulation within the affected

community and region. This statement shall specify that conservation phase measures are necessary and shall include the list of non-essential water uses.

(iii) Restrictions applying to non-essential uses.

(A) Outdoor noncommercial. Water use for irrigating gardens (except handheld), lawns, parks, golf courses (except greens), playing fields and other recreation areas, and street washing.

(B) Ornamental. Water use for fountains, reflecting pools, and artificial waterfalls.

(C) Swimming pools. Water use for private pools serving less than 25 dwelling units.

(D) Motor vehicle washing. Water use for the washing of privately owned cars and trucks.

(c) Restrictions phase provisions. If conditions indicate that a severe water shortage condition is present and is expected to persist the City of Portland shall activate those requirements outlined in this section to curtail water uses.

(i) Goal. An overall water use reduction of thirty (30) percent. Voluntary water use reductions would be requested for essential uses. Non-essential water uses would be banned, resulting in a 100 percent overall class reduction. Curtailments in a second and third class essential water uses would be required resulting in a seventeen (17) percent combined class reduction.

(ii) General responses.

(A) Issue a declaration of water shortage in a newspaper of general circulation within the affected community and region. This statement shall specify that a restrictions phase is in effect and shall include the list of banned uses, and the list of restricted water uses.

(B) Require customers of the City of Portland to comply with the listed water-use bans and restrictions in all categories while severe drought conditions exist.

(iii) Restrictions applying to second and third class essential water uses:

PHASED RESPONSES TO WATER SUPPLY SHORTAGES

<u>General Water-Use Class</u>	<u>Conservation</u>	<u>Restrictions</u>	<u>Emergency</u>
Essential	Voluntary	Voluntary	Mandatory or
First Class	Cutbacks	Cutbacks	Voluntary Cutbacks

Essential Second Class	Voluntary Cutbacks	Mandatory or Voluntary Cutbacks	Mandatory Bans
Essential Third Class	Voluntary Cutbacks	Mandatory Bans	Mandatory Bans
Nonessential	Mandatory Cutbacks or Bans	Mandatory Bans	Mandatory Bans

(d) Emergency phase provisions. If conditions indicate that an extreme water shortage condition is present the City of Portland shall activate the provisions outlined in this section to curtail water use.

Water-use restrictions imposed during extreme water shortage conditions are mandatory.

(i) Goal.

(A) An overall water use reduction of sixty (60) percent; only first class essential water uses would be allowed.

(B) All other water uses would be prohibited.

(ii) General responses.

(A) Issue a declaration of water shortage in a newspaper of general circulation within the affected community and region. This statement shall specify that an emergency phase is in effect. It shall include the list of banned water uses.

(B) Require customers of the City of Portland to comply with the listed water-use restrictions in all categories while extreme water shortage conditions exist.

(iii) Restrictions applying to second and third class essential water uses.

PHASED RESPONSES TO WATER SUPPLY SHORTAGES

General Water-Use Class	Emergency
Essential Second Class	Mandatory Bans
Essential Third Class	Mandatory Bans
Nonessential	Mandatory Bans

(5) Water management advisory group. The Water Management Advisory Group shall consist of five (5) members, representing various local interest groups. The representatives shall be appointed by administrative body

and serve a term of five years. Terms should be staggered, beginning on October 1 of each year. Regular, annual meetings should be held to review the plan, meeting more frequently as necessary upon the onset of each drought.

The Water Management Advisory Group shall evaluate water supply conditions to determine if conditions satisfy water shortage management, triggering points as identified in the local drought management plan. The advisory group shall consider:

- (a) The effectiveness of the local water shortage ordinance and plan in protecting and insuring adequate water supplies;
- (b) Water supply conditions (existing and forecasted); and
- (c) Other relevant information.

The Water Management Advisory Group shall consult with and invite participation by the general public affected, as well as with interest group representatives.

(6) Shortage water rates (stand-by rates). Upon the declaration of a water shortage, the City of Portland shall utilize shortage water rates to water conservation of water supplies. (Such rates may provide for, but not be limited to:

- (a) Higher charges per unit for increasing usage (increasing block rates);
- (b) Uniform charges for water usage per unit of use (uniform unit rate);
- (c) Extra charges for use in excess of a specified level (excess demand surcharge; or
- (d) Discounts for conserving water beyond specified levels. This section includes an example of an "excess use or surcharge" structure.)

In the event of a water shortage and activation of the "restrictions" phase, the City of Portland is hereby authorized to monitor water use and limit households to 70 gallons per household member per day. Domestic water use above this limit will be subject to a surcharge of \$25.00 per 1,000 gallons. The City of Portland is hereby authorized to monitor water use and limit households to 40 gallons per household member per day under an "emergency" phase. Domestic water use above this limit will be subject to a surcharge of \$50.00 per 1,000 gallons. Institutional, commercial, industrial, and recreational water users will be subject to water use surcharges of \$100.00 per 1,000 gallons of water used if the City of Portland deems that adequate conservation measures have not been implemented.

(7) Rationing. (Water Supply Systems relying on rationing to reduce water use will need to include a section in their ordinance dealing with rationing.)

In the event of a declared drought the City of Portland issues a declaration of water shortage specifying either a restrictions phase or



Emergency phase. The City of Portland is hereby authorized to ration water in accordance with the following conditions:

(a) Residential water customers and allotments.

(i) The number of permanent residents in each dwelling unit (household) will determine the amount of water that each household will be allowed.

(ii) Each dwelling unit (household) shall be allotted 70 gallons per day for each resident of the household under "restrictions" and 40 gallons per day for each resident of the household under "emergency" conditions. Households with only one permanent resident will have a daily allotment of 55 gallons per day under "emergency" conditions.

(iii) Residential water customers are required to provide city utility personnel with reasonable access to read meters as necessary to this rationing declaration. Where access is not readily available, all reasonable efforts to contact customers in order to arrange for access to read meters shall be made. In the event a water customer does not allow entry to read the meter after reasonable efforts to arrange for such access, the dwelling unit (household) allotment will be reduced to 55 gallons per day.

(iv) (A) Where the residential water allotment provided under this section would create an "extraordinary hardship," as in the case of special health-related requirements, the water customer may apply to the water system for an exemption or variance from these requirements. If it is found that the allotment provided in this section would impose an extraordinary hardship, a revised allotment for the particular customer may be established.

(B) Any person aggrieved by a decision relating to such an exemption or variance rendered by the municipality rendering water service, may file a complaint with the city attorney. (The procedures for such a complaint may be described as):

A short, concise letter giving details as to why the water allotment is not sufficient, and why the extraordinary hardship exists so the information will be investigated.

(b) Non-residential water customers and allotments.

Non-residential customers include commercial, industrial, institutional, and public and all other such users, with the exception of hospitals and health care facilities.

Non-residential water customers shall further reduce their water usage to fifty (50) percent of use levels of \_\_\_\_\_ (month, year).

It is the primary responsibility of each non-residential water customer to meet its mandated water use reduction goal in whatever manner possible.

The City of Portland will establish a water allotment for each non-residential water customer, based upon a required further reduction of water usage from the rate of water used by the customer in effect on \_\_\_\_\_, or the last recorded use level if no meter readings record the rate of the customer's use on \_\_\_\_\_.

Each non-residential water user shall provide access to water system personnel for purposes of meter reading and monitoring of compliance with this section. All reasonable efforts will be made to contact customers to arrange for access.

If the mandated further reduction in water usage cannot be obtained without imposing extraordinary hardship which threatens health and safety, the nonresidential customer may apply to the water system for a variance. For these purposes "extraordinary hardship" means a permanent damage to property or economic loss which is substantially more severe than the sacrifices borne by other water users subject to this water rationing ordinance. If the further reduction would cause an extraordinary hardship or threaten health or safety, a variance may be granted and a revised water use reduction requirement for the particular customer may be established.

(Any person aggrieved by a decision relating to such a variance rendered by a public utility may need to file a complaint with the appropriate body. The procedures for such a complaint may be described as follows:)

A letter addressed to the director of public works, with a copy to the mayor and city attorney, setting out in detail the reasons for variance from the restrictions. These reasons will be investigated.

(c) Water use rationing for hospitals and health care facilities. Hospitals and health care facilities shall comply with all restrictions imposed on residential and non-residential water customers as may be applicable to each individual institution, to the extent compliance will not endanger the health of its patients or residents to achieve a further reduction in the institution's water usage.

(8) Fines and penalties (failure to comply). Except as otherwise stated herein, violators of any provision of this section shall be penalized. The penalty for a person's first offense shall be \$100. The penalty for a person's second offense shall be \$200. Persons violating the section a third or more times within the same drought period will have water service disconnected for a period of five (5) days with a \$300 reconnection fee.

The aforementioned fines and penalties may be in lieu of, or in addition to, any other penalty provided by law.

Services disconnected under such circumstances shall be restored only upon payment of a reconnection charge.

(9) Monitoring and enforcement. Law officers of the City of Portland police force shall, in addition to duties imposed by law, diligently enforce the provisions of this section.

Employees of the City of Portland, Department of Public Works, and Fire Department have the duty, and are hereby authorized to enforce the provisions of the section and shall have the power and authority to issue citations when violations of this section occur during any declared drought.

(10) Exemptions (relief from compliance). Customers not capable of reducing water use immediately, because of equipment damage or other extreme circumstances, shall reduce water use within twenty-four hours of a declaration of a water shortage, where provisions of this section apply to them and shall apply for and exemption from curtailment.

Customers requesting exemption from the provisions of this section shall file a petition for exemption with the City for Portland within three (3) days after such curtailment becomes effective.

When the section has been invoked by the mayor, all petitions for exemption shall be reviewed by the mayor. The City of Portland shall respond to requests for exemption within five (5) days of receipt of information or within twenty (20) days of declarations for the curtailment, whichever comes first. Petitions shall contain the following:

- (a) Name and address of the petitioner(s).
- (b) Purpose of water use.
- (c) Specific provision from which the petitioner is requesting relief.
- (d) Detailed statement as to how the declaration adversely affects the petitioner.
- (e) Description of the relief desired.
- (f) Period of time for which the exemption is sought.
- (g) Economic value of the water use.
- (h) Damage or harm to the petitioner or others if petitioner complies with section.
- (i) Restrictions with which the petitioner is expected to comply and the compliance date.
- (j) Steps the petitioner is taking to meet the restrictions from which exemption is sought and the expected date of compliance.
- (k) Other pertinent information.

In order for an exemption to be granted, petitioner must show one or more of the following conditions:

- (i) Compliance with the section cannot be technically accomplished during the duration of the water shortage.
- (ii) Alternative methods can be implemented which will achieve the same level of reduction in water use.

(iii) An extraordinary hardship can be shown.

The City of Portland may, in writing, grant temporary exemptions for existing water uses otherwise prohibited under the section if it is a condition adversely affecting health, sanitation, or fire protection for the public or the petitioner and if one or more of the aforementioned conditions is met. The governing body of the City of Portland shall ratify or revoke any such exemption at their next scheduled meeting. Any such exemption so ratified may be revoked by later action of the governing body of the City of Portland.

No exemption shall be retroactive or otherwise justify any violation of this section occurring prior to the issuance of the exemption.

Exemptions granted by the \_\_\_\_\_ shall be subject to the following conditions, unless waived or modified by the \_\_\_\_.

(A) Exemptions granted shall include a timetable for compliance.

(B) Exemptions granted shall expire when the water shortage no longer exists.

(11) Activation and deactivation of management phases.

(a) Declaration of a drought. Whenever the City of Portland finds that a potential shortage of water supply is indicated, it shall be empowered to declare a drought exists, and that the water superintendent shall, daily, monitor the supply and demands upon that supply. In addition, the mayor is authorized to specify the management phase in effect and the measures to be employed by the system's customers. This Declaration shall be published in an official city newspaper, and may be publicized through the general news media or any other appropriate method for making such resolutions public.

(b) Termination of drought phases. Whenever the City of Portland finds that water supplies have returned to normal, it shall be empowered to replace or declare as ended by resolution any phase enacted. Such a declaration shall follow the same guidelines used for declaring a drought. (1980 Code, § 13-130)

## CHAPTER 2

### SEWER USE ORDINANCE<sup>1</sup>

#### SECTION

- 18-201. Purposes and policy.
- 18-202. Definitions.
- 18-203. Requirements for proper wastewater disposal.
- 18-204. Physical connection to public sewer.
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- 18-210. Requirements for satellite POTWs and inter-municipal agreements.
- 18-211. Holding tank waste disposal.
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- 18-213. Fees for holding tank waste disposal permits.
- 18-214. Underground fuel storage tank wastewaters.
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- 18-216. Industrial Wastewater Discharge Permits (hereafter IWDP).
- 18-217. Confidential information.
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- 18-219. Restrictions on wastewater strength.
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- 18-221. Categorical pretreatment standards.
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- 18-229. Maintenance of records.
- 18-230. Certifications of permit applications and user reports.
- 18-231. Enforcement response plan.
- 18-232. Notification of violation.
- 18-233. Administrative orders.
- 18-234. Submission of time schedule.
- 18-235. Appeals and enforcement hearings.

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<sup>1</sup>Municipal code reference  
Plumbing code: title 12.

- 18-236. Legal action.
- 18-237. Emergency termination of sewer service.
- 18-238. Public nuisances.
- 18-239. Correction of violation and collection of costs.
- 18-240. Damage to POTW facilities.
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- 18-243. Penalties.
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- 18-246. Types of charges, fees, and billings.
- 18-247. Base sewer charges.
- 18-248. Billing.
- 18-249. Review of operation and maintenance charges.
- 18-250. Validity.
- 18-251. Ordinance in force.
- 18-252. [Deleted.]
- 18-253. [Deleted.]
- 18-254. [Deleted.]

**18-201. Purposes and policy.** This ordinance sets forth uniform requirements regulating the use of public sewers and private wastewater disposal means; the installation and connection of building sewers; the discharge of wastewater into the Publicly Owned Treatment Works (POTW) of the City of Portland, Tennessee (City); and establishes mechanisms for the collection of fees from customers to offset expenses incurred for the privilege of using the POTW, a valuable and limited asset. This ordinance shall supersede and replace ordinance No. 299 passed December 7, 1981; ordinance No. 328 passed January 15, 1985; ordinance No. 465 passed March 7, 1994; and ordinance No. 00-26 passed June 4, 2001.

The objectives of this ordinance are:

- (1) To protect both city personnel, who may be affected by wastewater and sludge in the course of their employment, and the general public;
- (2) To protect the public health;
- (3) To provide problem free wastewater collection and treatment services;
- (4) To prevent the introduction of pollutants into the POTW that will interfere with its operation;
- (5) To prevent the introduction of pollutants into the POTW that will pass through the POTW, inadequately treated, into waters of the state, or otherwise be incompatible with the POTW;
- (6) To provide for full and equitable distribution of the cost of operation, maintenance, and improvement of the POTW;

(7) To provide a mechanism for the city to follow in the development of agreements with inter-municipal and satellite POTWs;

(8) To enable the city to comply with the objectives of the "Management, Operations, and Maintenance" Program, as adopted by the city and mandated by federal or state laws;

(9) To enable the city to comply with its National Pollutant Discharge Elimination System (NPDES) permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the POTW is subject;

(10) To enable the city to comply with the provisions of the Clean Water Act (33 United States Code (U.S.C.) section 1251, *et seq.*), the General Pretreatment Regulations (40 Code of Federal Regulations (C.F.R.) part 403), including the city's "Enforcement Response Plan (ERP)" and "Industrial Pretreatment Program," and other applicable federal and state laws;

(11) To enable the city to improve its opportunity to recycle and reclaim wastewater, sludge, and other by-products of the POTW;

(12) To enable the city to comply with the provisions of "The Standard for the Use or Disposal of Sewage Sludge" -- 40 C.F.R. part 503, the city's "Biosolids Management Program," and other applicable federal and state laws; and

(13) To provide a mechanism for the city to assess and collect sewer fees for discharges into the POTW.

To meet these objectives, this ordinance sets forth the requirement that all persons in the service area of the city must have adequate wastewater collection for treatment, either in the form of a connection to the POTW or, where this connection is not practical, an appropriate private disposal system. This ordinance authorizes the issuance of permits to users of the POTW; sets limitations on user wastewater discharge volume and constituents; allows for monitoring, compliance, and enforcement activities; requires user reporting; and provides for the setting of fees for the full and equitable distribution of costs resulting from the programs established by the city in accordance to federal and state laws and/or mandates.

This ordinance shall apply to the City of Portland, Tennessee, and to users inside and/or outside the city who are, by contract or agreement with the city, users of the POTW. Except as otherwise provided herein, the superintendent shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the superintendent may be delegated by the superintendent to duly authorized city employees. This ordinance shall be enforced in full force in accordance to city, state, and federal laws, including an approved ERP as mandated by 40 C.F.R. part 403. (1980 Code, § 13-201, as replaced by Ord. #00-26, June 2001, and Ord. #10-25, Oct. 2010)

**18-202. Definitions.** Unless the context specifically indicates otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereafter designated:

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

(2) "Approval authority." The Commissioner of the Tennessee Department of Environment and Conservation (TDEC) or the administrator of the EPA.

(3) "Authorized or duly authorized representative of the user."

(a) If the user is a corporation:

(i) The president, secretary, treasurer, or vice-president of the corporation in charge of a principal business making 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 which 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 control mechanism 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 director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(d) A duly authorized representative of the individual described in subsections (a), (b) and (c) of this section if:

(i) The authorization is made in writing by the individual described in subsections (a), (b) and (c) of this section;

(ii) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company; and

(iii) The written authorization is submitted to the city.

(4) "Available user." Any person who has availability to connect to the city's POTW but has been granted waiver by the supervisor of collection.



(5) "Baseline monitoring report." A report submitted by industrial users to the city, used by the city to identify those users in need of pretreatment to come into compliance with categorical pretreatment standards.

(6) "Best Management Practices (BMPs)." The schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions and limitations listed in §§ 18-218 through 18-221 of this chapter (40 C.F.R. 403.5(a)(1) and (b)). BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

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

(8) "Building drain." The part of the lower horizontal piping of a drainage system that receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (5') outside the face of the building wall.

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

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

(11) "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 C.F.R. chapter I, subchapter N, parts 405-471.

(12) "Chain of custody." A record of each person involved in the possession of a sample from the person who collects the sample to the person who analyzes the sample in the laboratory.

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

(14) "City." The City of Portland, Tennessee, or the Mayor and the City Council of the City of Portland, or a duly authorized representative of the city.

(15) "Conventional pollutants." Defined in 40 C.F.R. 401.16 pursuant to section 304(a)(4) of the Act to be BOD, TSS, pH, fecal coliform bacteria, and Oil and Grease (O&G).

(16) "Control authority." The City of Portland, as a TDEC delegated control authority.

(17) "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 concentrations derived from all measurements taken that day.

(18) "Direct discharge." The discharge of wastewater directly into the waters of the State of Tennessee.

(19) "Domestic wastewater." Wastewater from normal residential activities including, but not limited to, wastewater from kitchen, bath and laundry facilities, or wastewater from the personal sanitary conveniences (toilets, showers, bathtubs, fountains, non-commercial sinks, and similar structures) of commercial, industrial or institutional buildings, provided that the wastewater exhibits characteristics which are similar to those of wastewater from normal residential activities, free from stormwater and industrial wastewaters.

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

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

(22) "Grab sample." An individual sample that is taken from a wastestream without regard to the flow in the wastestream and over a period not to exceed fifteen (15) minutes.

(23) "Grease interceptor." A device with a capacity greater than seven hundred fifty (750) gallons designed and installed, in accordance with the city's plumbing code, to separate and retain for removal, by passive means, fats, oils, and grease. These devices are typically installed underground, exterior to the building.

(24) "Grease management program." A program developed by the city and administered by the industrial pretreatment coordinator with the overall aim of reducing the amount of Fats, Oils, and Greases (FOG) being discharged into the POTW. Requirements may include, but are not limited to, the use of grease interceptors, BMPs, prohibitions, general good housekeeping, and other educational and enforcement activities.

(25) "Holding tank waste." Any wastewater from holding tanks that have no direct connection to the POTW and is brought and discharged into the POTW, such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum pump tank trucks.

(26) "Indirect discharge." The introduction of pollutants into the POTW from any non-domestic source.

(27) "Industrial Pretreatment Coordinator (IPC)." The individual designated by the city to implement the state approved industrial pretreatment program and grease management program. The IPC is responsible for handling all aspects of these programs, as directed by the superintendent.

(28) "Industrial user." A source of indirect discharge.

(29) "Industrial wastewater." The wastewater from an industrial process, trade, or business that is distinct from domestic wastewater.

(30) "Influent technical review study." Investigation that may be initiated in the event analysis of WWTP influent for any pollutant listed in Table B of this ordinance exceeds eighty percent (80%) of the concentration value listed.

(31) "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.

(32) "Interference." A discharge which, 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.

(33) "Local Hearing Authority (LHA)." The LHA for the city is a body appointed to hear appeals from orders, penalties, and other enforcement activities issued by the superintendent. This body shall be appointed by the mayor and may be made up of either the mayor and city council or a group of no more than five (5) people selected to act as duly authorized representatives of the aforementioned board. A quorum of this authority is understood to be two-thirds (2/3) of its total members.

(34) "Management, Operations, and Maintenance (MOM)." Program mandated by the approval authority to bring the POTW into full compliance with the Act by eliminating sanitary sewer overflows. The city fully intends to implement and document a formal MOM program specific to its POTW. The city also understands that this program needs to continuously evolve to meet changing system needs.

(35) "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.

(36) "National Pollutant Discharge Elimination System (NPDES)." The federal program for issuing, modifying, revoking and reissuing, terminating, monitoring, and enforcing discharge permits to direct discharges into the waters of the state, and imposing and enforcing pretreatment requirements under sections 307, 318, 402, 405 of the Act as amended.

(37) "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 of a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of subsections (a)(ii) or (iii) above but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a new source as defined under this paragraph has commenced if the owner or operator has begun, or caused to begin, as part of a continuous on-site construction program:

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

(ii) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities or equipment; or

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

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

(39) "Non-conventional pollutants." Those pollutants which do not fall under the conventional or toxic pollutant categories defined in this section, and include such parameters as ammonia, nitrogen, phosphorus, COD, and Whole Effluent Toxicity (WET).

(40) "North American Classification System (NAICS)." An industrial classification system that was developed by governments of Mexico, Canada, and the United States of America to provide common industrial definitions. This is a comprehensive system that groups establishments into industries based on their activities, production, and non-production.

(41) "Pass through." A discharge which exits the POTW into waters of the state or waters of the United States 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.

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

(43) "pH." A measure of the acidity or alkalinity of a solution, expressed in standard units.

(44) "Phenols." The total of the phenolic compounds as measured by the procedure listed in 40 C.F.R. 136.

(45) "Plant protection criteria." A set of calculated values for various pollutants (see Table B of this ordinance) that are determined to protect the POTW and its treatment processes.

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

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

(48) "Pretreatment" or "treatment." The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. The reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except as prohibited by § 18-223 of this chapter.

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

(50) "Pretreatment standards" or "standards." Prohibited discharge standards, categorical pretreatment standards, and other specific discharge limits (§ 18-219 of this chapter) developed by the city to meet local, state, and federal ordinances and regulations.

(51) "Process wastewater." See wastewater.

(52) "Prohibited discharge standards" or "prohibited discharges." Absolute prohibitions against the discharge of certain substances; these prohibitions appear in § 18-218 of this chapter.

(53) "Public sewer." A sewer in which all owners of abutting properties have equal rights and is controlled by the city.

(54) "Public works office." The city department administered by the superintendent that is authorized with the duty to manage the daily operations of all public works for the city, i.e., water, sewer, gas, and street departments.

(55) "Publicly Owned Treatment Works (POTW)." A treatment works, as defined by section 212 of the Act (33 U.S.C. 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. It also includes sewers, pipes, and other conveyances that convey wastewater to the POTW. The term also means the municipality as defined in section 502(4) of the Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

(56) "Sanitary sewer." A pipeline or conduit that carries wastewater and into which stormwater, surface water, and groundwater are not intentionally admitted.

(57) "Sanitary Sewer Overflow (SSO)." The discharge of wastewater from any portion of the POTW into the environment other than through permitted outfalls.

(58) "Satellite POTW." A POTW owned and operated by another municipality, utility district, or private entity connected to the city's POTW and not possessing its own NPDES permit.

(59) "Sewage." Human excrement and gray water (household showers, dishwashing operation, etc.).

(60) "Shall" or "will" is mandatory; may is permissive.

(61) Significant Industrial User (SIU)."

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

(b) An industrial user that:

(i) Has a reasonable potential in the opinion of the city to adversely affect the POTW's operation or for violating any pretreatment standard or requirement;

(ii) Contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the WWTP; or

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

(62) "Slug load" or "slug discharge." Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in § 18-218 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 pretreatment

standards, IWDP conditions, and local, state, and federal ordinances and regulations.

(63) "Standard Industrial Classification (SIC)." A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987, or subsequently amended.

(64) "State." State of Tennessee or TDEC, as a duly authorized representative of the state.

(65) "Stormwater." Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, such as snowmelt.

(66) "Storm sewer" or "storm drain." A pipe or conduit which carries stormwater and surface waters, excluding wastewaters; it may, however, carry noncontact cooling waters and unpolluted waters upon approval of the superintendent.

(67) "Superintendent." The duly authorized representative of the city in all matters regarding the POTW. The superintendent has complete oversight responsibility for all POTW operations, including the public works office, and to see that all local, state, and federal ordinances, regulations, and requirements are met. The superintendent's management authority includes but is not limited to: the supervisor of collections, the supervisor of wastewater treatment, and the industrial pretreatment coordinator. The superintendent may designate person(s) to serve in his absence when he is unable to perform his duties. Such instances shall include, but not be limited to, the superintendent being ill or on vacation.

(68) "Supervisor of collections." The individual designated by the city to oversee, manage, and operate the POTW collection system. The supervisor of collections is charged with certain duties and responsibilities, including the administration of the MOM program, by the superintendent, by this ordinance, and by certification of regulations stipulated in any state and/or federal credentials required to hold this position.

(69) "Supervisor of wastewater treatment." See WWTP chief operator.

(70) "Time proportional composite sample." A sample consisting of a series of equal volume sample portions collected at consistent time intervals, not less than fifteen (15) minutes, during which time the flow does not vary by more than ten percent (10%) of the average flow rate over the sampling period.

(71) "Total Kjeldahl Nitrogen (TKN)." The sum of organic nitrogen and ammonia in a water body, usually expressed as concentration (milligrams per liter (mg/L)).

(72) "Total Suspended Solids" or "suspended solids (TSS)." The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.

(73) "Toxic pollutants." Those pollutants defined in section 307(a)(1) (33 U.S.C. 1317) of the Act that include metals and man-made organic compounds.

(74) "Twenty-four (24) hour flow proportional composite sample." A sample consisting of several sample portions collected during a twenty-four (24) hour period in which the portions of the sample are proportioned to the flow and combined to form a representative sample.

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

(76) "Wastewater." The liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, which are contributed into the POTW.

(77) "Wastewater discharge permit." A legal mechanism issued by the city, to a user, to control the character of the user's wastewater discharge such as, but not limited to, pollutant and flow limitations, and any other prohibitions and limitations the city deems necessary to protect the POTW, any by-products of its processes, and waters of the state.

(78) "Wastewater Treatment Plant (WWTP)." That portion of the city's POTW designed to provide treatment to wastewater.

(79) "WWTP chief operator." The individual designated by the city to oversee, manage, and operate the WWTP. In holding this position, the WWTP chief operator is charged with certain duties and responsibilities by the superintendent, by this ordinance, and by certification of regulations stipulated in any state and/or federal credentials required to hold this position.

(80) "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, which are contained within, flow through or border upon the state or any portion thereof. (1980 Code, § 13-202, as replaced by Ord. #00-26, June 2001, and Ord. #10-25, Oct. 2010, and amended by Ord. #16-49, Nov. 2016)

### **18-203. Requirements for proper wastewater disposal.**

(1) It shall be unlawful for any person to place, deposit, or permit to be deposited any wastewater, human or animal excrement, garbage, or other objectionable waste, in any unsanitary manner on public or private property within the city.

(2) It shall be unlawful to discharge any wastewater, human or animal excrement, garbage, or other objectionable waste into any waters of the state, except when suitable treatment has been provided in accordance with provisions of this ordinance.

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

(4) Except as provided in subsection (6) of this section, the owner of all houses, buildings, or properties used for human occupancy, employment,



recreation, or other purposes situated within the service area and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer, is hereby required at his expense to install suitable sanitary facilities therein, and to connect such facilities directly with the POTW in accordance with the provisions of this ordinance, within ninety (90) days after date of official notice to do so, provided that said public sanitary sewer is within three hundred feet (300') of the property line.

(5) The owner of a manufacturing facility may discharge wastewater to the waters of the state provided that the facility obtains an NPDES permit and meets all requirements of the Act, the NPDES permit, and any other applicable local, state, and federal laws and regulations.

(6) Where a public sanitary sewer is not available, the building sewer shall be connected to a private sewage disposal system complying with the provisions of §§ 18-208 and 18-209 of this chapter.

(7) The city shall develop a set of standard specifications for the construction of new sanitary sewers with the approval of the superintendent and the state. (1980 Code, § 13-203, as replaced by Ord. #00-26, June 2001, and Ord. #10-25, Oct. 2010, and amended by Ord. #16-49, Nov. 2016)

**18-204. Physical connection to public sewer.** (1) No person shall uncover, make any connections with or openings into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining written authorization from the city as required by §§ 18-215 or 18-216 of this chapter.

(2) Any person given permission by the city to uncover, make connection with or openings into, use, alter, or disturb any part of the POTW or appurtenance thereof that requires entrance into said POTW must adhere to all current federal, state, and local safety regulations, including but not limited to the city's "Confined Space Entry" Program requirements.

(3) All costs sustained from 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 caused by the aforementioned activities.

(4) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to a rear building through an adjoining alley, court, yard, or driveway. When an exception is approved by the supervisor of collections, the building sewer from the building may be extended to a rear building and the whole considered as one (1) building sewer. The city accepts no responsibility for any injury or damage caused by this type of building sewer installation.

(5) Old building sewers may be used in connection with new buildings only when they are found, on examination and tested by the supervisor of collections, to meet all requirements of this ordinance. All others must be sealed in accordance to the specifications of the city.

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

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

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

(c) Four inch (4") gravity-building sewers shall be laid on a grade of one-fourth inch (1/4") per foot. Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least two feet (2') per second.

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

(e) Building sewers shall be constructed only of:

(i) Schedule 40 polyvinyl chloride pipe with solvent welded or with rubber compression joints;

(ii) Ductile iron pipe with push on joints; or

(iii) Such other materials of equal or superior quality as may be approved by the supervisor of collections.

Under no circumstances will cement mortar joints be acceptable.

(f) A cleanout shall be located three feet (3') outside of the building, at the tap to the POTW, and at each change of direction of the building sewer that is greater than forty-five degrees (45°). Additional cleanouts shall be placed not more than seventy-five feet (75') apart in horizontal building sewers of four inch (4") nominal diameter and not more than one hundred feet (100') apart for larger pipes. Cleanouts shall extend to within six inches (6") of the finished grade level and shall be protected by a plastic meter box with cast iron reader lid. A "T" (long sweep) or "Y" (wye and one-eighth (1/8) bend) shall be used for the cleanout base. Cleanouts shall not be smaller than four inches (4") on a four inch (4") pipe.

(g) Connections of building sewers to the POTW shall be made to the appropriate existing wye or tee branch using compression type couplings or collar type rubber joint with corrosion resisting or stainless steel bands. Where existing wye or tee branches are not available, connections of building services shall be made by either removing a length of pipe and replacing it with a wye or tee fitting or cutting a clean opening in the existing public sewer and installing a tee-saddle or tee-insert of a type approved by the supervisor of collections. Where connections are made with pipe of different inside or outside diameter, proper watertight gasketed or sleeved transition connections shall be used. All such connections shall be made gastight and watertight.

(h) The building sewer may be brought into the building below the basement floor when gravity flow from the building to the POTW is at a grade of one-fourth inch (1/4") per foot (two percent (2%)) or more if possible. In cases where basement or floor levels are lower than the

ground elevation at the point of connection to the POTW, the owner shall provide adequate precautions by installation of check valves or backflow prevention devices to protect against flooding. In all buildings in which any building drain is too low to permit gravity flow to the POTW, a private sewage pumping station, as approved by the supervisor of collections, shall be installed at the expense of the owner. Said pumping station installation shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city or to the procedures set forth in appropriate specifications of the ASTM and Water Pollution Control Federation Manual of Practice No. 9.

(i) The building sewer shall be laid in a ditch no less than twelve inches (12") in width. The pipe shall have no less than eight inches (8") of #57 crushed stone as bedding. The building sewer shall be laid according to grade and checked with rod and level or laser leveling device. The person installing the building sewer may be asked to provide proof of grade upon request by the supervisor of collections.

(j) The methods to be used in excavating, placing of pipe, jointing, testing, backfilling the trench, or other activities in the construction of a building sewer which have not been described above shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city or to the procedures set forth in appropriate specifications of the ASTM and Water Pollution Control Federation Manual of Practice No. 9. The supervisor of collections must approve any deviation from the prescribed procedures and materials before installation.

(k) An installed building sewer shall be gas tight and watertight. Tightness testing shall be performed in accordance with the city's standard specifications for wastewater construction.

(7) All excavations for building sewer installations shall follow current federal, state and local safety requirements including, but not limited to, safety jacks, shores, and/or proper excavations; and 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 supervisor of collections.

(8) No person shall make connection to roof downspouts, exterior foundation drains, areaway drains, basement drains, or other sources of stormwater or groundwater to building sewer or building drain that in turn is connected directly or indirectly to the POTW. (1980 Code, § 13-204, as replaced by Ord. #566, § 1, April 1998, Ord. #00-26, June 2001, and Ord. #10-25, Oct. 2010)

**18-205. Grease interceptor requirements.** (1) Upon construction or renovation, all commercial, industrial, institutional, and all other non-residential establishments (e.g., restaurants, cafeterias, motels, hospitals,

garages, nursing homes, schools, grocery stores, prisons, churches, caterers, manufacturing facilities) that discharge FOG bearing wastewaters shall properly install, operate, and maintain grease interceptors in accordance with the city's grease management program.

(2) All existing commercial, industrial, institutional, and all other non-residential establishments (e.g., restaurants, cafeterias, motels, hospitals, garages, nursing homes, schools, grocery stores, prisons, churches, caterers, manufacturing facilities) that discharge FOG bearing wastewaters shall be expected to conduct their operations in such a manner that FOG is captured on the user's premises and properly disposed in accordance with the city's grease management program.

(3) Grease interceptors shall be designed in accordance with the requirements outlined in the city's grease management program. The cost of the installations shall be borne by the user.

(4) All grease interceptors shall be maintained by the user at the user's expense, in continuously efficient operation at all times, and according to the city's grease management program. In the maintenance of these interceptors, the owner shall be responsible for the proper removal and disposal of the captured material and shall maintain records of the dates and means of disposal; records are subject to review by the IPC. The frequency of removal shall be in accordance with the city's grease management program. The removal and/or disposal of collected materials must be performed by licensed waste disposal firms. Under no circumstances shall the collected materials ever be returned to the wastewater system.

(5) The IPC shall have the right to enter all properties subject to this program, at any time and without prior notification, for the purpose of inspection, observation, measurement, sampling, testing, or record review. Fees may be collected from users to compensate the city for the inspections and other administrative duties of the grease management program. The user shall reimburse the city for all expenses incurred including, but not limited to, labor, equipment, and materials if the city is required to clean out the public sewer, as a consequence of a blockage resulting from an improperly maintained grease interceptor of the user. (1980 Code, § 13-205, as replaced by Ord. #00-26, June 2001, and Ord. #10-25, Oct. 2010)

**18-206. Inspection of connections.** (1) All building sewers shall be inspected by the supervisor of collections or his duly authorized representative and subject to inspection and testing before the underground portion is covered.

(2) The applicant shall notify the city's public works office that the building sewer is ready for inspection. The public works office shall verify that all fees have been paid. If all fees have been paid, the public works office will contact the supervisor of collections and inform him that the building sewer is ready for inspection.

(3) The inspection result, pass or fail, shall be indicated by a sticker attached to the cleanout closest to the POTW. The applicant may cover up subsurface building sewer lines that pass inspection. The supervisor of collections will report subsurface building sewer lines that fail inspection to the public works and utility offices. Once the applicant has corrected the failed building sewer lines and is ready for re-inspection, the requirements set forth in subsection (2) of this section shall be followed. (1980 Code, § 13-206, as replaced by Ord. #00-26, June 2001, and Ord. #10-25, Oct. 2010)

**18-207. Maintenance of building sewers.** The POTW is a costly but valuable asset for all of its users. The capacity and cost of this service is directly affected by the regular building sewer maintenance conducted by the users of the POTW. Each 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 sewer line on private property up to the property line as deemed necessary by the supervisor to meet specifications of the city. If, upon smoke testing and/or visual inspection by the city, roof downspout connections; exterior foundation drains; basement drains; or other sources of stormwater, surface water, or groundwater entry into the POTW are identified on a user's private property, the city may take any of the following actions:

(1) Notify the user in writing of the nature of the problem(s) identified on the user's building sewer and the specific steps required to bring the building sewer into compliance with the requirements of this ordinance. All steps necessary to correct these violations must be complete within sixty (60) days from the date of the written notice. All costs incurred in correcting these violation(s) are entirely at the expense of the user.

(2) Notify the user in writing of the nature of the problem(s) identified on the user's building sewer and inform the user that the city will provide all labor, equipment, and materials necessary to make the repairs required to bring the building sewer into compliance with the requirements of this ordinance. The work on private property will be performed at the city's convenience and the cost of all materials used will be charged to the user. The city will be responsible for bringing any excavations back to original grade, replacing topsoil, and hand-raking all disturbed areas. The user shall be responsible for final landscaping, including but not limited to, seeding, fertilizing, watering, mulching, sodding, and replacing any shrubbery or trees displaced or damaged by the city during the execution of the work.

(3) Any person that requires entry into any part of the POTW or an appurtenance of the POTW to conduct any maintenance work must meet the requirements of § 18-204 of this chapter. (1980 Code, § 13-207, as replaced by Ord. #00-26, June 2001, and Ord. #10-25, Oct. 2010)

**18-208. Availability of public sewer.** (1) Where a public sanitary sewer is not available, the building sewer shall be connected to a private sewage disposal system complying with the provisions of § 18-209 of this chapter.

(2) Any residence, office, recreational facility, or other establishment used for human occupancy and the building drain is below the elevation necessary to obtain a grade equivalent to a one-eighth inch (1/8") per foot (one percent (1%)) in the building sewer, but is otherwise accessible to a sanitary sewer as provided in § 18-203 of this chapter, the owner shall provide a private sewage pumping station as required in § 18-204(6)(h) of this chapter.

(3) In the event a public sanitary sewer becomes available to a building, the building sewer shall be connected to that public sewer within ninety (90) days of notice from the city. The supervisor of collections shall maintain the right and discretion to temporarily waive the public sanitary sewer connection requirement, on a case-by-case basis, and under certain circumstances. If the supervisor of collections waives such requirement, the subject property owner (available user) shall be required to pay any and all applicable sewer use charges in accordance with the schedule of charges and fees. (1980 Code, § 13-208, as replaced by Ord. #00-26, June 2001, and Ord. #10-25, Oct. 2010, and amended by Ord. #16-49, Nov. 2016)

**18-209. Requirements for private sewage disposal.** (1) A private sewage disposal system may not be constructed in the city until a certificate is obtained from the superintendent stating that a public sanitary sewer is not accessible to the property and no such sanitary sewer is proposed for construction in the immediate future. No certificate shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than that specified by the Sumner County Health Department.

(2) Before commencement of construction of a subsurface soil absorption facility, the owner shall obtain written permission from the Sumner County Health Department. The owner shall supply all plans, specifications, and other information as deemed necessary by the Sumner County Health Department.

(3) A subsurface soil absorption facility shall not be placed in operation until the installation is completed to the satisfaction of the Sumner County Health Department. The owner shall allow the Sumner County Health Department to inspect the work at any stage of construction. The owner shall notify the Sumner County Health Department when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made by the Sumner County Health Department within a reasonable period of time after the receipt of notice.

(4) The type, capacity, location, and layout of a private sewage disposal system shall comply with all recommendations of TDEC and/or the

Sumner County Health Department. No septic tank or cesspool shall be permitted to discharge directly to any waters of the state.

(5) The owner shall operate and maintain the private sewage disposal system in a sanitary manner at all times, at no cost to the city.

(6) No statement contained in this section shall be constructed to interfere with any additional requirements that may be imposed by the Sumner County Health Department. (1980 Code, § 13-209, as replaced by Ord. #00-26, June 2001, and Ord. #10-25, Oct. 2010)

**18-210. Requirements for satellite POTWs and inter-municipal agreements.** The following requirements shall be followed in the development and implementation of all satellite and inter-municipal agreements entered into by the city with other municipalities that desire to connect to the city's POTW. The services offered by the city with its POTW are a valuable but limited asset developed by the city. Use of a portion of its POTW capacity should be viewed as a privilege that comes with certain requirements. All agreements should follow the general provisions of § 18-215 of this chapter.

(1) Agreements with satellite POTWs shall be developed in such a manner as to protect the city's POTW, its employees, and the environment;

(2) Agreements with satellite POTWs shall be developed to reflect the city's SUO including, but not limited to, its definitions, requirements, and regulations. The satellite POTW may be required to develop its own SUO and modify it to reflect the city's SUO when necessary;

(3) The city reserves the right to set discharge limits, for volume and/or pollutant concentration, on satellite POTWs including, but not limited to the requirements in §§ 18-218 through 18-219 of this chapter;

(4) The city shall have the right to administer its industrial pretreatment program unless the satellite POTW has its own state approved industrial pretreatment program;

(5) All satellite POTWs shall install and maintain a monitoring facility at a point just prior to the connection to the city's POTW. These facilities shall include an electronic flow measurement device and a discrete sampling point in accordance with § 18-225 of this chapter;

(6) The city and the satellite POTW shall develop a payment system for the collection of fees, from the satellite POTW or its users, to cover all costs incurred by the city for the use of its POTW and the treatment of the wastewater discharged from the satellite POTW. This payment system shall be reviewed and adjustments made by both parties, not less than bi-annually, to ensure that all cost for the services being extended to the satellite POTW are being covered by their fees;

(7) The satellite POTW shall submit an annual report, due by January 30th of each year, to the city. It shall indicate the activities conducted by the satellite POTW including modifications, maintenance, and extensions of its POTW during the previous year. This report shall also include the annual total

flow discharged, based on their potable water usage or other verifiable method, and the total flow measured by the measured at the connection point to the city's POTW. The difference between these volumes is wastewater not covered by the normal payment system. The city may charge the satellite POTW a fee, determined by the city, for difference between these two (2) volumes. (1980 Code, § 13-210, as replaced by Ord. #00-26, June 2001, and Ord. #10-25, Oct. 2010)

**18-211. Holding tank waste disposal.** (1) The acceptance of holding tank wastewater into the POTW is a privilege that may be granted by the city to holding tank haulers. The city reserves the right to terminate this privilege at any time to any or all holding tank haulers if it deems it necessary to protect the POTW. Holding tank wastewater shall be accepted into the POTW only at receiving points designated by the superintendent, at such times established by the WWTP chief operator, and provided that such wastewaters do not violate § 18-218 of this chapter or any other local pretreatment standards or requirements established or adopted by the city. No person shall discharge holding tank wastewaters or clean equipment used to haul such wastewaters at any place other than a place so designated.

(2) The WWTP chief operator shall have the authority to prohibit the disposal of such wastewater, if such disposal will cause interference or pass through or adversely affect the ability of the city to meet the objectives provided in § 18-201 of this chapter. (1980 Code, § 13-211, as replaced by Ord. #00-26, June 2001, and Ord. #10-25, Oct. 2010)

**18-212. Holding tank haulers waste disposal permit.** (1) No person shall clean out, drain, or flush any septic tank or any other type of wastewater or sewage disposal system, unless such person obtains a permit from the city to perform such acts or services. Any person desiring a permit to perform such services shall submit an application on the prescribed form(s). Applications may be obtained and submitted at the WWTP during normal office hours. The city may issue a permit when the conditions of this ordinance have been met and providing the WWTP chief operator is satisfied the applicant has adequate and proper equipment to perform the services contemplated in a safe and competent manner.

(2) Failure to comply with all the provisions of this ordinance shall be sufficient cause for the revocation of such permit by the superintendent. The possession within the city by any person of any motor vehicle equipped with a body type and accessories of a nature and design capable of servicing private sewage disposal systems or septic tanks shall be prima facie evidence that such person is engaged in the business of cleaning, draining, flushing, and/or servicing such systems within the city. (1980 Code, § 13-212, as replaced by Ord. #00-26, June 2001, and Ord. #10-25, Oct. 2010)



**18-213. Fees for holding tank waste disposal permits.** (1) Annual fees. For each permit issued under the provisions of § 18-212 of this chapter, an annual service charge shall be paid to the city as specified in § 18-245 of this chapter. Holding tank waste disposal permits shall be issued for a maximum period of one (1) year but may be prorated for a lesser period of time, with the approval of the WWTP chief operator. This permit is nontransferable.

(2) Permit number. The permit number issued by the city shall be plainly displayed on each side of the tank used in the conduct of this service.

(3) Tipping fees. The holding tank haulers shall pay a tipping fee, as set by the city, for each load discharged into the POTW.

(4) Sampling and analyzing loads. The city reserves the right to collect and analyze samples from any holding tank hauler at any time as deemed necessary to ensure that all wastewaters being discharged into the POTW shall not cause interference or pass through or adversely affect the ability of the city to meet the objectives provided in § 18-201 of this chapter. The hauler shall be liable for all expenses incurred for all such analysis. Refusal by the hauler to pay these costs shall be grounds for immediate termination of the hauler's discharge privileges. The superintendent may reinstate a hauler's discharge privileges only after receiving payment and a written request by the hauler, provided its wastewater shall not cause interference or pass through or adversely affect the ability of the city to meet the objectives provided in § 18-201 of this chapter. (1980 Code, § 13-213, as replaced by Ord. #00-26, June 2001, and Ord. #10-25, Oct. 2010)

**18-214. Underground fuel storage tank wastewaters.** The acceptance of underground fuel storage tank wastewater into the POTW is a privilege that may be granted by the city to a user when requested. Wastewater from contaminated underground fuel storage tank sites within the city may be discharged to the POTW only when and if a permit application, as prescribed by the WWTP chief operator, is submitted, fees, if any, are paid, and a special "underground fuel storage tank wastewater discharge permit" is obtained. Said permits shall have an effective period of not more than one (1) year. The user shall apply for a renewal permit not less than thirty (30) days prior to the expiration date of the current permit. The city reserves the right to terminate this privilege at any time to any or all persons, if the city deems it necessary to protect the POTW. All other aspects of this ordinance will be in force for these permits and administered by the city. (1980 Code, § 13-214, as replaced by Ord. #00-26, June 2001, and Ord. #10-25, Oct. 2010)

**18-215. Domestic wastewater discharge permits.** (1) General requirements. All users or prospective users that generate only domestic wastewater shall make application to the city's utility office for written authorization to connect a building sewer and to discharge wastewater to the POTW. Applications shall be required from all new dischargers of domestic

wastewater as well as for any existing dischargers of domestic wastewater desiring additional service. Connection to the POTW shall only be made when the following conditions have been met:

- (a) A completed application is received and approved by the city;
- (b) The appropriate fee(s) have been paid;
- (c) The building sewer is installed in accordance with § 18-204 of this chapter; and
- (d) An inspection of the building sewer by the supervisor of collections has been performed and has passed inspection.

(2) Disclaimer for services requested. The receipt by the city of a prospective user's application for sanitary sewer service shall not obligate the city to render such service. If the service requested cannot be supplied in accordance with this ordinance and/or any other requirements established by the city, the tap fee shall be refunded in full. There shall be no liability on the city to the applicant for such service, except that the superintendent may grant conditional waivers for additional services for interim periods if compliance will be met within thirty (30) days. (1980 Code, § 13-215, as replaced by Ord. #00-26, June 2001, and Ord. #10-25, Oct. 2010)

**18-216. Industrial Wastewater Discharge Permits (hereafter IWDP).** It is a privilege and a valuable asset for any user to be allowed to use a portion of the POTW's capacity. Local, state, and federal regulations have been established to protect our environment. A partnership between the city and its local industries can be beneficial for all parties.

(1) General requirements. (a) When requested by the IPC, a user must submit information on the nature and characteristics of its wastewater within sixty (60) days of the request. All new industrial users proposing to connect to or to contribute to the POTW shall notify the IPC and submit baseline information to the IPC not less than ninety (90) days prior to connecting to or contributing to the POTW. The IPC is authorized to prepare a form to collect this baseline information and may periodically require users to update this information. This baseline information shall be used by the IPC to determine the nature of the proposed contribution to the POTW.

(b) No SIU shall discharge wastewater into the POTW without first obtaining an IWDP from the city. All SIUs connected to or contributing to the POTW must maintain a current IWDP. The IPC may require other users to obtain an IWDP as necessary to carry out the objectives of this ordinance.

(c) The IPC shall review all existing IWDP(s) within ninety (90) days after the effective date of this ordinance to determine if any modifications need to be made to bring them into compliance with the provisions of this ordinance.

(d) Failure to follow the guidelines above may result in the city charging extra fees for the services rendered.

(e) Any violation of the terms and conditions of an IWDP shall be deemed a violation of this ordinance and subjects the permitted user to the sanctions set out under the enforcement and abatement sections §§ 18-231 through 18-244 of this chapter. Obtaining an IWDP does not relieve a user 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) Applications for an IWDP. Applications for IWDP(s) shall be required as follows:

(a) Application timeframe. All users required to obtain an IWDP shall obtain, complete, and submit a permit application. Existing IWDP holders shall apply for permit renewals not less than sixty (60) days prior to the expiration of their current IWDP permit. Users proposing to begin or recommence discharging into the POTW must obtain an IWDP prior to the beginning or recommencing of such discharge. An application for an IWDP must be filed not less than ninety (90) days prior to contributing to the POTW.

(b) Application information. The application shall be on the prescribed form of the city and may include, but not be limited to, the following information:

(i) Identifying information. The user shall submit the name and address of the facility including the name of the operator and owners.

(ii) Permits. The user shall submit a list of any environmental control permits held by or for the facility.

(iii) Description of operations. The user shall submit a brief description of the nature, average rate of production, and standard industrial classification(s) of the operation(s) carried out by the user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

(iv) Flow measurement. The user shall submit 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 wastestream formula set out in Tennessee Rule 1200-4-14-.06(5). The city may allow for verifiable estimates of these flows where justified by cost or feasibility considerations.

(v) Measurement of pollutants. (A) When applicable, the user shall identify the categorical pretreatment standards applicable to each regulated process;

(B) The user shall submit the results of sampling and analysis identifying the nature and concentration (or mass, where required by the standard or the city) of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations. In cases 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;

(C) The user shall take a minimum of one (1) representative sample to compile that data necessary to comply with the requirements of this paragraph;

(D) 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 wastestream formula set out in Tennessee Rule 1200-4-14-.06(5) in order 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 city;

(E) Sampling must be performed in accordance with procedures set out in § 18-226(3) of this chapter;

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

(G) The baseline information 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.

(vi) Certification. A statement, reviewed by an authorized representative of the industrial user (as provided in § 18-230 of this chapter) and certified to by an authorized representative of the user, 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 for the industrial user to meet the pretreatment standards and requirements.

(vii) Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards; the shortest schedule by which the industrial user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard.

(viii) Pretreatment facilities. Any user who elects or is required to construct new or additional pretreatment facilities to achieve compliance with all categorical pretreatment standards, user discharge restrictions, and prohibitions set out in this ordinance, shall, as part of the application for the IWDP, submit plans, specifications, and other pertinent information related to the proposed construction to the IPC for approval. An IWDP shall not be issued until such plans and specifications are approved. Approval of such plans and specifications shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce a discharge that is acceptable to the city under the provisions of this ordinance.

(ix) If pretreatment facilities and/or changes to the current O&M practices of the user are required to meet the pretreatment standards, the application shall include the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standards.

(x) The following conditions shall apply to the schedule required by subsection (b)(vii) above:

(A) The 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 industrial user to meet the pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.). No increment of progress shall exceed nine (9) months.

(B) The industrial user shall submit a progress report to the IPC, not later than fourteen (14) days following each date in the schedule and the final date for compliance, including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not,

the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the industrial user to return the construction to the schedule established. In no event shall more than two (2) months elapse between such progress reports to the IPC. Failure to submit progress reports in a timely manner may result in enforcement actions.

(xi) Additional information. The IPC will evaluate the data furnished by the user and may require additional information. After the IPC's evaluation and acceptance of the data furnished, the IPC may issue an IWDP subject to terms and conditions provided herein. The IPC shall determine the discharge status of the applicant and issue billings appropriate for that industrial status. City may reimburse the applicant for the amount received should the application be denied after receipt of any fee.

(xii) IPC's actions on application. The IPC will act only on applications containing all the information required. Persons who have filed an incomplete application will be notified by the IPC 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 IPC, the IPC shall deny the application. A written notification of the IPC's action shall be sent to the applicant and the superintendent.

(xiii) Disclaimer of services requested. The receipt by the IPC of a prospective user's application for an IWDP shall not obligate the city to render the wastewater collection and treatment service. If the service applied for cannot be supplied in accordance with this ordinance 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.

(3) Contents for an IWDP. IWDPs shall be expressly subject to all provisions of this ordinance and all other applicable federal, state, and local regulations and user charges and fees established by the city.

(a) IWDPs shall contain, but not be limited to, the following:

(i) A statement that indicates the IWDP issuance date, expiration date, and effective date;

(ii) A statement that the IWDP is nontransferable without prior notification to the city and provisions for furnishing a copy of the existing IWDP to the new owner or operator;

(iii) Effluent limits, including BMPs, based on applicable pretreatment standards;

(iv) Self monitoring, sampling, reporting, notification, and recordkeeping requirements, including identification of pollutants

(or BMP) 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 schedules shall not extend the time for compliance beyond that required by applicable federal, state, or local law; and

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

(b) IWDPs may contain, but not be limited to, the following conditions:

(i) The unit charge per gallon of wastewater discharged, schedule of user charges, and/or fees for the wastewater discharged to the POTW developed by the city to offset the cost of treatment;

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

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

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

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

(vi) 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;

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

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

(4) Duration for an IWDP. An IWDP shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. An individual IWDP may be issued for a period less than five (5) years, at the discretion of the public works office. Each IWDP will indicate a specific date upon which it will expire. The user shall apply for permit re-issuance not less than sixty (60) days prior to the expiration of the user's current IWDP.

(5) Transfer for an IWDP. Each IWDP is issued to a specific user for a specific operation. An IWDP shall not be reassigned, transferred, or sold to a new user, a different premise, or a new or changed operation without the approval of the IPC. Any succeeding person, owner, or user shall also comply with all the terms and conditions of the existing IWDP.

(6) Permit modification. Any IWDP issued under the provisions of this ordinance may be modified 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 IWDP 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 POTW, city employees, or the receiving waters;

(e) Violation of any terms or conditions of the IWDP;

(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 40 C.F.R. 403.13;

(h) To correct typographical or other errors in the IWDP; or

(i) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with subsection (6) above.

(7) Permit revocation. Any IWDP issued under the provisions of this ordinance is subject to suspension or revocation in whole or in part during its term for good cause, including, but not limited to, the following reasons:

(a) Failure to notify IPC of significant changes in operations or wastewater volume, constituents, and characteristics prior to the changed discharge;

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

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

(d) Tampering with monitoring equipment;

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

(f) Failure to meet effluent limitations;

(g) Failure to pay fines;

(h) Failure to pay sewer charges;

(i) Failure to meet compliance schedules;



- (j) Failure to complete a wastewater survey or the wastewater discharge permit application;
- (k) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- (l) Violation of any pretreatment standard or requirement, or any terms of its IWDP or this ordinance. (1980 Code, § 13-216, as replaced by Ord. #00-26, June 2001, and Ord. #10-25, Oct. 2010)

**18-217. Confidential information.** Any information and data on a user submitted to the city pursuant to the provisions of this ordinance, an IWDP, or order issued hereunder, or any other pretreatment standard or requirement, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of city, that the release of specific 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 written document that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall be clearly and permanently marked "Confidential Business Information" and the city shall not make available those portions 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 user furnishing the report. Wastewater constituents, characteristics, and other effluent data, as defined at 40 C.F.R. 2.302, shall not be recognized as confidential information and shall be available to the public without restriction. (1980 Code, § 13-217, as replaced by Ord. #00-26, June 2001, and Ord. #10-25, Oct. 2010)

**18-218. Prohibited discharge standards.** (1) General prohibitions.

(a) No user shall contribute or cause to be contributed into the POTW, directly or indirectly, any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not a user is subject to categorical pretreatment standards or any other federal, state, or local pretreatment standards or requirements.

(b) Waters 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 with the POTW.

(2) Specific prohibitions. No user shall contribute or cause to be contributed into the POTW the following pollutants, substances, or wastewater:

(a) Liquids, solids, or gases which, by reason of their nature or quantity are, or may be, either singly or by interaction with other wastes, sufficient to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time shall two (2) successive readings on an explosion hazard meter, at the point of discharge into the POTW, or to any point in the POTW, be more than five percent (5%) nor any single reading over ten percent (10%) of the Lower Explosive Limit (LEL) of the meter. Wastewater shall not have a closed-cup flashpoint of less than one hundred forty (140°) F (degrees Fahrenheit)/sixty (60°) C (degrees Centigrade) using the test methods in 40 C.F.R. 261.21. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromate, carbides, hydrides and sulfides, and any other substances which the city, the state, or EPA has notified the user is a fire hazard or a hazard to the system.

(b) Wastewater having a pH less than 5.0 or higher than 10.0, unless authorized by the city, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW. No wastewater having a pH more than 12.5 shall be authorized, since this would be considered a corrosive hazardous waste under 40 C.F.R. 261.22 of the Act.

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

(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 which will inhibit biological activity in the WWTP resulting in interference, but in no case wastewater which causes the temperature at the introduction into the WWTP which exceeds one hundred four (104°) F (degrees Fahrenheit)/forty degrees (40°) C (degrees Celsius).

(f) Wastewaters containing any toxic pollutants, chemical elements, or compounds in sufficient quantity, which either singly or by interaction with other pollutants, may cause interference, constitute a hazard to humans or animals, create a toxic effect in the receiving waters

of the POTW, or exceed the pretreatment standards. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to section 307(a) of the Act.

(g) Trucked, hauled, or other discharge of pollutants, except at discharge points designated by the WWTP chief operator in accordance with §§ 18-212 through 18-214 of this chapter.

(h) 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 are sufficient to prevent entry into the POTW for maintenance and repair.

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

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

(k) Any substance that will cause the POTW to violate its NPDES permit or the receiving water quality standards.

(l) Any wastewater causing discoloration of the WWTP effluent to the extent that the NPDES permit would be violated, such as, but not limited to, dye wastes and vegetable tanning solutions.

(m) Any wastewater of an unusual flow rate or concentrations, "slug" as defined in this ordinance, unless authorized by the city.

(n) Wastewater containing any radioactive wastes or isotopes except as specifically approved by the city and in compliance with applicable state or federal regulations.

(o) Any wastewater that causes a hazard to human life or creates a public nuisance.

(p) Any wastewater containing fats, oils, or greases of animal or vegetable origin, whether emulsified or not, in excess of one hundred (100) mg/L or containing substances which may solidify or become viscous at temperature between thirty-two (32°) F and one hundred forty (140°) F (degrees Fahrenheit) or zero (0°) C and sixty (60°) C (degrees Celsius).

(q) Any wastewaters containing petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in excess of one hundred (100) mg/L, or in amounts that will cause interference or pass through.

(r) Stormwater, surface water, groundwater, roof runoff, subsurface drainage, noncontact cooling water, or unpolluted industrial process waters to any sanitary sewer. Stormwater and all other unpolluted drainage shall be discharged to conveyances that are specifically designated as storm sewers, or to a natural outlet approved by the superintendent and TDEC. Noncontact cooling water or unpolluted process wastewaters may be discharged on approval of the superintendent and/or TDEC, to a storm sewer or natural outlet.

(s) Except where expressly authorized to do so by an applicable pretreatment standard or requirement, no user shall ever increase the use of process water, or in any other way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a pretreatment standard or requirement.

(t) Sludges, screenings, or other residues from the pretreatment of industrial wastes unless approved by the IPC.

(u) Any wastes containing detergents, surface-active agents, surfactants, or other substances that may cause excessive foaming in the POTW.

(3) By-pass. (a) Definitions. (i) By-pass means the intentional diversion of wastestreams from any portion of an industrial 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 by-pass. Severe property damage does not mean economic loss caused by delays in production.

(b) An industrial user may allow any by-pass 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 by-passes are not subject to the provisions of subsections (c) and (d) below.

(c) Notice. (i) If an industrial user knows in advance of the need for a by-pass, it shall submit prior notice to the POTW, if possible at least ten (10) days before the date of the by-pass.

(ii) An industrial user shall submit oral notice of an unanticipated by-pass that exceeds applicable pretreatment standards to the city within twenty-four (24) hours from the time the industrial user becomes aware of the by-pass. A written submission shall also be provided within five (5) days of the time the industrial user becomes aware of the by-pass. The written submission shall contain a description of the by-pass and its cause; the duration of the by-pass, including exact dates and times, and, if the by-pass 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 by-pass. The city may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

(d) Prohibition of by-pass. (i) By-pass is prohibited, and the city may take enforcement action against an industrial user for a by-pass, unless;

(A) By-pass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(B) There were no feasible alternatives to the by-pass, 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 by-pass which occurred during normal periods of equipment downtime or preventative maintenance; and

(C) The industrial user submitted notices as required under subsection (c) of this section.

(ii) The city may approve an anticipated by-pass, 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. (1980 Code, § 13-218, as replaced by Ord. #00-26, June 2001, and Ord. #10-25, Oct. 2010)

**18-219. Restrictions on wastewater strength.** (1) No user shall discharge wastewater containing pollutants in excess of the limits shown in Table A - User Discharge Restrictions. These pollutant limits have been established using standard procedures, calculations, and methods acceptable to TDEC to protect the POTW against pass through, interference, and adverse effects on wastewater residuals reuse or disposal. These pollutant limits shall be included as permit conditions and attached to each IWDP. The pollutant limits apply at the point where the wastewater is discharged to the POTW.

(2) Dilution of any wastewater discharge for satisfying these pollutant limits is prohibited by § 18-223 of this chapter. Any user that discharges pollutant concentrations in excess of the limits presented in Table A of this ordinance will be subject to enforcement actions outlined in the ERP.

(3) The IPC may develop BMPs, by ordinance or in IWDPs, to implement the restrictions of §§ 18-218, 18-219, and 18-220 of this chapter.

**Table A - User Discharge Restrictions**

<b>Pollutant</b>	<b>Monthly Average Limit (mg/L)</b>	<b>Daily Maximum Limit (mg/L)*</b>	<b>Instantaneous Limit (mg/L)**</b>
<b><u>Toxic</u></b>			
1, 1, 1 Trichloroethane	1.82	2.72	4.08
1, 2 Transdichloroethylene	0.037	0.055	0.083
Arsenic	0.147	0.221	0.332
Benzene	0.093	0.140	0.210
Cadmium	0.009	0.014	0.021
Carbon tetrachloride	0.355	0.532	0.798
Chloroform	2.19	3.28	4.93
Chromium VI	0.261	0.392	0.588
Chromium, total	1.00	1.50	2.25
Copper	0.80	1.20	1.80
Cyanide	0.079	0.119	0.179
Ethylbenzene	0.255	0.383	0.575
Lead	0.040	0.060	0.090
Mercury		Prohibited	
Methylene chloride	0.966	1.45	2.174
Molybdenum	0.265	0.397	0.596
Napthalene	0.033	0.049	0.074
Nickel	0.700	1.05	1.575
Selenium	0.003	0.004	0.006
Silver	0.051	0.077	0.116
Tetrachloroethylene	1.02	1.53	2.289

<b>Pollutant</b>	<b>Monthly Average Limit (mg/L)</b>	<b>Daily Maximum Limit (mg/L)*</b>	<b>Instantaneous Limit (mg/L)**</b>
Toluene	1.95	2.92	4.377
Total phenols	1.20	1.80	2.70
Total phthalates	1.49	2.24	3.36
Trichloroethylene	0.823	1.23	1.85
Zinc	1.50	2.25	3.38

**Conventional and  
non-conventional\*\*\***

BOD <sub>5</sub>	500	750	1,000
FOG	100	125	150
Total phosphorus	11	16.5	22
Total Kjeldahl Nitrogen (TKN)	23	35	46
Total nitrogen	30	45	60
TSS	500	750	1,000

\* Based on 24-hour flow proportional composite samples or average of two or more instantaneous grab samples.

\*\* Based on single grab sample.

\*\*\* Based on WWTP influent design criteria.

(1980 Code, § 13-219, as replaced by Ord. #00-26, June 2001, and Ord. #10-25, Oct. 2010)

**18-220. Protection of WWTP.** The WWTP chief operator shall monitor the WWTP influent for each pollutant in Table B - Plant Protection Criteria. In the event that the influent to the WWTP reaches or exceeds eighty percent (80%) of a concentration value listed in Table B, the WWTP chief operator may initiate an "Influent Technical Review" (ITR) study. If initiated, the WWTP chief operator, in conjunction with the IPC and any consultants deemed necessary, shall conduct the ITR study. This study shall be conducted in an effort to determine the source(s) of the increased pollutant contributions and to develop recommendations to the city, including, but not limited to, changes to any of the pollutant limits shown in Table A of this ordinance.

**Table B - Plant Protection Criteria**

<b>Pollutant</b>	<b>Daily Maximum (mg/L)*</b>	<b>Instantaneous (mg/L)**</b>
<b><u>Toxic</u></b>		
1, 1, 1 Trichloroethane	0.200	0.300
1,2 Transdichloroethylene	0.004	0.006
Arsenic	0.017	0.026
Benzene	0.015	0.023
Cadmium	0.003	0.005
Carbon tetrachloride	0.039	0.059
Chloroform	0.257	0.386
Chromium VI	0.032	0.048
Chromium, total	0.193	0.290
Copper	0.257	0.386
Cyanide	0.015	0.023
Ethylbenzene	0.028	0.042
Lead	0.062	0.093
Mercury	0.0001	0.0002
Methylene chloride	0.131	0.197
Molybdenum	0.057	0.086
Napthalene	0.004	0.006
Nickel	0.162	0.243
Selenium	0.038	0.057
Silver	0.008	0.012
Tetrachloroethylene	0.125	0.188
Toluene	0.214	0.321
Total phenols	0.500	0.750



<b>Pollutant</b>	<b>Daily Maximum (mg/L)*</b>	<b>Instantaneous (mg/L)**</b>
Total phthalates	0.169	0.254
Trichloroethylene	0.090	0.135
Zinc	0.526	0.789

\* Based on 24-hour flow proportional composite samples or average of two or more instantaneous grab samples.

\*\* Based on single grab sample.

(1980 Code, § 13-220, as replaced by Ord. #00-26, June 2001, and Ord. #10-25, Oct. 2010)

**18-221. Categorical pretreatment standards.** (1) National pretreatment standards specifying quantities or concentrations of pollutants or pollutant properties that may be discharged to the POTW by industrial users in specific industrial subcategories are established as separate regulations under the appropriate subpart of 40 C.F.R. chapter I, subchapter N, parts 405-471. These standards, unless specifically noted otherwise, shall be in addition to all applicable pretreatment standards and requirements set forth in this ordinance.

(2) Category determination request. (a) Application deadline. Within sixty (60) days after the effective date of a pretreatment standard for a subcategory under which an industrial user may be included, the industrial user or city may request that the approval authority provide written certification on whether the industrial user falls within that particular subcategory. If an existing industrial user adds or changes a process or operation that may be included in a subcategory, the existing industrial user must request this certification prior to commencing discharge from the added or changed processes or operation. A new source must request this certification prior to commencing discharge. Where a request for certification is submitted by the city, the city shall notify any affected industrial user of such submission. The industrial user may provide written comments on the city submission to the approval authority within thirty (30) days of notification.

(b) Contents of application. Each request shall contain a statement:

- (i) Describing which subcategories might be applicable;
- and
- (ii) Citing evidence and reasons why a particular subcategory is applicable and why others are not applicable. Any person signing the application statement submitted pursuant to this paragraph must include the certification statement provided in § 18-230 of this chapter.

(3) Compliance by existing sources with categorical pretreatment standards shall be within three (3) years of the date the standard is effective unless a shorter compliance time is specified in the appropriate subpart of 40 C.F.R. chapter I, subchapter N. Existing sources that become industrial users subsequent to promulgation of an applicable categorical pretreatment standard shall be considered existing industrial users except where such sources meet the definition of a new source as defined in § 18-202 of this chapter. New sources shall install and have in operating condition and shall "start-up" all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge. Within the shortest feasible time (not to exceed ninety (90) days), new sources must meet all applicable pretreatment standards.

(4) Concentration and mass limits. (a) Pollutant discharge limits in categorical pretreatment standards will be expressed either as concentration or as mass limits. Wherever possible, where concentration limits are specified in standards, equivalent mass limits will be provided so that local, state or federal authorities responsible for enforcement may use either concentration or mass limits. Limits in categorical pretreatment standards shall apply to the effluent of the process regulated by the standard, or as otherwise specified by the standard.

(b) 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 permit limitations applicable to individual industrial users.

(c) When calculating equivalent mass-per-day limitations under subsection (b) of this section, the city shall calculate such limitations by multiplying the limits in the categorical pretreatment standard by the industrial user's average rate of production. This average rate of production shall be based not upon the designed production capacity but rather upon a reasonable measure of the industrial user's actual long-term daily production, such as the average daily production during a representative year. For new sources, actual production shall be estimated using projected production.

(d) When calculating equivalent concentration limitations under subsection (b) of this section, the city shall calculate such limitations by dividing the mass limitations derived under subsection (c) of this section by the average daily flow rate of the industrial user's regulated process wastewater. This average daily flow rate shall be based upon a reasonable measure of the industrial user's actual long-term average flow rate, such as the average daily flow rate during the representative year. Any day in which a facility does not have a discharge should not be included in the calculation of an average flow.

(e) When the limits in a categorical pretreatment standard are expressed only in terms of pollutant concentrations, an industrial user may request that the city convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the city. The city may establish equivalent mass limits only if the industrial user meets all the following conditions:

(i) To be eligible for equivalent mass limits, the industrial user must:

(A) Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its control mechanism;

(B) Currently use control and treatment technologies adequate to achieve compliance with the applicable categorical pretreatment standard, and not have used dilution as a substitute for treatment;

(C) Provide sufficient information to establish the facility's actual average daily flow rate for all wastestreams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and the long-term average production rate must be representative of current operating conditions;

(D) Not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the discharge; and

(E) Have consistently complied with all applicable categorical pretreatment standards during the period prior to the industrial user's request for equivalent mass limits.

(ii) An industrial user subject to equivalent mass limits must:

(A) Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;

(B) Continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;

(C) Continue to record the facility's production rates and notify the city whenever production rates are expected to vary by more than twenty percent (20%) from its baseline production rates determined in subsection (e)(i)(C) above. Upon notification of a revised production rate, the city must reassess the equivalent mass limit and revise the

limit as necessary to reflect changed conditions at the facility; and

(D) Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to subsection (e)(i)(A) above so long as it discharges under an equivalent mass limit.

(iii) When developing equivalent mass limits, the city:

(A) Shall calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the industrial user by the concentration based daily maximum and monthly average standard for the applicable categorical pretreatment standard and the appropriate unit conversion factor;

(B) Upon notification of a revised production rate, shall reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and

(C) May retain the same equivalent mass limit in subsequent control mechanism terms if the industrial user's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment as prohibited by § 18-223 of this chapter. The industrial user must also be in compliance with § 18-218(3) of this chapter.

(iv) The city shall not express limits in terms of mass for pollutants such as pH, temperature, radiation, or other pollutants that cannot appropriately be expressed as mass.

(f) The city may convert the mass limits of the categorical pretreatment standards at 40 C.F.R. parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual industrial users under the following conditions. When converting such limits to concentration limits, the city must use the concentrations listed in the applicable subparts of 40 C.F.R. parts 414, 419, and 455 and document that dilution is not being substituted for treatment as prohibited by § 18-223 of this chapter.

(g) Equivalent limitations calculated in accordance with subsections (c), (d), (e) and (f) of this section are deemed pretreatment standards for the purposes of section 307(d) of the Federal Clean Water Act and this section. The city must document how the equivalent limits were derived and make this information publicly available. Once incorporated into its control mechanism, the industrial user must comply

with the equivalent limitations in lieu of the promulgated categorical standards from which the equivalent limitations were derived.

(h) Many categorical pretreatment standards specify one (1) limit for calculating maximum daily discharge limitations and a second limit for calculating maximum monthly average, or four (4) day average, limitations. Where such standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum equivalent limitation.

(i) Any industrial user operating under a control mechanism incorporating equivalent mass or concentration limits calculated from a production based standard shall notify the city within two (2) business days after the user has a reasonable basis to know that the production level will significantly change within the next calendar month. Any user not notifying the city of such anticipated change will be required to meet the mass or concentration limits in its control mechanism that were based on the original estimate of the long term average production rate.

(5) 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).

(6) Upon the promulgation of categorical pretreatment standards for a particular industrial subcategory, the categorical pretreatment standards for industries in that subcategory, if more stringent limitations than those imposed under this ordinance, shall immediately supersede the limitations imposed under this ordinance. The IPC shall notify all affected users of the applicable reporting requirements under 40 C.F.R. 403.12. (1980 Code, § 13-221, as replaced by Ord. #00-26, June 2001, and Ord. #10-25, Oct. 2010)

**18-222. Right to establish more restrictive criteria.** The city reserves the right to establish, by ordinance or in IWDPs, more stringent pretreatment standards or requirements on discharges to the POTW consistent with the purpose of this ordinance. (1980 Code, § 13-222, as replaced by Ord. #00-26, June 2001, and Ord. #10-25, Oct. 2010)

**18-223. Dilution.** No industrial 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 pretreatment standard or requirement. The IPC may impose mass limitations on users using dilution to meet applicable pretreatment standards or requirements or in other cases when the imposition of mass limitations is appropriate. (1980 Code, § 13-223, as replaced by Ord. #00-26, June 2001, and Ord. #10-25, Oct. 2010)

**18-224. Accidental/slug discharges.** (1) Notification of accidental/slug discharge. (a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a slug discharge or slug load, that might cause potential problems for the POTW, the user shall immediately telephone and notify the city 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) Any person or user causing or suffering from any accidental/slug discharge shall immediately notify the city that an accidental/slug discharge has occurred.

(i) Normal business hours. If the incident has or is occurring during regular office hours, the user shall telephone the city's public works office.

(ii) After business hours, weekends, and holidays. If the incident has or is occurring at times other than normal business hours, the user shall contact the Portland Police Department.

(iii) Upon notification of the accidental/slug discharge, the public works office or police department shall notify the WWTP chief operator or his duly designated official to enable countermeasures to be taken. This is done in an effort to minimize any damage to the POTW, the health and welfare of the public, and the environment.

(iv) Follow-up statement. The user shall follow up this notification, within five (5) days of the date of occurrence, with a detailed written statement describing the cause(s) of the accidental/slug discharge and the measures being taken to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability, which might 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 user of any fines, penalties, or other liability that may be imposed pursuant to this ordinance.

(2) Notice to employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of an accidental/slug discharge (examples of, but not limited to, those in § 18-224 of this chapter). Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

(3) Protection from accidental/slug discharge. (a) Users shall provide such facilities and institute such procedures as are reasonably necessary to prevent or minimize the potential for accidental or slug discharge into the POTW, from liquid or raw material storage areas, from truck and rail

car loading and unloading areas, from in-plant transfer or processing and materials handling areas, and from diked areas or holding ponds, of any waste regulated by this ordinance. The IWDP of any user who has a history of significant leaks, spills, slug discharge, or other accidental discharge of waste regulated by this ordinance shall be subject on a case-by-case basis to a special permit condition requiring the construction of facilities or establishment of procedures that will prevent and/or minimize the potential for such accidental or slug discharges. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the user's expense. Detailed plans showing the facilities and its operating procedures shall be submitted to the IPC for approval before the facility is constructed.

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

(4) Accidental/slug discharge control plan requirements. (a) If the IPC decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:

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

(ii) Description of stored chemicals;

(iii) Procedures for immediately notifying the IPC of any accidental or slug discharge, including any discharge that would violate a prohibition under § 18-218 of this chapter, with procedures for follow-up written notification within five (5) days;

(iv) Procedures to prevent accidental spills, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, and worker training;

(v) Any necessary measures for building containment structures or equipment;

(vi) Any additional measures necessary for containing toxic organic pollutants (including solvents);

(vii) Any necessary procedures and equipment for emergency response; and

(viii) Any necessary follow-up practices to limit the damage suffered by the treatment plant or the environment.

(b) Detailed plans shall be submitted to the IPC for review prior to construction of the facility. Review and approval of such plans and operating procedures shall not relieve the user from the responsibility to modify the user's facility, as necessary, to meet the requirements of this ordinance.

(c) The IPC shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control slug discharges. For industrial users identified as significant prior to November 14, 2005, this evaluation must have been conducted at least once by October 14, 2006; additional SIUs must be evaluated within twelve (12) months of being designated a SIU.

(5) Accidental/slug discharge control plan evaluation. (a) Each SIU shall provide protection from accidental/slug discharge of prohibited materials or other substances regulated by this ordinance. Facilities to prevent accidental/slug discharge of prohibited or regulated substances shall be provided and maintained at the user's cost.

(b) The city reserves the right to require the SIU to take specified measures to prevent accidental/slug discharges whenever the facility's accidental/slug control measures are judged by the IPC to be inadequate.

(6) SIUs are required to notify the IPC immediately of any changes at its facility affecting the potential for a slug discharge. (1980 Code, § 13-224, as replaced by Ord. #00-26, June 2001, and Ord. #10-25, Oct. 2010)

**18-225. Monitoring facilities.** (1) The city may require installation and operation of a discrete monitoring facility(s) to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems at the user's expense. When, in the judgment of the IPC, there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user the IPC may require that separate monitoring facilities be installed for each separate source of discharge.

(2) Discrete monitoring facilities, including static and/or electronic flow measuring and sampling devices may be required by the city. These devices shall be purchased, installed, and maintained at the user's expense. The purposes of the devices are to enable inspection, monitoring, sampling and flow measurement of wastewater produced by a user. All devices shall be approved by the city before installation.

(3) Discrete monitoring facility may be required to be located on the user's premises, outside of a building. The IPC may, however, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed inside the user's building or in the public street right-of-way with the approval of the public agency(s) having jurisdiction of the right-of-way. It shall also be located so that landscaping or parked vehicles will not obstruct it.

(4) Ample room in or near such discrete monitoring facilities shall be left to allow human access and any necessary work related to the monitoring of the user's discharge. The monitoring facility shall be equipped with the necessary plumbing and electric power, in accordance with all applicable codes requirements, to facilitate required monitoring. These monitoring facilities shall



be maintained at all times in a safe and proper operating condition at the expense of the user.

(5) Whether constructed on public or private property, the monitoring facility shall be constructed in accordance with the city's requirements and all applicable local agency construction standards and specifications. A user shall be notified in writing when, in the judgment of the IPC, a user is required to install a monitoring facility. Construction must be completed within one hundred eighty (180) days following written notification unless an extension is granted by the city. (1980 Code, § 13-225, as replaced by Ord. #00-26, June 2001, and Ord. #10-25, Oct. 2010)

**18-226. Access, reporting violations, and sampling.** (1) Access to user's facilities. (a) The city shall have the right to enter and inspect the premises of any user to determine whether the user is complying with all the requirements of this ordinance, an IWDP or an order duly issued hereunder. A fee may be charged, to the user, to offset expenses incurred by this inspection. Users shall allow the city, or its representative(s), ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, records examination and copying, or the performance of any additional duties.

(b) The city, state, and/or EPA representatives 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, state, and/or EPA representatives 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 at the manufacturer's recommended minimum frequency to ensure their accuracy.

(d) Where a user has security measures in force, which would require proper identification and clearance before entry into user's premises, the user shall make necessary arrangements so that, upon presentation of suitable identification, personnel from the city, state, and/or EPA will be permitted to enter, without delay, for the purposes of performing specific responsibilities.

(e) Unreasonable delays in allowing city, state, and/or EPA representatives access to the user's premises shall be a violation of this ordinance.

(2) Violations and repeat sampling. (a) If sampling and analysis performed by a user, following 40 C.F.R. 136 testing procedures, indicates a violation, the user shall notify the IPC within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling

for the parameter violated within ten (10) days after becoming aware of the violation and submit the results of the repeat analysis to the IPC within thirty (30) days after the initial violation.

(b) If the city performed the sampling and analysis in lieu of the 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.

(3) 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) of this subsection, 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 IWDP. Where time-proportional composite sampling or grab sampling is authorized by the IWDP, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 C.F.R. 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 IWDP, 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 compliance reports required for industrial users subject to pretreatment standards, 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 facilities for which historical sampling data are available, IPC may authorize a lower minimum. For the reports required by § 18-228 of this chapter, the industrial user is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.

(4) Safety. All city representatives performing work on private properties shall observe all safety rules applicable to the premises established by the user. The user shall be held harmless for injury or death to the city employees and the city shall indemnify the user against loss or damage to its

property by its representative(s) and against liability claims and demands for personal injury or property damage asserted against the user and growing out of the monitoring and sampling operation, except as such may be caused by negligence or failure of the user to maintain safe conditions. (1980 Code, § 13-226, as replaced by Ord. #00-26, June 2001, and Ord. #10-25, Oct. 2010)

**18-227. Reporting requirements.** (1) Reports on compliance with categorical pretreatment standard deadline. (a) 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 IPC a report containing the information described in §§ 18-216(2) and 18-226(3) of this chapter. For users subject to equivalent mass or concentration limits established by the city in accordance with the procedures in § 18-221 of this chapter, 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.

(b) The report shall state whether the applicable categorical pretreatment standards are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the user into compliance with the applicable categorical pretreatment standards. This report shall be signed and certified by an authorized representative of the user in accordance with § 18-230 of this chapter. All sampling will be done in conformance with § 18-226(3) of this chapter.

(2) Baseline monitoring reports. Within one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or one hundred eighty (180) days after the final administrative decision made upon a category determination submission under Tennessee Rule 1200-4-14-.06(1)(d), whichever is later, existing industrial users subject to such categorical pretreatment standards and currently discharging to or scheduled to discharge to the POTW shall be required to submit to the city a report which contains the information listed in § 18-216(2)(b)(i)-(x) of this chapter. At least ninety (90) days prior to commencement of discharge, new sources, and sources that become industrial users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the city a report which contains the information listed in § 18-216(2)(b)(i)-(x) of this chapter. New sources shall also be required to include in this report information on the method of pretreatment the source intends to use to meet applicable pretreatment standards. New sources shall give estimates of the information requested in § 18-216(2)(b)(iv) and (v) of this chapter.

(3) All industrial users shall promptly notify the IPC in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes for which the industrial user has submitted initial notification under the following paragraph.

(4) 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 Rule 1200-1-11.

(a) Such notification must include the name of the hazardous waste as set forth in 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 wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream 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 paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under § 18-227(4) of this chapter. The notification requirement in this rule does not apply to pollutants already reported under the self-monitoring requirements of §§ 18-226(2)(b), 18-227(1), and 18-228 of this chapter.

(b) Dischargers are exempt from the requirements of subsection (a) above 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 Rule 1200-1-11-.02(4)(a) and (4)(d). Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in Tennessee Rule 1200-1-11-.02(4)(a) and (4)(d), requires a one-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 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 the 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 paragraph, 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. (1980 Code, § 13-227, as replaced by Ord. #00-26, June 2001, and Ord. #10-25, Oct. 2010)

**18-228. Periodic compliance reports.** (1) All SIUs subject to a pretreatment standard must submit to the IPC all data generated between April and September and October and March, no later than every October 15th and April 15th, respectively, unless required more frequently by the user's IWDP, along with a report indicating the nature, concentration of pollutants in the discharge which are limited by the 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 BMP or pollution prevention alternative, the user must submit documentation required by the IPC or the pretreatment standard necessary to determine the compliance status of the user. At the discretion of the IPC and in consideration of such factors as holidays, budget cycles, etc., the IPC may agree to alter the months during which the above reports are to be submitted.

(2) The reports required by this section shall be signed and certified by an authorized representative of the user in accordance with § 18-230 of this chapter. All sampling and analysis shall be performed in accordance with procedures established by the administrator of the EPA pursuant to section 304(h) of the Act and contained in 40 C.F.R. part 136 and amendments thereto or with any other test procedures approved by the city.

(3) 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.

(4) 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 IWDP, using the sampling procedures prescribed in § 18-226(3) of this chapter, the results of this monitoring shall be included in the report.

(5) The city may authorize the industrial user subject to a categorical pretreatment standard to forego sampling of a pollutant regulated by a categorical pretreatment standard if the industrial user has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the discharge, or is present only at

background levels from intake water and without any increase in the pollutant due to activities of the industrial user. This authorization is subject to the following conditions:

(a) The city may authorize a waiver where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical standard and otherwise includes no process wastewater.

(b) The monitoring waiver is valid only for the duration of the effective period of the IWDP, but in no case longer than five (5) years. The user must submit a new request for the waiver before the waiver can be granted for each subsequent IWDP.

(c) In making a demonstration that a pollutant is not present, the industrial user must provide data from at least one (1) sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes. Non-detectable sample results may only be used as a demonstration that a pollutant is not present if the EPA approved method from 40 C.F.R. part 136 with the lowest minimum detection level for that pollutant was used in the analysis.

(d) The request for a monitoring waiver must be signed and certified in accordance with § 18-230 of this chapter.

(e) Any grant of the monitoring waiver by the city must be included as a condition in the user's IWDP. The reasons supporting the waiver and any information submitted by the user in its request for the waiver must be maintained by the city for three (3) years after expiration of the waiver.

(f) Upon approval of the monitoring waiver and revision of the user's IWDP by the city, the industrial user must certify on each report with the statement below, that there has been no increase in the pollutant in its wastestream due to activities of the industrial user:

Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 C.F.R. [applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under § 18-228 of the City Ordinance.

(g) In the event that a waived pollutant is found to be present or is expected to be present based on changes that occur in the user's operations, the user must immediately: comply with the monitoring requirements of § 18-228 of this chapter or other more frequent monitoring requirements imposed by the city, and notify the city.

(h) This provision does not supersede certification processes and requirements established in categorical pretreatment standards, except as otherwise specified in the categorical pretreatment standard.

(6) Where the city has imposed mass limitations on industrial users (as provided for by § 18-221(4) of this chapter) the report required by § 18-228 of this chapter shall indicate the mass of pollutants regulated by pretreatment standards in the discharge from the industrial user.

(7) For industrial users subject to equivalent mass or concentration limits (established by the city in accordance with the procedures in § 18-221(4) of this chapter), the report required by § 18-228 of this chapter shall contain a reasonable measure of the user's long-term production rate. For all other industrial users subject to categorical pretreatment standards expressed only in terms of allowable pollutant discharge per unit of production (or other measure of operation), the report required by § 18-228 of this chapter shall include the user's actual average production rate for the reporting period. (1980 Code, § 13-228, as replaced by Ord. #00-26, June 2001, and Ord. #10-25, Oct. 2010)

**18-229. Maintenance of records.** Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying by the IPC, the city, TDEC, or EPA, all records of information obtained pursuant to any monitoring activities required by this ordinance, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with BMPs established in the user's IWDP.

(1) Records shall include:

(a) A chain of custody form acceptable to the city that includes the date, exact place, method, and time of sampling, the names of the persons taking the samples, and a record of handling up to and including delivery to and receipt by an analytical laboratory;

(b) The date(s) the analyses were performed;

(c) The person who performed the analyses;

(d) The signature of the person who performed the analyses;

(e) The analytical techniques/methods used; and

(f) The results of such analyses expressed in appropriate units.

(2) These records shall remain available for a period of at least three (3) years. This period of retention shall be automatically extended during the course of any unresolved litigation regarding the industrial user or POTW, or when requested by the IPC, the city, TDEC, or EPA. (1980 Code, § 13-229, as replaced by Ord. #00-26, June 2001, and Ord. #10-25, Oct. 2010)

**18-230. Certifications of permit applications and user reports.**

(1) The following certification statement is required to be signed and submitted by users submitting permit applications in accordance with

§§ 18-216(2) and 18-221(2) of this chapter and users submitting reports required by §§ 18-227 and 18-228 of this chapter. The following certification statement must be signed by an authorized representative of the user as defined in § 18-202 of this chapter:

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.

(2) If the designation of an authorized representative of a user 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 definition of § 18-202 of this chapter must be submitted to the IPC prior to or together with any reports to be signed by an authorized representative. (1980 Code, § 13-230, as replaced by Ord. #00-26, June 2001, and Ord. #10-25, Oct. 2010)

**18-231. Enforcement response plan.** The city shall prepare an ERP, as part of its industrial pretreatment program, to ensure that the city's responsibility to enforce all pretreatment requirements and standards will be met. The ERP shall outline various enforcement actions the city may take for specific violations of pretreatment standards and requirements. The city may review and update the ERP as needed in order to ensure compliance with the federal, state, and local ordinances and regulations. (1980 Code, § 13-231, as replaced by Ord. #00-26, June 2001, and Ord. #10-25, Oct. 2010)

**18-232. Notification of violation.** When IPC finds that a user has violated, or continues to violate, any provision of this ordinance, an IWDP, or order issued hereunder, or any other pretreatment standard or requirement, the city may serve upon said user a written notice of violation. Within ten (10) days of the receipt of such notice, the IPC may require a written explanation of the violation and a plan, to include specific required actions, for the satisfactory correction and prevention thereof, to be submitted by the user. 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 city to take any action, including emergency actions or any



other enforcement action, without first issuing a notice of violation. (1980 Code, § 13-232, as replaced by Ord. #00-26, June 2001, and Ord. #10-25, Oct. 2010)

**18-233. Administrative orders.** For the city to meet its responsibility to enforce all pretreatment standards and requirements, this ordinance provides the city legal authority to issue administrative orders as deemed necessary. Violations of significant noncompliance must be addressed with an administrative order. Failure of the city to issue any order to the noncompliant user shall not in any way relieve the user from any consequences of a wrongful or illegal discharge. An order shall become final and not subject to review unless the user named therein requests by written petition a hearing before the LHA as provided in § 18-234 no later than thirty (30) days after the date of such order is served; provided, however, that the LHA may review such final order on the same grounds upon which a court of the state may review default judgments.

(1) Cease and desist orders. When the IPC finds that a user has violated, or continues to violate, any provision of this ordinance, an IWDP, or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the superintendent may, at the request of the IPC, issue to the user an order 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.

(2) Compliance orders. When IPC finds that a user has violated, or continues to violate, any provision of this ordinance, an IWDP, or order issued hereunder, or any other pretreatment standard or requirement, the IPC 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 public sewer. 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.

(3) Consent orders. The IPC 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 subsections (1) and (2) of this section and shall be judicially enforceable.

(4) Show cause orders. (a) The superintendent may order a user which has violated, or continues to violate, any provision of this ordinance, an IWDP, or order issued hereunder, or any other pretreatment standard or requirement, to appear before the superintendent, other personnel of the public works office, and/or the public, and show cause why more severe enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, future enforcement actions, the reasons for such action, and a request that the user show cause why the proposed enforcement actions should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least fifteen (15) days prior to the hearing. Such notice may be served on any authorized representative of the user as defined in § 18-202 of this chapter and required by § 18-229(2) of this chapter. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

(b) The superintendent shall conduct the hearing and take the evidence, or may designate another person to act in his stead. The following guidelines will be used in conducting a show cause hearing.

(i) The superintendent shall issue, in the name of the city, notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings.

(ii) The superintendent may request that other city personnel present the evidence of the violation on behalf of the city.

(iii) The user may present relevant evidence to the city for review.

(c) At any hearing held pursuant to this ordinance, testimony taken must be under oath and recorded. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of a charge set by the superintendent to cover the costs of preparation.

(d) After the superintendent has reviewed the evidence, he may instruct the IPC to issue further enforcement actions including, but not limited to, additional orders to the user responsible for the violation(s) directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices, or other related appurtenances shall have been installed on existing treatment facilities, and that these devices or other related appurtenances are

properly operated. (1980 Code, § 13-233, as replaced by Ord. #00-26, June 2001, and Ord. #10-25, Oct. 2010)

**18-234. Submission of time schedule.** When the superintendent finds that a user has violated any provision of this ordinance, an IWDP, or an order duly issued hereunder, or any other pretreatment standard or requirement, the superintendent may require the user to submit to the city, for approval, a detailed time schedule of specific actions the user shall take to halt the violation. The actions in this time schedule shall include any modifications as it deems necessary, in order to prevent or halt the violation(s). Such schedule shall be submitted to the IPC not less than thirty (30) days after the issuance of any order and shall comply with § 18-216(2)(e) of this chapter. (1980 Code, § 13-234, as replaced by Ord. #00-26, June 2001, and Ord. #10-25, Oct. 2010)

**18-235. Appeals and enforcement hearings.** (1) Appeal to superintendent. Any actions taken by the supervisor of collections, the WWTP chief operator, or the IPC in the daily administration of their duties may be appealed to the superintendent. Appeals shall be submitted, in writing, within thirty (30) days of said action. The superintendent shall respond as promptly as possible, but in no case greater than thirty (30) days from the receipt of such appeals.

(2) Appeal to the LHA. The LHA shall have and exercise the power, duty, and responsibility to hear appeals from orders issued and penalties or damages assessed by the superintendent, permit revocations, or modifications by the superintendent; and affirm, modify, or revoke such actions or orders of the superintendent. Any hearing brought before the LHA shall be conducted in accordance with the following:

(a) Upon receipt of a written petition from the alleged noncompliant user pursuant to this section, the superintendent shall give the petitioner a written notice at least thirty (30) days before the time and place of the hearing. In no case shall such hearing be held more than sixty (60) days after the receipt of the written petition, unless the superintendent and the petitioner agree to a postponement;

(b) The LHA, at a regular or special meeting, may conduct the hearing herein provided. A quorum of the LHA must be present at the regular or special meeting in order to conduct the hearing herein provided;

(c) A verbatim record of the proceedings of such hearings shall be taken and filed with the LHA, together with the findings of fact and conclusions of law made pursuant to § 18-235(2)(g) of this chapter. The transcript so recorded shall be made available to the petitioner or any party to a hearing upon payment of a charge set by the superintendent to cover the costs of preparation;

(d) In connection with the hearing, the chairman of the LHA shall issue subpoenas in response to any reasonable request by any party to the hearing requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. In case of contumacy or refusal to obey a notice of hearing or subpoena issued under this section, the chancery court of the county in which the pretreatment agency is located shall have jurisdiction upon the application of the LHA or the superintendent to issue an order requiring such person to appear and testify or produce evidence as the case may require and any failure to obey such order of the court may be punished by such court as contempt thereof;

(e) Any member of the LHA may administer oaths and examine witnesses;

(f) The superintendent or his designated representative shall act on the city's behalf to present evidence, relevant to the issues at hand, to the LHA;

(g) On the basis of the evidence produced at the hearing, the LHA shall make findings of fact and conclusions of law and enter such decisions and orders as in its opinion will best further the purposes of the pretreatment program and shall give written notice of such decisions and orders to the alleged noncompliant user. The chairman of the LHA shall issue any order issued by the LHA no later than thirty (30) days following the close of the hearing;

(h) The decision of the LHA shall become final and binding on all parties unless appealed to the courts as provided in § 18-235(2)(j) of this chapter;

(i) Any user to whom an emergency suspension order is directed pursuant to § 18-237 of this chapter shall comply therewith immediately, but on petition to the LHA, shall be afforded a hearing as soon as possible. In no case shall such hearing be held by the LHA later than three (3) days from the receipt of such petition; and

(j) An appeal may be taken from any final order or other final determination of the LHA by any party, including to the approval authority, who is or may be adversely affected thereby, to the chancery court pursuant to the common law writ of certiorari set out in Tennessee Code Annotated, § 27-8-101 not later than sixty (60) days from the date such order or determination is made. (1980 Code, § 13-235, as replaced by Ord. #00-26, June 2001, and Ord. #10-25, Oct. 2010)

**18-236. Legal action.** If a user violates or continues to violate any provision of this ordinance, an IWDP, or order issued hereunder, or any pretreatment standard or requirement, the superintendent may petition the city attorney to commence an action for appropriate legal and/or equitable relief through the chancery court of this county. A petition for injunctive relief shall

not be a bar against, or a prerequisite for, taking any other action against the user. (1980 Code, § 13-236, as replaced by Ord. #00-26, June 2001, and Ord. #10-25, Oct. 2010)

**18-237. Emergency termination of sewer service.** The superintendent or his duly authorized representative 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 to the POTW of any pollutant that, in the opinion of the superintendent or his duly authorized representative, presents or may present an imminent and substantial endangerment to the health or welfare of persons, that threatens to interfere with the operation of the POTW, or that presents or may present an endangerment to the environment. The superintendent or his duly authorized representative shall immediately notify the mayor of the nature of the emergency suspension. The superintendent shall also attempt to notify the user or other person causing the emergency and request their assistance. The superintendent shall restore such service as soon as the emergency situation has been abated or corrected.

(1) Any user notified of a suspension of its sewer service shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the emergency suspension order, the city may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, the environment, or endangerment to any individuals. The city may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the city that the period of endangerment has passed, unless the permit revocation proceedings as provided in § 18-216(8) of this chapter are initiated against the user.

(2) 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 prior to the date of any show cause or permit revocation hearing. Nothing in this section shall be interpreted as requiring a hearing prior to any emergency termination of sewer service. (1980 Code, § 13-237, as replaced by Ord. #00-26, June 2001, and Ord. #10-25, Oct. 2010)

**18-238. Public nuisances.** A violation of any provision of this ordinance, an IWDP, an order issued hereunder, or any other pretreatment standard or requirement, is hereby declared a public nuisance and shall be corrected or abated as directed by the superintendent. Any person(s) creating a public nuisance shall be subject to the provisions of city ordinances governing such nuisances, including reimbursing the city for any costs incurred in

removing, abating, or remedying said nuisance. (1980 Code, § 13-238, as replaced by Ord. #00-26, June 2001, and Ord. #10-25, Oct. 2010)

**18-239. Correction of violation and collection of costs.** In order to enforce the provisions of this ordinance, the superintendent shall correct any violation hereof. The cost of such correction shall be payable by the user violating the ordinance or the owner or tenant of the property upon which the violation occurred. The city shall have such remedies for the collection of such costs as it has for the collection of sewer service charges. (1980 Code, § 13-239, as replaced by Ord. #00-26, June 2001, and Ord. #10-25, Oct. 2010)

**18-240. Damage to POTW facilities.** When a discharge of wastewater or wastes causes an obstruction, damage, or any other physical or operational impairment to the POTW, the city shall assess a charge against the user for the work required to clean or repair the POTW. At the superintendent's discretion, these costs may either be billed separately or added to the user's sewer charge. (1980 Code, § 13-240, as replaced by Ord. #00-26, June 2001, and Ord. #10-25, Oct. 2010)

**18-241. Liabilities.** (1) Civil liability. Any person or user who violates any provision of this ordinance, an IWDP, or an order duly issued hereunder, or any other pretreatment standard or requirement, shall be liable civilly. The city may sue for such damage in any court of competent jurisdiction. In determining the damages, the court shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, and the corrective action, if any.

(2) Criminal liability. The city shall maintain the authority to seek criminal penalties in addition to any civil penalties under certain circumstances involving evidence of intentional, willful, or knowing violations or criminal negligence. In particular, any person or user who intentionally, willfully, knowingly, or with criminal negligence violates any provision of this ordinance, an IWDP, or an order duly issued hereunder, or any other pretreatment standard or requirement, shall be criminally liable and assessed criminal penalties. (1980 Code, § 13-241, as replaced by Ord. #00-26, June 2001, and Ord. #10-25, Oct. 2010)

**18-242. Publication of users in significant noncompliance.** The IPC shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the users that, 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 a SIU

(or any other industrial user that violates subsections (3), (4), or (8) of this section) if its violation meets one (1) or more of the following criteria:

(1) Chronic violations of wastewater pollutant limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits as defined in § 18-202 of this chapter;

(2) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all the measurements taken for a pollutant during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by § 18-202 of this chapter, multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, FOG, and 1.2 for all other pollutants except pH);

(3) Any other violation of a pretreatment standard or requirement as defined by § 18-202 of this chapter (daily maximum limit, monthly average limit, instantaneous limit, or narrative standard) that the IPC determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of city 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 IWDP or enforcement order for starting construction, completing construction, or attaining final compliance;

(6) Failure to provide within forty-five (45) days after the due date, required reports such as baseline monitoring reports, compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(7) Failure to accurately report noncompliance; or

(8) Any other violation or group of violations, which may include a violation of BMPs, which the IPC determines will adversely affect the operation or implementation of the city's industrial pretreatment program. (1980 Code, § 13-242, as replaced by Ord. #00-26, June 2001, and Ord. #10-25, Oct. 2010)

**18-243. Penalties.** Issuance of a penalty shall not be a bar against, or prerequisite for, taking any other action against the user.

(1) Civil penalties. (a) Any person or user who is found to have violated any provision of this ordinance, an IWDP, or an order duly issued hereunder, or any other pretreatment standard or requirement, may be penalized not less than one thousand dollars (\$1,000.00) but not more than ten thousand dollars (\$10,000.00) per violation. Each day in which a violation shall occur or continue to occur shall be deemed a separate and distinct violation. In addition to the penalties provided herein, the city may recover reasonable attorney's fees, court costs, court reporters'

fees, and other expenses of litigation by appropriate suit at law against the person or user found to have violated any provision of this ordinance, an IWDP, or an order duly issued hereunder, or any other pretreatment standard or requirement.

(b) Unpaid charges, fines, and penalties shall, after seven (7) calendar days of the due date, be assessed an additional penalty of twenty-five percent (25%) of the unpaid balance.

(c) Any person or user desiring to dispute such penalties may secure a review of such assessment by filing with the superintendent a written petition setting forth the grounds and reasons for the objections and asking for a hearing in the matter involved before the city's LHA as per the provisions of § 18-235 of this chapter. If a petition for review of the assessment is not filed within thirty (30) days after the date the assessment is served, the said user shall be deemed to have consented to the assessment and it shall become final. Upon receipt of a written petition from the alleged said user pursuant to this section, the superintendent shall give the petitioner a written notice thirty (30) days prior to the meeting indicating the time and place of the hearing; in no case shall such hearing be held more than sixty (60) days from the receipt of the written petition, unless the superintendent and the petitioner agree to a postponement.

(2) Prosecution. Nothing in this ordinance shall be construed as to prohibit criminal prosecution for a violation of any provision of this ordinance, an IWDP, or an order duly issued hereunder, or any other pretreatment standard or requirement, by the city or other duly constituted government authority or a civil action by the city or other private person or entity. (1980 Code, § 13-243, as replaced by Ord. #00-26, June 2001, and Ord. #10-25, Oct. 2010)

**18-244. Falsifying information**. Any person or user who knowingly makes any false statements, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this ordinance or IWDP, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance or IWDP, shall, upon conviction, be punished by a fine of not less than five thousand dollars (\$5,000.00) or by imprisonment for not more than six (6) months, or both. (1980 Code, § 13-244--13-252, as replaced by Ord. #00-26, June 2001, and Ord. #10-25, Oct. 2010)

**18-245. Purpose of charges, fees and billings**. It is the purpose of the following sections to provide for the equitable recovery of costs from users of the POTW including, but not limited to, costs of operation, maintenance, replacement, administration, bond service costs, capital improvements, and



depreciation. (as added by Ord. #00-26, June 2001, and replaced by Ord. #10-25, Oct. 2010)

**18-246. Types of charges, fees, and billings.** The charges, fees, and billings as established in the city's schedule of charges, fees, and billings may include, but not be limited to:

- (1) Inspection fee and tapping fee for connection of building sewers;
- (2) Fees for IWDP applications;
- (3) Mandated repairs to service lines;
- (4) Industrial discharge compliance monitoring fees;
- (5) Holding tank haulers permit fees;
- (6) Holding tank hauler tipping fees;
- (7) Underground storage tank wastewater permit fee;
- (8) Inspection and monitoring fees associated with the grease management plan;
- (9) Appeal fees; and
- (10) Fees for reviewing slug control plans. (as added by Ord. #00-26, June 2001, and replaced by Ord. #10-25, Oct. 2010)

**18-247. Base sewer charges.** (1) Determination of sewer charges. The city shall establish monthly rates and charges for the use of the POTW and for the services provided by the city to the POTW. Said charges shall be based upon the cost categories of administration costs, including billing and accounting costs; operation and maintenance costs of the POTW; debt service costs; and general replacement costs.

- (a) All users shall pay a sewer charge expressed as dollars per one thousand (1,000) gallons of water purchased (\$/1,000 gallons) with the unit charge being determined in accordance with the following formula:

$$C_i = \frac{T.S.C.}{V_t}$$

Where:

- $C_i$  = Base unit charge in \$/1,000 gallons applicable to users.  
 $T.S.C.$  = Total operation, maintenance, minor equipment replacement, administration, and debt service costs determined by yearly budget projections.  
 $V_t$  = Total volume of water in one thousand (1,000) gallons purchased by all users per year as determined from projections from one city fiscal year to the next.

- (b) The volume of water purchased that is used in the calculation of sewer charges may be adjusted by the city if a user purchases a significant volume of water for use that does not result in its

discharge to the POTW (e.g., filling swimming pools, industrial heating, and humidifying equipment, etc.). The user shall be responsible for documenting the quantity of wastewater discharged to the POTW. The accuracy of the equipment used to determine the quantity of wastewater discharged into the POTW must be verified by accepted scientific methods, installed and maintained in accordance to manufacturers' recommendations, and approved by the city. The city reserves the right to approve all methods used for this purpose.

(c) All "available users" shall pay only the established monthly minimum sewer rate for residential inside city.

(2) **Discharge violations.** Discharges from any user in excess of a pollutant concentration listed in Table A of this ordinance will be considered a violation of this ordinance and will be enforced in accordance with the ERP. (as added by Ord. #00-26, June 2001, replaced by Ord. #10-25, Oct. 2010, and amended by Ord. #16-49, Nov. 2016)

**18-248. Billing.** The billing for normal domestic wastewater services shall consist of monthly billing in accordance with the rates and schedules specified by the city and in accordance with article 13-11-1 of the City Code Annotated. (as added by Ord. #00-26, June 2001, and replaced by Ord. #10-25, Oct. 2010)

**18-249. Review of operation and maintenance charges.** The user charge method provided in § 18-247 of this chapter will be reviewed as deemed necessary. The total wastewater contribution of users and the total cost of operation and maintenance of the system will be reviewed to assess the need for revision of the sewer base unit charge. (as added by Ord. #00-26, June 2001, and replaced by Ord. #10-25, Oct. 2010)

**18-250. Validity.** (1) All ordinances or parts of ordinances in conflict herewith are hereby repealed.

(2) The validity of any section, clause, sentence, or provision of this ordinance shall not affect the validity of any other part of this ordinance, which can be given effect without such invalid part or parts.

(3) This ordinance and its provisions shall be valid for all service areas, regions, and POTWs under the jurisdiction of the city. (as added by Ord. #00-26, June 2001, and replaced by Ord. #10-25, Oct. 2010)

**18-251. Ordinance in force.** That this ordinance take effect after its passage on second and final reading, amending Ordinance No. 299 passed December 7, 1980, Ordinance No. 328 passed January 15, 1985 Ordinance No. 465 passed March 7, 1994 Ordinance No. 00-26 passed June 4, 2001 and Ordinance No. 10-25 passed October 4, 2010, the public welfare requiring it. (as

added by Ord. #00-26, June 2001, and replaced by Ord. #10-25, Oct. 2010, and Ord. #16-49, Nov. 2016)

**18-252. [Deleted.]** (as added by Ord. #00-26, June 2001, and deleted by Ord. #10-25, Oct. 2010)

**18-253. [Deleted.]** (as added by Ord. #00-26, June 2001, and deleted by Ord. #10-25, Oct. 2010)

**18-254. [Deleted.]** (as added by Ord. #00-26, June 2001, and deleted by Ord. #10-25, Oct. 2010)

## CHAPTER 3

### SEWAGE AND HUMAN EXCRETA DISPOSAL<sup>1</sup>

#### SECTION

- 18-301. Definitions.
- 18-302. Places required to have sanitary disposal methods.
- 18-303. When a connection to the public sewer is required.
- 18-304. When a septic tank shall be used.
- 18-305. Registration and records of septic tank cleaners, etc.
- 18-306. Use of pit privy or other method of disposal.
- 18-307. Approval and permit required for septic tanks, privies, etc.
- 18-308. Owner to provide disposal facilities.
- 18-309. Occupant to maintain disposal facilities.
- 18-310. Only specified methods of disposal to be used.
- 18-311. Discharge into watercourses restricted.
- 18-312. Pollution of ground water prohibited.
- 18-313. Enforcement of chapter.
- 18-314. Carnivals, circuses, etc.
- 18-315. Violations.

**18-301. Definitions.** The following definitions shall apply in the interpretation of this chapter:

- (1) "Accessible sewer." A public sanitary sewer located in a street or alley abutting on the property in question or otherwise within two hundred (200) feet of any boundary of said property measured along the shortest available right-of-way.
- (2) "Health officer." The person duly appointed to such position having jurisdiction, or any person or persons authorized to act as his agent.
- (3) "Human excreta." The bowel and kidney discharges of human beings.
- (4) "Sewage." All water-carried human and household wastes from residences, buildings, or industrial establishments.
- (5) "Approved septic tank system." A watertight covered receptacle of monolithic concrete, either precast or cast in place, constructed according to plans approved by the health officer. Such tanks shall have a capacity of not less than 750 gallons and in the case of homes with more than two (2) bedrooms the capacity of the tank shall be in accordance with the recommendations of the Tennessee Department of Health as provided for in its 1958 bulletin entitled "Recommended Construction of Septic Tanks and Disposal Fields for Residential

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<sup>1</sup>Municipal code reference  
Plumbing code: title 12, chapter 2.

Uses." A minimum liquid depth of four (4) feet should be provided with a minimum depth of air space above the liquid of one (1) foot. The septic tank dimensions should be such that the length from inlet to outlet is at least twice but not more than three (3) times the width. The liquid depth should not exceed five (5) feet. The discharge from the septic tank shall be disposed of in such a manner that it may not create a nuisance on the surface of the ground or pollute the underground water supply, and such disposal shall be in accordance with recommendations of the health officer as determined by acceptable soil percolation data.

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

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

(8) "Watercourse." Any natural or artificial drain which conveys water either continuously or intermittently. (1980 Code, § 8-201)

**18-302. Places required to have sanitary disposal methods.** Every residence, building, or place where human beings reside, assemble, or are employed within the corporate limits shall be required to have a sanitary method for disposal of sewage and human excreta. (1980 Code, § 8-202)

**18-303. When a connection to the public sewer is required.** Wherever an accessible sewer exists and water under pressure is available, approved plumbing facilities shall be provided and the wastes from such facilities shall be discharged through a connection to said sewer made in compliance with the requirements of the official responsible for the public sewerage system. On any lot or premise accessible to the sewer no other method of sewage disposal shall be employed. (1980 Code, § 8-203)

**18-304. When a septic tank shall be used.** Wherever water carried sewage facilities are installed and their use is permitted by the health officer, and an accessible sewer does not exist, the wastes from such facilities shall be discharged into an approved septic tank system.

No septic tank or other water-carried sewage disposal system except a connection to a public sewer shall be installed without the approval of the health officer or his duly appointed representative. The design, layout, and construction of such systems shall be in accordance with specifications approved by the health officer and the installation shall be under the general supervision of the department of health. (1980 Code, § 8-204)

**18-305. Registration and records of septic tank cleaners, etc.**

Every person, firm, or corporation who operates equipment for the purpose of removing digested sludge from septic tanks, cesspools, privies, and other sewage disposal installations on private or public property must register with the health officer and furnish such records of work done within the corporate limits as may be deemed necessary by the health officer. (1980 Code, § 8-205)

**18-306. Use of pit privy or other method of disposal.**

Wherever a sanitary method of human excreta disposal is required under the section above designated as "Places required to have sanitary disposal methods", and water-carried sewage facilities are not used, a sanitary pit privy or other approved method of disposal shall be provided. (1980 Code, § 8-206)

**18-307. Approval and permit required for septic tanks, privies, etc.** Any person, firm, or corporation proposing to construct a septic tank system, privy, or other sewage disposal facility, requiring the approval of the health officer under this chapter, shall before the initiation of construction obtain the approval of the health officer for the design and location of the system and secure a permit from the health officer for such system. (1980 Code, § 8-207)

**18-308. Owner to provide disposal facilities.** It shall be the duty of the owner of any property upon which facilities for sanitary sewage or human excreta disposal are required by, or the agent of the owner to provide such facilities. (1980 Code, § 8-208)

**18-309. Occupant to maintain disposal facilities.** It shall be the duty of the occupant, tenant, lessee, or other person in charge to maintain the facilities for sewage disposal in a clean and sanitary condition at all times and no refuse or other material which may unduly fill up, clog, or otherwise interfere with the operation of such facilities shall be deposited therein. (1980 Code, § 8-209)

**18-310. Only specified methods of disposal to be used.** No sewage or human excreta shall be thrown out, deposited, buried, or otherwise disposed of, except by a sanitary method of disposal as specified in this chapter. (1980 Code, § 8-210)

**18-311. Discharge into watercourses restricted.** No sewage or excreta shall be discharged or deposited into any lake or watercourse except under conditions specified by the health officer and specifically authorized by the Tennessee Stream Pollution Control Board. (1980 Code, § 8-211)

**18-312. Pollution of ground water prohibited.** No sewage, effluent from a septic tank, sewage treatment plant, or discharges from any plumbing facility shall empty into any well, either abandoned or constructed for this purpose, cistern, sinkhole, crevice, ditch, or other opening either natural or artificial in any formation which may permit the pollution of ground water. (1980 Code, § 8-212)

**18-313. Enforcement of chapter.** It shall be the duty of the health officer to make an inspection of the methods of disposal of sewage and human excreta as often as is considered necessary to insure full compliance with the terms of this chapter. Written notification of any violation shall be given by the health officer to the person or persons responsible for the correction of the condition, and correction shall be made within forty-five (45) days after notification. If the health officer shall advise any person that the method by which human excreta and sewage is being disposed of constitutes an immediate and serious menace to health such person shall at once take steps to remove the menace, and failure to remove such menace immediately shall be punishable under the general penalty clause for this code; but such person shall be allowed the number of days herein provided within which to make permanent correction. (1980 Code, § 8-213)

**18-314. Carnivals, circuses, etc.** Whenever carnivals, circuses, or other transient groups of persons come within the corporate limits such groups of transients shall provide a sanitary method for disposal of sewage and human excreta. Failure of a carnival, circus, or other transient group to provide such sanitary method of disposal and to make all reasonable changes and corrections proposed by the health officer shall constitute a violation of this section. In these cases the violator shall not be entitled to the notice of forty-five (45) days provided for in the preceding section. (1980 Code, § 8-214)

**18-315. Violations.** Any person, persons, firm, association, or corporation or agent thereof, who shall fail, neglect, or refuse to comply with the provisions of this chapter shall be deemed guilty of a misdemeanor and shall be punishable under the general penalty clause for this code. (1980 Code, § 8-215)

**CHAPTER 4****CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.**<sup>1</sup>**SECTION**

- 18-401. Definitions.
- 18-402. Water system to comply with law, rules, etc.
- 18-403. Cross connections unlawful; exception.
- 18-404. Statements.
- 18-405. Inspections.
- 18-406. Right of entry.
- 18-407. Time for compliance.
- 18-408. Protective devices.
- 18-409. Unpotable water supply.
- 18-410. Application of this chapter.
- 18-411. Violations.

**18-401. Definitions.** The following definitions and terms shall apply in the interpretation and enforcement of this chapter:

(1) "Public water system." The waterworks system furnishing water to Portland for general use and which supply is recognized as the public water supply by the Tennessee Department of Health.

(2) "Cross connection." Any physical arrangement whereby the public water system is connected, directly or indirectly, with any other water supply system, whether 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 imparting contamination to the public water system as a result of backflow. By-pass arrangements, jumper connections, removable sections, swivel or change-over devices through which, or because of which, backflow could occur are considered to be cross connections.

(3) "Auxiliary intake." Any water supply, on or available to premises, other than that directly supplied by the public water system.

(4) "By-pass." Any system of piping or other arrangement whereby the water may be diverted around a backflow prevention device.

(5) "Interconnection." Any system of piping or other arrangement whereby the public water supply is connected directly with a sewer, drain, conduit, pool, storage reservoir, or other device which does or may contain

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<sup>1</sup>Municipal code references

Plumbing code: title 12.

Water and sewer system administration: title 18.

Wastewater treatment: title 18.



sewage or other waste or liquid which would be capable of imparting contamination to the public water system.

(6) "Person." Any individual, corporation, company, association, partnership, state, municipality, utility district, water cooperative, or federal agency.

(7) "Approved." To mean that the device or method is accepted by the Tennessee Department of Environment and Conservation and the City of Portland Water Distribution Department Head, or state certified backflow tester, as meeting specifications suitable for the intended purpose.

(8) "Portland Water Distribution Dept. Head." To mean a Grade I and II Distribution state certified by the State of Tennessee Department of Environment and Conservation. (1980 Code, § 8-301, as amended by Ord. #04-05, Feb. 2004)

**18-402. Water system to comply with law, rules, etc.** The Portland Water System is to comply with Tennessee Code Annotated, §§ 68-221-701 through 68-221-720 as well as the Rules and Regulations for Public Water Systems, legally adopted in accordance with this code, which pertain to cross connections, auxiliary intakes, by-passes, and interconnections, and establish an effective ongoing program to control these undesirable water uses. (1980 Code, § 8-302, as amended by Ord. #04-05, Feb. 2004)

**18-403. Cross connections unlawful; exception.** 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 intake, by-pass or interconnection is at all times under the direct supervision of the Portland Public Water System. (1980 Code, § 8-303, as amended by Ord. #04-05, Feb. 2004)

**18-404. Statements.** 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 an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with the superintendent of public works, a statement of the non-existence of unapproved or unauthorized cross connections, auxiliary intakes, by-passes, or interconnections. Such statement shall also contain an agreement that no cross connection, auxiliary intake, by-pass, or interconnection will be permitted upon the premises. (1980 Code, § 8-304)

**18-405. Inspections.** It shall be the duty of the superintendent of the public water system to cause inspections to be made of all properties served by the public water supply where cross connections with the public water supply

are deemed possible. The frequency of inspections and reinspections based on potential health hazards involved, shall be established by the Superintendent of the Portland Public Water System and as approved by the Tennessee Department of Environment and Conservation. (1980 Code, § 8-305, as amended by Ord. #04-05, Feb. 2004)

**18-406. Right of entry.** The superintendent, or his authorized representative shall have the right to enter, at any reasonable time, any property served by a connection to the Portland Public Water System for the purpose of inspecting the piping system or systems therein for cross connections, auxiliary intakes, by-passes, or interconnections or for the testing of backflow prevention devices. 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 of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections. (1980 Code, § 8-306, as amended by Ord. #04-05, Feb. 2004)

**18-407. Time for compliance.** Any person who now has cross connections, auxiliary intakes, by-passes, or interconnections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with the provisions of this chapter. After a thorough investigation of existing conditions and an appraisal of the time required to complete the work, the amount of time shall be designated by the Superintendent of the Portland Public Water System or the designated agent, depending on the degree of hazard, but in no case shall the time for correction exceed thirty (30) days.

The failure to correct conditions threatening the safety of the public water system as prohibited by this chapter and the Tennessee Code Annotated, § 68-221-711, within a reasonable time and within the time limits set by the Portland Public Water System shall be grounds for denial of water service. If proper protection has not been provided no more than thirty (30) days, the utility shall give the customer legal notification that water service is to be discontinued and shall physically separate the public water system from the customer's on-site piping system in such a manner that the two systems cannot again be connected by an unauthorized person subject to the right of a due process hearing upon timely request. The due process hearing may follow disconnection when the risk to public health and safety in the opinion of the public works superintendent, or the water distribution supervisor, warrant disconnection prior to a due process hearing.

Where cross connections, interconnections, auxiliary intakes, or by-passes are found that constitute an extreme hazard of immediate concern of contaminating the public water system, the management of the water supply shall require that immediate corrective action be taken to eliminate the threat to the public water system. Immediate steps shall be taken to disconnect the

public water supply from the on-site piping system unless the imminent hazard(s) is (are) corrected immediately. (1980 Code, § 8-307, as amended by Ord. #04-05, Feb. 2004)

**18-408. Protective devices.** Where the nature of use of the water supplied a premises by the water department is such that it is deemed:

- (1) Impractical to provide an effective air-gap separation.
- (2) That the owner and/or occupant of the premises cannot, or is not willing, to demonstrate to the public works superintendent, or his designated representative, that the water use and protective features of the plumbing are such as to propose no threat to the safety or potability of the water system.
- (3) That the nature and mode of operation within a premises are such that frequent alterations are made to the plumbing.
- (4) There is a likelihood that protective measures may be subverted, altered, or disconnected.
- (5) The public works superintendent, or his designated representative, shall require the use of an approved protective device on the service line serving the premises to assure that any contamination that may originate in the customer's premises is contained therein.
- (6) The protective device shall be a reduced pressure zone type backflow preventer approved by the Tennessee Department of Environment and Conservation and the public works superintendent, or state certified tester, as to manufacture, model, size, and application. The method of installation of backflow protective devices shall be approved by the public works superintendent, or his designated representative, prior to installation and shall comply with 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.
- (7) Applications requiring backflow prevention devices include, but are not limited to, service and/or fire flow connections for most commercial and educational buildings, construction sites, all industrial, institutional, and medical facilities, all fountains, lawn irrigation systems, swimming pools, softeners and other point of use treatment systems, locations where the nature of the premises is such that the use of the structure may change to a use wherein backflow prevention is required, and all fire hydrant connections other than by the fire department in combating fires.
- (8) Personnel of the City of Portland Water Department System shall have the right to inspect and test the device or devices on an annual basis or whenever deemed necessary by the public works superintendent, or his designated representative. Water service shall not be disrupted to test the device without the knowledge of the occupant of the premises.
- (9) Where the use of water is critical the continuance of normal operations or protection of life, property, or equipment, duplicate units shall be provided to void the necessity of discontinuing water service to test or repair the

protective device or devices. Where it is found that only one unit has been installed and the continuance of service is critical, the public works superintendent, or his designated representative, shall notify, in writing, the occupant of the premises of plans to discontinue water serviced and arrange for a mutually acceptable time to test and/or repair the device. The water system shall require the occupant of the premises to make all repairs indicated promptly, to keep the unit(s) working properly, and the expense of such repairs shall be borne by the owner or occupant of the premises. Repairs shall be made by qualified personnel acceptable to the public works superintendent, or his designated representative.

(10) The failure to maintain backflow prevention device(s) in proper working order shall be grounds for discontinuing water service to a premises. Likewise, the removal, by-passing, or altering of the protective device(s) or the installation thereof so as to render the device(s) ineffective shall constitute grounds for discontinuance of water service. Water service to such premises shall not be restored until the customer has corrected or eliminated such conditions or defects to the satisfaction of the public works superintendent or his designated representative. (1980 Code, § 8-308, as amended by Ord. #04-05, Feb. 2004)

**18-409. Unpotable water supply.** The potable water system made available to premises served by the public water supply shall be 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 the potable system must be labeled in a conspicuous manner as:

WATER UNSAFE  
FOR DRINKING

Minimum acceptable sign shall have black letters at least one-inch high located on a red background. (1980 Code, § 8-309)

**18-410. Application of this chapter.** The requirements contained herein shall apply to all premises served by the Portland Public Water System whether located inside or outside the corporate limits and are hereby made 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 water distribution system against the entrance of contamination which may render the water unsafe healthwise, or otherwise undesirable, shall be enforced rigidly without regard to location of the premises, whether inside or outside the Portland Corporate Limits.

Any owner or occupant of a premises that shall be required to install backflow prevention devices shall be required to meet all other criteria as

provided in the City of Portland's Cross Connection Plan in addition to the requirements provided herein. (1980 Code, § 8-310, as amended by Ord. #04-05, Feb. 2004)

**18-411. Violations.** Any person who neglects or refuses to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction therefor, shall be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00), and each day of continued violation after conviction shall constitute a separate offense. (1980 Code, § 8-311)

## CHAPTER 5

### STORMWATER MANAGEMENT

#### SECTION

- 18-501. General provisions.
- 18-502. Definitions.
- 18-503. Waivers.
- 18-504. Stormwater system design: construction and permanent stormwater management.
- 18-505. Permanent stormwater management: operation, maintenance, and inspection.
- 18-506. Riparian buffer requirements.
- 18-507. Existing locations and ongoing developments.
- 18-508. Illicit discharges.
- 18-509. Enforcement.
- 18-510. Penalties.
- 18-511. Appeals.

**18-501. General provisions.** (1) Purpose. It is the purpose of this chapter to:

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

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

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

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

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

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

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

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

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

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

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

(2) Administering entity. The city engineer shall administer the provisions of this chapter.

(3) Stormwater management ordinance. The intended purpose of this ordinance is to safeguard property and public welfare by regulating stormwater drainage and requiring temporary and permanent provisions for its control. It should be used as a planning and engineering implement to facilitate the necessary control of Stormwater.

(4) Jurisdiction. The stormwater management ordinance shall govern all properties within the corporate limits of the City of Portland, Tennessee.

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

(i) Agricultural land management activities.

(ii) Additions or modifications to existing detached single-family dwellings that disturb less than one acre and not part of a larger common plan of development.

(iii) Developments that disturb less than one (1) acre of land use. This exception may not be applied for contiguous properties that may have been subdivided and/or are attributed to multiple separate owners. This exemption does not apply to development in critical areas. This exemption does not apply to any discharge of sediment or other forms of water pollution that may leave a small site. (as added by Ord. #16-02, May 2016)

**18-502. Definitions.** For the purpose of this chapter, the following definitions shall apply: Words used in the singular shall include the plural, and

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

(1) "100-year flood event." See base flood.

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

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

(4) "Appeal" means a request for a review of the city engineer's interpretation of any provision of these regulations.

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

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

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

(8) "BMP treatment train" means a technique for progressively selecting various stormwater management practices to address water quality, by which groups of practices may be used to achieve a treatment goal while optimizing effectiveness, maintenance needs and space.

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

(10) "Buffer management plan" means a written integrated plan outlining the utilitarian, ecological and aesthetic objectives for a specific landscape, and the landscape management practices and products that will be employed.

(11) "Buffer zone" means a setback from the top of water body's bank of undisturbed vegetation, including trees, shrubs and herbaceous vegetation; enhanced or restored vegetation; or the re-establishment of native vegetation



bordering streams, ponds, wetlands, springs, reservoirs or lakes, which exists or is established to protect those water bodies.

(12) "Building" means any structure built for support, shelter, or enclosure for any occupancy or storage.

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

(14) "City" means the City of Portland, Tennessee.

(15) "City engineer" refers to the City of Portland, City Engineer who has the authority to delegate to designated city staff, which includes, but is not limited to, staff engineers, the stormwater management coordinator, water quality specialists and stormwater inspectors or staff of the city's designated engineering consultant.

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

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

(18) "Cut" means a portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below original ground surface to the excavated surface.

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

(20) "Detention" means the temporary delay of stormwater runoff prior to discharge into receiving waters.

(21) "Developer" means any individual, firm, corporation, association, partnership, trust, or authorized agents involved in commencing proceedings to effect development of land for him/her or others.

(22) "Development" means any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling

operations, or permanent storage of materials (as defined as materials of like nature stored in whole or in part for more than six (6) months).

(23) "Discharge" means dispose, deposit, spill, pour, inject, seep, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means including any direct or indirect entry of any solid or liquid matter into the MS4.

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

(25) "Engineer" or "professional engineer" means an engineer duly registered, licensed or otherwise authorized by the State of Tennessee to practice in the field of civil engineering.

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

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

(28) "Excavation." See cut.

(29) "Existing construction" means any structure for which the "start of construction" commenced before the effective date of these regulations.

(30) "Existing grade" means the slope or elevation of existing ground surface prior to cutting or filling.

(31) "Fill" means a portion of land surface or area to which soil, rock, or other materials have been or will be added; height above original ground surface after the material has been or will be added.

(32) "Finished grade" means the final slope or elevation of the ground surface, after cutting or filling.

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

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

(35) "Floodway" means that portion of the stream channel and adjacent floodplain required for the passage or conveyance of a 100-year flood discharge. The floodway boundaries are placed to limit encroachment in the floodplain so that a discharge can be conveyed through the floodplain without materially increasing (less than one foot (1')) the water surface elevation at any point and without producing hazardous velocities or conditions. This is the area of

significant depths and velocities and due consideration should be given to effects of Fill, loss of cross sectional flow area, and resulting increased water surface elevations.

(36) "Floor" means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

(37) "Grading" means any operation or occurrence by which the existing site elevations are changed; or where any ground cover, natural, or man-made, is removed; or any watercourse or body of water, either natural or man-made, is relocated on any site, thereby creating an unprotected area. This includes stripping, cutting, filling, stockpiling, or any combination thereof, and shall apply to the land in its cut or filled condition. Grading activities that disturb one (1) acre or more shall only be performed with a land disturbance permit.

(38) "Green infrastructure" means the interconnected network of natural areas and other open spaces that conserves natural ecosystem values and functions, sustains clean air and water, and provides environmental and community benefits.

(39) "Green infrastructure practices" means management measures that are designed, built and maintained to infiltrate, evapotranspire, harvest and/or use rainwater through the use of natural hydrologic features.

(40) "Greenways" means linear undeveloped areas linking various types of Development by such facilities as bicycle paths, footpaths, and bridle paths. Greenways are usually kept in their natural state except for the pathway and areas immediately adjacent to the pathway.

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

- (a) Vehicle salvage yards and recycling facilities.
- (b) Vehicle service and maintenance facilities.
- (c) Vehicle and equipment cleaning facilities.
- (d) Fleet storage areas (bus, truck, etc.).
- (e) Industrial sites (included on Standard Industrial Classification code list).
- (f) Marinas (service and maintenance).
- (g) Public works storage areas.
- (h) Facilities that generate or store hazardous waste materials.
- (i) Commercial container nursery.
- (j) Restaurants and food service facilities.
- (k) Other land uses and activities as designated by an appropriate review authority.

(42) "Illicit connections" means illegal and/or unauthorized connections to the MS4 whether or not such connections result in discharges into that system.

(43) "Illicit discharge" means any discharge to the MS4 that is not composed entirely of stormwater, except discharges authorized under an NPDES permit (other than the NPDES permit for discharges from the MS4) and discharges resulting from firefighting activities; and not specifically exempted under §18-508(2).

(44) "Impaired waters" means any segment of surface waters that has been identified by the Tennessee Department of Environment and Conservation (TDEC) as failing to support classified uses. The TDEC periodically compiles a list of such waters known as the "303(d) list."

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

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

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

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

(b) Update field SWPPPs;

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

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

(48) "Invasive exotic plants" means plants that have been introduced from other regions and compete so successfully against native plants that they can crowd out their competitors, thus providing a monoculture that discourages the growth of native plant species.

(49) "Land disturbance permit" means a permit issued by the city engineer that allows for land disturbing activities within the City of Portland in

accordance with this chapter. In some instances, additional local, state or federal permitting may also be required.

(50) "Land disturbing activity" means any activity on property that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to, development, redevelopment, demolition, construction, reconstruction, clearing, grading, filling, and excavation. Land disturbing activities that disturb one acre or more shall only be performed with a land disturbance permit.

(51) "Landscape architect" means a landscape architect duly registered, licensed or otherwise authorized by the State of Tennessee to practice in the field of landscape architecture.

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

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

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

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

(56) "Native vegetation" means the normal vegetation that grows or would reestablish normally after a disturbance. This does not include invasive exotic plants.

(57) "New construction" means structures for which the "start of construction" commenced on or after the effective date of these regulations. The term also includes any subsequent improvements to such structures.

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

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

(60) "Passive recreation" means recreational activities that require limited physical exertion on behalf of the participant. Examples of passive recreation activities include bird watching, walking or photography.

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

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

(63) "Permittee" means any person, firm, or any other legal entity to which a grading, building or other related permit is issued in accordance with City of Portland regulations.

(64) "Pollutant" means anything which causes or contributes to pollution. Pollutants may include, but are not limited to, paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded and abandoned objects, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes, wastes and residues that result from constructing a building or structure; sediment; and noxious or offensive matter of any kind.

(65) "PUD" means a Planned Unit Development.

(66) "Qualified Hydrologic Professional" or "QHP" means a person who is duly registered, licensed or otherwise authorized by the State of Tennessee to perform hydrologic determinations and is certified as a Tennessee Qualified Hydrologic Professional.

(67) "Redevelopment" means the alteration of developed land that disturbs and increases the site or building impervious footprint, or offers a new opportunity for stormwater controls. Demolition and reconstruction is considered development and not redevelopment. Note: redevelopment is not intended to include such activities as exterior remodeling, which would not be expected to cause adverse stormwater quality impacts.

(68) "Retention" means the prevention of storm runoff from direct discharge into receiving waters. Examples include systems which discharge through percolation, exfiltration, filtered bleed-down and evaporation processes.

(69) "Riparian buffer." See buffer zone.

(70) "Riparian zone" means areas adjacent to water resources with a differing density, diversity, and productivity of plant and animal species relative to nearby uplands. This area provides a transition from an aquatic ecosystem to a terrestrial ecosystem.

(71) "Runoff" means that portion of the precipitation on a drainage area that is discharged from the area into the MS4.

(72) "Sediment" means solid material, both inorganic and organic, that is in suspension, is being transported, or has been moved from its site of origin

by air, water, gravity, or ice and has come to rest on the earth's surface either above or below sea level.

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

(74) "Site" means all contiguous land and bodies of water in one (1) ownership, graded, proposed for grading or development as a unit, although not necessarily at one (1) time.

(75) "Slope" means degree of deviation of a surface from the horizontal, usually expressed in percent or ratio.

(76) "Soil" means all unconsolidated mineral and organic material of any origin that overlies bedrock and that can be readily excavated.

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

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

(79) "Stop work order" means an order directing the developer and/or permittee responsible for the development to cease and desist all or any portion of the work which violates the provisions of this chapter.

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

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

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

(83) "Stormwater management plan" means the set of drawings and other documents that comprise all the information and specifications for the programs, drainage systems, structures, BMPs, concepts and techniques intended to maintain or restore quality and quantity of stormwater runoff to pre-development levels.

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

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

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

(86) "Stream" means surface water that is not a wet weather conveyance as determined by a qualified hydrological professional and approved by the city engineer.

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

(88) "Structure" means anything constructed or erected, the use of which requires a permanent location on or in the ground. Such construction includes but is not limited to objects such as buildings, towers, smokestacks, carports, and walls.

(89) "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.

(90) "Top of bank" means the ordinary high water level and break in slope for a water resource.

(91) "View corridors" means areas associated with formal trail systems closer than the required buffer width approved by the city engineer with an approved buffer management plan.

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

(93) "Water quality buffer." See buffer zone.

(94) "Water resources" means streams, seeps, springs, wetlands, sinkholes, lakes or channels, as determined by the city engineer. It may be necessary to use methodology from standard operating procedures for hydrologic determinations (see rules to implement a certification program for qualified hydrologic professionals, TN Rules chapter 0400-40-17) to identify a community water.

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

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

(97) "Waters" or "waters of the state" means any and all water, 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.

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

(99) "Wet weather conveyances" are man-made or natural watercourses, including natural watercourses that have been modified by channelization, that flow only in direct response to precipitation runoff in their immediate locality and whose channels are above the groundwater table and are not suitable for drinking water supplies; and in which hydrological and biological analyses indicate that, under normal weather conditions, due to naturally occurring ephemeral or low flow, there is not sufficient water to support fish or multiple populations of obligate lotic aquatic organisms whose life cycle includes an aquatic phase of at least two (2) months. (Rules and Regulations of the State of Tennessee, chapter 1200-4-3-.04(3)). (as added by Ord. #16-02, May 2016)

**18-503. Waivers.** (1) General. No waivers will be granted any construction or site work project. All construction and site work shall provide for stormwater management as required by this chapter. However, alternatives to the 2010 NPDES general permit for discharges from small MS4s primary requirement for on-site permanent stormwater management may be considered, if:

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

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

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

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

(b) Degradation of biological functions or habitat;

(c) Accelerated streambank or streambed erosion or siltation;

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

(3) Land disturbance permit not to be issued where alternatives requested. No land disturbance permit shall be issued where an alternative has been requested until the alternative is approved. If no alternative is approved, the plans must be resubmitted with a stormwater management plan that meets the primary requirement for on-site stormwater management. (as added by Ord. #16-02, May 2016)

**18-504. Stormwater system design: construction and permanent stormwater management.** (1) MS4 stormwater design or BMP manuals.

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

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

(ii) Tennessee Permanent Stormwater Management and Design Guidance Manual; most current edition.

(iii) A collection of MS4 approved BMPs developed or collected by the MS4 that comply with the goals of the MS4 permit and/or the CGP, such as the Nashville-Davidson County Metro Stormwater Management Manual (BEST MANAGEMENT PRACTICES (BMP) MANUAL - Volume 4); most current edition.

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

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

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

(a) One (1) acre or more;

- (i) New development that involves land development activities of one (1) acre or more;
- (ii) Redevelopment that involves other land development activity of one (1) acre or more;
- (b) Projects or developments of less than one (1) acre of total land disturbance may also be required to obtain authorization under this ordinance if:

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

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

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

- (iv) Any new development or redevelopment, regardless of size, that is defined by the city engineer to be a hotspot land use; or

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

(3) Submittal of a copy of the NOC, SWPPP and NOT to the local MS4. Permittees who discharge stormwater through an NPDES-permitted Municipal Separate Storm Sewer System (MS4) who are not exempted in section 1.4.5 (Permit Coverage through Qualifying Local Program) of the Construction General Permit (CGP) must provide proof of coverage under the Construction General Permit (CGP); submit a copy of the Stormwater Pollution Prevention Plan (SWPPP); and at project completion, a copy of the signed Notice of Termination (NOT) to the city engineer.

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

(4) Stormwater Pollution Prevention Plan (SWPPP) for construction stormwater management. The applicant must prepare a Stormwater pollution prevention plan for all construction activities that complies with subsection (5) below. The purpose of this plan is to identify construction/contractor activities that could cause pollutants in the stormwater, and to describe measures or practices to control these pollutants during project construction.

(5) Stormwater pollution prevention plan requirements. The erosion prevention and sediment control plan component of the SWPPP shall accurately describe the potential for soil erosion and sedimentation problems resulting

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

- (a) Project description - briefly describe the intended project and proposed land disturbing activity including number of units and structures to be constructed and infrastructure required.
- (b) A topographic map with contour intervals of two feet (2') or less showing present conditions and proposed contours resulting from land disturbing activity.
- (c) All existing drainage ways, including intermittent and wet weather. Include any designated floodways or floodplains.
- (d) A general description of existing land cover. Individual trees and shrubs do not need to be identified.
- (e) Stands of existing trees as they are to be preserved upon project completion, specifying their general location on the property. Differentiation shall be made between existing trees to be preserved, trees to be removed and proposed planted trees. Tree protection measures must be identified, and the diameter of the area involved must also be identified on the plan and shown to scale. Information shall be supplied concerning the proposed destruction of exceptional and historic trees in setbacks and buffer strips, where they exist. Complete landscape plans may be submitted separately. The plan must include the sequence of implementation for tree protection measures.
- (f) Approximate limits of proposed clearing, grading and filling.
- (g) Approximate flows of existing stormwater leaving any portion of the site.
- (h) A general description of existing soil types and characteristics and any anticipated soil erosion and sedimentation problems resulting from existing characteristics.
- (i) location, size and layout of proposed stormwater and sedimentation control improvements.
- (j) Existing and proposed drainage network.
- (k) Proposed drain tile or waterway sizes.
- (l) Approximate flows leaving the site after construction and incorporating water runoff mitigation measures. The evaluation must include projected effects on property adjoining the site and on existing drainage facilities and systems. The plan must address the adequacy of

outfalls from the development: when water is concentrated, what is the capacity of waterways, if any, accepting stormwater off-site; and what measures, including infiltration, sheeting into buffers, etc., are going to be used to prevent the scouring of waterways and drainage areas off-site, etc.

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

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

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

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

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

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

(6) General design performance criteria for permanent stormwater management: the following performance criteria shall be addressed for permanent stormwater management at all development sites. The runoff reduction requirement found below in § 18-504(6)(a) will become effective March 1, 2018.

(a) Site design standards for all new and redevelopment require, in combination or alone, management measures that are designed, built and maintained to infiltrate, evapotranspire, harvest and/or use, at a minimum, the first inch of every rainfall event preceded

by seventy-two (72) hours of no measurable precipitation. This first inch of rainfall must be one hundred percent (100%) managed with no discharge to surface waters or the public storm sewer system.

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

(ii) The Tennessee Runoff Reduction Assessment Tool (TN-RRAT) or Metro Nashville's Stormwater Management Manual Volume 5, Low Impact Development design guidelines may be used by the site designer to determine compliance with the runoff reduction requirement.

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

- (1) Redevelopment;
- (2) Brownfield redevelopment;
- (3) High density (>7 units per acre);
- (4) Vertical dDensity, (Floor to Area Ratio (FAR) of 2 or >18 units per acre); and
- (5) Mixed use and transit oriented development (within one half (1/2) mile of transit).

(b) Prior to March 1, 2018 or after March 1, 2018 for projects that cannot meet one hundred percent (100%) of the runoff reduction requirement unless subject to the incentive standards, the remainder of the stipulated amount of rainfall (one inch (1") prior to March 1, 2018) must be treated prior to discharge with a technology documented to remove eighty percent (80%) Total Suspended Solids (TSS) unless an alternative provided under this ordinance is approved. The treatment technology must be designed, installed and maintained to continue to meet this performance standard.

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

- (i) Where a potential for introducing pollutants into the groundwater exists, unless pretreatment is provided;
- (ii) Where pre-existing soil contamination is present in areas subject to contact with infiltrated runoff;
- (iii) Presence of sinkholes or other karst features.

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

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

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

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

(7) Minimum volume control requirements. In accordance with § 18-501(1)(c)(iii) the MS4 may establish standards to regulate the quantity of stormwater discharged, therefore:

(a) Stormwater designs shall meet the multi-stage storm frequency storage requirements as identified in the MS4 BMP manual and Attachment A of this chapter.

(b) If hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the city engineer may impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.

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

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

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

(ii) Current land use including all existing structures, locations of utilities, roads, and easements;

(iii) All other existing significant natural and artificial features;

(iv) Proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns;

locations of utilities, roads and easements; the limits of clearing and grading.

(b) Proposed structural and non-structural BMPs;

(c) A written description of the site plan and justification of proposed changes in natural conditions may also be required;

(d) Calculations: Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storm event specified in the MS4 BMP manual and Attachment A of this chapter. These calculations must show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with this chapter and the guidelines of the MS4 BMP manual. Such calculations shall include:

(i) A description of the design storm event frequency, duration, and intensity where applicable;

(ii) Time of concentration;

(iii) Soil curve numbers or runoff coefficients including assumed soil moisture conditions;

(iv) Peak runoff rates and total runoff volumes for each watershed area;

(v) Infiltration rates, where applicable;

(vi) Culvert, stormwater sewer, ditch and/or other stormwater conveyance capacities;

(vii) Flow velocities;

(viii) Data on the increase in rate and volume of runoff for the design storm event referenced in the MS4 BMP manual; and

(ix) Documentation of sources for all computation methods and field test results.

(e) Soils information: If a stormwater management control measure depends on the hydrologic properties of soils (e.g., infiltration basins), then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles and soil survey reports. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure.

(9) Maintenance and repair plan: the design and planning of all permanent stormwater management facilities shall include detailed maintenance and repair procedures to ensure their continued performance. These plans will identify the parts or components of a stormwater management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.



(10) Buffers and buffer zones. Buffer and buffer zones shall be those buffers and buffer zones as those terms are defined in § 18-502(11), above, and shall meet the requirements contained in those provisions.

(a) Construction (i) Construction requires buffer zone widths of a minimum of thirty feet (30'). The thirty foot (30') criterion for the width of the buffer zone can be established on an average width basis. As long as the minimum width of the buffer zone is fifteen feet (15'). The buffer zone shall meet all the other applicable requirements of §§ 18-502(11) and 18-506.

(ii) Construction on impaired or exceptional waters. The width of the buffer zone shall be a minimum of sixty feet (60'). The sixty feet (60') criterion for the width of the buffer zone can be established on an average basis at a project as long as the minimum width of the buffer is more than thirty feet (30') at any measured location. The buffer zone shall meet all the other applicable requirements of §§ 18-502(11) and 18-506.

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

(ii) Less than one (1) square mile drainage area. Less than one (1) square mile drainage area will require buffer zones of a minimum of thirty feet (30'). The thirty foot (30') criterion for the width of the buffer zone can be established on an average width basis, as long as the minimum width of the buffer zone is more than thirty feet (30') at any measured location. The buffer zone shall meet all the other applicable requirements of §§ 18-502(11) and 18-506. (as added by Ord. #16-02, May 2016)

**18-505. Permanent stormwater management: operation, maintenance, and inspection.** (1) As built plans. All applicants are required to submit actual as built plans for any stormwater structures located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be sealed by a registered professional engineer and/or land surveyor licensed to practice in Tennessee. Coordinate data shall be presented in the State of Tennessee plane system with the North American Datum 1983 (NAD83) and North American Vertical Datum (NAVD) of 1988. A final inspection by the city is required before any performance security or performance bond will be released. The city shall have the discretion to adopt provisions for a partial pro-rata release of the performance security or performance bond on the completion of various stages

of development. In addition, occupation permits shall not be granted until corrections to all BMPs have been made and accepted by the city.

(2) Landscaping and stabilization requirements. (a) Any area of land from which the natural vegetative cover has been either partially or wholly cleared by development activities shall be stabilized. Stabilization measures shall be initiated as soon as possible in portions of the site where construction activities have temporarily or permanently ceased. Temporary or permanent soil stabilization at the construction site (or a phase of the project) must be completed not later than fourteen (14) days after the construction activity in that portion of the site has temporarily or permanently ceased. In the following situations, temporary stabilization measures are not required:

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

(ii) where construction activity on a portion of the site is temporarily ceased, and land disturbing activities will be resumed within fourteen (14) days.

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

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

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

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

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

(iv) In addition to the above requirements, a landscaping plan must be submitted with the final design describing the vegetative stabilization and management techniques to be used at

a site after construction is completed. This plan will explain not only how the site will be stabilized after construction, but who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved.

(3) Inspection of stormwater management facilities. Periodic inspections of Facilities shall be performed, documented, and reported in accordance with this chapter, as detailed in §18-507.

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

(5) Failure to meet or maintain design or maintenance standards. If a responsible party fails or refuses to meet the design or maintenance standards required for stormwater facilities under this chapter, the city, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the city shall notify in writing the party responsible for maintenance of the stormwater management facility. Upon receipt of that notice, the responsible person shall have thirty (30) days to effect maintenance and repair of the facility in an approved manner. In the event that corrective action is not undertaken within that time, the city may take necessary corrective action. The cost of any action by the city under this section shall be charged to the responsible party. (as added by Ord. #16-02, May 2016)

**18-506. Riparian buffer requirements.** (1) A riparian buffer shall be applied to all water resources located in, or adjacent to, new construction, development, or redevelopment that require a land disturbance permit. The goal of the water quality buffer is to preserve undisturbed vegetation that is native to the streamside habitat in the area of the project. Vegetated, preferably native, water quality buffers protect water bodies by providing structural integrity and canopy cover, as well as stormwater infiltration, filtration and evapotranspiration.

(2) A determination that water quality buffer widths cannot be met on-site may not be based solely on the difficulty or cost of implementing measures, but must include multiple criteria, such as: type of project, existing land use and physical conditions that preclude use of these practices. Every attempt should be made for development and redevelopment activities not to take place within the buffer zone.

(a) "Construction" applies to all streams adjacent to construction sites, with an exception for streams designated as impaired

or exceptional Tennessee waters, as designated by the Tennessee Department of Environment and Conservation. A thirty foot (30') natural riparian buffer zone adjacent to all streams at the construction site shall be preserved, to the maximum extent practicable, during construction activities at the site. The water quality buffer zone is required to protect waters of the state located within or immediately adjacent to the boundaries of the project, as identified using methodology from standard operating procedures for hydrologic determinations (see rules to implement a certification program for qualified hydrologic professionals, TN Rules chapter 0400-40-17). Buffer zones are not primary sediment control measures and should not be relied on as such. Rehabilitation and enhancement of a natural buffer zone is allowed, if necessary, for improvement of its effectiveness of protection of the waters of the state. The buffer zone requirement only applies to both new construction sites and redevelopment. The riparian buffer zone should be preserved between the top of stream bank and the disturbed construction area.

(b) Buffer zone requirements for discharges into impaired or exceptional waters: a sixty foot (60') natural riparian buffer zone adjacent to the receiving stream designated as impaired or exceptional waters shall be preserved, to the maximum extent practicable, during construction activities at the site. The water quality buffer zone is required to protect waters of the state (e.g., perennial and intermittent streams, rivers, lakes, wetlands) located within or immediately adjacent to the boundaries of the project, as identified using methodology from standard operating procedures for hydrologic determinations (see rules to implement a certification program for qualified hydrologic professionals, TN Rules chapter 0400-40-17). Buffer zones are not sediment control measures and should not be relied upon as primary sediment control measures. Rehabilitation and enhancement of a natural buffer zone is allowed, if necessary, for improvement of its effectiveness of protection of the waters of the state. The buffer zone requirement only applies to both new construction sites and redevelopment. The riparian buffer zone should be established between the top of stream bank and the disturbed construction area. The sixty foot (60') criterion for the width of the buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer zone is more than thirty feet (30') at any measured location.

(c) "Permanent" new development and significant redevelopment sites are required to preserve water quality buffers along waters within the MS4. Buffers shall be clearly marked on site development plans, land disturbance permit applications, and/or concept plans. Buffer width depends on the size of a drainage area. Streams or other waters with drainage areas less than one (1) square mile will require buffer widths of thirty feet (30') minimum. Streams or other

waters with drainage areas greater than 1 square mile will require buffer widths of sixty feet (60') minimum. The sixty feet (60') criterion for the width of the buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer zone is more than thirty feet (30') at any measured location.

(3) The following list includes the allowable uses within the buffer zone. The city engineer shall approve the specific requirements of a plan proposing the installation of any feature or construction within the buffer zone. For any such work, a buffer management plan shall be submitted to the city engineer prior to the issuance of a land disturbance permit.

(a) Utility crossings.

(b) Passive recreation, pervious footpaths, and boardwalks to approach the water resource as approved by the city engineer.

(c) Biking or hiking paths and greenways, but no closer than thirty feet (30') at any measured location. View corridors shall be allowed along greenways as approved by the city engineer. Paths and greenways shall be designed to prevent the channelization of stormwater runoff, and should be constructed of pervious and/or permeable materials. There shall be no other permanent structures with the exception of paths.

(d) Stormwater channels as approved by the city engineer.

(e) Stabilization practices to prevent channelization and erosion in the buffer zone from stormwater runoff adjacent to the water resource.

(f) Landscaping to allow for climax successional vegetation through the removal of invasive exotic plants and the establishment of native vegetation, and/or other practices that restore the ecological integrity of the riparian buffer.

(g) Removal of individual trees within the buffer zone which are in danger of falling, causing damage to dwellings or other structures, or causing blockage of the water resource.

(h) Cut and fill for floodplain compensations as approved by the city engineer.

(4) Requests to reduce the riparian buffer width, perform clearing activities or install crossings within the riparian buffer shall be approved by the city engineer.

(a) The riparian buffer width may be reduced in conjunction with targeted restoration plans that make comparable improvements to both the ecological integrity within the buffer zone and water quality of the water resource. Reduction of the riparian buffer width shall be approved on a case-by-case basis. Restoration plans must be submitted along with a buffer management plan to the city engineer for approval.

(b) Riparian Buffer crossings should be limited as much as possible. Utilities shall be located under pavement where possible to limit the width of the crossing. Riparian Buffer crossings shall be

submitted along with a buffer management plan to the city engineer for approval.

(i) Utilities may be allowed in the riparian buffer, but not closer than thirty feet (30') to the top of bank except for crossings.

(ii) The city engineer may approve new driveways or road crossings through or across riparian buffer zones on a case-by-case basis. It shall be demonstrated that the access across the buffer is necessary and that the buffer will not be impacted excessively. In these cases, the driveway or road crossing shall be constructed perpendicular, or as close to perpendicular as possible to the water resource and/or riparian buffer with careful detail to protecting trees and vegetation and minimizing site grades. Other federal, state and/or local permits may still be required.

(5) For any proposed development and/or construction activity within or adjacent to a riparian buffer, the following shall be required.

(a) The parameters of the riparian buffer shall be delineated by the applicant and boundaries shall be clearly indicated and labeled on all plats, plans, permits and official maps.

(b) Include a note on plans to reference protective covenants governing all riparian buffer areas, labeled as: "any riparian buffer is subject to protective covenants recorded in the register of deeds (Sumner or Robertson County). Disturbance and use of these areas is restricted; severe penalties apply."

(c) Riparian buffers shall be protected during construction activities by a combination of fencing and flagging to prevent entry of construction equipment, storage and stockpiling. Buffer boundaries shall be marked with signs that persist before, during and after construction activities.

(d) Permanent boundary markers shall be installed prior to the completion of the development activities. Signage shall be posted at the edge of the riparian buffer on each lot line, and at a maximum spacing of two hundred feet (200'). Properties with a large amount of riparian buffer frontage may request a reduction in spacing requirements, subject to approval by the city engineer. The size of the sign shall be six inches by four inches (6" x 4") or greater and shall contain the message, "Water resource protected. Violators subject to severe penalties" or other language as approved by the city engineer.

(e) All riparian buffers shall be placed in open space lots to be maintained according to § 18-505 of this chapter.

(6) Riparian buffers shall be actively managed with periodic buffer surveys. Violators shall be served with civil penalties according to § 18-510(2) of this title and shall be required, at their own expense, to revegetate, according to an approved buffer management plan, and maintain the section of the

riparian buffer encroached upon, using only native vegetation. Equivalent native plants and trees that were removed shall be replaced on a tree per tree basis or as approved by the city engineer. Specimen trees shall be replaced as required by the city's zoning ordinance. (as added by Ord. #16-02, May 2016)

**18-507. Existing locations and ongoing developments.** (1) On-site stormwater management facilities maintenance agreement:

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

(b) The maintenance agreement shall:

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

(ii) Provide for a periodic inspection by the property owners in accordance with the requirements of § 18-507(1)(b)(v) below for the purpose of documenting maintenance and repair needs and to ensure compliance with the requirements of this ordinance. The property owners will arrange for this inspection to be conducted by a registered professional engineer licensed to practice in the State of Tennessee, who will submit a signed written report of the inspection to the city engineer. It shall also grant permission to the city to enter the property at reasonable times and to inspect the stormwater management facility to ensure that it is being properly maintained.

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

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

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

(2) Existing problem locations - no maintenance agreement.

(a) The city engineer shall in writing notify the owners of existing locations and developments of specific drainage, erosion or sediment problems affecting or caused by such locations and developments, and the specific actions required to correct those problems. The notice shall also specify a reasonable time for compliance. Discharges from existing BMPs that have not been maintained and/or inspected in accordance with this ordinance shall be regarded as illicit discharges.

(b) Inspection of existing stormwater management facilities. The city may, to the extent authorized by state and federal law, enter and inspect private property for the purpose of determining if there are non-stormwater illicit discharges, and to establish inspection programs to verify that all stormwater management facilities are functioning within design limits. These inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of the city's NPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other BMPs.

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

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

(b) Perform comprehensive inspection of all stormwater management facilities and practices. These inspections shall be conducted once every five years, at a minimum. Such inspections must



be conducted by either a professional engineer or landscape architect, licensed in the State of Tennessee. Complete inspection reports for these five (5) year inspections shall include:

- (i) Facility type,
- (ii) Inspection date,
- (iii) Latitude and longitude and nearest street address,
- (iv) BMP owner information (e.g. name, address, phone number, fax, and email),
- (v) A description of BMP condition including: vegetation and soils; inlet and outlet channels and structures; embankments, slopes, and safety benches; spillways, weirs, and other control structures; and any sediment and debris accumulation,
- (vi) Photographic documentation of BMPs, and
- (vii) Specific maintenance items or violations that need to be corrected by the BMP owner along with deadlines and re-inspection dates.

(c) Owners or operators shall maintain documentation of these inspections. The city engineer may require submittal of this documentation.

(4) Requirements for all existing locations and ongoing developments.

The following requirements shall apply to all locations and development at which land disturbing activities have occurred previous to the enactment of this ordinance:

(a) Denuded areas must be vegetated or covered under the standards and guidelines specified in § 18-505 (2)(c)(i), (ii), (iii) and on a schedule acceptable to the city engineer.

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

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

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

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

- (i) Ponds.
  - (A) Detention pond.
  - (B) Extended detention pond.
  - (C) Wet pond.
  - (D) Alternative storage measures.
- (ii) Constructed wetlands.
- (iii) Infiltration systems.
  - (A) Infiltration/percolation trench.

- (B) Infiltration basin.
- (C) Drainage (recharge) well.
- (D) Porous pavement.
- (iv) Filtering systems.
  - (A) Catch basin inserts/media filter.
  - (B) Sand filter.
  - (C) Filter/absorption bed.
  - (D) Filter and buffer strips.
- (v) Open channel.
  - (A) Swale.

(5) Corrections of problems subject to appeal. Corrective measures imposed by the city engineer under this section are subject to appeal under § 18-511 of this chapter. (as added by Ord. #16-02, May 2016)

**18-508. Illicit discharges.** (1) Scope. This section shall apply to all water generated on developed or undeveloped land entering the city's separate storm sewer system.

(2) Prohibition of illicit discharges. No person shall introduce or cause to be introduced into the MS4 any discharge that is not composed entirely of stormwater or any discharge that flows from stormwater management facility that is not inspected in accordance with § 18-507 shall be an illicit discharge. Non-stormwater discharges shall include, but shall not be limited to, sanitary wastewater, car wash wastewater, radiator flushing disposal, spills from roadway accidents, carpet cleaning wastewater, effluent from septic tanks, improper oil disposal, laundry wastewater/gray water, improper disposal of auto and household toxics. The commencement, conduct or continuance of any non-stormwater discharge to the MS4 is prohibited except as described as follows:

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

- (xiv) Firefighting activities;
- (xv) Individual residential car washing;
- (xvi) Controlled flushing of stormwater conveyances (controlled by appropriate BMPs);
- (xvii) Discharges within the constraints of an NPDES permit from the Tennessee Department of Environment and Conservation (TDEC);
- (xviii) Any other uncontaminated water source.

(b) Discharges specified in writing by the city as being necessary to protect public health and safety.

(c) Dye testing is an allowable discharge if the city has so specified in writing.

(d) Discharges authorized by the Construction General Permit (CGP), which comply with section 3.5.9 of the same:

(i) Dewatering of work areas of collected stormwater and ground water (filtering or chemical treatment may be necessary prior to discharge);

(ii) Waters used to wash vehicles (of dust and soil, not process materials such as oils, asphalt or concrete) where detergents are not used and detention and/or filtering is provided before the water leaves site;

(iii) Water used to control dust in accordance with CGP section 3.5.5;

(iv) Potable water sources including waterline flushings from which chlorine has been removed to the maximum extent practicable;

(v) Routine external building washdown that does not use detergents or other chemicals;

(vi) Uncontaminated groundwater or spring water; and

(vii) Foundation or footing drains where flows are not contaminated with pollutants (process materials such as solvents, heavy metals, etc.).

(3) Prohibition of illicit connections. The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(4) Reduction of stormwater pollutants by the use of best management practices. Any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, the BMPs necessary to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with

industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section. Discharges from existing BMPs that have not been maintained and/or inspected in accordance with this ordinance shall be regarded as illicit discharges.

(5) Notification of spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into, the MS4, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, the person shall notify the city in person or by telephone, fax, or email, no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the city within three (3) business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

(6) No illegal dumping allowed. No person shall dump or otherwise deposit outside an authorized landfill, convenience center or other authorized garbage or trash collection point, any trash or garbage of any kind or description on any private or public property, occupied or unoccupied, inside the city. (as added by Ord. #16-02, May 2016)

**18-509. Enforcement.** (1) Enforcement authority. The city engineer shall have the authority to issue notices of violation and citations, and to impose the civil penalties provided in this title. Each day of noncompliance is considered a separate offense; and nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation, including application for injunctive relief. If the person, property or facility has or is required to have a stormwater discharge permit from TDEC, the city shall alert the appropriate state authorities of the violation. Measures authorized include:

(a) Verbal warnings - At minimum, verbal warnings must specify the nature of the violation and required corrective action. Verbal warnings will be documented by the city.

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

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

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

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

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

(2) Notification of violation:

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

(b) Written notice. Whenever the city engineer finds that any permittee or any other person discharging stormwater has violated or is violating this ordinance or a permit or order issued hereunder, the city engineer may serve upon such person written notice of the violation. All written notices will be documented and delivered by personal service or by registered or certified mail (return receipt requested) to the person that has violated or is violating this chapter. Within ten (10) days of this notice or shorter period as may be prescribed in the notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the city engineer. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation.

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

(d) Show cause hearing. The city engineer may order any person who violates this chapter or permit or order issued hereunder, to

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

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

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

(i) Comply forthwith; or

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

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

(h) Conflicting standards. Whenever there is a conflict between any standard contained in this chapter and in the BMP manual adopted by the city under this ordinance, the strictest standard shall prevail. (as added by Ord. #16-02, May 2016)

**18-510. Penalties.** (1) Violations. Any person who shall commit any act declared unlawful under this chapter, who violates any provision of this chapter, who violates the provisions of any permit issued pursuant to this

chapter, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by the city engineer, shall be guilty of a civil offense.

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

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

- (a) The harm done to the public health or the environment;
- (b) The duration and gravity of the violation;
- (c) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;
- (d) The economic benefit gained by the violator;
- (e) The amount of effort put forth by the violator to remedy this violation;
- (f) Whether the violation was committed intentionally;
- (g) The prior record of the violator in complying or failing to comply with the stormwater management program;
- (h) Any unusual or extraordinary enforcement costs incurred by the city;
- (i) The amount of penalty established by ordinance or resolution for specific categories of violations; and
- (j) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

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

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

(5) Referral to TDEC. Where the city has used progressive enforcement to achieve compliance with this ordinance, and in the judgment of the city has not been successful, the city may refer the violation to tdec. For the purposes of this provision, "progressive enforcement" shall mean two (2) follow-up inspections and two (2) warning letters. In addition, enforcement referrals to TDEC must include, at a minimum, the following information:

- (a) Construction project or industrial facility location;
- (b) Name of owner or operator;

(c) Estimated construction project or size or type of industrial activity (including SIC code, if known);

(d) Records of communications with the owner or operator regarding the violation, including at least two (2) follow-up inspections, two (2) warning letters or notices of violation, and any response from the owner or operator.

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

(7) Remedies cumulative. The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted. (as added by Ord. #16-02, May 2016)

**18-511. Appeals.** Pursuant to Tennessee Code Annotated, § 68-221-1106(d), any person aggrieved by the imposition of a civil penalty or damage assessment as provided by this title may appeal said penalty or damage assessment to the city's governing body.

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

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

(3) Appealing decisions of the city's governing body. Any alleged violator may appeal a decision of the city's governing body pursuant to the provisions of Tennessee Code Annotated, title 27, chapter 8. (as added by Ord. #16-02, May 2016)



**APPENDIX A**

**INSPECTION AND MAINTENANCE AGREEMENT  
FOR PRIVATE STORMWATER MANAGEMENT FACILITIES**

Property Identification ("Property"): \_\_\_\_\_ City Use: \_\_\_\_\_

Map: \_\_\_\_\_ Parcel No. \_\_\_\_\_ Land Dist. Permit No.: \_\_\_\_\_  
Record Book: \_\_\_\_\_ Page No. \_\_\_\_\_

Project Name: \_\_\_\_\_

Project Address: \_\_\_\_\_

Owner(s): \_\_\_\_\_

Owner Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

SEE LEGAL DESCRIPTION ATTACHED HERETO AS EXHIBIT A.

This Inspection and Maintenance Agreement ("Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_ ("Owner," whether one or more), and the City of Portland ("City").

WHEREAS, the City is required by federal and state surface water quality regulations and its National Pollutant Discharge Elimination System (NPDES) permit to prevent surface water quality degradation from development or redevelopment activities within its jurisdiction, and the City has adopted surface water quality regulations as required and such regulations are contained in the Stormwater Management Title of the City Code; and

WHEREAS the Owner owns the Property identified above and has or will construct certain stormwater management facilities on the Property, and has developed a Stormwater Maintenance Plan (SWMP No. \_\_\_\_\_), as may be amended from time to time (the "Plan") for the maintenance of those facilities, which the City has reviewed and approved, and a copy of which will be maintained at the office of the City Engineer. A drawing showing the general area of the facilities covered by the Plan is attached to this Agreement for ease of identification.

THEREFORE, in consideration of the benefits received by the Owner as a result of the approval by the City of the Plan, the Owner does hereby covenant and agree with the City as follows:

1. The Owner shall provide adequate long term maintenance and continuation of the stormwater control measures described in the Plan, to ensure that all stormwater facilities are and remain in proper working condition. The Owner shall perform inspection and preventative maintenance activities in accord with the Plan.
2. The Owner shall maintain a copy of the Plan On-site, together with a record of inspections and maintenance actions required by the Plan. The Owner shall document the times of inspections, remedial actions taken to repair, modify or reconstruct the system, the state of control measures, and notification of any planned change in responsibility for the system. The City may require that the Owner's records be submitted to the City.
3. If it is later determined that the City's NPDES permit clearly directs Owners or the City to manage stormwater treatment systems differently than specified in the Plan, the direction of the NPDES permit shall override the provisions of the Plan.
4. The Owner hereby grants to the City the right of ingress, egress and access to enter the Property at reasonable times and in a reasonable manner for the purpose of inspecting, operating, installing, constructing, reconstructing, maintaining or repairing the facilities. The Owner hereby grants to the City the right to install and maintain equipment to monitor or test the performance of the stormwater control system for quality and quantity upon reasonable notice to Owner.
5. If the City finds that the Owner has not maintained the facilities, the City may order the Owner to make repairs or improvements to bring the facilities up to the standards set forth in the Plan. If the work is not performed within the time specified by the City, the City may enter the property and take any action necessary to maintain or repair the stormwater management facilities; PROVIDED, HOWEVER, that the City shall in no event be deemed obligated to maintain or repair the stormwater management facilities, and nothing in this Agreement shall ever be construed to impose or create any such obligation on the City.
6. If the City incurs expenses in maintaining the stormwater control facilities, and the Owner fails to reimburse the City for such expenses within 45 days after a written notice, the City may collect said expenses from the Owner through appropriate legal action, and the Owner shall be

liable for the reasonable expenses of collection, including all court costs and attorney fees.

7. The Owner and the Owner's heirs, administrators, executors, assigns, and any other successor in interest shall indemnify and hold the City harmless from any and all damages, accidents, casualties, occurrences, claims or attorney's fees which might arise or be asserted, in whole or in part, against the City from the construction, presence, existence, or maintenance of the stormwater control facilities subject to the Plan and this Agreement. In the event a claim is asserted against the City, its officers, agents or employees, the City shall notify the Owner, who shall defend at Owner's expense any suit or other claim. If any judgment or claims against the City shall be allowed, the Owner shall pay all costs and expenses in connection therewith. The City will not indemnify, defend or hold harmless in any fashion the Owner from any claims arising from any failure, regardless of any language in any attachment of other document that the Owner may provide.
8. No waiver of any provision of this Agreement shall affect the right of any party thereafter to enforce such provision or to exercise any right or remedy available to it in the event of any other default.
9. The City, at Owner's expense, shall record this Agreement with the Register of Deeds of Sumner County, Tennessee; this Agreement shall constitute a covenant running with the land, and shall be binding upon the Owner and the Owner's heirs, administrators, executors, assigns, and any other successors in interest.
10. The Owner shall have the facilities inspected in accordance with § 18-507 of the City's stormwater ordinance and certify to the City that the constructed facilities conform and purport substantially to the approved Plan. If the constructed condition of the facility or its performance varies significantly from the approved Plan, appropriately revised calculations shall be provided to the City and the Plan shall be amended accordingly.
11. Owner agrees that the failure to follow the provisions and requirements of the Plan may result in the revocation of previously approved credits to stormwater user fees, or the imposition of such stormwater user fees or of additional stormwater user fees.
12. The Owner agrees that for any systems to be maintained by a property owner's association, deed restrictions and covenants for the subdivision or other development will include mandatory membership in the property owners' association responsible for providing maintenance of the system,

will require the association to maintain the stormwater system, will prohibit termination of this covenant by unilateral action of the association, and provide for unpaid dues or assessments to constitute a lien upon the property of an owner upon recording a notice of non-payment.

- 13. This Agreement must be re-approved and re-executed by the City if all or a portion of the Property is subdivided or assembled with other property.

Owner: \_\_\_\_\_ Date: \_\_\_\_\_  
Signature by Individual

Owner: \_\_\_\_\_ Date: \_\_\_\_\_  
Signature by Individual

State of \_\_\_\_\_ County of \_\_\_\_\_

Personally appeared before me, the undersigned Notary Public of the state and county mentioned, \_\_\_\_\_, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and executed this Agreement (Inspection and Maintenance Agreement for Private Stormwater Management Facilities) for the purposes contained herein.

Witness my hand and official seal at office, this \_\_\_\_ day of \_\_\_\_\_, of the year \_\_\_\_\_.

Notary Public: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

Accepted by:

\_\_\_\_\_ For the City of \_\_\_\_\_

State of \_\_\_\_\_ County of \_\_\_\_\_

Personally appeared before me, the undersigned Notary Public of the state and county mentioned, \_\_\_\_\_, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and executed this Agreement (Inspection and Maintenance Agreement for Private Stormwater Management Facilities) on behalf of the City of \_\_\_\_\_ for the purposes contained herein.

Change 11, April 2, 2018

18-133

Witness my hand and official seal at office, this \_\_\_\_ day of \_\_\_\_\_,  
of the year \_\_\_\_\_.

Notary Public: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

## CHAPTER 6

### STORMWATER UTILITY

#### SECTION

- 18-601. General provisions.
- 18-602. Jurisdiction.
- 18-603. Definitions.
- 18-604. Funding of stormwater utility.
- 18-605. Stormwater utility management fund.
- 18-606. Operating budget.
- 18-607. Stormwater user fee
- 18-608. Equivalent Residential Unit (ERU).
- 18-609. Property classification for stormwater user fees.
- 18-610. Base rate.
- 18-611. Property owners to pay charges.
- 18-612. Billing procedures and penalties for late payment.
- 18-613. Appeal of fees.
- 18-614. Stormwater user fee credit and adjustment policy.

**18-601. General provisions.** (1) Introduction. (a) This chapter is to:

(i) Be known as the "stormwater utility" for the City of Portland, Tennessee;

(ii) Enable the city to comply with the National Pollution Discharge Elimination System permit (NPDES) and applicable regulations, 40 CFR 122.26 for stormwater discharges;

(b) The City of Portland finds, determines, and declares that the stormwater system, which provides for the collection, treatment, storage and disposal of stormwater, provides benefits and services to all property within the incorporated City of Portland limits. Such benefits include, but are not limited to: the provision of adequate systems of collection, conveyance, detention, retention, treatment and release of stormwater, the reductions of hazards to property and life resulting from stormwater runoff, improvements in general health and welfare through reduction of undesirable stormwater conditions, and improvements to water quality in the stormwater and surface water system and its receiving waters of the state all of which are managed by the stormwater management coordinator as part of the Municipal Separate Storm Sewer System (MS4) program.

(c) The objective of this chapter is to promote the public health, safety and general welfare of the City of Portland, Tennessee ("City") and its citizens in compliance with the Federal Clean Water Act, 33 U.S.C. 1251 et seq., and Tennessee Code Annotated, § 68-221-1101 et seq. which require municipalities to implement stormwater management programs,

within prescribed time frames, to regulate stormwater discharges to protect water quality; establish adequate systems of collection, conveyance, detention, treatment and release of stormwater; reduce hazards of property and life resulting from stormwater runoff; and enable municipalities to fix and require payment of fees for the privilege of discharging stormwater. The city finds that a stormwater management system which provides for the treatment of stormwater is of benefit and provides services to all property within the city.

(d) It is further determined and declared that charges shall be established for each developed parcel of developed property located within the municipal limits of the city as provided hereinafter to provide for dedicated funding sources for the administration of stormwater management programs and/or stormwater system of the city. The proceeds of charges so derived shall be used for the purposes of planning, operation, maintenance, repair, replacement and debt service of the city's stormwater management programs and system necessary to protect the health, safety, and welfare of the public.

(2) Purpose. The stormwater utility's purpose is to:

(a) Administer and enforce the City of Portland's stormwater management ordinance;

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

(c) Implement activities necessary to maintain compliance with the city's MS4 National Pollutant Discharge Elimination System (NPDES) permit and applicable regulations, 40 CFR section 122.26 for stormwater discharges;

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

(e) Advise the board of mayor and alderman and other City of Portland departments on matters relating to the utility.

(3) Administering entity. The stormwater utility shall be a part of the City of Portland Engineering Department. The stormwater utility, under the immediate direction and supervision of the city engineer or designee, shall administer the provisions of this stormwater utility ordinance. (as added by Ord. #16-59, Nov. 2016)

**18-602. Jurisdiction.** The stormwater utility ordinance shall govern all properties within the incorporated limits of the City of Portland, Tennessee. (as added by Ord. #16-59, Nov. 2016)

**18-603. Definitions.** For the purpose of this chapter, the following definitions shall apply: Words used in the singular shall include the plural, and the plural shall include the singular; words used in the present tense shall

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

(1) "Board of mayor and alderman" means the city governing body for the City of Portland.

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

(3) "Appeal" means a request for a review of the city engineer's interpretation of any provision of these regulations.

(4) "Base rate" means the stormwater user fee for a detached single family residential property in the City of Portland.

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

(6) "CII" refers to developed commercial, industrial, and institutional properties within the incorporated limits of the City of Portland, Tennessee.

(7) "City" means the City of Portland, Tennessee.

(8) "City engineer" refers to the City of Portland, City Engineer who has the authority to delegate to designated city staff, which includes, but is not limited to, staff engineers, the stormwater management coordinator, water quality specialists and stormwater inspectors or staff of the city's designated engineering consultant.

(9) "Construction" means the erection, building, acquisition, alteration, reconstruction, improvement, or extension of stormwater facilities; preliminary planning to determine the economic and engineering feasibility of stormwater facilities; the engineering, architectural, legal, fiscal, and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other actions necessary in the construction of stormwater facilities; and the inspection and supervision of the construction of stormwater facilities.

(10) "Deficient property" means developed property that does not have adequate stormwater facilities as required in the latest edition of the City of Portland minimum drainage requirements for development.



(11) "Developed property" means developed property which has been altered from its natural state by the creation or addition of buildings, structures, pavement or other impervious surfaces, or by the alteration of the property that results in a meaningful change in the hydrology of the property.

(12) "Equivalent Residential Unit (ERU)" shall be used as the basis for determining stormwater service charges to all properties within the city. An ERU is the standard value for which non-residential properties are compared to the average residential property. One (1) ERU is based upon the average residential property area.

(13) "Exempt property" means all public rights-of-way, public streets and public roads, public alleys, public sidewalks and public greenways, public drainage facilities, privately owned residential streets, property that does not discharge stormwater runoff to the stormwater or flood control facilities and railroad right-of-way properties within the City of Portland. For purposes of this definition, "public" shall mean that which is maintained by or is or is to be dedicated to the City of Portland and/or the State of Tennessee or the government of the United States.

(14) "Fee or stormwater user fee" means the charge established by ordinance and levied on owners or users of parcels or pieces of developed property to fund the cost of stormwater management and of operating, maintaining, and improving the stormwater system in the city.

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

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

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

(18) "Multi-family residential property" means a building containing three (3) or more dwelling units. The term includes cooperative apartments, condominiums, and the like.

(19) "Other developed property" means all developed property located within the municipal limits of the city other than

(a) Residential property;

(b) Exempt property;

(c) Vacant property and

(d) Park lands/cemetery. Other developed property shall include commercial properties, industrial properties, apartments, parking lots, hospitals, schools, recreational and cultural facilities, industrial properties, hotels, offices, churches, federal, state and local government

properties and multi-use properties. Such property shall also include single family dwellings which are attached to or otherwise a part of a building housing a commercial enterprise. Any single family residential structure which contains more than two (2) attached dwelling units is specifically included in this definition.

(20) "Park land"/"cemetery" means all developed property owned by federal, state and/or local governments that has been designated by such governmental entity for use as a public park or cemetery.

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

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

(23) "Runoff coefficient" is a term used to describe the percentage of precipitation that leaves a particular site as runoff. Runoff is precipitation that does not soak or absorb into the soil surface and is greatly impacted by the amount of impervious surface that exists on a particular site. The runoff coefficient relates the amount of impervious surface to the intensity of development.

(24) "Single family residential property" refers to a building containing only one (1) dwelling unit located upon one (1) zone lot, the term is general, including such specialized forms as one-family detached, one-family semi-detached, and one-family attached. For regulatory purposes, the term is not to be construed to include travel trailers, self-propelled motor homes, tents, or other forms of portable or temporary housing.

(25) "Stormwater" or "storm water" refers to stormwater runoff, snow melt runoff, surface runoff, infiltration, and drainage.

(26) "Stormwater management" means the planning, design, construction, regulation, improvement, repair, maintenance, and operation of facilities and programs relating to water, flood plains, flood control, grading, erosion, tree conservation, and sediment control.

(27) "Stormwater management coordinator" refers to the city of portland, stormwater management coordinator who develops, coordinates, and maintains the city's stormwater program. The stormwater management coordinator shall report directly to the city engineer.

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

(29) "Stormwater system" or "system" means all stormwater facilities, stormwater drainage systems and flood protection systems of the city and all improvements thereto which operate to, among other things, control discharges and flows necessitated by rainfall events; and incorporate methods to collect,

convey, store, absorb, inhibit, treat, prevent or reduce flooding, over drainage, environmental degradation and water pollution or otherwise affect the quality and quantity of discharge from such system.

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

(31) "Stormwater utility" means a management structure that is responsible solely and specifically for the stormwater management program and system.

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

(33) "Undeveloped property" shall mean property that is in its natural state and has not been developed; does not have impervious surfaces on it.

(34) "User" refers to the owner or customer of record of property subject to the stormwater user fee imposed by this ordinance.

(35) "Vacant/undeveloped property" means property on which there is no structure for which a certificate of occupancy has been issued. (as added by Ord. #16-59, Nov. 2016)

**18-604. Funding of stormwater utility.** Funding for the stormwater utility's activities may include, but not be limited to, the following:

- (1) Stormwater user's fees.
- (2) Civil penalties and damage assessments imposed for or arising from the violation of the city's stormwater management ordinance.
- (3) Stormwater permit and inspection fees.
- (4) Other funds or income obtained from federal, state, local, and private grants, or revolving funds, and from the Local Government Public Obligations Act of 1986 (Tennessee Code Annotated, title 9, chapter 21).

To the extent that the stormwater drainage fees collected are insufficient to construct needed stormwater drainage facilities, the cost of the same may be paid from such city funds as may be determined by the board of mayor and alderman. (as added by Ord. #16-59, Nov. 2016)

**18-605. Stormwater utility management fund.** All revenues generated by or on behalf of the stormwater utility shall be deposited in a stormwater utility management fund and used exclusively to fulfill the purposes of the stormwater utility. (as added by Ord. #16-59, Nov. 2016)

**18-606. Operating budget.** The board of mayor and alderman shall adopt, based on a recommendation from the city engineer, stormwater management coordinator, and city recorder, an operating budget for the stormwater utility management fund each fiscal year. The operating budget shall set forth for such fiscal year the estimated revenues and the estimated costs for operations and maintenance, extension and replacement and debt service. (as added by Ord. #16-59, Nov. 2016)

**18-607. Stormwater user fee.** There shall be imposed on each and every developed property in the City of Portland, a stormwater user fee which will be charged monthly, which shall be set from time to time by ordinance in the fee schedule as adopted by the City of Portland, except exempt property, and in the manner and amount prescribed by this ordinance. Prior to establishing or amending the stormwater user fee, the City of Portland shall advertise its intent to do so by publishing notice in a newspaper of general circulation in the City of Portland at least ten (10) days in advance of a council meeting which shall consider the adoption of the fee or its amendment. (as added by Ord. #16-59, Nov. 2016)

**18-608. Equivalent Residential Unit (ERU).** (1) Establishment. The ERU was established for the purpose of calculating the stormwater user fee.

(2) Definition. See definition section.

(3) Setting the ERU. The ERU shall be set by the board of mayor and alderman via ordinance.

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

(5) Evaluation of ERU. The ERU shall be evaluated by the stormwater utility as necessary. (as added by Ord. #16-59, Nov. 2016)

**18-609. Property classification for stormwater user fees.**

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

- (a) Developed property;
- (b) Single family dwelling residential property;
- (c) Commercial/Industrial Property/Institutional (CII);
- (d) Park land/cemetery;
- (e) Vacant property;
- (f) Exempt property; and

(g) Undeveloped property.

(2) Single family dwelling residential fee. The board of mayor and alderman finds that the intensity of development of most parcels of developed property in the City of Portland classified as single family residential is similar and that it would be excessively and unnecessarily expensive to determine precisely the square footage of the impervious surface on each such parcel. Therefore, all single family residential properties in the City of Portland shall be charged the rate outlined in Appendix A, regardless of the size of the parcel or the impervious surface area of the improvements, except as provided herein.

(3) Developed property, commercial, industrial, institutional, park land, and cemetery fee. The fee for the properties listed above (i.e., non-single-family residential property) in the City of Portland shall be charged the rate outlined in Appendix A under specific section.

(4) Vacant/undeveloped property fee. The fee for vacant/undeveloped property in the City of Portland shall be charged the rate outlined in Appendix A.

(5) Exempt property. There shall be no stormwater user fee for exempt property or as otherwise provided by state law.

(a) Property outside of the incorporated city limits.

(b) Undeveloped property that is not altered from its natural state. (c) Agricultural property upon which the owner or operator conducts activities that satisfy the requirements of a qualified farmer or nurseryman under Tennessee Code Annotated, § 67-6-207(e). The owner or operator shall bear the burden of establishing such exempt status.

(d) Cemeteries.

(e) Railroad rights-of-way. (as added by Ord. #16-59, Nov. 2016)

**18-610. Base rate.** The board of mayor and alderman shall, by ordinance in the fee schedule as adopted by the Board of mayor and alderman, establish the base rate for the ERU. The base rate shall be calculated to insure adequate revenues to fund the costs of stormwater management and to provide for the operation, maintenance, and capital improvements of the stormwater system in the City of Portland. The base rates are set forth in City of Portland Ordinance No. 16-46.<sup>1</sup> (as added by Ord. #16-59, Nov. 2016)

**18-611. Property owners to pay charges.** (1) The owner of each property/tax lot shall be obligated to pay the stormwater user fee as provided in this chapter, provided however, that if no water or sewer service is being provided by the City of Portland or local water utility district at the property to

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<sup>1</sup>Ordinance #16-46 regarding base rates, and any amendments thereto, may be found in the recorder's office.

the owner as a customer of record and such service is being provided to a customer of record other than the owner, it shall be presumed that the owner and such customer of record have agreed that the customer of record shall be obligated to pay such stormwater user fee.

(2) If the customer of record other than the owner refuses to pay the stormwater user fee, the owner of each property shall be obligated to pay the stormwater user fee as defined in this chapter.

(3) Non-residential multi-tenant properties shall be billed according to the placement of utility meters, i.e. if the property contains individual unit meters, then billing for the stormwater user fee shall be billed to individual units based on the unit's pro rata percentage of impervious surface. If the multi-tenant property contains a master meter, then the stormwater user fee for the entire impervious surface area shall be billed to the customer of record for such master meter.

(4) Each unit of a multi-tenant residential building shall be billed a minimum charge, the same being the single family residential fee, to the customer of record for the unit. If an individual unit is not individually billed for any water or sewer service, i.e. water and sewer utilities are billed to a master meter, then the customer of record for the master meter shall be billed as commercial property based on the total impervious surface area. Billing rates are set forth in Appendix A. (as added by Ord. #16-59, Nov. 2016)

**18-612. Billing procedures and penalties for late payment.**

(1) Rate and collection schedule. A stormwater user fee shall be set at a rate as set forth in the stormwater user fee schedule<sup>1</sup> as adopted by the board of mayor and alderman by ordinance, collected at a location, and collected on a schedule, established in accordance with this ordinance. The stormwater user fee shall be billed and collected monthly with the monthly utility services bill for those properties within the incorporated limits. The stormwater user fee for those properties utilizing city utilities is part of a consolidated statement for utility customers, which is generally paid by a single payment to the property owner's water utility or to the City of Portland Stormwater Department, unless other means of billing is established at any time by the city.

(2) The stormwater user fee for those properties utilizing utilities not provided by the City of Portland shall be billed and collected by the City of Portland directly to the utility provider or as directed by the city recorder. All bills for the stormwater user fee shall become due and payable in accordance with the rules and regulations of the applicable utilities department pertaining to the collection of the stormwater user fees.

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<sup>1</sup>The stormwater user fee schedule, and any amendments thereto, may be found in the recorder's office.

(3) Delinquent bills. The stormwater user fee shall be considered delinquent if not received by the City of Portland or applicable billing water utility by the due date stated within the utility statement, and subsequent late fees shall be imposed as set forth in the fee schedule as adopted by the board of mayor and alderman as established by an ordinance.

(4) Penalties for late payment; failure to pay. Stormwater user fees shall be subject to a late fee established by ordinance as indicated in the stormwater user fee schedule. The City of Portland shall be entitled to recover attorney's fees incurred in collecting delinquent stormwater user fees. The city or other collecting utility provider may discontinue utility service to any stormwater user who fails or refuses to pay the stormwater user fees and may refuse to accept payment of the utility bill from any user without receiving at the same time, payment of the stormwater user fee charges owned by such user and further may refuse to re-establish service until all such fees have been paid in full.

(5) Mandatory statement. Pursuant to Tennessee Code Annotated, § 68-221-1112, each bill that shall contain stormwater user fees shall contain the following statement in bold: "THE STORMWATER FEE HAS BEEN MANDATED BY CONGRESS PURSUANT TO TENNESSEE CODE ANNOTATED, § 68-221-1112." The City of Portland Board of Mayor and Alderman hereby finds and declares that the stormwater user fee is a utility service fee and not a tax. (as added by Ord. #16-59, Nov. 2016)

**18-613. Appeal of fees.** (1) Any person who disagrees with the calculation of the stormwater user fee, as provided in this ordinance, may appeal such fee determination to the City of Portland's Stormwater Appeal Board within ten (10) days after the date the payment is due. Any appeal not filed within the time permitted by this section shall be deemed waived.

(2) All appeals shall be filed in writing addressed to the stormwater management coordinator for the City of Portland and shall state the grounds for the appeal and the amount of the stormwater user fee the appellant asserts is appropriate. The appeal shall provide such information and documentation supporting the basis of the appeal. The appeal shall be accompanied by an appeal review fee as set forth in the City of Portland's Utility Credit Manual.

(3) Any matter, decision, conclusion, pronouncement, or evaluation made by the city cannot be considered for The Portland Stormwater Appeal Board review until the matter has first been submitted to the City of Portland Engineering Department for evaluation. Only after the city engineer and stormwater management coordinator has had an opportunity to fully consider the matter, and denied the appeal, or a timely review has not taken place, can appellate review be considered with the Portland Stormwater Appeal Board.

(4) The Portland Stormwater Appeal Board shall then review the appeal and determine whether the challenged determination is consistent with the provisions of this chapter. Appeals related to the stormwater user fee shall

be decided based on substantiated evidence with a sound engineering and factual basis. All appeal determinations shall be applied utilizing a strict interpretation of the stormwater utility ordinance. At any hearing related to an appeal or credit determination, the city shall be allowed to present evidence, findings, and recommendations; appealing parties and applicants shall be given an opportunity to present evidence, findings, and recommendations.

(5) The Portland Stormwater Appeal Board may request additional information from the appealing party; the committee may defer the determination of an appeal one (1) time to the next regularly scheduled meeting of the Portland Stormwater Appeal Board. Each appeal shall be placed on the Portland Stormwater Appeal Board agenda for the next scheduled meeting, which meeting is at least twenty (20) days after the stormwater management coordinator receives the written appeal.

(6) The stormwater management coordinator shall notify the appellant customer of the date of the appeal review hearing in writing; such written notice shall be given at least ten (10) days prior to the hearing by regular mail at the address provided in the written appeal document. The decision of the Portland Stormwater Appeal Board shall be final and conclusive with no further administrative review.

(7) If a refund is due, the city engineer shall authorize the refund which will be provided as the stormwater management coordinator deems necessary. (as added by Ord. #16-59, Nov. 2016)

**18-614. Stormwater user fee credit and adjustment policy.** All applications for stormwater user fee credits and adjustments shall be submitted as outlined in the City of Portland's Utility Credit Manual. Stormwater user fee credits and adjustments may be available for developed properties that provide an up-to-date certified engineered plan, stamped by a current state-approved engineer licensed to practice in Tennessee, documenting reduced stormwater runoff and shows the stormwater on the property is not coming in contact with the city's stormwater system. A detailed hydrologic report is required. (as added by Ord. #16-59, Nov. 2016)