

## TITLE 18

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

#### CHAPTER

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#### CHAPTER 1

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

#### SECTION

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**18-101. Definitions.** (1) "Industry" and "industrial" shall refer to any mill or factory in any branch of trade, production, or manufacturing, or all of these collectively, as approved by the city manager.

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

(3) "Residential." A single family dwelling unit.

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<sup>1</sup>Municipal code references

Building, utility and housing codes: title 12.

Refuse disposal: title 17.

<sup>2</sup>Municipal code reference

Plumbing code: title 12, chapter 2.

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

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

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

(7) "Incorporated water system." The City of Elizabethton's water system which services customers located in areas within the incorporated limits of any other municipality, city, town, or other area, incorporated under the laws of the State of Tennessee, after November 30, 1997, and which are outside the incorporated limits of the City of Elizabethton. (1982 Code, § 13-101, as amended by Ord. #33-18, Nov. 1997, and replaced by Ord. #39-2, Jan. 2003, and Ord. #40-9, June 2004)

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

(1) Rates for customers shall be:

(a) Residential, commercial, industrial and wholesale customers.

<u>Service</u>	<u>Municipal</u>	<u>Regional</u>	<u>Incorporated</u>
Minimum 1,000 gals or less	\$6.24/m	\$11.64/m	\$15.00/m
Next 9,000 gals	\$2.64/m	\$5.04/m	\$6.05/m
Next 10,000 gals	\$2.22/m	\$4.58/m	\$5.50/m
Next 70,000 gals	\$2.06/m	\$4.22/m	\$5.07/m
Next 100,000 gals	\$2.02/m	\$3.47/m	\$4.17/m
Next 300,000 gals	\$1.94/m	\$3.25/m	\$3.98/m
All over 490,000 gals	\$1.72/m	\$3.23/m	\$3.90/m

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

(ii) Exception to the multi-dwelling requirement: Examples are not limited to hospitals, hotels, motels, nursing

home facilities, dormitories, hostels, state and government housing, prisons, and camping facilities where one owner is paying for the entire water used and tenants are not directly charged for water used; where state or government restrictions apply, where it is not feasible to install individual meters, where tenants stay less than twelve (12) days a month.

Exceptions may be granted by the finance director to install a single meter to supply the entire facility. It is strictly at the discretion of the City of Elizabethton Finance Director to determine if an exception is warranted.

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

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

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

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

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

(d) Wholesale rates. The following wholesale rates shall be applied to all utility districts created pursuant to "The Utility District Law of 1937," Tennessee Code Annotated, § 7-82-101 et seq. served by the City of Elizabethton, Tennessee, namely North Elizabethton Water Co-op, Inc., and Siam Utility District, or any subsequent utility district:

First 100,000 gals	\$420.00
Next 100,000 gals	\$3.68/m
Next 800,000 gals	\$3.10/m
All over 1,000,000 gals	\$3.05/m

(2) Billing. Water and sewer bills are combined on one bill per account and are mailed to the customer on a monthly basis. Failure to receive a bill does not relieve the customer's responsibility for payment. A replacement bill may be obtained at City Hall, 136 S. Sycamore Street. Failure to timely pay a bill will result in disruption of service and payment of a reconnect fee to re-establish service.

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

(4) Minimum monthly bill.

<u>Service</u>	<u>Municipal</u>	<u>Regional</u>	<u>Incorporated</u>	<u>Utilities</u>
5/8" x 3/4"	\$6.24	\$11.64	\$15.00	\$420.00
3/4"	\$11.00	\$16.00	\$20.00	\$420.00
1"	\$22.00	\$30.00	\$35.00	\$420.00
1-1/4"	\$27.00	\$35.00	\$45.00	\$420.00
1-1/2"	\$38.00	\$50.00	\$60.00	\$420.00
2"	\$49.00	\$70.00	\$90.00	\$420.00
3"	\$92.00	\$130.00	\$175.00	\$420.00
<u>Service</u>	<u>Municipal</u>	<u>Regional</u>	<u>Incorporated</u>	<u>Utilities</u>
4"	\$210.00	\$250.00	\$300.00	\$420.00
6"	\$365.00	\$425.00	\$500.00	\$420.00
8"	\$550.00	\$700.00	\$900.00	\$800.00

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

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

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

<u>Service</u>	<u>Municipal</u>	<u>Regional</u>	<u>Incorporated</u>
Same Day	\$50.00	\$60.00	\$70.00

Worked Into Normal Work Schedule    \$15.00            \$25.00            \$30.00  
 The service installation fee applies to new services as well as when current customers transfer their water deposit from one location to another.

(b)    Turn on (after cutoff) - customer's option

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

	<b>Municipal</b>	<b>Regional</b>	<b>Incorporated</b>
Same Day	\$35.00	\$45.00	\$70.00
Worked Into Normal Work Schedule	\$15.00	\$25.00	\$30.00

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

	<b>Municipal</b>	<b>Regional</b>	<b>Incorporated</b>
Same Day	\$35.00	\$45.00	\$70.00
Worked Into Normal Work Schedule	\$25.00	\$40.00	\$60.00

(c)    Rereading meter, if previous reading is not in error

<b>Service</b>	<b>Municipal</b>	<b>Regional</b>	<b>Incorporated</b>
RE-Read Meter	\$15.00	\$25.00	\$35.00

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

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

(i)    First time - Warning Tag - ESTIMATED BILL

(ii)    Second time - \$50.00 fee added to estimated bill

(iii)    Third time - \$100 fee added to estimated bill

(iv)    Fourth time - Obstruction removed at customer's expense plus \$100 fee assessed.

(v)    Fifth time - Meter Removed - New meter (tap) fee required to reinstate customer's service.

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

(i)    First time - \$50 fee assessed ESTIMATED BILL, TAG LEFT.

(ii)    Second time within 12 months--Obstruction removed at customer's expense, \$100.00 fee assessed and water turned off.

(iii)    Third time within 12 months--Obstruction removed at customer's expense, meter removed, new meter and tap fee required to reinstate customer's service.

(g)    Cut-lock fee. When service is discontinued or cut-off, the meter reader turns-off the meter and locks it to prevent unauthorized use. It is a violation of Tennessee Code Annotated, § 39-14-101 for any

one other than city authorized personnel to remove the lock. If any meter lock is cut-off the meter, the following cut lock fees will apply.

<b>Service</b>	<b>Municipal</b>	<b>Regional</b>	<b>Incorporated</b>
Replace Cut Lock (First Time)	\$50.00	\$50.00	\$50.00
Replace Cut Lock (Second or More)	\$100.00	\$100.00	\$100.00

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

(h) Turn-off due to sewage or any other contamination around water meter. If it is determined that sewage or any other contamination is seeping into the water meter box, water service will immediately be turned off until the property owner has corrected the problem. After the problem has been corrected, the meter box will be inspected by city water department personnel to verify correction has been completed satisfactorily. A turn-on fee will then be assessed in accordance with (b) (first time ) above. (1982 Code, § 13-102, as amended by Ord. #33-18, Nov. 1997; Ord. #36-6, June 2000; and Ord. #37-9, June 2001; and replaced by Ord. #39-2, Jan. 2003, and Ord. #40-9, June 2004, and amended by Ord. #43-19, Dec. 2007)

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

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

\*rounded to the nearest 100 heads.

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

(3) Fire hydrants. Fire hydrants installed on **METERED LINES** shall not be charged any additional monthly fees.

(4) Fire hydrants. Fire hydrants installed on **NON-METERED LINES** shall be charged fees in accordance with the following schedule.

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

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

(5) Abuse of un-metered fire hydrants and sprinkler systems. If any individual or corporation is found using sprinkler systems or fire hydrants for any purpose other than for fires, said individual or corporation shall pay a fee of \$500 (minimum estimate of previously used un-metered water) and be metered at owner's expense. The owner shall thereafter be billed regularly according to the appropriate water rate schedule set forth in § 18-102. (1982 Code, § 13-104, as amended by Ord. #33-18, Nov. 1997; Ord. #36-6, June 2000; and Ord. #37-9, June 2001, and replaced by Ord. #39-2, Jan. 2003, and Ord. #40-9, June 2004)

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

(1) <u>Tap and Meter Size</u>	<u>Municipal</u>	<u>Regional</u>	<u>Incorporated</u>
5/8" x 3/4"	\$650.00	\$1,200.00	\$1,500.00
3/4"	\$750.00	\$1,300.00	\$1,600.00
1"	\$850.00	\$1,400.00	\$1,800.00
1-1/2"	\$950.00	\$1,500.00	\$2,000.00
2"	\$1,400.00	\$1,900.00	\$2,200.00
3"	\$2,600.00	\$3,600.00	\$5,000.00
4"	\$3,000.00	\$4,500.00	\$6,000.00
6"	\$5,000.00	\$7,200.00	\$10,000.00
8"	\$7,000.00	\$9,600.00	\$14,000.00
All others size cost, plus on labor, material, and overhead to property line.	15%	30%	40%

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

(b) Abandoned water taps. Water taps that have been previously used but have been abandoned due to the razing of the

building structure or other reasons, may be used in connection with the new structure without a fee for tapping provided that the water tap is undamaged and requires only the replacement of the meter to provide service. Such existing taps shall be examined and tested by the public works director or designee and must meet all requirements of this chapter. If the tap is damaged or destroyed, a replacement tap fee of 50% (fifty percent) of the applicable prevailing tap fee will be charged; unless tap relocation to public right of way is required, in which case, provisions of 18-104 (1) (a) would apply.

(c) Dry tap fees. If an individual or contractor anticipates needing future water taps and desires to pay for them at the current prevailing fee, then the tap fee can be paid and will be honored when requested in the future. However, said request must be submitted in writing with the address for the future tap, for approval of the public works director or his designee. Taps will NOT be approved for areas where a water supply line with sufficient capacity is not readily available. For sales of this nature, a water tap certificate will be issued. **THE CERTIFICATE MUST BE PRESENTED FOR REDEMPTION WHEN THE TAP IS REQUIRED AND IS GOOD ONLY FOR THE ADDRESS ORIGINALLY SPECIFIED. LOST TAP DEPOSIT CERTIFICATES CAN NOT BE HONORED.**

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

(2) Fire line tap charges.

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

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

(3)(a) Meter deposits owners.

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

(b) Meter deposits for non-owners.

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

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

(4) Utility districts. No tap or deposit fee shall be charged to other water utilities, however those utilities are subject to the minimum monthly billing. (1982 Code, § 13-105, as amended by Ord. #33-18, Nov. 1997; Ord. #36-6, June 2000; and Ord. #37-9, June 2001, and replaced by Ord. #39-2, Jan. 2003, and Ord. #40-9, June 2004)

**18-105. Water line maintenance.** The municipal water system is responsible for the installation and replacement of water mains and meters. Residential meters shall be set within the established public rights-of-way. Commercial and multi-residential meters may only be placed beyond the public rights-of-way on private property in certain circumstances provided such

placement has been approved in advance by the public works director and the city has been provided a formal utility easement to access such meters. In instances where water meters have been improperly installed outside of a public right-of-way, such meter(s) shall be relocated by the municipal water system within the public right-of-way. The city is responsible for providing a continuous required pressure (20 psi) to the meter. The water customer is responsible for the repair, maintenance, and replacement of lateral service lines connecting from the meter to the point of use. (as added by Ord. #37-9, June 2001, and replaced by Ord. #39-2, Jan. 2003, and Ord. #40-9, June 2004)

**18-106. Unauthorized water service connection or tampering.** No unauthorized person shall cover, uncover, make any connections with or opening into use, alter, or destroy any public water main, tap, hydrant, appurtenances thereof, without first obtaining a written permit from the public works director. Costs associated with such activity and corrective action required by the city as a result of such activity shall be assessed to the unauthorized user. In addition to direct costs incurred (labor, lab tests, and material), a 25% indirect cost fee will be assessed with the minimum assessment being \$50.00. Criminal prosecution may also be pursued in accordance with Tennessee Code Annotated, § 39-14-101. (as added by Ord. #37-9, June 2001, and replaced by Ord. #39-2, Jan. 2003, and Ord. #40-9, June 2004)

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

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

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

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

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

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

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

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

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

(d) If an additional leak occurs during the six month time frame covered by the first leak adjustment; AND the billing for the second leak is MORE than the first leak; AND the customer has a good payment history with no cut-offs for non-payment of bill, then the adjustment may be applied to the larger of the two bills, with the customer paying 100% of the lesser bill and the adjustment for the larger bill.

(e) Adjustments do NOT apply in the following or similar situations:

(i) Seasonal usage.

(ii) Faucets accidentally or maliciously left on or turned on (inside or outside).

(iii) Cut-off's that are turned back on when faucets have been left on.

(iv) Customers filling pools. (as added by Ord. #39-2, Jan. 2003, and replaced by Ord. #40-9, June 2004)

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

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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.

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- 18-250. Sewer meters.
- 18-251. Adjustments to sewer bills due to leaks and filling pools.

**18-201. Purpose and policy.** (1) This chapter sets uniform requirements for discharges into the wastewater collection system and treatment works and enables the City of Elizabethton, Tennessee, to comply with the provisions of the Federal Water Pollution Control Act Amendments of 1972, PL92-500, the Clean Water Act of 1977 and the applicable effluent limitations, national standards of performance, toxic and pretreatment effluent standards, and any other discharge criteria which are required or authorized by state or federal law, and to derive maximum public benefit by regulating the quality and quantity of wastewater discharged into the city's wastewater collection system and treatment works. This chapter provides a means for determining wastewater volumes, constituents, and characteristics, the setting of charges and fees, and the issuance of permits to certain users. The main purpose of this chapter is to prevent the introduction of pollutants into the publicly-owned treatment works (hereinafter referred to as POTW) which will interfere with the operation of the POTW or contaminate the sewage sludge; and to prevent the introduction of pollutants into the POTW which will pass through the treatment works into the receiving waters or into the atmosphere, or otherwise be incompatible with the treatment works. This chapter provides guidelines for the establishment of rates and a uniform procedure in the levying of the service and improvement charges to maintain equity in the billing throughout the service area. The chapter establishes pretreatment requirements for industrial waste before discharge into public sewers as required in Title 40, Part 403 of the Regulations of the Environmental Protection Agency (Federal Register, Vol. 43, No. 123) and any subsequent amendments thereof; establishes control over the contribution of wastewater

which requires greater treatment expenditures than those necessary for equal volumes of normal domestic wastewater; and provides measures for the enforcement of its provisions and abatement of violations thereof.

(2) Under the authority of Tennessee Code Annotated, §§ 6-54-501 and 6-54-502, there is hereby adopted by reference the provisions of the "Pretreatment Enforcement Act of 1987," Public Chapter 111, Acts of 1987, amending Tennessee Code Annotated, title 69, chapter 3, part 1, and any subsequent amendments thereto. Not less than three (3) copies of such act have been and are now filed in the office of the city clerk and the same are hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this chapter shall take effect, the provisions thereof shall be controlling within the jurisdiction subject to control under the sewer use ordinance. In case of any inconsistency or conflict between the provisions of the "Pretreatment Enforcement Act of 1987" and any part of this chapter, as amended, the provisions of the "Pretreatment Enforcement Act of 1987" shall be controlling. (1982 Code, § 8-201)

**18-202. Definitions.** For purposes of this chapter, the following phrases and words shall have the meaning assigned below, except in those instances where the content clearly indicates a different meaning:

(1) "Act" or "the act" means Federal Water Pollution Control Act, also known as the Clean Water Act of 1977.

(2) "Approval authority" means the director in an NPDES state with an approved state pretreatment program and the administrator of the EPA in a non-NPDES state or NPDES state without an approved state pretreatment program.

(3) "BOD" (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20°C, expressed in milligrams per liter.

(4) "Board" means wastewater regulations appeals board.

(5) "Building sewer" means the sewer conveying wastewater from the building drain to the public sewer or other place of disposal.

(6) "Categorical standards" means national pretreatment standards.

(7) "City" means the City of Elizabethton, Tennessee, a municipal corporation.

(8) "Combined sewer" shall mean a sewer receiving both surface runoff and sewage.

(9) "Compatible wastes" means biochemical oxygen demand, suspended solids, pH and fecal coliform bacteria, plus any additional pollutants identified in the publicly-owned treatment works NPDES permit, for which the publicly-owned treatment works is designed to treat such pollutants and in fact does remove such pollutants to a substantial degree.

(10) "Connection" shall mean any physical tie or hookup made to a sewer line owned, operated, and maintained by the city.

(11) "Control authority" shall refer to the "approval authority" defined hereinabove; or the superintendent if the city has an approved pretreatment program under the provisions of 40 C.F.R. 403.11.

(12) "Cooling water" shall mean the water used for heat exchange and discharged from any system of condensation, air conditioning, cooling, refrigeration, or other such system, but which has not been in direct contact with any polluting material.

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

(14) "Domestic use" of the facilities of the wastewater treatment system shall be defined and limited to single family, multi-family, apartment, or other dwelling unit or dwelling unit equivalent containing sanitary facilities for the disposal of domestic wastewater and used for residential purposes only.

(15) "Environmental protection agency or EPA" means the agency of the United States or where appropriate the term may also be used as a designation of the administrator or other duly authorized officials of said agency.

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

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

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

(19) "Incompatible wastes" means all pollutants other than compatible wastes as defined within.

(20) "Indirect discharge" means the discharge or the introduction of non-domestic pollutants from any source regulated under Section 307(b) or (c) of the Act, (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system) for treatment before direct discharge to the waters of the state.

(21) "Industrial user" means a source of indirect discharge which does not constitute a "discharge or pollutant" under regulation issued pursuant to Section 402 of the Act.

(22) "Industrial wastes" are the liquid wastes other than domestic wastewater, resulting from processes or operations employed in industrial or commercial establishments.

(23) "Interference" means inhibition or disruption of sewer treatment system processes or operations or which contribute to the violation of any requirement of the city's NPDES permit. The term includes prevention of

sewage sludge use or disposal by the POTW in accordance with Section 405 of the Act or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substance Control Act, or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to title IV of SWDA) applicable to the method of disposal or use employed by POTW.

(24) "Maximum concentration" means a maximum amount of a specified pollutant into the volume of water or wastewater.

(25) "National pollution discharge elimination system or NPDES permit" means a permit issued to a POTW pursuant to 402 of the Act.

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

(27) "Natural outlet" shall mean any point of discharge into a water course, pond, ditch, lake, stream, or other body of surface or ground water.

(28) "New source" means any source, the construction of which is commenced after the publication of proposed regulations prescribed in Section 307(c) categorical pretreatment standards which will be applicable to such source if such standard is thereafter promulgated within 120 days of a proposal and the federal register. Where the standard is promulgated later than 120 days after proposal, a new source means any source the construction of which is commenced after the date of promulgation of the standard.

(29) "Normal domestic wastewater (domestic sewage)" shall be regarded as normal for the city if analyses show daily average concentrations of suspended solids, BOD, animal, and vegetable oil and grease, and ammonia which do not exceed the limitations on wastewater strength as established herein, and if it contains only compatible pollutants as defined herein.

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

(31) "pH" shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution. A pH value indicates the degree of acidity or alkalinity.

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

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

(34) "Pretreatment" means the reduction of the amount of pollutants, the elimination of the pollutants, or the alteration of the nature of pollutant properties and wastewater to a less harmful state prior to or in lieu of

discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical, or biological processes, changes, or by other means except if prohibited by 40 C.F.R. Section 403.6(d).

(35) "Publicly-owned treatment works or POTW" means a treatment works as defined by Section 212 of the Act which is owned in this instance by the city. This definition includes any sewer that conveys wastewater to such a treatment works, that does not include pipes, sewers, or other conveyances not connected to the facility providing treatment.

(36) "Public sewer" shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

(37) "Sanitary sewer" is a sewer intended to receive domestic wastewater and industrial waste, without the admixture of surface water and storm water.

(38) "Sanitary wastewater (sanitary sewage)" shall mean wastewater discharging from the sanitary conveniences of dwellings, including apartment houses and hotels, office buildings, factories, or institutions, and free from storm and surface water.

(39) "Shall" is mandatory; "may" is permissive.

(40) "Standard industrial code (SIC)" is a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

(41) "Storm sewer" or "storm drain" shall mean a pipe or conduit, ditch, or canal which carries storm and surface waters and drainage cooling water or other unpolluted water, but excludes wastewater.

(42) "Superintendent" means the person, or his duly authorized representative, designated by the city to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this chapter.

(43) "Suspended solids" shall mean solids that either float on the surface of or are in suspension in wastewater, and which are measurable as prescribed by "standard methods" and expressed in milligrams per liter.

(44) "Toxic pollutant" means any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under provisions 33 U.S.C. 1317.

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

residues resulting from such treatment; and including combined storm water and sanitary sewer systems.

(46) "Twenty-four hour flow of proportional composite sample" means a sample consisting of several effluent proportions collected during a 24-hour period in which the portions of a sample are proportional to the flow and combine to form a representative sample.

(47) "Unpolluted water" means water to which no constituent has been added, either intentionally or accidentally, which would render such water unacceptable to the State of Tennessee or the Environmental Protection Agency having jurisdiction thereof for disposal to storm or natural drainage, or directly to surface waters.

(48) "User" shall mean any occupied property or premise having a connection to the sewer system or having access thereto.

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

(50) "Wastewater (sewage)" shall mean the water carried wastes from residences, business buildings, institutions, and industrial establishments, singular or in any combination, together with such ground, surface, and storm water as may be present.

(51) "Wastewater constituents and characteristics" means the individual chemical, physical, bacteriological, and radiological parameters, including volume and flow rate and such other parameters as served to define, classify, or measure the contents, quantity, quality, and strength of wastewater.

Terms not otherwise defined herein shall be as adopted in the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation.

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

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

(54) "Residential." A single family dwelling unit.

(55) "Commercial." Small businesses such as service stations, office buildings, restaurants, laundermats, warehouses, and other non-industrial businesses.

(56) "Prohibited discharges by industrial users to the POTW:"

(a) Pollutants which create a fire or explosion hazard in the POTW, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade.

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

(c) 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;

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

(57) "Significant Industrial User (SIU):"

(a) Means all industrial users subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N and

(i) Any other industrial user that: discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW Treatment Plant; or is designated as such by the control authority as defined in 403.12(a) (Reporting Requirements for POTWs and Industrial Users) on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or, for violating any pretreatment standard or requirement.

(b) Upon finding that an industrial user meeting the criteria in paragraph (1)(A) of this section has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement the control authority may at any time, on its own initiative or in response to a petition received from an industrial user in accordance with 40 CFR 403.8(f)(6), determine that such industrial user is not a significant industrial user.

(58) "Significant violations:" shall be those that meet one or more of the following criteria:

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

(b) Technical review criteria (TRC) violations, defined here as those in which thirty three percent or more of all of the measurements for each pollutant parameter taken during a six month period equal or exceed the product of the daily maximum limit or the average limit

multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease; and 1.2 for all other pollutants except pH);

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

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

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

(59) "Municipal sewer system." The City of Elizabethton's sewer system which services customers located in areas within the incorporated limits of the City of Elizabethton.

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

(61) "Incorporated sewer system." The City of Elizabethton's sewer system which services customers located in areas within the incorporated limits of any other municipality, city, town, or other incorporated area under the laws of the State of Tennessee after November 30, 1997 and outside the incorporated limits of the City of Elizabethton. (1982 Code, § 8-202, as amended by Ord. #33-18, Nov. 1997)

**18-203. Unlawful disposal; construction or maintenance of privies, septic tanks, etc.** It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the service area of the city, any human or animal excrement, garbage, or other objectionable waste; and it shall be unlawful to discharge to any natural outlet within the service area of the city any wastewater or other polluted waters except where suitable treatment has been provided in accordance with this chapter. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage. (1982 Code, § 8-203)

**18-204. Connections to public sewers required; time limit.** The owner of all houses, buildings, or properties used for human occupancy,

employment, recreation, or other purposes situated within the service area and abutting any street, alley, or right-of-way in which there is now located or may in the future be located a public gravity sanitary sewer is hereby required, at his expense, to install suitable toilet facilities therein, and a direct connection to the public gravity sanitary sewer shall be made after date of official notice to do so provided the sewer is available. The sewer shall be considered available where the main public gravity sanitary sewer is within 200 feet of the first floor of the closest part of the improvement or improvements to be served. If complications of any kind make the use of a pump necessary to access the public gravity sanitary sewer, subject to the approval of the superintendent, a reduced tap fee is available pursuant to § 18-249(3)(i). In cases where a reduced tap fee is applicable, the pump is to be purchased, installed, owned and maintained by the property owner. If the area is served by a pressure sewer system, then there will be no reduction in the tap fee. In the pressure sewer areas the pumps will be purchased, owned and maintained by the City of Elizabethton. (Unless a Service Rejection Agreement was recorded). Where sewer is available, it will be presumed that the wastewater from the premises is discharged either directly or indirectly into the sewer, and the property shall be billed for sewerage service. However, if the making of connection is delayed, the property shall be subject to such charges thirty days after the sewer is accepted by the treatment works. An extension of time may be granted by the superintendent for cause. (1982 Code, § 8-204, as amended by Ord. #33-3, May 1997, and Ord. #33-23, Feb. 1998)

**18-205. Building sewers and connections.** No unauthorized person shall cover, uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the superintendent. A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

The connection of the building sewer into the public sewer shall conform to the rules and regulations the city may establish and the procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviations from the prescribed procedures and materials must be approved by the superintendent before installation.

The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city. In the absence of code provisions or in amplification thereof, the materials and

procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.

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

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

All costs and expense incident to the installation, connection, and inspection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. (1982 Code, § 8-205, as amended by Ord. #33-23, Feb. 1998)

**18-206. Inspection of connections.** The sewer connection and all sewer laterals from the building to the sewer main line shall be inspected by an inspector of the city before any underground portion is covered. (1982 Code, § 8-206)

**18-207. Use and maintenance of building sewers.** Sewer taps which have been previously used but have been abandoned due to the razing of the building structure or for other reasons, may be used in connection with the new structure without a fee for tapping only within a six month period from the abandonment. Such existing taps shall be examined and tested by the Superintendent and must meet all requirements of this chapter. For taps which have been abandoned for more than a six month period there will be a tap charge as set forth in § 18-249. All others must be sealed to the specifications of the city. Each individual property owner or user of the POTW shall be entirely responsible for the maintenance of the building sewer located on private property. This maintenance will include repair or replacement of the service line as deemed necessary by the superintendent to meet specifications of the city. (1982 Code, § 8-207)

**18-208. Private wastewater disposal.** Where a public sanitary or combined sewer is not available, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this chapter. A formal application for either original or additional service utilizing a private wastewater disposal system must be made to the city and be duly approved before construction or reconstruction is commenced. (1982 Code, § 8-208)

**18-209. Interruption of service.** The city shall not be liable for any damage resulting from failure or overflow of any sewer main, service pipes or valves, or by discontinuing the operation of its wastewater collections, treatment, and disposal facilities, for repair, extensions, or connections or from the accidental failure of the wastewater collection, treatment, and disposal facilities from any cause whatsoever. In cases of emergency, the city shall have the right to restrict the use of its wastewater collection, treatment, and disposal facilities in any reasonable manner for the protection of the city and the treatment works. (1982 Code, § 8-209)

**18-210. Discontinuance of service and refusal to connect service.** The superintendent shall, after written notice and allowance of a reasonable time for remedial action, have the right to discontinue service or to refuse to render service for a violation of, or a failure to comply with, this chapter, the rules and regulations, the customer's application and agreement for service, or the payment of any obligation due to the city. Such right to discontinue service shall apply to all service received through a single tap or service, even though more than one customer or tenant is furnished service therefrom, and even though the delinquency or violation is limited to only one such customer or tenant. Discontinuance of service by the superintendent for any causes stated in this chapter shall not release the customer from liability for service already received or from liability for payments that thereafter become due under the minimum bill provisions or other provisions of the customer's agreement. The superintendent shall have the right to refuse to render service to any applicant whenever the applicant or any member of the household, apartment, or dwelling unit to which such service is to be furnished is in default in the payment of any obligation to the city or has heretofore had his service disconnected because of a violation of this chapter or the rules and regulations of the city. (1982 Code, § 8-210)

**18-211. Discontinuance of water service upon noncompliance with chapter.** The city shall have the right to discontinue city water and/or sewer service to any person or owner who violates any provisions of this chapter or who fails to make sewer service charge payments when due, or who fails to pay the necessary tap fees when due, or who fails, after notice, to connect his property to said available sewer. However, no such service shall be discontinued without notice to the person and opportunity to be heard, and in this connection there is hereby incorporated by reference and adopted the provisions of Tennessee Code Annotated, §§ 68-221-208 and 68-221-209, as amended. (1982 Code, § 8-211)

**18-212. Users outside corporate limits.** (1) Application. Persons residing or owning property outside the corporate limits of the City of Elizabethton may request and make application for a sewerage tap through the

office of superintendent which application in turn will be directed to the city council which has the absolute right to allow or refuse said application or request.

(2) Regulations. Any application or request by outside users of the city sanitary sewerage system will be subject to the same rules and regulations as inside users.

It is further provided that any other person or persons are prohibited from tapping onto the line and the outside user will not allow any other person or persons to tap onto the established line.

(3) Fees. Persons residing or owning property outside the corporate limits of the City of Elizabethton shall be subject to the schedule of charges and fees to be provided under §§ 18-238--18-242.

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

(5) Penalties. Any person or persons violating any of the provisions of this subsection shall be liable to the City of Elizabethton for any and all expenses, losses, or damages resulting to the public and/or POTW, by reason of such violation. It is further provided any person violating any provision of this subsection shall be guilty of a misdemeanor and subject to the penalties imposed under the general penalty clause for this code. (1982 Code, § 8-212)

**18-213. When a public sanitary sewer is not available.** Where a public sanitary sewer is not available under the provisions of this chapter, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this chapter. (1982 Code, § 8-213)

**18-214. Requirements for septic tanks and disposal fields; when sewer becomes available.** The septic tank and disposal field shall be constructed or reconstructed only in locations which have been approved by the superintendent and the Carter County Health Department, after making such tests and examinations of the site as he deems essential to determine if the soil absorption, topography, drainage area, etc., are satisfactory for underground disposal. The discharge from the septic tank shall be disposed of in such a manner that it may not create a nuisance on the surface of the ground or pollute the underground water supply. Plans and specifications for private wastewater disposal systems other than septic tanks and drainfields must be submitted to the city for review for written approval by the superintendent. The type, capacity, location, and layout of a private wastewater disposal system shall comply with all recommendations of the Department of Health of the State of Tennessee and the Carter County Health Department. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

When a public sewer becomes available to a property served by a private wastewater disposal system, a direct connection shall be made to the public sewer in compliance with this chapter, and any septic tanks, cesspools, and similar private wastewater disposal facilities shall be abandoned and filled with suitable materials. (1982 Code, § 8-214)

**18-215. Inspection.** A permit for a private wastewater disposal system shall not become effective until installation is completed to the satisfaction of the Carter County Health Department. The health department shall be allowed to inspect the work at any stage of construction, and in any event, the owner shall notify the Carter County Health Department when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within a reasonable period of time after the receipt of notice by the county health department. (1982 Code, § 8-215)

**18-216. Wastewater disposal services.** (1) License. No person, firm, or corporation engaged in the business of cleaning out septic tanks or any other type of excreta disposal shall discharge any waste to the city sanitary sewer system without having obtained a license from the city and met all the requirements of this chapter.

(2) Permit. No person, firm, association, or corporation shall clean out, drain, or flush any septic tank or any other type of wastewater or excreta disposal system into the POTW unless such person, firm, association, or corporation obtains a permit from the superintendent to perform such acts or services. Any person, firm, association, or corporation desiring a permit to perform such services shall file an application on the prescribed form. Upon any such application, said permit may be issued by the superintendent when the conditions of this chapter have been met and providing the superintendent is satisfied the applicant will secure the services of a licensed hauler who has adequate and proper equipment to perform the services contemplated in a safe and competent manner.

(3) Fees. For each license issued under the provisions of this chapter, an annual service charge therefor shall be paid to the city to be set as specified in §§ 18-238-18-242. Any such license granted shall be for one full fiscal year or a fraction of the fiscal year, and shall continue in full force and effect from the time issued until the ending of the fiscal year unless sooner revoked, and shall be nontransferable. The number of the license granted hereunder shall be plainly painted on each side of each motor vehicle used in the conduct of the business permitted hereunder.

Any person, firm, association, or corporation desiring to dispose of any septic tank or any other excreta disposal must first obtain a permit from the superintendent by filling out the proper application form stating the name, address, telephone number of the applicant, and the type of waste and volume, etc.; and give such other information as the superintendent deems necessary for

the protection of the POTW and the sanitary sewer system, and pay a fee based on the volume and type waste, and the cost to the POTW to handle the waste.

Any applicant after receiving the permit will contact the licensed hauler and supply him with a copy of the permit, and this copy will be presented to the operator at the POTW for verification, and instructions on the procedures that must be followed during discharge of the waste so as not to slug load the POTW. The superintendent may, after having reviewed the application and if in his judgement he feels that any discharge from any septic tank or excreta disposal in any way will damage the POTW, or interfere with the proper operation of the POTW or sanitary sewer system, have the right to refuse to issue the permit.

(4) Designated disposal locations. The superintendent shall designate approved locations for the emptying and cleansing of all equipment used in the performance of the services rendered under the permit herein provided for, and it shall be a violation hereof for any person, firm, association, or corporation to empty or clean such equipment at any place other than a place so designated.

(5) Revocation of permit and/or license. Failure to comply with all the provisions of this chapter shall be sufficient cause for the revocation of such licenses or permits by the superintendent. The possession within the city limits by any person of any motor vehicle equipped with a body type and accessories of a nature and design capable of serving as a septic tank or wastewater or excreta disposal system cleaning unit shall be prima facie evidence that such person is engaged in business of cleaning, draining, or flushing septic tanks or other wastewater or excreta disposal systems within the city limits. (1982 Code, § 8-216)

**18-217. Applications for domestic and commercial use.** A formal application for either original or additional domestic or commercial service must be made at the office of the superintendent and be duly approved before connection is made. The receipt by the city of a prospective customer's application for service shall not obligate the city to render the service. If the service applied for cannot be supplied in accordance with this chapter and the city's rules and regulations and general practice, the connection charge will be refunded in full, and there shall be no liability of the city to the applicant for such service, except that conditional waivers for additional services may be granted by the superintendent for interim periods if compliance may be assured within a reasonable period of time. (1982 Code, § 8-217)

**18-218. Applications, etc., for industrial use; confidentiality of information.** (1) An application for original, additional, or continuation of industrial service must be made at the office of the superintendent, and must be duly approved before connection is made. The application shall be in the prescribed form of the city and shall include to the extent reasonably available the estimated pH, temperature, volume, and concentration of BOD, COD,

suspended solids, grease, toxic substances, and/or metals together with a drawing to approximate scale showing plan of property, water distribution system and sewer layout indicating existing and proposed pretreatment and/or equalization facilities. The receipt by the city of a prospective customer's application for service shall not obligate the city to render the service. If the service applied for cannot be supplied in accordance with this chapter or the city's rules and regulations and general practice, the application shall be rejected and there shall be no liability of the city to the applicant of such service.

(2) All information and data on a user obtained from reports, questionnaires, permit application, permits, monitoring programs, and inspection shall be available to the public or any other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the superintendent that the release of such information would divulge information, processes, or methods which would be detrimental to the user's competitive position.

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

Information accepted by the superintendent as confidential shall not be transmitted to any governmental agency or to the general public by the superintendent until and unless prior and adequate notification is given to the user. (1982 Code, § 8-218)

**18-219. Industrial discharge permits.** (1) Wastewater discharge permits required. All industrial users proposing to connect to or discharge into any part of the wastewater treatment system must first apply for a discharge permit therefor. All existing industrial users connected to or discharging to any part of the city system must obtain a wastewater discharge permit within ninety (90) days from and after the effective date of the provisions of this chapter.

(2) Permit applications. Users seeking a wastewater discharge permit shall complete and file with the superintendent an application in the form prescribed by the superintendent, and the application shall be accompanied by the applicable fee. In support of this application, the user shall submit the following information:

- (a) Name, address, and SIC number of applicant.
- (b) Volume of wastewater to be discharged.
- (c) Wastewater constituents and characteristics.
- (d) Time and duration of discharge.

(e) Average and 30 minute peak wastewater flow rates, including daily, monthly, and seasonal variation, if any.

(f) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers and appurtenances by size, location, and elevation.

(g) Description and quantities of all materials on the premises which are or could be discharged.

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

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

(3) Permit conditions. Wastewater discharge permits shall be expressly subject to all provisions by the city. The conditions of wastewater discharge permits shall be uniformly enforced in accordance with this chapter and applicable state and federal regulations. Permit conditions will include the following:

(a) The unit charge or schedule of user charges and fees for the wastewater to be discharged to the system.

(b) The average and maximum wastewater constituents and characteristics.

(c) Limits on rate and time of discharge or requirements for flow regulations and equalization.

(d) Requirements for installation of monitoring facilities, including flow monitoring and sampling equipment.

(e) Requirements for maintaining and submitting technical reports and plant records relating to wastewater discharges.

(f) Daily average and daily maximum discharge rates, or other appropriate conditions when pollutants subject to limitations and prohibitions are proposed or present in the user's wastewater discharge.

(g) Compliance schedules.

(h) Other conditions to ensure compliance with this chapter.

(4) Duration of permit. Permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period of less than one year, or may be stated to expire on a specific date. If the user is not notified by the superintendent thirty days prior to the expiration of the permit, the permit shall automatically be extended for six months. The terms and conditions of the permit may be subject to modification and change by the superintendent during the life of the permit, as limitations or requirements are modified and changed. The user shall be informed of any proposed changes in his permit at least thirty days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(5) Transfer of a permit. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned nor transferred or sold to a new owner, new user, different premises, or a new or changed operation unless approved by the superintendent.

(6) Revocation of permit. Any user who violates the following conditions of his permit or of this chapter or applicable state and federal regulations is subject to having his permit revoked. Violations subjecting a user to possible revocation of permit include, but are not limited to, the following:

(a) Intentional failure of a user accurately to report the wastewater constituents and characteristics of his discharge;

(b) Failure of the user to report significant changes in operations or wastewater characteristics;

(c) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring;

(d) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts; or

(e) Violation of conditions of the permit.

(7) Incomplete applications. The superintendent will act only on applications containing all the information required in this section. Persons who have filed incomplete applications will be notified by the superintendent that the application is deficient and the nature of such deficiency and will be given thirty days to correct the deficiency. If the deficiency is not corrected within thirty (30) days or within such extended period as allowed by the superintendent, the superintendent shall submit the application to the city manager with a recommendation that it be denied and notify the applicant in writing of such action. (1982 Code, § 8-219)

**18-220. Criteria for commercial and industrial pretreatment.** Any wastewater discharge from a commercial or industrial user of the wastewater treatment system whose discharge violates the provisions set out in the prohibited wastewater discharges or the restricted wastewater discharges sections of this chapter shall pretreat at the point of origin in a private wastewater treatment plant provided, maintained, and operated by the discharger.

Any commercial or industrial wastewater discharge exceeding only the limitations on wastewater strength provision of this chapter may be pretreated at the point of origin in a private wastewater treatment plant provided, maintained, and operated by the discharger.

Grease, oil, and sand removal facilities shall be provided by the producer when in the opinion of the city they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, and/or other harmful ingredients. All interceptors shall be of a type and capacity approved by the city, and shall be located so as to be readily and easily accessible for cleaning and inspection.

Where installed, all removal facilities shall be maintained by the owner, at his expense, in continuous efficient operation at all times. (1982 Code, § 8-220)

**18-221. Industrial and commercial pretreatment facilities.**

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

(2) Inspection of facilities. A permit for the operation of a new or existing pretreatment or equalization system shall not become effective until the installation is completed to the satisfaction of the superintendent and written approval for operation is issued to the owner by the superintendent. The superintendent or his representative shall be allowed to inspect the work at any state of construction, and in any event, the applicant for the permit shall notify the superintendent when the work is ready for final inspection. In addition, the superintendent shall be allowed to make periodic inspections of the facilities in operation as he deems necessary.

The superintendent may inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the superintendent or his representatives ready access at all reasonable times to parts of the premises for the purposes of inspection or sampling or in the performance of any of their duties. The superintendent shall have the right to set up on the user's property such devices as are necessary to conduct sampling or metering operations. If the user is found to be in violation of his discharge permit, then such user shall be financially responsible and shall pay for any and all damages, including sampling and analytical costs.

(3) Maintenance of facilities. It shall be the responsibility of the owner to maintain all wastewater treatment or equalization facilities in good working order at all times. The city must be notified in writing when pretreatment facilities will not be or are not operative by reason of equipment malfunction, emergency or routine maintenance, or any reason whatsoever. It shall be the responsibility of the owner to repair and maintain all pretreatment facilities on a high priority basis. (1982 Code, § 8-221)

**18-222. Monitoring facilities.** All users who propose to discharge wastewater with flows, constituents, and characteristics different from normal domestic wastewater, or whose source of water is supplied from other than the city water system, shall be required to install a monitoring facility. The monitoring facility shall be a manhole or other suitable facility approved by the superintendent.

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

Monitoring facilities that are required to be installed shall be constructed and maintained at the user's expense. The purpose of the facility is to enable inspection, sampling, and flow measurement of wastewater produced by the user. If sampling or metering equipment is also required by the superintendent, it shall be provided and installed at the user's expense. However, such sampling and metering equipment shall be required by the superintendent only after sampling and metering by the city establishes the existence of significant variations in concentrations or constituents of the user's discharge. Operation, maintenance, sampling, and testing performed by the superintendent shall be at the user's expense. Wastewater samples will be made available to the industry if requested.

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

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

Whether constructed on public or private property, the monitoring facilities shall be constructed in accordance with the superintendent's requirements and all applicable local agency construction standards and specifications. When, in the judgment of the superintendent, an existing user requires a monitoring facility, the user will be so notified in writing. Construction must be completed within 180 days following written notification unless an extension is granted by the superintendent. (1982 Code, § 8-222)

**18-223. Reports by industrial users.** Any industrial user subject to a pretreatment standard in accordance with the provisions of this chapter, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the superintendent during the months of June and December, unless required more frequently in the pretreatment standard or by the superintendent, a report indicating the nature and concentration of pollutants in the effluent which are

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

The superintendent may impose mass limitations on industrial users which are using dilution to meet applicable pretreatment standards or requirements or in other cases where the imposition of mass limitations is appropriate. In such cases, the report required by the above paragraph shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the industrial user.

The reports required in this section shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration of production and mass limits where requested by the superintendent of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the applicable pretreatment standard. All analyses shall be performed in accordance with procedures established by the Environmental Protection Agency under the provisions of Section 304(h) of the Act (33 U.S.C. 1314(h)) and contained in 40 C.F.R. Part 136 and amendments thereto or with any other test procedures approved by the Environmental Protection Agency or the superintendent. (1982 Code, § 8-223)

**18-224. Maintenance of records by industrial users.** Any industrial user subject to the reporting requirements established in this chapter shall maintain records of all information resulting from any monitoring activities required by this chapter. Such records shall include for all samples:

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

Any industrial user subject to the reporting requirement established in this chapter shall be required to retain for a minimum of three (3) years any records of monitoring activities and results (whether or not such monitoring activities are required by this section) and shall make such records available for inspection and copying by the superintendent, Director of the Division of Water Quality Control, Tennessee Department of Health, or the Environmental Protection Agency. This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user or when requested by the superintendent, the director, or the Environmental Protection Agency. (1982 Code, § 8-224)

**18-225. Entry on private property.** The superintendent and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this chapter. The superintendent or his representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and sources of discharge to the sewers or waterways or facilities for waste treatment. (1982 Code, § 8-225)

**18-226. Safety and liability.** While performing the necessary work on private properties, the superintendent or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the city employees. The city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the monitoring and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions. (1982 Code, § 8-226)

**18-227. Easements.** The superintendent and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purposes of inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved. (1982 Code, § 8-227)

**18-228. Applicability of discharge regulations.** All users of the facilities of the POTW shall comply with the following regulations and restrictions before discharging or causing to be discharged any wastewater to the public sewer system. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of "Standard Methods." (1982 Code, § 8-228)

**18-229. Prohibited wastewater discharges.** No person shall discharge or deposit or cause or allow to be discharged or deposited into the wastewater treatment system any wastewater which contains the following:

- (1) (a) Any water or wastes having explosive properties, containing toxic or poisonous substances, or noxious or malodorous gas, which either

singly or by interaction with other wastes is capable of causing an obstruction, or which may in any other way cause any interference with the proper operation of the POTW.

(b) Any toxic bearing substance or material.

(2) Any polluted water including, but not limited to, water from cooling systems, groundwater, subsurface drainage, or of stormwater origin and any unpolluted industrial process waters which will increase the hydraulic load on the treatment system. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by authorities having jurisdiction.

(3) Wastes with objectionable color not removable by the treatment process.

(4) Oil and grease if concentration and dispersion results in separation and adherence to sewer structures and appurtenances in excess of normal domestic wastewater.

(5) Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the treatment works influent exceeds 40° Centigrade (104° Fahrenheit). Unless a higher temperature is allowed in the user's wastewater discharge permit, no user shall discharge into any sewer line or other appurtenance of the POTW wastewater with a temperature exceeding 65.5° Centigrade (150° Fahrenheit).

(6) Any waters or wastes having a pH lower than 5.5 or higher than 9.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of POTW.

(7) No person shall discharge or permit to be discharged any radioactive waste into a public sewer except:

(a) When the person is authorized to use radioactive materials by the Tennessee Department of Health or the Nuclear Regulatory Commission;

(b) When the waste is discharged in strict conformity with applicable laws and regulations of the aforementioned agencies, or any other agency having jurisdiction; and

(c) When a copy of permits received from said regulatory agencies have been filed with the superintendent.

(8) Wastewater at a flow rate or containing such concentrations or quantities of pollutants that exceeds for any time period longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration, quantities, or flow during normal operation and that would cause a treatment process upset and subsequent loss of treatment efficiency.

(9) Garbage that has not been ground or comminuted to such a degree that all particles will be carried freely in suspension under flow conditions normally prevailing in the public sewers, with no particle greater than one-half (1/2) inch in any dimension.

(10) Solid or viscous pollutants, including ashes, cinders, sand, mud, lime slurry, lime residue, straw, shavings, metal, glass, rags, feathers, tar, plastic, weeds, and paunch manure in amounts which cause obstruction to the flow of the sewers or other interference with the operation of or which cause injury to the POTW, including waxy or other materials which tend to coat and clog a sewer line or other appurtenances thereto. (1982 Code, § 8-229)

**18-230. Restricted wastewater discharges.** Limitations for restricted wastewater discharges are hereby adopted by the city which will enable it to comply with the act and its amendments. As a minimum, pretreatment limitations are hereby adopted for the parameters listed in Table 1. No person or user shall discharge wastewater which exceeds the pretreatment limitations for restricted discharge established by the city unless an exception is permitted as provided by this chapter. Dilution of any wastewater discharge for the purpose of satisfying the requirements of the city shall be considered a violation of this chapter.

The superintendent is authorized to establish new or revised pretreatment limitations for the parameters stated in Table 1 when technical studies or analyses have found these limitations to be incompatible with the POTW influent protection criteria, these limitations will cause the POTW effluent to violate its NPDES permit, or applicable standards or regulations provided for revising these limitations and meet all other requirements of this chapter. The limitations shown in TABLE 1 are maximum allowable concentrations; individual effluent limitations as promulgated in each industry's discharge permit may be more stringent than the values listed in TABLE 1.

TABLE 1  
USER EFFLUENT LIMITATIONS

Pollutant	Daily Average (*) Maximum Concentrations (mg/l)	Instantaneous Maximum Concentration (mg/l)
Biochemical Oxygen Demand	250.0	375.0
Total Suspended Solids	250.0	375.0
Oil and Grease	100.0	150.0
Aluminum	100.0	150.0
Ammonia	20.0	30.0
Antimony	5.0	7.5
Arsenic	0.13	0.19
Benzene	0.11	0.17
Cadmium	0.09	0.13
Chromium (total)	2.06	3.08
Copper	2.73	4.10
Cyanide	0.53	0.75
Lead	0.44	0.66
Mercury	0.00005	0.000075
Nickel	0.80	1.2
Pesticides	BDL**	BDL**
Phenols	1.75	2.63
Selenium	0.18	0.27
Silver	0.019	0.0285
Surfactants, as MBAS	5.0	7.5
Zinc	1.30	1.95

\* Based on 24 hour flow proportional composite samples.

\*\* BDL - Below Detectable Limits. (1982 Code, § 8-230, as amended by Ord. #38-11, Sept. 2002)

**18-231. Protection of treatment plant influent.** The superintendent shall initiate technical studies to establish protection criteria for the POTW influent, in terms of maximum allowable concentrations for the parameters listed in Table 2 (and other parameters as applicable) to prevent interference with and inhibition of the treatment process including sludge disposal and to prevent violation of the NPDES permit for the POTW.

A schedule protection criteria for the parameters listed are hereby adopted by the city. Industrial users shall be subject to reporting and monitoring requirements regarding these parameters as set forth in this chapter. In the event that the influent at the POTW reaches or exceeds the protection criteria established by the city, the superintendent shall initiate additional technical studies to determine the cause of the POTW influent violation and shall recommend to the city the necessary remedial measures including but not limited to recommending the establishment of new or revised pretreatment limitations for these parameters. The superintendent shall also recommend changes to the city to any of these criteria in the event that the POTW effluent standards are changed, there are changes in any applicable law or regulation affecting same, or changes are needed for more effective operation of the POTW.

TABLE 2

PROTECTION CRITERIA

<u>POTW Influent</u> <u>Pollutant</u>	<u>Maximum Concentration (mg/l)</u>
Aluminum	10.0
Arsenic	0.021
Boron	1.0
Cadmium	0.014
Chromium (total)	0.300
Copper	0.400
Cyanide	0.078
Iron	10.0
Lead	0.064
Mercury	0.00015
Nickel	0.127
Zinc	0.200
Selenium	0.025
Silver	0.025
Toluene	0.075
Benzene	0.015
1,1,1,-Trichloroethane	0.150
Ethylbenzene (total)	0.020

Carbon Tetrachloride	0.075
Chloroform	0.258
Tetrachlorethylene	0.125
Trichloroethylene	0.050
1,2 Transdichlorethylene	0.005
Methylene chloride	0.132
Phenol	0.250
Naphthalene	0.005
Phthalates (Total)*	0.170

\*Total Phthalates are the sum of

Bis (2-ethy hexyl) phathalate

Butyl benzyl phthalate

Di-n-butyl phthalate

Diethyl phthalate

(1982 Code, § 8-231, as amended by Ord. #38-11, Sept. 2002)

**18-232. Right to establish more restrictive criteria.** No statement in this chapter is intended or may be construed to prohibit the superintendent from establishing specific wastewater discharge criteria more restrictive where wastes are determined to be harmful or destructive to the facilities of the POTW or to create a public nuisance, or to cause the discharge of the POTW to violate effluent or stream quality standard, or to interfere with the use or handling of sludge, or to pass through the POTW resulting in a violation of the NPDES permit, or to exceed industrial pretreatment standards for discharge to municipal wastewater treatment systems as imposed or as may be imposed by the Tennessee Department of Health and/or the United States Environmental Protection Agency. (1982 Code, § 8-232)

**18-233. Special agreements.** Nothing in this section shall be construed to prevent any special agreement or arrangement between the city and any user of the wastewater treatment system whereby wastewater of unusual strength or character is accepted into the system and specially treated subject to any payments or user charges as may be applicable. The making of such special agreements or arrangements between the city and the user shall be strictly limited to the capability of the POTW to handle such wastes without interfering with unit operations or sludge use and handling or allowing the pass through of pollutants which would result in a violation of the NPDES permit. (1982 Code, § 8-233)

**18-234. Exceptions to discharge criteria.** (1) Application for exception. Non-residential users of the POTW may apply for a temporary exception to the prohibited and restricted wastewater discharge criteria listed in §§ 18-229 and 18-230 of this chapter. Exceptions can be granted according to the following guidelines subject to the appeals procedure provided under this chapter.

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

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

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

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

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

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

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

The user must show that the exception, if granted, will not cause the discharger to violate its in-force federal pretreatment standards unless the exception is granted under the provisions of the applicable pretreatment regulations.

A surcharge shall be applied to any exception granted under this section. These surcharges shall be applied for that concentration of the pollutant for which the variance has been granted in excess of the concentration stipulated in this chapter based on the average daily flow of the user.

At such time that the levels of pollutants must be reduced because of violations of any of the provisions of this section, the following method shall be used to reduce the discharge levels: All users shall be required to reduce their discharge levels by a sufficient amount to meet the standard being violated. Users shall be required to reduce their discharge levels in proportion to their contribution to the system.

(3) Review of application by the superintendent. All applications for an exception shall be reviewed by the superintendent. If the application does not contain sufficient information for complete evaluation, the superintendent shall notify the applicant of the deficiencies and request additional information. The applicant shall have thirty (30) days following notification by the superintendent to correct such deficiencies. This thirty (30) day period may be

extended by the city upon application and for just cause shown. Upon receipt of a complete application, the superintendent shall evaluate same within thirty (30) days and shall submit his recommendations to the city at its next regularly scheduled meeting.

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

(a) whether or not the applicant is subject to a national pretreatment standard containing discharge limitations more stringent than those in §§ 18-229 and 18-230 and grant an exception only if such exception may be granted within limitations of applicable federal regulations;

(b) whether or not the exception would apply to discharge of a substance classified as a toxic substance under regulations promulgated by the Environmental Protection Agency under the provisions of Section 307(a) of the Act (33 U.S.C. 1317), and then grant an exception only if such exception may be granted within the limitations of applicable federal regulations;

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

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

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

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

(g) the engineering aspects of various types of pretreatment or other control techniques available to the user to improve the quality or quantity of wastewater discharge. (1982 Code, § 8-235, as renumbered by Ord. #38-11, Sept. 2002)

**18-235. Relaxation of discharge criteria.** The superintendent shall, to the maximum extent feasible, recommend a relaxation of criteria established in this chapter in the event the POTW effluent standards are changed or if the POTW removals are such that a relaxation will not cause violation of the effluent standards. (1982 Code, § 8-236, as renumbered by Ord. #38-11, Sept. 2002)

**18-236. Accidental discharges.** (1) Protection from accidental discharge by industrial users. All industrial users shall provide such facilities and institute such procedures as are reasonably necessary to prevent or minimize the potential for accidental discharge into the POTW of waste regulated by this chapter from liquid or raw materials storage areas, from truck and rail car loading and unloading areas, from inplant transfer or processing and materials handling areas, and from diked areas or holding ponds of any waste regulated by this chapter. The wastewater discharge permit of any user who has a history of significant leaks, spills, or other accidental discharge of waste regulated by this chapter shall be subject on a case-by-case basis to a special permit condition or requirement for the construction of facilities or establishment of procedures which will prevent or minimize the potential for such accidental discharge. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the user's expense. Detailed plans showing the facilities and operating procedures shall be submitted to the superintendent for review, and shall be approved by the superintendent before construction of the facility.

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

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

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

Such notification will not relieve the user of liability for any expense, loss, or damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter or state or federal law.

(3) Notice to employees. In order that employees of users be informed of the city's requirements, users shall make available to their employees copies of this chapter together with such other wastewater information and notices which may be furnished by the superintendent from time to time directed toward more effective water pollution control. A notice shall be furnished and permanently posted on the user's bulletin board advising employees whom to call in case of an accidental discharge in violation of this chapter.

(4) Preventive measure. Any direct or indirect connection or entry point for persistent or deleterious wastes to the user's plumbing or drainage system shall be eliminated. (1982 Code, § 8-237, as renumbered by Ord. #38-11, Sept. 2002)

**18-237. Purpose of charges and fees.** (1) A schedule of charges and fees shall be adopted by the city which will enable it to comply with the revenue requirements of the Act and its amendments. Charges and fees shall be determined in a manner consistent with regulations of the Act and policies of the city to ensure that sufficient revenues are collected to defray the city's cost of operating and maintaining adequate wastewater collection and treatment systems and to provide sufficient funds for capital outlay, bond service costs, capital improvements, depreciation, and equitable industrial cost recovery of EPA administered federal grants.

(2) The city shall provide annual notification to the users in conjunction with their regular bill of the rate being charged for wastewater treatment services. Additionally, the city shall review, not less than every two (2) years, the rate structure and revise it accordingly. (1982 Code, § 8-238, as renumbered by Ord. #38-11, Sept. 2002)

**18-238. Classification of users.** All users are to be classified by the city either by assigning each one to a "user classification" category according to the principal activity conducted on the user's premises, by individual user analysis, or by a combination thereof. The purpose of such collective and/or individual classification is to facilitate the regulation of wastewater discharges based on wastewater constituents and characteristics, to provide an effective means of source control, and to establish a system of charges and fees which will insure an equitable recovery of the city's cost. (1982 Code, § 8-239, as renumbered by Ord. #38-11, Sept. 2002)

**18-239. Types of charges and fees.** The charges and fees as established in the city's schedule of charges and fees may include but not be limited to:

- (1) User classification charges.
- (2) Fees for monitoring, maintenance, and analysis.
- (3) Fees for permits.
- (4) Surcharge fees.
- (5) Industrial cost recovery charge.
- (6) Discharge permit fees. (1982 Code, § 8-240, as renumbered by Ord. #38-11, Sept. 2002)

**18-240. Charges and billing.** (1) Wastewater service charge. The wastewater service charge for normal domestic wastewater is based on the water discharge to the POTW as measured by the public water supply meter, or meters, and/or by any supplementary meter, or meters, necessary to measure the amount of water discharged. The basic wastewater service charge shall be determined upon the metered flow and the schedule of charges and fees adopted by the city.

(2) Extra-strength surcharge. All users shall meet the individual user effluent limitations set forth in Table 1 of § 18-230. Failure of any user to meet this criteria shall result in enforcement action being taken by the superintendent as authorized under § 18-304, Administrative fines of this code.

(3) Sampling, flow monitoring, and analysis. Users who are required by the superintendent to have sampling and flow monitoring devices installed (temporary or permanent) shall, if applicable, be charged to compensate the city for operating and maintaining equipment and for performing analytical tests on their discharge.

(4) Industrial cost recovery charge. All nongovernmental users identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented under Division A (Agriculture, Forestry and Fishing), Division B (Mining), Division D (Manufacturing), Division E (Transportation, Communications, Electric, Gas, and Sanitary Services), and Division I (Services), which discharge to the sanitary sewers wastes other than domestic wastes or wastes from sanitary conveniences shall be assessed an industrial cost recovery charge as required in Title 40, Part 35 of the U.S. EPA regulations, based on a schedule of charges and fees adopted by the city.

The ICR charge will not be assessed until required by applicable federal regulations.

(5) Billing. The billing for normal domestic wastewater shall consist of a minimum wastewater service charge with rates as specified by the city, subject to net and gross rates. Wastewater discharges with above normal strength characteristics will be subject to an extra strength surcharge in addition to the wastewater service charge. In addition, certain industrial users will be liable for payment of industrial cost recovery, sampling, flow monitoring, analysis charges, and other charges as applicable.

(a) Minimum charges. The minimum charge for sewer service will be stated in the schedule of rates and charges as established by the city.

(b) Estimated billing. 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. The superintendent also reserves the right to require metering of any water discharged into the sewer system.

(c) Supplemental water supply. In the event that any customer uses water from a source other than the public water supply and discharges the wastewater into the POTW, the customer must install or have installed according to the city's specifications and maintain a supplementary meter to measure the amount of water so used, and the amounts so used shall be computed in determining the wastewater service charge.

(d) Adjustments and correction of errors. Adjustments to billing for over or under registration of meters, for leaks, for the determination of water use by consumers when meters have been inoperative, for an obviously incorrect meter reading, or for other recognized and proper adjustments as are granted to water consumers by the city will be accepted by the city and such adjustments for water use shall be applied in obtaining the indicated adjusted billing of sewer charges. All other requests for adjustments of sewer charges made to the city shall be referred to the superintendent who will handle such complaints. Any adjustments or decision thus authorized by the superintendent shall be made to the customer affected thereby.

(e) Exemptions. Claims for exemption from the sewer service charge because of nonavailability of sewers may be made to the superintendent. Exemptions from the charge will be retroactive to the commencement date of the sewer service charge. (1982 Code, § 8-241, as amended by Ord. #30-5, April 1994, and renumbered and amended by Ord. #38-11, Sept. 2002)

**18-241. Computation and assessments of surcharges, etc.** The computation and assessment of monitoring charges, maintenance charges, and testing and/or analysis charges shall be subject to the appeals procedure provided in this chapter. (1982 Code, § 8-242, as renumbered by Ord. #38-11, Sept. 2002)

**18-242. Legal authority requirements.** A POTW pretreatment program must be based on the following legal authority and include the following procedures. These authorities and procedures shall at all times be fully and effectively exercised and implemented.

(1) Control through permit, order, or similar means, the contribution to the POTW by each Industrial User to ensure compliance with the applicable pretreatment standards and requirements. In the case of industrial users identified as significant under 40 CFR 403.3(t), this control shall be achieved through permits or equivalent individual control mechanisms issued to each such user. Such control mechanisms must be enforceable and contain, at a minimum, the following conditions:

(a) Statement of duration (no more than five years);

(b) Statement of non-transferability without, at a minimum, prior notification to the POTW and provision of a copy of the existing control mechanism to the new owner or operator;

(c) Effluent limits based on applicable general pretreatment standards in part 403, categorical pretreatment standards, local limits, and state and local laws;

(d) Self-monitoring, sampling, reporting, notification and record keeping requirements, including an identification of the pollutants to be monitored, sampling location, sampling frequency, and ample type, based

on the applicable general pretreatment standards in part 403, categorical pretreatment standards, local limits and state and local laws;

(e) Statement of applicable civil and criminal penalties for violation of pretreatment standards in part 403, categorical pretreatment standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond the applicable federal deadlines.

(2) Pretreatment requirements which will be enforced through the remedies set forth in § 18-243(1) of this section, will include, but not be limited to, the duty to allow or carry out inspections, entry, or monitoring activities; any rules, regulations, or orders issued by the control authority; any requirements set forth in individual control mechanisms issued by the control authority; or any reporting requirements imposed by the control authority or these regulations. The control authority shall have authority and procedures (after informal notice to the discharger) immediately and effectively to halt or prevent any discharge or pollutants to the POTW which reasonably appears to present an imminent endangerment to the health or welfare of persons. The control authority shall also have authority and procedures (which shall include notice to the affected industrial users and an opportunity to respond) to halt or prevent any discharge to the POTW which presents or may present an endangerment to the environment or which threatens to interfere with the operation of the POTW. The approval authority shall have authority to seek judicial relief and may also use administrative penalty authority when the control authority has sought a monetary penalty which the approval authority believes to be sufficient.

(3) Control authority will randomly sample and analyze the effluent from industrial users and conduct surveillance activities in order to identify, independent or information supplied by industrial users, occasional and continuing noncompliance with pretreatment standards. Inspect and sample the effluent from each significant industrial user at least once a year. Evaluate, at least once every two years, whether each such significant industrial user needs a plan to control slug discharges. (1982 Code, § 8-243, as renumbered by Ord. #38-11, Sept. 2002)

**18-243. Annual publication of significant violators.** A list of significant violators of these regulations during the previous 12 months shall be published annually by the control authority in the Elizabethton Star. Such publication also may summarize any enforcement action taken against each entity listed during the same 12 month period. (1982 Code, § 8-244, as renumbered by Ord. #38-11, Sept. 2002)

**18-244. Unlawful discharge a public nuisance.** Discharges of wastewater in any manner in violation of this chapter or of any order issued by the superintendent as authorized by this chapter, is hereby declared a public

nuisance and shall be corrected or abated as directed by the superintendent. Any person creating a public nuisance shall be subject to the provisions of the city codes or ordinances governing such nuisance. (1982 Code, § 8-247, as renumbered by Ord. #38-11, Sept. 2002)

**18-245. Rules and regulations adopted by reference.** The documented plan, entitled, "Enforcement Response Plan for Elizabethton, Tennessee" dated August 20, 1992, which is attached hereto,<sup>1</sup> made a part hereof, annexed herewith, and incorporated herein by reference, which contains the enforcement response plan of the City of Elizabethton, Tennessee, be and the same hereby is adopted and declared to be the Enforcement Response Plan for the City of Elizabethton, Tennessee. (1982 Code, § 8-248, as renumbered by Ord. #38-11, Sept. 2002)

**18-246. Falsifying of information.** Any person or user who knowingly makes any false statements, representation, record, report, plan, or other document filed with the superintendent or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter is hereby declared to be in violation of this chapter and subject to the civil liabilities imposed under § 18-252. (1982 Code, § 8-253, as renumbered by Ord. #38-11, Sept. 2002)

**18-247. Wastewater regulations appeals board.** (1) Establishment and organization. The wastewater regulations appeals board shall consist of three members appointed by the mayor and approved by the city council. The term of each appointee shall be for two years unless designated otherwise by the mayor and the city council. The terms of only two appointees shall coincide at any given interval to promise continuity in the decisions and policies set by the board.

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

(3) Duties and powers. (a) The board shall review actions or decision other than the refusal of applications for exceptions and/or conditions on discharge permits to determine whether or not the decision, action, or determination made by the superintendent is reasonable and necessary to protect the POTW and/or to effectuate the provisions of this chapter.

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<sup>1</sup>The Enforcement Response Plan may be found in title 18, chapter 3 of this municipal code.

(b) The board shall review actions involving refusal of applications for exceptions and/or conditions on discharge permits to determine whether or not the party appealing said decision has met the conditions prescribed in § 18-234.

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

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

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

(f) To prescribe such rules and regulations for the convening of the board and the conduct of hearings and all matters pertaining to and in furtherance of the authority and power herein granted.

(4) Relation to "Pretreatment Enforcement Act of 1987." The wastewater regulations appeals board created under this section is hereby deemed to be the "local hearing authority" for purposes of the "Pretreatment Enforcement Act of 1987." The superintendent of utilities is hereby deemed to be the "local administrative officer" for purposes of the "Pretreatment Enforcement Act of 1987." (1982 Code, § 8-254, as renumbered by Ord. #38-11, Sept. 2002)

**18-248. Volume sewer service charges and sewer tapping fees.**

(1) Sewer metered rates for residential, industrial and commercial users shall be:

<b>COST PER 1,000 Gal.</b>	<b>Municipal</b>	<b>Regional</b>	<b>Incorporated</b>
Base Rate	\$9.47	\$12.54	\$25.00
1,000-9,000 gallons	\$2.24	\$4.19	\$6.00
Over 9,000 gallons	—	\$3.05	—

(2) Multi-dwelling sewer rates shall be as follows:

(a) Multiply the number of units in the complex by the base rate.

(b) Calculate revenue earned for the complex's monthly consumption of water by multiplying the consumption in 1,000 gallons by the cost per 1,000 gallons set forth in § 18-249.

(c) Add the revenue in step (a) and step (b) together to calculate the monthly revenues for the complex.

(d) Formula.

Step 1: Number of units x base rate = minimum bill.

Step 2: Multiply the cost per 1,000 gallons of water consumed as set forth in § 18-249(1).

Step 3: Add results obtained from step 1 and step 2 to obtain total sewer bill.

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

<b>SEWER TAP FEES</b>	<b>Municipal</b>	<b>Regional</b>	<b>Incorporated</b>
<b>NEW RESIDENCE</b>	\$1,400.00	\$2,000.00	\$2,800.00
<b>NEW RESIDENCE WITHIN A NEW SUBDIVISION WHERE ALL LINES AND TAPS ARE INSTALLED BY THE DEVELOPER TO CITY STANDARDS/APPROVAL</b>	\$600.00	\$800.00	\$1,000.00
<b>ADDITIONAL RESIDENTIAL UNITS ON SAME LOT CONNECTED W/ EXISTING TAP*</b>	\$400.00	\$650.00	\$850.00

\*UNAUTHORIZED TAPS. If an additional unit on the same lot or connecting lots is found to be connected to the Elizabethton Sewer System without authorization and payment of the above fee, the fee assessed will be **DOUBLE THE NEW RESIDENCE FEE.**

<b>SEWER TAP FEES</b>	<b>Municipal</b>	<b>Regional</b>	<b>Incorporated</b>
<b>SMALL COMMERCIAL USERS, SERVICE STATIONS, ETC.</b>	\$1,400.00	\$2,200.00	\$3,000.00
<b>CAR WASH PER BAY</b>	\$1,600.00	\$2,200.00	\$3,800.00
<b>APARTMENTS, MOBILE HOME PARKS, CONDOMINIUMS, MULTI-DWELLING COMPLEXES: 50 UNITS OR LESS, PER UNIT</b>	\$1,400.00	\$2,200.00	\$3,000.00
<b>APARTMENTS, MOBILE HOME PARKS, CONDOMINIUMS, MULTI-DWELLING COMPLEXES: OVER 50 UNITS, PER UNIT</b>	\$1,000.00	\$1,250.00	\$2,145.00

	<b>Municipal</b>	<b>Regional</b>	<b>Incorporated</b>
<b>SEWER TAP FEES</b>			
<b>FACTORIES (FIRST 10,000 SQ FT FLOOR SPACE), also SHOPPING CENTERS, WAREHOUSES, OFFICE BUILDINGS, SCHOOLS, ETC.</b>	\$1,800.00	\$2,400.00	\$3,800.00
<b>EACH ADDITIONAL 10,000 SQUARE FEET OF FLOOR SPACE</b>	\$950.00	\$1,400.00	\$1,900.00
<b>HOTELS, MOTELS, HOSPITALS, NURSING HOMES, RETIREMENT HOMES FOR EACH RENTAL ROOM:</b>	\$900.00	\$1,200.00	\$2,000.00
<b>RESIDENCES WHICH CANNOT USE THE AVAILABLE PUBLIC GRAVITY SEWER WITHOUT THE NECESSITY OF A SEWER PUMP*</b>	\$900.00	\$1,200.00	\$2,000.00

\*This requires a written evaluation by the public works department and approval by the deputy public works director. Sewage pumps and tanks must be purchased and installed by the customer. Said pumps and tanks remain the property of the customer and must be maintained by the customer.

(b) All taps shall be made under the direction of the public works director or his designatee.

(1982 Code, § 8-255, as amended by Ord. #33-3, May 1997; Ord. #33-18, Nov. 1997; Ord. #36-6, June 2000; and Ord. #37-9, June 2001, renumbered by Ord. #38-11, Sept. 2002, and replaced by Ord. #39-2, Jan. 2003, and Ord. #40-9, June 2004)

**18-249. Sewer line maintenance.** (1) Sewer mains. The city shall maintain its sanitary sewer mains.

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

(3) Lateral lines and sewer lines on private property. The city shall perform no work on customer owned sewers on private property or on lateral service lines outside the city's right-of-way, nor on any lateral line which has no

approved clean-out installed. The city will assist sanitary sewer customers in locating blockages or breakdowns in the lateral service lines between the sewer main located in a street right-of-way or established easement and the customer's property line, provided there is a properly installed clean-out at the property boundary.

(4) City owned/operated pumps, controls and pressure lines. The city will maintain pumps, control systems and sewer pressure lines owned and operated by the city, but will not maintain any privately owned pumps, control systems or pressure lines. (as added by Ord. #37-21, Sept. 2001, and renumbered by Ord. #38-11, Sept. 2002)

**18-250. Sewer meters.** (1) If a customer discharges wastewater into the public sanitary sewer which is not already metered and did not originate from the city water system, then the service must be metered and billed in accordance with the § 18-249(1) billing schedule. Each request must be evaluated on an individual basis by public works department personnel. The public works director or deputy director must approve the type metering device and location where it is installed.

(2) Effective February 1, 2003, any such meter required to meter sewage in compliance with § 18-251(1) will be purchased, installed, and maintained by the City of Elizabethton. The customer will be billed the full meter purchase price plus all installation costs including labor and overhead plus 20%. This requirement also applies to any meter in operation prior to February 1, 2003, which becomes inoperable and requires replacement. The decision on meter replacement will be solely at the discretion of the city. (as added by Ord. #39-2, Jan. 2003, and replaced by Ord. #40-9, June 2004)

**18-251. Adjustments to sewer bills due to leaks and filling pools.** This section applies to verifiable leaks on the customer's side of the meter which have been corrected by the customer and one-time filling of pools with re-circulating pumps. The city reserves the right to refuse adjustments deemed frequent, unnecessary, questionable, or unreasonable based on facts available in each case.

(1) If an adjustment in water billing has been requested and approved in accordance with § 18-107, AND it is proven to the utility billing manager's satisfaction that the water leak did not result in the leakage going into the sanitary sewer system, then the sewage charge for all water deemed used as a result of the leak may be adjusted off the sewer bill at the same time the adjustment is made to the water bill.

(2) If a customer fills a swimming pool which has a re-circulating pump, then the customer can request in writing that the sewer bill be adjusted by the amount equal to the pool capacity. The request must indicate the pool capacity and that the pool has a re-circulating pump. The information must be verifiable to the utility billing manager's satisfaction prior to the adjustment.

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Only one adjustment for pool filling will be allowed per calendar year. No sewer bill adjustment will be made for filling a pool that does not have a re-circulating pump. (as added by Ord. #39-2, Jan. 2003, and replaced by Ord. #40-9, June 2004)

## CHAPTER 3

### ENFORCEMENT RESPONSE PLAN

#### SECTION

- 18-301. Introduction.
- 18-302. Definitions.
- 18-303. Enforcement responses.
- 18-304. Administrative fines.
- 18-305. Termination of service.
- 18-306. Enforcement response guide.

**18-301. Introduction.** The federal general pretreatment regulations have been amended to incorporate recommendations that were promulgated in EPA's Domestic Sewage Study (DSS). The Domestic Sewage Study investigated weaknesses in enforcement of pretreatment programs and suggested methods for correcting those weaknesses. Specifically, the DSS found that:

- (1) Many local programs do not have sufficient authority to adequately enforce pretreatment requirements.
- (2) Many local pretreatment program officials do not know how to enforce pretreatment program requirements.
- (3) Many local pretreatment program officials are reluctant to enforce pretreatment program requirements, particularly in situations where the bulk of the local employment is provided by a few industries.
- (4) Enforcement in local programs is often inconsistent and/or subjective.

As a result of these problems in enforcement, paragraph 40 CFR 403.8(f)(5) states:

(f)(5) The PTP shall develop and implement an enforcement response plan. This plan shall contain detailed procedures indicating how a PTP will investigate and respond to instances of industrial user noncompliance. The plan shall, at a minimum;

- (a) Describe how the PTP will investigate instances of noncompliance;
- (b) Describe the type of escalating enforcement responses the PTP will take in response to all anticipated types of industrial user violations and the time periods within which responses will take place;
- (c) Identify the official(s) responsible for each type of response;
- (d) Adequately reflect the PTP's primary responsibility to enforce all applicable pretreatment requirements and standards, as detailed in sections 403.8(f)(1) and (2).

In accordance with Elizabethton, Tennessee's National Pollutant Discharge Elimination System (NPDES) permit, the city is ultimately held liable

by the State of Tennessee and EPA for its discharge to any surface or subsurface waters.

Since the wastewater treatment plant is not designed to treat much of the waste potentially discharged from industrial users, the city must enforce its pretreatment program. For example, when an industrial user discharges wastes which cause the city to violate its permit, state assessed fines may be recovered from the industrial user as damages.

If the city does not enforce its pretreatment program aggressively enough, the State of Tennessee may intervene and enforce penalties against Elizabethton, Tennessee, the industrial user in Tennessee, or both. Tennessee law allows the state to assess civil penalties up to \$25,000.00 per violation per day. (1982 Code, Appendix)

**18-302. Definitions.** (1) "Absolve" - To excuse; to free from an obligation or the consequences of guilt or liability.

(2) "Administrative action (a fine or order)" - An enforcement action authorized by the control authority's legal authority which is taken without the involvement of a court.

(3) "Administrative fine" - A punitive monetary charge unrelated to actual treatment costs which is assessed by the control authority rather than a court.

(4) "Administrative order" - A document which orders the violator to perform a specific act or refrain from an act. For example, the order may require users to attend a show cause meeting, cease and desist discharging, or undertake activities pursuant to a compliance schedule.

(5) "Admissible evidence" - Evidence which can be presented in court.

(6) "Affidavit" - A sworn statement in writing under oath before an authorized magistrate or officer.

(7) "Approval authority" - EPA or States with an EPA-approved pretreatment program. The approval authority is responsible for approval and oversight of control authority pretreatment programs, including an evaluation of the effectiveness of local enforcement.

(8) "Arbitrary or capricious allegation" - An assertion that a decision or action taken by the control authority was unreasonable or not founded upon sound judgment.

(9) "Burden of proof" - The duty of proving a disputed assertion or charge in court.

(10) "Cease and desist order"<sup>1</sup> - An administrative order directing an industrial user to immediately halt illegal or unauthorized discharges.

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<sup>1</sup>A sample Cease and Desist Order may be found in Ord. #28-17, Appendix B in the office of the city clerk.

(11) "Chain-of-custody" - A written record of sample possession for all persons who handle (collect, transport, analyze, dispose of) a sample, including names, dates, times, and procedures followed.

(12) "Civil litigation" - A lawsuit filed in a civil court. If the court rules that the defendant industrial user violated the law the court may impose civil penalties, injunctions or other equitable remedies and/or cost recovery.

(13) "Civil penalty" - A punitive monetary award granted by a court to the control authority against a noncompliant industrial user.

(14) "Compliance order"<sup>1</sup> - An administrative order directing a noncompliant industry to achieve or restore compliance by a date specified in the order.

(15) "Compliance schedule" - A schedule of required activities (also called milestones) necessary for an industrial user to achieve compliance with all pretreatment program requirements.

(16) "Consent decree" - A court supervised settlement agreement, the violation of which may be considered contempt of court.

(17) "Consent order"<sup>2</sup> - An administrative order embodying a legally enforceable agreement between the control authority and the noncompliant industrial user designed to restore the user to compliance status.

(18) "Control authority" - The entity directly administering and enforcing pretreatment standards and requirements against industrial users. For purposes of this manual, the control authority is an approved local POTW program.

(19) "Criminal intent" - A state of mind which is a necessary element of all crimes. Criminal intent may be general (intent to perform an act) or specific (intent to break a law).

(20) "Criminal negligence" - Negligence of such a character, or occurring under such circumstances, as to be punishable as a crime (such as a flagrant and reckless disregard of the safety of others or willful indifference to the injury likely to follow).

(21) "Criminal prosecution" - A criminal charge brought by the control authority against an accused violator. The alleged criminal action may be a misdemeanor or a felony and is defined as willful, negligent, knowing, and/or intentional violations. A court trial-by-jury is generally required and upon conviction, punishment may include a monetary penalty, imprisonment, or both.

(22) "Defendant" - The party against whom relief or recovery is sought.

(23) "Deposition" - A discovery device by which one party addresses verbal questions to the other party or to a witness for the other party.

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<sup>1</sup>A sample Compliance Order may be found in Ord. #28-17, Appendix B in the office of the city clerk.

<sup>2</sup>A sample Consent Order may be found in Ord. #28-17, Appendix B in the office of the city clerk.

Depositions are conducted under oath outside the courtroom, usually in the office of an attorney. A transcript is made of the deposition which may be used as evidence at trial.

(24) "Deterrent value" - A threat of reprisal which is sufficient to discourage the industrial user from future violations.

(25) "Discovery" - A variety of pretrial devices used by one party to obtain relevant facts and information about the case from the other party.

(26) "Double jeopardy" - The prohibition against a second prosecution after a trial for the same offense.

(27) "Enabling legislation" - A state law or charter which creates and empowers a control authority.

(28) "Felony" - A crime punishable by imprisonment for greater than one year (depending on state law).

(29) "Fees" - A schedule of charges imposed to recover treatment costs (not punitive in nature).

(30) "Fine" - A punitive monetary charge for a violation of the law. Often used synonymously with "penalty," although the term "fine" generally implies the use of administrative rather than civil (judicial) procedures.

(31) "Good faith effort or progress" - Prompt and vigorous pollution control measures undertaken by the discharger which shows that extraordinary efforts (not a "business-as-usual" approach) have been made to achieve compliance.

(32) "Grand jury" - A body of citizens whose duties consist of determining whether probable cause exists that a crime has been committed, and whether an indictment should be returned against a named defendant.

(33) "Inadmissible" - Evidence not allowed to be presented in court.

(34) "Indictment" - A written accusation of criminal conduct by a grand jury.

(35) "Injunction, injunctive relief" - A court order which restrains or compels action by the industrial user.

(36) "Interrogatories" - A discovery device consisting of written questions submitted by one party to the other party or witness.

(37) "Judicial action or case" - An enforcement action that involves a court. (The action may either be civil or criminal in nature).

(38) "Jurisdiction" - The extent of authority of a governmental entity's power to make and enforce laws.

(39) "Legal authority" - The source of a control authority's jurisdiction and regulatory powers.

(40) "Libel suit" - A suit against a person who is responsible for a written statement that allegedly conveys an unjustly unfavorable impression of another person.

(41) "Litigation" - An enforcement action brought in a judicial (court) forum.

(42) "Misdemeanor" - A crime punishable by imprisonment of less than one year (depending on state law).

(43) "Notice of violation"<sup>1</sup> - A control authority document notifying an industrial user that it has violated pretreatment standards and requirements. Generally used when the violation is relatively minor and the control authority expects the violation to be corrected within a short period of time.

(44) "NPDES (National Pollutant Discharge Elimination System)" - A permit system for the direct discharge of pollutants into U. S. waterways.

(45) "Penalty" - A monetary or other punitive measure, usually associated with a court action. For purposes of this manual, the term is used synonymously with fine.

(46) "Plaintiff" - A person or organization seeking remedy from a court. For purposes of this manual, the plaintiff is the control authority.

(47) "Plea bargain" - An agreement between a prosecuting attorney and a criminal defendant whereby the defendant pleads guilty to a lesser charge and/or a reduction of sentence in exchange for cooperation in investigating or prosecuting the crime (e.g., waiving a trial).

(48) "Priority pollutants" - A list of 126 pollutants established by EPA and considered hazardous to the environment and to humans.

(49) "Proprietary information" - Information about a commercial chemical, product, or process which is considered to be confidential business information or a trade secret by an industrial user because if divulged, the information could be put the industrial user at an unfair competitive disadvantage with competitors in the same industry.

(50) "Publicly owned treatment works or POTW" - A system of conveyances and treatment for sewage and industrial wastes. Also refers to the government officials responsible for operation and maintenance of the collection system or treatment plant and the administration of the pretreatment program.

(51) "Reportable noncompliance" - Criteria for identifying when a control authority should be reported in the NPDES Quarterly Noncompliance Report for failure to implement its approved pretreatment program.

(52) "Request for admission" - A discovery device where a written statement of fact concerning the case is submitted to the adverse party and which that party is required to affirm or deny. Those statements that are admitted will be treated by the court as having been established and need not be proved at trial.

(53) "Request for production" - A discovery device which requests the opposing party to produce some document or thing which may tend to resolve an issue in dispute in the case.

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<sup>1</sup>A sample NOV may be found in Ord. #28-17, Appendix B in the office of the city clerk.

(54) "Search warrant" - A document issued by a magistrate or judge which authorizes government entry into private premises to either observe compliance with applicable laws or collect evidence of noncompliance.

(55) "Self monitoring" - Sampling and analysis of wastewater performed by the industrial user.

(56) "Show cause order"<sup>1</sup> - An administrative order directing a noncompliant user to appear before the control authority, explain its noncompliance, and show cause why more severe enforcement actions against the user should not go forward.

(57) "Significant noncompliance" - Criteria used by control and approval authorities to identify important violations and/or patterns of noncompliance. This criteria is used to establish enforcement priorities and comply with special reporting requirements.

(58) "Standard of strict liability" - Liability which attaches without regard to the user's "negligence" or "intent" to violate. Noncompliant industrial users will be found liable for pretreatment violations if the control authority proves that a violation occurred.

(59) "Statute of limitations" - A law which prescribes the period within which an enforcement action may be pursued by the control authority.

(60) "Stipulation" - A voluntary agreement between opposing parties as to facts or issues in controversy.

(61) "Termination of service" - A physical blockage of the sewer connection to a noncompliant user or issuance of a formal notice of termination to the industrial user.

(62) "Testimony" - A solemn declaration made by a witness under oath in response to interrogation by a lawyer or public official which is used as evidence. (1982 Code, Appendix, as amended by Ord. #38-11, Sept. 2002)

**18-303. Enforcement responses.** There are two groups of enforcement - administrative and judicial. Administrative enforcement includes notices of violation, administrative orders, civil penalties, and suspension or terminating of an IU's sewer discharge to the POTW. Judicial enforcement includes civil litigation and criminal prosecution. The following describes briefly the various responses:

(1) Administrative responses. (a) Notice of violation. The Notice of Violation (NOV) is an official communication from the city to the noncompliant industrial user which informs the user a pretreatment violation has occurred. The Notice of Violation may require a written response by the industrial user. The NOV is issued for minor or infrequent violations of pretreatment standards or requirements.

(b) Administrative orders. Administrative Orders (AO) are enforcement documents which direct industrial users to undertake or to cease specified activities. An AO is recommended as the first formal response to significant noncompliance and may incorporate compliance

schedules, civil penalties, and termination of service. Types of administrative orders are as follow:

- (i) cease and desist order,
- (ii) consent order,
- (iii) show cause order,
- (iv) compliance order.

(A) The cease and desist order directs a noncompliant user to cease illegal discharges immediately. The order is issued immediately upon discovery of the problem or following a hearing. A cease and desist order should be used where the discharge could cause interference with the collection system or at the wastewater treatment plant, a pass-through violation, or otherwise create an emergency situation.

(B) The consent order combines the force of an AO with the flexibility of a negotiated settlement. The consent order is an agreement between the city and the industrial user. The consent order is appropriate when the user assumes responsibility for its noncompliance and is willing (in good faith) to correct its causes.

(C) The show cause order directs the user to appear before the city and explain its noncompliance and show cause why enforcement actions against the user should not go forward. The show cause order is used when informal contacts and NOV's have failed to resolve the noncompliance.

(D) The compliance order directs the user to achieve or restore compliance by a specified date. It is used unilaterally and its terms need not be discussed with the industry in advance. The compliance order is usually issued when noncompliance cannot be resolved without construction, repair, or process changes.

(c) Civil penalty. The civil penalty is a monetary penalty assessed by the city for violations of pretreatment standards and requirements. Civil penalties are made at the city's discretion and are recommended as an escalated enforcement response when numerous other responses have failed.

(2) Judicial responses. (a) Civil litigation is the formal process of filing lawsuits against industrial users to secure court ordered action to correct violations and to secure penalties for violations including the recovery of costs to the city of the noncompliance. It is normally pursued when the required corrective action is costly and complex, the penalty to be assessed exceeds that which the city can assess administratively, or

when the industrial user is considered to be recalcitrant and unwilling to cooperate.

(b) Criminal prosecution is the formal process of charging individuals and/or organizations with violations of ordinance provisions that are punishable, upon conviction, by fines and/or imprisonment. The purposes of criminal prosecution are to punish noncompliance established through court proceedings and to deter future noncompliance. Criminal prosecution is recommended in cases involving repeated violations (such as discharges that endanger the health of treatment plant employees) and when less formal efforts to restore compliance (such as notices of violations and AOs) have failed. (1982 Code, Appendix)

**18-304. Administrative fines.**<sup>1</sup> An administrative fine is a monetary penalty assessed by the control authority for violations of pretreatment standards and requirements. Administrative fines differ from civil penalties (penalties imposed through court proceedings), since fines are assessed by the control authority directly and do not require court intervention unless the user contests the action or refuses to pay the fine. Administrative fines are punitive in nature and are not related to a specific cost born by the control authority. Instead, fines are to recapture the full or partial economic benefit of noncompliance, and to deter future violations.

Legal authority is established by power delegated by the State of Tennessee pursuant to the State Attorney General (Opinion 89-109), and T.C.A. § 69-3-125 and by the provision: Any person who violates or fails to comply with any of the provisions of the Sewer Use Ordinance (title 18, chapter 2) or any order, rule or regulation issued by the control authority pursuant thereto shall be liable for a civil penalty of not less than fifty nor more than ten thousand dollars for each violation. In the case of a continuing violation, each day's continuance shall be a separate and distinct offense. The control authority shall have the power to impose such penalties. A proceeding to impose such penalties shall be commenced by the service of a notice of violation returnable to such control authority. Such control authority, after a hearing as provided by the Sewer Use Ordinance, (title 18, chapter 2) the control authority shall have the power to enforce its final decisions and orders imposing such civil penalties as if they were money judgements.....The control authority, in its discretion, may, within the limits set forth in this subdivision in any court of competent jurisdiction establish a schedule of civil penalties indicating the minimum and maximum penalty for each separate offense. Fines shall be administered according to the Enforcement Response Guide contained in § 18-306. (1982 Code, Appendix)

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<sup>1</sup>Tables of violations and penalties appear in the Appendix at the end of this municipal code.

**18-305. Termination of service.** Termination of service is the revocation of an industrial user's privilege to discharge industrial wastewater into the control authority's sewer system. Termination may be accomplished by physical severance of the industry's connection to the collection system, by issuance of an AO which compels the user to terminate its discharge, or by a court ruling. However, since termination of service may force industries to halt production and may force closure (if discharge privileges are not reinstated), the control authority must carefully consider all of the legal and operational implications of termination before using this enforcement response. Termination of service shall be administered according to the Enforcement Response Guide contained in § 18-306. (1982 Code, Appendix)

**18-306. Enforcement response guide.** The centerpiece of the City of Elizabethton's enforcement response plan is the enforcement response guide. This guide defines the range of enforcement actions based on the nature and severity of the violation. This guide promotes consistent and timely use of enforcement remedies. The enforcement response selected shall be appropriate to the violation.

Magnitude of the violation will be consistent with those outlined by 40 CFR 403.8(f)(2)(vii)(A)(B)(C)(D)(E)(F)(G)(H).

Duration of the violation regardless of severity which continues over prolonged periods of time shall subject the industrial user to escalated enforcement actions.

Effect of the violation on the Watauga river shall be met with a severe response if that violation results in environmental harm. The main objective of the Elizabethton Pretreatment Program is to prevent pollutants from passing through the Elizabethton sewage treatment plant which may cause a NPDES permit violation, and this violation may also have a toxic effect on the receiving waters.

Effect on the POTW may increase its operational cost, harm personnel, or cause sludge contamination resulting in increased disposal cost. The response should be cost recovery through civil penalties once the spill has been traced back to an industrial user. Thus, it should be taken into consideration the severity of enforcement response to recurring violations and the good faith demonstrated by the industrial user to correct the violations. Good faith is demonstrated by cooperation and timely correction without the aid of an administrative order.

The industrial pretreatment coordinator is responsible for recognizing violations and assisting the superintendent in issuing Nov's, administrative orders, assessing fines, and publishing the annual list of significant violators.

The superintendent of utilities is responsible for compliance with the terms and conditions of the NPDES permit and overall operation of the POTW and pretreatment program. The superintendent of utilities has broad powers

in issuing administrative orders, terminating service, conducting show cause hearings, and initiating judicial actions.

The city attorney advises the superintendent on enforcement matters and orchestrates the judicial responses deemed necessary by the superintendent. The city attorney interprets the sewer use ordinance and this enforcement response plan. (1982 Code, Appendix)

## CHAPTER 4

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

#### SECTION

- 18-401. Definitions.
- 18-402. Standards.
- 18-403. Construction, operation, and supervision.
- 18-404. Statement required.
- 18-405. Inspections required.
- 18-406. Right of entry for inspections.
- 18-407. Correction of existing violations.
- 18-408. Use of protective devices.
- 18-409. Unpotable water to be labeled.
- 18-110. Applicability of chapter.
- 18-411. Violations.
- 18-412. Savings clause.
- 18-413. Conflicting ordinances repealed.
- 18-414. Promulgation of rules by public works director.

**18-401. Definitions.** (1) "Public water supply." The waterworks system furnishing water to the City of Elizabethton for general use and which supply is recognized as the public water supply by the Tennessee Department of Environment and Conservation.

(2) "Cross-connection." Any physical connection whereby the public water supply is connected with any other water supply system whether public or private, either inside or outside of any building or buildings, in such manner that a flow of water into the public water supply is possible either through the manipulation of valves or because of any other arrangements.

(3) "Auxiliary intake." Any piping connection or other device whereby water may be secured from a source not approved by the Division of Water Supply or the City of Elizabethton.

(4) "Bypass." Any system of piping or other arrangement whereby the water may be diverted around any part or portion of a water purification plant.

(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, auxiliary intake, or other device which does or may contain sewage or other waste or liquid which would be capable of imparting contamination to the public water supply.

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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.

(6) "Person." Any and all persons, 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.

(7) "Double check-detector check and double check valve assemblies." These devices have only been approved by the City of Elizabethton for limited use. Therefore, the customer or and the installer must obtain prior written approval from the director of public works, or his designated representative of the City of Elizabethton before purchasing and installing these devices for each intended application. Double check detector checks and double check valve assemblies are no longer an approved device by the City of Elizabethton for sprinkler systems/fire lines; upon the failure of an existing device on a sprinkler system/fire line it shall be replaced with a horizontal reduced pressure zone principle back-flow preventer according to the installation criteria listed in this chapter. Existing double check devices that have been installed in a pit or vault; shall be watertight construction; constructed so that it will not flood; must be well drained; drain must be discharged to the atmosphere above the flood plain; must have a sump and pump if subject to groundwater accumulation; test cocks are to be protected with watertight plugs.

(8) "Certified back-flow inspector." An individual that has completed the special training and demonstration of competency in the Installation and Testing of Back-flow Prevention Devices by State of Tennessee. Attends, and completes current criteria set forth by the State of Tennessee for renewal of his/her current certification in Installation and Testing of Back-flow Prevention Devices.

(9) "Degree of hazard." Means an evaluation of the potential risk to public health and the adverse effect of the hazard upon the potable water system.

(10) "Health hazard." An actual or potential threat of contamination of a physical or toxic nature to the public potable water system.

(11) "Nontoxic." Not poisonous; a substance that will not cause illness or discomfort if consumed.

(12) "Parallel devices." Two devices side by side with approved plumbing to keep water from being shut off during repair or replacement; this is used where water service cannot be discontinued, parallel devices shall be installed.

(13) "Annual inspection." All devices must pass an inspected one (1) time per calendar year as determined by the City of Elizabethton.

(14) "Bi-annual inspections." Devices must be inspected two (2) times per calendar year ending November 1, of each year. A minimum of four (4) months must be in-between inspections.

(15) "Reduced pressure principle or reduced pressure zone device (RP or RPZ)." A mechanical device consisting of two (2) independently operating, spring-loaded check valves with a reduced pressure zone between the checks designed to protect against both back pressure and back-siphonage. Annual

testing and inspection dates for domestic and fire line devices are determined by the last inspection or the deadline of November 1 of each year; this is strictly at the City of Elizabethton's discretion. The City of Elizabethton will evaluate each device every five (5) years to determine if a complete overhaul is required. Reduced pressure back-flow prevention devices are required for domestic and/or process service, where back-flow protection is required by the City of Elizabethton. RPZ assemblies are required on all buildings with a water service connection that may have the potential or future potential of a cross connection determined by the City of Elizabethton; an RPZ is also required on all fire and sprinkler systems. Therefore, the customer or installer must obtain prior approval from the director of public works, or his designated representative of the City of Elizabethton before purchasing and installing reduced pressure zone devices for each intended application.

(16) "Installation of RPZ devices." All RPZs must be installed in a horizontal position with the relief port down. Exception: existing Fire lines that would require a change out with major reconstruction of plumbing may be a vertical installation as long as the device and installation is approved by City of Elizabethton in writing. Strainers should be installed ahead of device. No strainer is to be used in a fuel line without the written approval of the fire official having jurisdiction and/or the insurance underwriter. RPZ must never be installed in a pit, or other area that could flood. RPZ must have protection from freezing and vandalism. RPZ should be installed where they are easily accessible for testing and maintenance. All devices must have at least three (3) times the diameter from wall, a minimum of twelve inches (12) above the floor, maximum height of sixty inches (60) from floor level. A RPZ must have a drain adequate to keep area from flooding. (Installation above a floor drain is ideal.) The relief valve should never be plugged, and a device must be installed with an air gap if a drain system is connected to the relief port. All strainers, pressure reducers, valves, shutoffs pertaining to the back-flow assembly must meet the State of Tennessee, USC Foundation for Cross-Connection Control and Hydraulic Research, and City of Elizabethton approval and installation requirements.

(17) "Assembly failure." The back-flow prevention assembly will be replaced or repaired within the time frame specified by the type of hazard and the possibility of contamination. Hazard and level of hazard will be determined by the City of Elizabethton. All sites that are high hazard and an immediate (imminent) risk of contamination shall be repaired and re-tested immediately. High hazard locations should have parts to rebuild the device or a parallel device in place. High hazards will be allowed up to seven (7) days to have the assembly rebuilt, replaced, and re-tested. If there are high or low hazards present, but no cross connections and is not an imminent risk of contamination, the maximum time for repair and retest is ninety (90) days. However, this is strictly at the discretion of the City of Elizabethton, and fourteen (14) days are recommended.

(18) “Conditional assemblies.” Assemblies installed prior to the adoption of the approved list by the Division of Water Supply and the City of Elizabethton may be allowed continued operation if the following conditions are satisfied: Existing assembly must meet minimum standard set by State of Tennessee and City of Elizabethton for hazard; conditional assembly must be inspected bi-annually, and must pass each inspection. The city must be notified immediately by the customer and inspector with a written plan of action if the assembly fails. If the assembly fails, only manufacturer-specified parts may be used for repair. If manufacturer-specified parts are not available, the assembly must be replaced with an approved assembly listed on the State of Tennessee and City of Elizabethton approved list. If the assembly is repaired or rebuilt, a certified back-flow inspector must perform the repairs. Prior arrangements must be made to locate spare parts or a replacement device. Prior notification is required before the new approved assembly is installed; the back-flow prevention assembly will be replaced within the time frame specified by the City of Elizabethton.

(19) “Inspector duties.” All inspectors must be approved by the State of Tennessee and City of Elizabethton. Inspector is responsible for verifying device and installation approval with the city; inspector must provide state update certification and test kit calibration certification to the city upon conducting an inspection; inspector is responsible for sending the inspection report to the city within ten (10) days of inspection. Inspector must also leave a copy of inspection with customer; pass or fail must be at the top right corner of all inspection reports; inspector must notify the city immediately with a plan of action upon failure of a high hazard device; inspector must notify the city in writing within forty-eight (48) hours with a plan of action upon failure of all other devices; plan of action must include: date, location, device, what is to be done, repair or replacement time table. The inspector must include on all inspection reports: license number and expiration date of certification on inspection report, telephone number of inspector, name of premises, address of service, contact person with phone number, use and location of device, size, manufacturer, type, line pressure, rebuilt date, serial number of device, full model number, company, company address and telephone number, signature of inspector, date of inspection, test values, comments, if an old device is being replaced the serial number must be under the new device serial number with “OLD” beside it. If the device serial number and model number cannot be verified the device shall be replaced. All new devices must be inspected at installation; all new construction must have device inspected prior to occupancy permit. The inspector will have all privileges suspended and will not be allowed to test back-flow assemblies in the Elizabethton water system if falsifying information or failure to comply with inspection criteria; suspension time is strictly at the discretion of the City of Elizabethton. If the inspector continues to fail to comply with the above criteria he/she shall be taken off the approved list for the City of Elizabethton service

area, and the State of Tennessee will be notified. (1982 Code, § 8-301, as replaced by Ord. #40-9, June 2004, and Ord. #43-2, Feb. 2007)

**18-402. Standards.** That the City of Elizabethton Public Water Supply is to comply with Tennessee Code Annotated, § 68-221-711, as well as the Rules and Regulations for Public Water Supplies, legally adopted in accordance with this code, which pertain to cross connections, auxiliary intakes, bypasses, and interconnections, and establish an effective ongoing program to control these undesirable water uses. (1982 Code, § 8-302, as replaced by Ord. #40-9, June 2004, and Ord. #43-2, Feb. 2007)

**18-403. Construction, operation, and supervision.** That 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, bypass or inter-connection is at all times under the direct supervision of the director of public works or his designated representative of the City of Elizabethton. (1982 Code, § 8-303, as replaced by Ord. #40-9, June 2004, and Ord. #43-2, Feb. 2007)

**18-404. Statement required.** That 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 director of public works, or his designated representative a statement of the non-existence of unapproved or unauthorized, auxiliary intakes, bypasses, or interconnection. Such statement shall also contain an agreement that no cross connection, auxiliary intake, bypass, or interconnection will be permitted upon the premises. (1982 Code, § 8-304, as replaced by Ord. #40-9, June 2004, and Ord. #43-2, Feb. 2007)

**18-405. Inspections required.** That it shall be the duty of the City of Elizabethton Water Department 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 director of public works, or his designated representative shall establish the frequency of inspections and re-inspections based on potential health hazards of the City of Elizabethton Public Water Supply and as approved by the Tennessee Department of Environment and Conservation. That it shall be the duty of the private property owner, and/or occupant to have each and all devices inspected annually by a state certified back-flow inspector that meets the City of Elizabethton criteria; and a written report shall be supplied by the City of Elizabethton within ten (10) days of inspection. If the device fails the inspection, the certified inspector must notify

the City of Elizabethton immediately for a high hazard, and within forty-eight (48) hours for all other hazards. A written plan of action shall also accompany notification which shall contain all work performed on the device including flushing lines. All cost associated with inspections, repairs or replacement will be the responsibility of the property owner or occupant. (1982 Code, § 8-305, as replaced by Ord. #40-9, June 2004, and Ord. #43-2, Feb. 2007)

**18-406. Right of entry for inspections.** That the director of public works or his designated representatives shall have the right to enter at any reasonable time, any property served by the connection to the City of Elizabethton Public Water Supply for the purpose of inspecting the piping system or systems thereof for cross connections, auxiliary intakes, bypasses, or interconnections. On request, the owner, lessees, 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. (1982 Code, § 8-306, as replaced by Ord. #40-9, June 2004, and Ord. #43-2, Feb. 2007)

**18-407. Correction of existing violations.** (1) That any person who now has cross connections, auxiliary intakes, bypasses, or inter-connections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with provisions of this chapter. After a thorough investigation of existing conditions and an appraisal of the time required to complete the work, the director of public works, or his designated representative of the City of Elizabethton shall designate the amount of time.

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

(3) Where cross connections, inter-connections, auxiliary intakes, or bypasses are found that constitutes an extreme hazard of immediate concern of contaminating the public water system, the director of public works, or his designated representative, shall require that immediate corrective action be taken to eliminate the threat to disconnect the public water supply from the on

site piping system unless the imminent hazard(s) is corrected immediately. (1982 Code, § 8-307, as replaced by Ord. #40-9, June 2004, and Ord. #43-2, Feb. 2007)

**18-408. Use of protective devices.** (1) That where the nature of use of the water supplied premises by the water department is such that it is deemed:

(a) Impractical to provide an effective air-gap separation.

(b) That the owner and/or occupant of the premises cannot or is not willing to demonstrate to the official in charge of the system, or his designated representative, that the water use and protective features of the plumbing are such as to pose no threat to the safety or potability of the water supply.

(c) That the nature and mode of operation within a premises are such the frequent alterations are made to the plumbing.

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

(2) The director of public works or his designated representative, shall require the use of an approved protective device on the service line serving the premises to assure that any contaminate that may originate in the customer's premises is contained therein. The protective device shall be a reduced pressure zone back-flow preventer approved by the Tennessee Department of Environment and Conservation and the City of Elizabethton as to manufacture, model, and size. The method of installation of back-flow protective devices shall be approved by the director of public works or his designated representative, prior to installation and shall meet or exceed the criteria set forth by the Tennessee Department of Environment and Conservation. The installation shall be at the expense of the owner or occupant of the premises.

(3) Personnel of the City of Elizabethton Public Water Supply, and/or a state certified back-flow inspector shall have the right to inspect and test the device or devices.

(4) Where the use of water is critical to the continuance of normal operations or protection of life, property, or equipment, duplicate parallel devices shall be required to avoid 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 director of public works, or his designated representative shall notify, in writing, the occupant of the premises that parallel devices will be required for future testing. Prior to the parallel device installation a plan to discontinue water service and arrange for a mutually acceptable time to test and/or repair the device. The water supplier 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 and inspections shall be made by qualified personnel, acceptable to the director of

public works, or his designated representative of the City of Elizabethton Public Water Supply.

(5) If necessary, water services shall be discontinued (following legal notification) for failure to maintain back-flow prevention devices in proper working order. Likewise, the removal, bypassing, 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 director of public works, or his designated representative. (1982 Code, § 8-308, as replaced by Ord. #40-9, June 2004, and Ord. #43-2, Feb. 2007)

**18-409. Unpotable water to be labeled.** That the potable water supply made available to premises served by the public water supply 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 signs shall have black letters at least one inch high located on a red background. (1982 Code, § 8-309, as replaced by Ord. #40-9, June 2004, and Ord. #43-2, Feb. 2007)

**18-410. Applicability of chapter.** The requirements contained herein shall apply to all premises served by all divisions of the City of Elizabethton 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 City of Elizabethton corporate limits. (1982 Code, § 8-310, as replaced by Ord. #40-9, June 2004, and Ord. #43-2, Feb. 2007)

**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) nor more than one hundred dollars (\$100), and each day of continued violation after conviction shall constitute a separate offense. In addition to the foregoing fines and penalties the director of public works, or his designated representative of the City of Elizabethton, shall discontinue the public water supply service at any

premises upon which there is found to be a cross connection, auxiliary intake, bypass, or interconnection, and service shall not be restored until such cross connection, auxiliary intake, bypass, or interconnection, has been discontinued. (1982 Code, § 8-311, as replaced by Ord. #40-9, June 2004, and Ord. #43-2, Feb. 2007)

**18-412. Savings clause.** That, should any part, or parts of this chapter be declared invalid for any reason, no other part, or parts of this chapter shall be affected thereby. (1982 Code, § 8-312, as replaced by Ord. #40-9, June 2004, and Ord. #43-2, Feb. 2007)

**18-413. Conflicting ordinances repealed.** That all ordinances and parts of ordinances in conflict with this chapter shall be hereby repealed. (as added by Ord. #43-2, Feb. 2007)

**18-414. Promulgation of rules by public works director.** The director of public works, or his designated representative, of the City of Elizabethton, Tennessee, is hereby authorized, directed, and empowered to make, declare and promulgate such policy, rules and regulations as is necessary to see to the proper regulation and enforcement of this chapter. (as added by Ord. #43-2, Feb. 2007)

## CHAPTER 5

### STORMWATER DISCHARGE CONTROL

#### SECTION

18-501. Purpose.

18-502. Definitions.

18-503. Illicit discharges.

18-504. Elimination of discharges or connections.

18-505. Notification of spills.

18-506. Enforcement.

**18-501. Purpose.** It is the purpose of this chapter to:

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

(2) Maintain and improve the quality of the receiving waters into which storm water runoff flows, including without limitation, lakes, rivers, streams, ponds, and wetlands.

(3) Enable the City of Elizabethton to comply with the National Pollution Discharge Elimination System permit (NPDES) and applicable regulations, 40 CFR 122.26 for storm water discharges. (as added by Ord. #42-15, Aug. 2006)

**18-502. Definitions.** For the purposes of this chapter, the following definitions shall apply. Words used in the singular shall include the plural, and the plural shall include the singular. Words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive.

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

(2) "City." The City of Elizabethton, Tennessee.

(3) "Containment." Any physical, chemical, biological, or radiological substance or matter in water.

(4) "Director." The public works director of the city or his/her designee, who is responsible for the implementation of the provisions of this chapter.

(5) "Discharge." To dispose, deposit, spill, pour, inject, seep, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means including any direct or indirect entry of any non-storm water solid or liquid matter into the municipal separate storm sewer system.

(6) "Illicit connections." Illegal and/or unauthorized connections to the municipal separate storm water system whether or not such connections result in discharges into that system.

(7) "Municipal Separate Storm Sewer System (MS4)." The conveyances owned or operated by the municipality for the collection and transportation of storm water, including but not limited to, the roads and streets and their drainage systems, catch basins, curbs, gutters, ditches, man-made channels, and storm drains.

(8) "National Pollutant Discharge Elimination System (NPDES) permit." A permit issued pursuant to 33 USC 1342.

(9) "Pollutant." Sewage, industrial wastes, other wastes or materials (liquids or solids).

(10) "Stormwater runoff (also called storm water)." That portion of the precipitation on a drainage area that is discharged from the area into the municipal separate storm sewer system.

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

(12) "TDEC." The Tennessee Department of Environment and Conservation.

(13) "Waters" or "waters of the state." Any and all 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. (as added by Ord. #42-15, Aug. 2006)

**18-503. Illicit discharges.** (1) Applicability. This section shall apply to any discharge entering the municipal separate storm sewer system that is not composed entirely of stormwater.

(2) Prohibition of illicit discharges. (a) No person shall introduce or cause to be introduced into the municipal separate storm system any discharge that is not composed entirely of storm water. The commencement, conduct, or continuance of any non-storm water discharge to the municipal separate storm sewer system is prohibited.

(b) Exceptions. Uncontaminated discharges from the following sources are permitted:

(i) Landscape irrigation or lawn watering with potable water or water from a natural surface water source;

- (ii) Diverted stream flows permitted by the State of Tennessee;
- (iii) Rising ground water;
- (iv) Groundwater infiltration (as defined at 40 CFR 35.2005(20)) to separate storm sewers;
- (v) Pumped groundwater;
- (vi) Foundation or footing drains;
- (vii) Water discharged from crawl space pumps;
- (viii) Air conditioning condensate;
- (ix) Springs;
- (x) Individual noncommercial residential washing of vehicles; or vehicle washing for a charity, non-profit fundraising or similar noncommercial purpose.
- (xi) Flows from natural riparian habitat or wetlands;
- (xii) Swimming pools (if dechlorinated--typically less than one part per million chlorine);
- (xiii) Street wash waters resulting from normal street cleaning operations;
- (xiv) Discharges resulting from emergency fire fighting activities;
- (xv) Discharges pursuant to a valid and effective NPDES permit issued by the State of Tennessee;
- (xvi) Discharges necessary to protect public health and safety, as specified in writing by the city;
- (xvii) Discharges related to de-icing operations;
- (xviii) Dye testing permitted by the city; and
- (xix) Discharges resulting from emergency public utility repair activities for breaks in water and sewer lines, discharges from water line flushing and blow-offs.

(3) Prohibition of illicit connections. (a) The construction, use, maintenance, continued existence of illicit connections to the separate municipal storm sewer system is prohibited.

(b) This prohibition expressly includes, without limitations, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection. (as added by Ord. #42-15, Aug. 2006)

**18-504. Elimination of discharges or connections.** (1) Any person, owner or operator responsible for a property or premises, which is the source of an illicit discharge, shall be required to implement, at the person's expense, the best management practices necessary to prevent the further discharge of pollutants to the municipal separate storm sewer system.

(2) Any person responsible for a property or premises where an illicit connection is located shall be required, at the person's expense, to eliminate the connection to the municipal separate storm sewer system.

(3) Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section. (as added by Ord. #42-15, Aug. 2006)

**18-505. Notification of spills.** (1) Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into storm water and/or the municipal separate storm water system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release.

(2) In the event of a release of hazardous materials, the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. The person shall notify the director in person or by telephone or facsimile no later than the next business day.

(3) In the event of a release of non-hazardous materials, the person shall notify the director in person or by telephone or facsimile no later than the next business day.

(4) Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the director within three (3) business days of the telephone notice.

(5) If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least five (5) years. (as added by Ord. #42-15, Aug. 2006)

**18-506. Enforcement.** (1) Authority. (a) The director shall have the authority to issue notices of violation and citations.

(b) The director may require reports or records from the permittee or person responsible for eliminating the illicit discharge or illicit connection to insure compliance.

(2) Inspections by the city. (a) The director shall have the right to enter onto private properties for the purposes of investigating a suspected violation of this chapter.

(b) The owner/operator of any facility, operation, or residence where an illicit discharge or illicit connection is known or suspected shall allow the director or his/her authorized representative to have access to and copy at reasonable times, any applicable state or federal permits related to the suspected or known discharge or connection, or any reports or records kept as a condition of this chapter.

(c) Failure on the part of an owner or operator to allow such inspections by the director shall be cause for the issuance of a stop work order, withholding of a certificate of occupancy, and/or civil penalties.

(3) Enforcement, penalties and liability. (a) Any person in violation of this chapter shall be subject to a civil penalty, stop work order, withholding of a certificate of occupancy, and civil damages.

(b) In order to gain compliance, the director may notify other city departments to deny service to the property until the site, facility, activity and/or residence has been brought into compliance with this chapter.

(c) Any person who violates any provisions of this chapter may also be liable to the city in a civil action for damages.

(d) The remedies provided for in this chapter are cumulative and not exclusive, and shall be in addition to any other remedies provided by law.

(e) Neither the approval of a discharge under the provisions of this chapter nor compliance with the conditions of such approval shall relieve any person of responsibility for damage to other persons or property or impose any liability upon the city for damage to other persons or property.

(f) The City of Elizabethton, pursuant to Tennessee Code Annotated, § 68-221-1106, hereby declares that any person who violates this chapter is subject to a civil penalty of not less than fifty dollars (\$50.00) or more than five thousand dollars (\$5,000.00) per day for each day of violations. Each day of violation constitutes a separate violation.

(g) In assessing a civil penalty, the following factors may be considered:

(i) The harm done to the public health or the environment;

(ii) Whether or not the civil penalty imposed will be a substantial economic deterrent to the illegal activity;

(iii) The economic benefit gained by the violator from the violation;

(iv) The amount of effort put forth by the violator to remedy this violation;

(v) Any unusual or extraordinary enforcement costs incurred by the City of Elizabethton; and

(vi) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

(h) The City of Elizabethton may also assess damages proximately caused by the violator to the city which may include any reasonable expenses incurred in investigating and enforcing violations of this chapter or any actual damages caused by the violation.

(i) Appeal from any assessment of civil penalty or damages or both shall be to a three-member panel comprising the director, the city attorney, and the city council member who represents the City of Elizabethton Regional Planning Commission. A written petition for review of such damage assessment or civil penalty shall be filed by the aggrieved party in the office of the director within thirty (30) days after the damage assessment or civil penalty is served upon the violator, either personally or by certified mail, or return receipt requested. Failure on part of the violator to file a petition for appeal in the office of the director shall be deemed consent to the damage assessment or civil penalty and shall become final.

(j) Whenever any damage assessment or civil penalty has become final because of a violator's failure to appeal the city's damage assessment or civil penalty, the city may apply to the chancery court for a judgment and seek execution of the same. (as added by Ord. #42-15, Aug. 2006)

## CHAPTER 6

### STORMWATER AND WATER QUALITY ISSUES

#### SECTION

- 18-601. General provisions.
- 18-602. Definitions.
- 18-603. Authority.
- 18-604. Water quality management.
- 18-605. NPDES permits.
- 18-606. Record drawings/design certification.
- 18-607. Inspections and maintenance.
- 18-608. Permit controls and stormwater system integrity.
- 18-609. Severability.
- 18-610. Responsibility
- 18-611. Penalties.

**18-601. General provisions.** (1) Purpose. It is the purpose of this chapter to:

(a) Apply to all areas located within the jurisdiction of the City of Elizabethton, Tennessee.

(b) Protect, maintain, and enhance the environment of the City of Elizabethton and the public health, safety and the general welfare of the citizens of the city, by controlling discharges of pollutants to the public stormwater system, with the intent of maintaining and improving the quality of the receiving waters into which the stormwater outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and groundwater of the city.

(c) Enable the City of Elizabethton to comply with the National Pollutant Discharge Elimination System permit (NPDES) and applicable regulations, 40 CFR 122.26 for stormwater discharges.

(d) Allow the City of Elizabethton to exercise the powers granted in Tennessee Code Annotated, § 68-221-1105, which provides that, among other powers municipalities have with respect to water quality management facilities, they have the power by ordinance or resolution to:

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

(ii) Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute;

(iii) Establish standards to regulate stormwater contaminants as may be necessary to protect water quality;

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

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

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

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

(2) Administration. The city manager and the staff under the city manager's supervision shall administer the provisions of this chapter. (as added by Ord. #42-18, Oct. 2006, and replaced by Ord. #44-5, March 2008)

**18-602. Definitions.** For purposes of this chapter, words used in the singular shall include the plural, and the plural shall include the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

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

(1) "Best Management Practices (BMP or BMPs)" - Schedules of activities, prohibitions of practices, maintenance procedures, water quality management facilities, structural controls and other management practices designed to prevent or reduce the pollution of waters of the United States. Water quality BMPs may include structural devices, such as water quality management facilities, or non-structural practices such as buffers or natural open spaces.

(2) "CFR" - Code of Federal Regulations.

(3) "Channel" - A natural or man-made watercourse of perceptible extent, with definite bed and banks to confine and conduct continuously or periodically flowing water.

(4) "City" - City of Elizabethton, Tennessee

(5) "City manager" - The City Manager of the City of Elizabethton, Tennessee, or their designee.

(6) "Construction" - Any placement, assembly, or installation of facilities or equipment (including contractual obligations to purchase such facilities or equipment) at the premises where such equipment will be used, including preparation work at such premises.

(7) "Covenants for permanent maintenance of water quality facilities and best management practices" - A legal document executed by the property owner, or a homeowners' association as owner of record, and recorded with the

Register of Deeds in Carter County, Tennessee, which guarantees perpetual and proper maintenance of water quality management facilities and best management practices.

(8) "Development" - Any land change that alters the hydrologic or hydraulic conditions of any property. Often referred to as "site development." Development includes, but is not limited to, providing access to a site, clearing of vegetation, grading, earth moving, providing utilities, roads and other services such as parking facilities, water quality management facilities and erosion control systems, potable water and wastewater systems, altering land forms, or construction or demolition of a structure on the land.

(9) "Development plan" - Detailed engineered/architectural drawing(s) of a commercial, industrial, institutional or residential development project, showing existing site conditions and proposed improvements with sufficient detail (e.g. technical reports, specifications, survey) for city review, approval, and then subsequent construction. The contents of a development plan are further defined by the Elizabethton Regional Planning Commission, the city zoning ordinance, subdivision regulations, building code and other city departmental standards for constructing developments and public works projects.

(10) "Existing stormwater facility" - Any existing structural feature that slows, treats, filters, or infiltrates runoff after a rainfall event.

(11) "Hotspot" - An area where the land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.

(12) "Lake" - An inland body of standing water, usually of considerable size.

(13) "NPDES" - National Pollutant Discharge Elimination System. NPDES is the program administered by the United States Environmental Protection Agency to eliminate or reduce pollutant discharges to the waters of the United States.

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

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

(16) "Pond" - An inland body of standing water that is usually smaller than a lake.

(17) "Redevelopment" - The improvement of a lot or lots that have been previously developed.

(18) "Sediment" - Solid material, either mineral or organic, that is in suspension, is being transported, or has been moved from its site of origin by erosion.

(19) "Stormwater" - Also "stormwater runoff" or "runoff". Surface water resulting from rain, snow or other form of precipitation, which is not absorbed into the soil and results in surface water flow and drainage.

(20) "Stream" - For the specific purpose of vegetated buffers, a stream is defined as a linear surface water conveyance that can be characterized with either perennial or ephemeral base flow and:

(a) Is regulated by the city as a Special Flood Hazard Area (SFHA); or

(b) Is, or has been, identified by the city, the United States Army Corps of Engineers or the Tennessee Department of Environment and Conservation as a stream.

(21) "Structure" - Anything constructed or erected such that the use of it requires a more or less permanent location on or in the ground. Such construction includes, but is not limited to, objects such as buildings, towers, smokestacks, overhead transmission lines, carports and walls.

(22) "TMDL" - Total Maximum Daily Load. A TMDL is a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards, and an allocation of that amount to the source(s) of the pollutant.

(23) "Transporting" - Any moving of earth materials from one place to another, other than such movement incidental to grading, as authorized on an approved plan.

(24) "Vegetated buffer" - A use-restricted vegetated area that is located along the perimeter of streams, ponds, lakes or wetlands, containing natural vegetation and grasses, or enhanced or restored vegetation.

(25) "Water quality BMP manual" - A document prepared and maintained by the city which contains policies, design standards and criteria, technical specifications and guidelines, maintenance guidelines, and other supporting documentation to be used as the policies and technical guidance for implementation of the provisions of this chapter.

(26) "Water quality management facilities" - Structures and constructed features designed to prevent or reduce the discharge of pollution in stormwater runoff from a development or redevelopment. Water quality management facilities can often be referred to as BMPs.

(27) "Water quality management plan" - An engineering plan for the design of water quality management facilities and best management practices within a proposed development or redevelopment. The water quality management plan includes a map showing the extent of the land development activity and location of water quality management facilities and BMPs, design calculations for water quality management facilities and BMPs, and may contain record drawings/certifications and covenants for permanent maintenance of water quality facilities and best management practices.

(28) "Water quality volume reduction" - A decrease in the water quality volume for one (1) or more areas of a proposed development which is obtained

only for specific site development features or approaches that can reduce or eliminate the discharge of pollutants in stormwater runoff. Water quality volume reductions can only be obtained when specific guidelines presented in the water quality BMP manual are met.

(29) "Water quality volume reduction areas" - Areas with the proposed development or redevelopment for which a water quality volume reduction can be obtained.

(30) "Wetland" - An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetland determination shall be made by the United States Army Corps of Engineers, and/or the Tennessee Department of Environment and Conservation, and/or the Natural Resources Conservation Service. (as added by Ord. #42-18, Oct. 2006, and replaced by Ord. #44-5, March 2008)

**18-603. Authority.** (1) The city manager is authorized to adopt additional policies, criteria, specifications and standards for the proper implementation of the requirements of this chapter in a water quality BMP manual. The policies, criteria and requirements of the water quality BMP manual shall be enforceable, consistent with other provisions of this chapter.

(2) The city manager shall have the authority to prepare, or have prepared, master plans for drainage basins and to establish regulations, or direct capital improvements to carry out said master plans.

(3) In the event that the city manager determines that a violation of any provision of this chapter has occurred, or that work does not have a required plan or permit, or that work does not comply with an approved plan or permit, the city manager may issue a notice of violation to the permittee or property owner and/or any other person or entity having responsibility for construction work performed at a site development. (as added by Ord. #42-18, Oct. 2006, and replaced by Ord. #44-5, March 2008)

**18-604. Water quality management.** (1) General requirements.

(a) Owners of land development activities not exempted under § 18-604(3) herein must submit a water quality management plan. The water quality management plan shall be submitted as part of the development plan.

(b) The water quality management plan shall include the specific required elements that are listed and/or described in the water quality BMP manual. The city manager may require submittal of additional information in the water quality management plan as necessary to allow an adequate review of the existing or proposed site conditions.

(c) The water quality management plan shall be subject to any additional requirements set forth in the subdivision regulations, zoning ordinances, or other city ordinances and regulations.

(d) Water quality management plans shall be prepared and stamped by an engineer, landscape architect, or architect competent in civil and site design and licensed to practice in the State of Tennessee. Portions of the plan that require hydraulic or hydrologic calculations and design shall be prepared and stamped by a licensed professional competent in civil and site design and licensed to practice in the State of Tennessee.

(e) The approved water quality management plan shall be adhered to during grading and construction activities. Under no circumstance is the owner or operator of land development activities allowed to deviate from the approved water quality management plan without prior approval of a plan amendment by the city manager.

(f) The approved water quality management plan shall be amended if the proposed site conditions change after plan approval is obtained, or if it is determined by the city manager during the course of grading or construction that the approved plan is inadequate.

(g) The water quality management plan shall include a listing of any legally protected state or federally listed threatened or endangered species and/or critical habitat (if applicable) located in the area of land disturbing activities, and a description of the measures that will be used to protect them during and after grading and construction.

(h) Water quality management facilities, BMPs, vegetated buffers and water quality volume reduction areas shown in water quality management plans shall be maintained through the declaration of a protective covenant, entitled covenants for permanent maintenance of water quality facilities and best management practices (covenant). The covenants must be approved and shall be enforceable by the city. The covenant shall be recorded with the deed and shall run with the land and continue in perpetuity.

(i) Water quality management facilities, BMPs, vegetated buffers and water quality volume reduction areas shall be placed into a permanent water quality easement that is recorded with the deed to the parcel and held by the city.

(j) A maintenance right-of-way or easement, having a minimum width of twenty (20) feet shall be provided to all water quality management facilities, BMPs, vegetated buffers and water quality volume reduction areas from a driveway, public road or private road.

(k) Owners of land development activities not exempted from submitting a water quality management plan may be subject to additional watershed or site-specific requirements than those stated in § 18-604(2) of this chapter in order to satisfy local or state NPDES, TMDL

or other regulatory water quality requirements. Areas subject to additional requirements may also include developments, redevelopments or land uses that are considered pollutant hotspots or areas where the city manager has determined that additional restrictions are needed to limit adverse impacts of the proposed development on water quality or channel protection.

(l) The city manager may waive or modify any of the requirements of § 18-604(4) of this chapter if adequate water quality treatment and channel protection are suitably provided by a downstream or shared offsite water quality management facility, or if engineering studies determine that installing the required water quality management facilities or BMPs would actually cause adverse impact to water quality or cause increased channel erosion or downstream flooding.

(m) This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, deed restrictions, or existing ordinances and regulations. However, where the provisions of this chapter and another regulation conflict or overlap, that provision which is more restrictive or imposes higher standards or requirements shall prevail. It is required that the city manager be advised of any such regulatory conflicts upon submittal of the water quality management plan.

(2) Design criteria. (a) All developments or redevelopments that must submit a water quality management plan shall provide treatment of stormwater runoff in accordance with the following requirements:

(i) Stormwater runoff site must be treated for water quality prior to discharge from the development or redevelopment site in accordance with the stormwater treatment standards and criteria provided in the water quality BMP manual.

(ii) The treatment of stormwater runoff shall be achieved through the use of one (1) or more water quality management facilities and/or BMPs that are designed and constructed in accordance with the design criteria, guidance, and specifications provided in the water quality BMP manual.

(iii) Methods, designs or technologies for water quality management facilities or BMPs that are not provided in the water quality BMP manual may be submitted for approval by the city manager if it is proven that such methods, designs or technologies will meet or exceed the stormwater treatment standards set forth in the water quality BMP manual and this chapter. Proof of such methods, designs, or technologies must meet the minimum testing criteria set forth in the water quality BMP manual.

(iv) BMPs shall not be installed within public rights-of-way or on public property without prior approval of the city manager.

(b) All owners of developments or redevelopments who are required to submit a water quality management plan shall provide downstream channel erosion protection in accordance with design criteria stated in the water quality BMP manual. Downstream channel erosion protection can be provided by an alternative approach in lieu of controlling the channel protection volume subject to prior approval by the city manager. Sufficient hydrologic and hydraulic analysis that shows that the alternative approach will offer adequate channel protection from erosion must be presented in the water quality management plan.

(c) All developments or redevelopments that must submit a water quality management plan shall establish, protect and maintain a vegetated buffer in accordance with the policies, criteria and guidance set forth in the water quality BMP manual along all streams, ponds, lakes and wetlands. Exemptions from this requirement are as follows:

(i) Vegetated buffers are not required around the perimeter of ponds that have no known connection to streams, other ponds, lakes or wetlands.

(ii) Vegetated buffers are not required around water quality management facilities or BMPs that are designed, constructed and maintained for the purposes of water quality and/or quantity (i.e., stormwater drainage) control, unless expressly required by the design standards and criteria for the facility that are provided in the water quality BMP manual.

(d) In addition to the above requirements, all owners of developments or redevelopments that must submit a water quality management plan shall:

(i) Provide erosion prevention and sediment control in accordance with the ordinances and regulations of the city;

(ii) Control stormwater drainage and provide peak discharge/volume control in accordance with the ordinances and regulations of the city;

(iii) Adhere to all local floodplain development requirements in accordance with the ordinances and regulations of the city.

(3) Exemptions. (a) Owners of developments and redevelopments who conform to the criteria in § 18-604(3)(c) are exempt from the requirements of this chapter, unless the city manager has determined that treatment of stormwater runoff for water quality is needed in order to satisfy local or state NPDES, TMDL or other regulatory water quality requirements, or the proposed development will be a pollutant hotspot, or to limit adverse water quality or channel protection impacts of the proposed development.

(b) The exemptions listed in § 18-604(3)(c) shall not be construed as exempting these owners of developments and

redevelopments from compliance with stormwater requirements stated in the subdivision regulations, zoning ordinance, or other city ordinances and regulations.

(c) The following developments and redevelopments are exempt from the requirements for a water quality management plan:

(i) Developments or redevelopments that disturb less than one (1) acre of land. No exemption is granted if the development or redevelopment is part of a larger common plan of development or sale that would disturb one (1) acre or more, and the stormwater runoff from the development or redevelopment is not treated for water quality via a downstream or regional water quality management facility or BMP that meets the requirements of this chapter;

(ii) Minor land disturbing activities such as residential gardens and residential or non-residential repairs, landscaping, or maintenance work;

(iii) Individual utility service connections, unless such activity is carried out in conjunction with the clearing, grading, excavating, transporting, or filling of a lot or lots for which a water quality management plan would otherwise be required;

(iv) Installation, maintenance or repair of individual septic tank lines or drainage fields, unless such activity is carried out in conjunction with the clearing, grading, excavating, transporting, or filling of a lot or lots for which a water quality management plan would otherwise be required;

(v) Installation of posts or poles;

(vi) Farming activities;

(vii) Emergency work to protect life, limb or property, and emergency repairs.

(4) Performance bonds. (a) A performance bond which guarantees satisfactory completion of construction work related to water quality management facilities, channel protection, and/or the establishment of vegetated buffers may be required.

(b) Performance bonds shall name the City of Elizabethton, Tennessee, as beneficiary and shall be guaranteed in the form of a surety bond, cashier's check, or letter of credit from an approved financial institution or insurance carrier. The surety bond, cashier's check, or letter of credit shall be provided in a form and in an amount to be determined by the city manager. The actual amount shall be based on submission of plans and estimated construction, installation or potential maintenance and/or remediation expenses.

(c) The city manager may refuse brokers or financial institutions the right to provide a surety bond, letter of credit, or cashier's

check based on past performance, ratings of the financial institution, or other appropriate sources of reference information.

(5) Special pollution abatement requirements. (a) A special pollution abatement plan shall be required for the following land uses, which are considered pollutant hotspots:

(i) Vehicle, truck or equipment maintenance, fueling, washing or storage areas including but not limited to: automotive dealerships, automotive repair shops, and car wash facilities;

(ii) Recycling and/or salvage yard facilities;

(iii) Restaurants, grocery stores, and other food service facilities;

(iv) Commercial facilities with outside animal housing areas including animal shelters, fish hatcheries, kennels, livestock stables, veterinary clinics, or zoos;

(v) Developments or redevelopments occupying potentially hazardous locations as follows;

(A) Any site on a list, register, or database compiled by the United States Environmental Protection Agency (EPA), the State of Tennessee Department Environment and Conservation (TDEC), or the city, for investigation, clean up, or other action regarding contaminants under any federal or state environmental law shall be a potentially hazardous location under this subsection. When the EPA or TDEC removes the site from the list, register or database, or when the owner otherwise establishes that contaminants do not pose a present or potential threat to human health or the environment, the site will no longer be considered a potentially hazardous location.

(B) The following properties may also be designated by the city manager as potentially hazardous locations:

(1) Existing and abandoned solid waste disposal sites;

(2) Hazardous waste treatment, storage, or disposal facilities, all as defined by the Federal Solid Waste Disposal Act, 42 USC 6901, et seq.

(3) Sites in which historical knowledge of land use or known past land use activity on the site requires designation as a potentially hazardous location. When the owner provides evidence satisfactory to the city manager that contaminants do not pose a present or potential threat to human

health or the environment, the site will no longer be considered a potentially hazardous location.

(vi) Other producers of pollutants identified by the city manager as a pollutant hotspot using information provided to or collected by the city manager or their authorized representatives, or reasonably deduced or estimated by the city manager or their authorized representatives from engineering or scientific study.

(b) A special pollution abatement plan may be required for land uses or activities that are not identified by this chapter as hotspot land uses, but are deemed by the city manager to have the potential to generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in storm water.

(c) The special pollution abatement plan shall be submitted as part of the water quality management plan, and the BMPs submitted on the plan shall be subject to all other provisions of this chapter. Technical requirements for the plan shall be based on the provisions and guidelines set forth in the water quality BMP manual.

(d) Best management practices specified in the special pollution abatement plan must be appropriate for the pollutants targeted at the site and must be approved with the water quality management plan.

(e) A special pollution abatement plan will be valid for a period of five (5) years, at which point it must be renewed. At the time of renewal, any deficiency in the pollutant management method must be corrected. (as added by Ord. #42-18, Oct. 2006, and replaced by Ord. #44-5, March 2008)

**18-605. NPDES permits.** Persons or entities who hold NPDES general, individual and/or multi-sector permits shall provide either a copy of such permit or the permit number assigned to them by the Tennessee Department of Environment and Conservation (TDEC) to the city manager no later than sixty (60) calendar days after issuance of the permit. (as added by Ord. #42-18, Oct. 2006, as replaced by Ord. #44-5, March 2008)

**18-606. Record drawings/design certification.** (1) Prior to the release of a bond, or before a certificate of occupancy is granted, record drawings shall be provided to the city manager, certifying that all water quality management facilities and BMPs comply with the design shown on the approved water quality management plan(s). Features such as the boundaries of vegetated buffers and water quality volume reduction areas shall be provided to verify approved plans. Other contents of the record drawings must be provided in accordance with guidance provided in the water quality BMP manual.

(2) Record drawings shall include sufficient design information to show that water quality management facilities required by this chapter will operate

as approved. This shall include all necessary computations used to determine percent pollutant removal and the flow rates and treatment volumes required to size water quality management facilities and BMPs.

(3) The record drawings shall be stamped by the appropriate design professional required to stamp the water quality management plan, as stated in § 18-604(1) of this chapter, and/or a registered land surveyor licensed to practice in the State of Tennessee. (as added by Ord. #42-18, Oct. 2006, and replaced by Ord. #44-5, March 2008)

**18-607. Inspections and maintenance.** (1) Right of entry.

(a) During and after construction, the city manager may enter upon any property which has a water quality management facility, BMP, vegetated buffer or water quality volume reduction area during all reasonable hours to inspect for compliance with the provisions of this chapter, or to request or perform corrective actions.

(b) Failure of a property owner to allow such entry onto a property for the purposes set forth in § 18-607(1)(a) above shall be cause for the issuance of a stop work order, withholding of a certificate of occupancy, and/or civil penalties and/or damage assessments in accordance with § 18-611 of this chapter.

(2) Requirements. (a) The owner(s) of existing stormwater facilities, water quality management facilities, BMPs, vegetated buffers and water quality volume reduction areas shall at all times inspect and properly operate and maintain all facilities and systems of water quality treatment and drainage control (and related appurtenances), and all vegetated buffers and water quality volume reduction areas in such a manner as to maintain the full function of the facilities or best management practices which are installed or used by the property owner(s) to achieve compliance with this chapter.

(b) Inspection and maintenance of privately-owned facilities, including existing stormwater facilities, water quality management facilities, best management practices, vegetated buffers and water quality volume reduction areas shall be performed at the sole cost and expense of the owner(s) of such facilities/areas.

(c) Inspections and maintenance shall be performed in accordance with specific requirements and guidance provided in the water quality BMP manual. Inspection and maintenance activities shall be documented by the property owner (or their designee), and such documentation shall be maintained by the property owner for a minimum of three (3) years, and shall be made available for review by the city manager upon request.

(d) The city manager has the authority to impose more stringent inspection requirements as necessary for purposes of water quality protection and public safety.

(e) Prior to the release of the performance bond, or before a certificate of occupancy is granted, the property owner shall provide the city with an accurate record drawing of the property and an executed protective covenant for all BMPs, vegetated buffers, and areas that receive water quality volume reductions. The property owner shall record these items in the Office of the Register of Deeds for Carter County, Tennessee. The location of the best management practices, water quality management facilities, vegetated buffers and water quality volume reduction areas, and the water quality easements associated with these facilities/areas, shall be shown on a plat that is also recorded in the Office of the Register of Deeds for Carter County, Tennessee.

(f) The removal of sediment and/or other debris from existing stormwater facilities, water quality management facilities and best management practices shall be performed in accordance with all city, state, and federal laws. Guidelines for sediment removal and disposal are referenced in the water quality BMP manual. The city manager may stipulate additional guidelines if deemed necessary for public safety.

(g) The city manager may order corrective actions to best management practices, existing stormwater facilities, water quality management facilities, vegetated buffer areas and/or water quality volume reduction areas as are necessary to properly maintain the facilities/areas within the city for the purposes of water quality treatment, channel erosion protection, adherence to local performance standards, and/or public safety. If the property owner(s) fails to perform corrective action(s), the city manager shall have the authority to order the corrective action(s) to be performed by the city or others. In such cases where a performance bond exists, the city shall utilize the bond to perform the corrective actions. In such cases where a performance bond does not exist, the property owner shall reimburse the city for double its direct and related expenses. If the property owner fails to reimburse the city, it is authorized to file a lien for said costs against the property and to enforce the lien by judicial foreclosure proceedings.

(h) This chapter does not authorize access to adjoining private property by the property owner or site operator. Arrangements concerning the removal of sediment or pollutants on adjoining property must be settled by the owner or operator with the adjoining landowner. (as added by Ord. #42-18, Oct. 2006, and replaced by Ord. #44-5, March 2008)

**18-608. Permit controls and stormwater system integrity.** (1) Any alteration, improvement, or disturbance to water quality management facilities, vegetated buffers or water quality volume reduction areas shown in certified record drawings shall be prohibited without authorization from the city manager. This does not include alterations that must be made in order to

maintain the intended performance of the water quality management facilities or BMPs.

(2) Other state and/or federal permits that may be necessary for construction in and around streams and/or wetlands shall be approved through the appropriate lead regulatory agency prior to submittal of a water quality management plan to the city. (as added by Ord. #42-18, Oct. 2006, and replaced by Ord. #44-5, March 2008)

**18-609. Severability.** (1) Each separate provision of this chapter is deemed independent of all other provisions herein so that if any provision or provisions of this chapter shall be declared invalid, all other provisions thereof shall remain enforceable.

(2) If any provisions of this chapter and any other provisions of law impose overlapping or contradictory regulations, or contain any restrictions covering any of the same subject matter, that provision which is more restrictive or imposes higher standards or requirements shall govern. (as added by Ord. #42-18, Oct. 2006, and replaced by Ord. #44-5, March 2008)

**18-610. Responsibility.** This chapter does not imply a warranty or the assumption of responsibility on the part of the city for the suitability, fitness or safety of any structure with respect to flooding, water quality, or structural integrity. This chapter is a regulatory instrument only and is not to be interpreted as an undertaking by the city to design any structure or facility. (as added by Ord. #42-18, Oct. 2006, and replaced by Ord. #44-5, March 2008)

**18-611. Penalties.** (1) Violations of this chapter shall be cause for the requirement for corrective action(s), the issuance of a stop work order, withholding of a permit, withholding of permit inspections, withholding of a certificate of occupancy, and/or civil penalties and/or damage assessments as set forth below.

(2) Any person who violates the provisions of this chapter shall be subject to a civil penalty of not less than fifty dollars (\$50.00) or more than five thousand dollars (\$5,000.00) per day for each day of each violation. Each day of violation may constitute a separate violation. The city shall give the alleged violator reasonable notice of the assessment of any civil penalty. The city may also recover all damages proximately caused to the city by such violations.

(3) In assessing a civil penalty, the following factors may be considered:

- (a) The harm done to the public health or the environment;
- (b) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;
- (c) The economic benefit gained by the violator;
- (d) The amount of effort put forth by the violator to remedy this violation;

(e) Any unusual or extraordinary enforcement costs incurred by the city;

(f) The amount of penalty established by ordinance or resolution for specific categories of violations; and

(g) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

(4) In addition to the civil penalty in subsection (2) above, the city may also assess damages proximately caused by the violator to the city which may include any reasonable expenses incurred in investigating and enforcing violations of this part, or any other actual damages caused by the violation.

(5) Notice of damage assessment and civil penalty shall be served upon the alleged violator by personal delivery or certified mail, return receipt requested. Service by mail shall be deemed complete upon mailing. If the alleged violator is dissatisfied, the alleged violator may appeal said civil penalty or damage assessment.

Appeal from any assessment of civil penalty or damages or both, shall be to a five member panel comprised of the public works director or designee, the director of planning and development or designee, the city attorney, the city manager or designee, and a city council member who represents the city on the Elizabethton Regional Planning Commission.

Said appeal must be received by the city manager's office within thirty (30) days after service of the notice of damage assessment and civil penalty. The appeal shall be heard by the panel within thirty (30) days of receipt of this appeal. The panel may continue the hearing and allow continuances to either the city or the alleged violator for good cause shown. If a timely appeal of the damage assessment or civil penalty is not filed with the city manager's office, the violator shall be deemed to have consented to the damage assessment or civil penalty and it shall become final. If the alleged violator files a timely appeal with the city manager's office and the violator is dissatisfied with the decision of the panel, the alleged violator may appeal the decision of the panel pursuant to the provisions of Tennessee Code Annotated, title 27, chapter 8.

(6) Whenever any damage assessment or civil penalty has become final because of a person's failure to appeal the damage assessment or civil penalty, the city may apply to the appropriate chancery court for a judgment and seek execution of such judgment. The court, in such proceedings, shall treat the failure to appeal such damage assessment or civil penalty as a confession of judgment. (as added by Ord. #44-5, March 2008)