

## TITLE 18

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

#### CHAPTER

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#### CHAPTER 1

### MISCELLANEOUS

#### SECTION

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**18-101. Definitions.** For the purpose of this chapter:

(1) "Biochemical oxygen demand (BOD)" shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard

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#### <sup>1</sup>Charter references

City bonds: art XV.

Collection of special assessments by chancery proceedings: § 56.

Collection of special assessments: § 65.

Departments: art XVIII.

Public utilities: § 7.12, et seq.

Sanitation charged against abutting property: § 7.18.

Sewers: § 7.19, et seq.

#### State law references

Revenue bonds: Tennessee Code Annotated, § 7-34-101, et seq.

Sewers and waterworks: Tennessee Code Annotated, title 7, ch. 35.

laboratory procedures, five (5) days; twenty (20) degrees Celsius expressed in terms of concentration (milligrams per liter (mg/l)).

(2) "Human excreta" shall mean the bowel and kidney discharges of human beings.

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

(4) "Wastewater" shall mean the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with such ground, surface or storm water as may be present, whether treated or untreated, which is contributed into or permitted to enter the publicly owned treatment works. (1985 Code, § 19-1)

**18-102. Sewage disposal--generally.** (1) Every residence, building or place where human beings reside, assemble or are employed, within the police jurisdiction of the city, shall have a sanitary method of disposal of sewage and human excreta as required by this chapter.

(2) No sewage or human excreta shall be thrown out, deposited, burned or otherwise disposed of except by a sanitary method of disposal as specified in this chapter. (1985 Code, § 19-2)

**18-103. Sewage disposal--duty of owner.** It shall be the duty of the owner of any property upon which facilities for sanitary human excreta disposal are required by § 18-102 to provide such facilities. (1985 Code, § 19-3)

**18-104. Sewage disposal--duty of occupant.** It shall be the duty of the occupant, tenant, lessee or other person in charge to maintain the facilities for human excreta disposal in a clean and sanitary condition at all times, and no refuse or other material which may unduly fill up, clog or otherwise interfere with the operation of such facilities shall be deposited therein. (1985 Code, § 19-4)

**18-105. Toilets.** On any lot or premises provided with a connection to the sewer, no method of human excreta disposal other than flush toilets shall be employed. (1985 Code, § 19-5)

**18-106. Inspections; correction of deficiencies.** (1) It shall be the duty of the health officer to make an inspection of the methods of disposal of sewage and human excreta. Written or verbal notification of any violation of this chapter shall be given by the health officer to the person responsible hereunder for the correction of the conditions, and correction shall be made within ten (10) days after notification. If the health officer shall advise any person that the disposal of sewage and human excreta made by such person constitutes an immediate and serious menace to health, such person shall at

once take steps to remove the menace and failure to remove such menace immediately shall be punishable as provided in § 1-104 of this code; but such person shall be allowed the number of days provided in this section within which to make permanent correction.

(2) If the provisions of this chapter have not been complied with within ten (10) days following the date of notification of the violation, the city shall have the right to make or have made such changes or corrections as are deemed necessary by the health officer to meet the requirements of this chapter. The cost of changes and corrections necessary to meet the provisions of this chapter shall be charged as may be appropriate in each case. (1985 Code, § 19-6)

**18-107. Carnivals, circuses, etc.** Whenever carnivals, circuses and other transient groups of persons come within the city, such groups shall provide a sanitary method for disposal of sewage and human excreta. Such group shall make all reasonable changes and corrections proposed by the health officer. The notice required in § 18-106 shall not apply to this section. (1985 Code, § 19-7)

## CHAPTER 2

### WASTEWATER SYSTEM

#### SECTION

- 18-201. Operating agency.
- 18-202. Operating authority.
- 18-203. Costs of operating and maintenance.
- 18-204. Connection with sewer required.
- 18-205. Tapping fees.
- 18-206. Permits and inspection fees.
- 18-207. Use of existing systems.
- 18-208. Determination of costs.
- 18-209. Classification of users.
- 18-210. Computation of costs.
- 18-211. Frequency of analysis.
- 18-212. Disputed analysis; regauging and sampling of wastes.
- 18-213. Monthly rates.
- 18-214. Monthly bills.
- 18-215. Water and sewer bills combined.
- 18-216. Discontinuance of service upon failure to pay bills, etc.
- 18-217. Service charges.
- 18-218. Other charges.

**18-201. Operating agency.** That the operating body for the Brush Creek, Knob Creek and Regional Wastewater System shall be the Water/Sewer Department of the City of Johnson City. (Ord. #4051-04, Oct. 2004, as replaced by Ord. #4453-12, June 2012, and Ord. #4663-18, July 2018 *Ch11\_4-4-19*)

**18-202. Operating authority.** The Water/Sewer Department of Johnson City shall have charge of the management, operation and maintenance of all aspects of the Brush Creek, Knob Creek and Regional Wastewater Systems and all wastewater properties, including all future improvements and extensions and including all real and personal property of every nature comprising part of or used or useful in connection with such system and including all appurtenances, contracts, leases, franchises, and other intangibles. (Ord. #4051-04, Oct. 2004, as replaced by Ord. #4453-12, June 2012, and Ord. #4663-18, July 2018 *Ch11\_4-4-19*)

**18-203. Costs of operating and maintenance.** All costs of operation, maintenance, administration and debt services shall be paid from the revenues to be derived from such system. (Ord. #4051-04, Oct. 2004, as replaced by Ord. #4453-12, June 2012, and Ord. #4663-18, July 2018 *Ch11\_4-4-19*)

**18-204. Connection with sewer required.** Each owner, tenant or occupant of any lot or parcel of land within the Brush Creek, Knob Creek and Regional Wastewater Systems, which lot or parcel abuts upon a street or other public way containing a sanitary sewer or is within two hundred feet (200') of a sanitary sewer, and upon which lot or parcel a building is situated for residential, commercial or industrial use, is hereby required to connect such building with such sanitary sewer and to cease to use any other means for the disposal of sewage waste or polluting matter, and all cesspools, pits and privies on such property shall be a nuisance and shall be abated. Failure to comply with this section shall subject such owner, tenant or occupant to a fine of not exceeding fifty dollars (\$50.00) for each thirty (30) day period from written notice of the availability of such sewer service said owner, tenant or occupant, given by certified mail by the chief department head of the operating authority. (Ord. #4051-04, Oct. 2004, as replaced by Ord. #4453-12, June 2012, and Ord. #4663-18, July 2018 *Ch11\_4-4-19*)

**18-205. Tapping fees.** Each person desiring to tap or connect with the Brush Creek, Knob Creek and Regional Wastewater System of the city, shall first obtain a permit therefore from the city and pay in cash to the city a tap or connection fee as hereinafter provided for each tap or connection prior to the time of the issuance of the permit in accordance with the schedule which follows effective July 1, 2012:

#### TAPPING FEES

		Inside Corporate Limits	Outside Corporate Limits
(1)	Single Family Residence	\$1,550.00	\$3,100.00
(2)	Small Commercial Users (i.e. service stations, office buildings, other non-residential users, etc.) of less than 10,000 square feet	\$1,550.00	\$3,100.00
(3)	Car Wash	\$1,550.00 first bay \$900.00 each additional bay	\$3,100.00 first bay \$1,800.00 each additional bay

(4)	Apartments, Condominiums, Multi-Unit Family Complexes, etc., per unit; Trailer Courts, trailer or unit	\$1,550.00 for the first unit \$900.00 for the next (50) units plus \$550.00 for each additional unit	\$3,100.00 for the first unit \$1,800.00 for the next (50) units plus \$1,100.00 for each additional unit
(5)	Factories, Shopping Centers, Schools, Warehouses, Parking Garages	\$1,550.00 for the first 10,000 sq. ft. of floor space plus \$900.00 for each additional 10,000 sq. ft. of floor space	\$3,100.00 for the first 10,000 sq. ft. of floor space plus \$1,800.00 for each additional 10,000 sq. ft. of floor space
(6)	Motels, Hotels, Hospitals, Nursing Homes, Dormitories		
	(a) Each Rental unit/room with no in-room kitchen facilities	\$1,550.00 for first unit \$550.00 for each additional unit	\$3,100.00 for first unit \$1,100.00 for each additional unit
(7)	Rental Housing with private bathroom facilities per bedroom	\$1,550.00 for first rental space \$550.00 for each additional rental space	\$3,100.00 for first rental space \$1,100.00 for each additional rental space

(8)	Additional existing units on same lot or parcel of land with existing residence and connected to the same sewer tap	\$1,550.00	\$3,100.00
(9)	New residences located in areas developed under the regulations governing the subdivision of land of the Johnson City Regional Planning Commission in which adequate and proper sewer lines constructed in conformity with applicable statutes of the State of Tennessee and Ordinances of the City pertaining to sanitation have been constructed as a part of private subdivision development	\$1,050.00	\$2,100.00
(10)	On-Site Residential Pumping System		
	(a) Standard On-Site Residential Pump	\$3,500.00	\$7,000.00
	(b) Extra Volume Storage Pump	\$4,900.00	\$9,800.00

BOONES CREEK DRAINAGE BASIN TAPPING FEES

		Inside Corporate Limits	Outside Corporate Limits
		_____	_____
(1)	Single Family Residence	\$2,745.00	\$ 5,490.00
(2)	Small Commercial Users (i.e. service stations, office buildings, other non-residential users, etc.) of less than 10,000 square feet	\$2,745.00	\$5,490.00

(3)	Car Wash	\$2,745.00 first bay \$1,610.00 for each additional bay	\$5,490.00 first bay \$3,220.00 for each additional bay
(4)	Apartments, Condominiums, Multi-Unit Family Complexes, etc., per unit; Trailer Courts, trailer or unit	\$2,745.00 for the first unit \$1,610.00 for the next (50) units plus \$850.00 for each additional unit	\$5,490.00 for the first unit \$3,220.00 for the next (50) units plus \$1,700.00 for each additional unit
(5)	Factories, Shopping Centers, Schools, Warehouses, Parking Garages	\$2,745.00 for the first 10,000 sq. ft. of floor space plus \$1,610.00 for each additional 10,000 sq. ft. of floor space	\$5,490.00 for the first 10,000 sq. ft. of floor space plus \$3,220.00 for each additional 10,000 sq. ft. of floor space
(6)	Motels, Hotels, Hospitals, Nursing Homes, Dormitories		
	(a) Each Rental unit/room with no in-room kitchen facilities	\$2,745.00 for first unit \$1,000.00 for each additional unit	\$5,490.00 for first unit \$2,000.00 for each additional unit

(7)	Rental Housing with private bathroom facilities per bathroom	\$2,745.00 for first rental space \$1,000.00 for each additional rental space	\$5,490.00 for first rental space \$2,000.00 for each additional rental space
(8)	Additional existing units on same lot or parcel of land with existing residence and connected to the same sewer tap	\$2,745.00	\$5,490.00
(9)	New residences located in areas developed under the regulations governing the subdivision of land of governing the subdivision of land of the Johnson City Regional Planning Commission in which adequate and proper sewer lines constructed in conformity with applicable statutes of the State of Tennessee and Ordinances of the City pertaining to sanitation have been constructed as a part of private subdivision development	\$2,745.00	\$5,490.00
(10)	On-Site Residential Pumping System  (Requires evaluation and written approval)		
	(a) Standard On-Site Residential Pump	\$3,920.00	\$7,840.00
	(b) Extra Volume Storage Pump	\$5,420.00	\$10,840.00

Where multiple categories apply, the water/sewer department director or designee shall calculate the appropriate tap fee and provide the calculation in writing. (Ord. #4051-04, Oct. 2004, as replaced by Ord. #4453-12, June 2012, and Ord. #4663-18, July 2018 *Ch11\_4-4-19*)

**18-206. Permits and inspection fees.** Any facility requiring sewer service outside the corporate limits of the City of Johnson City shall obtain a

permit issued by the city and shall also have an inspection conducted by the city. The permit and inspection fee shall be twenty-five dollars (\$25.00) for sewer connections categorized under § 18-205 of this chapter as: (1), (2), (3), (8), and (9). The permit and inspection fee shall be seventy-five dollars (\$75.00) for sewer connections categorized under § 18-205 of this ordinance as: (4), (5), (6), (7), and (10). The permit and inspection fee shall be paid to the city at the time the application for service is filed. Permit fees shall cover the costs of inspecting new and/or existing plumbing within subject building establishments as well as inspection of building sewers, property sewers, and sewer service lines and connections to public sewers. (Ord. #4051-04, Oct. 2004, as replaced by Ord. #4453-12, June 2012, and Ord. #4663-18, July 2018 *Ch11\_4-4-19*)

**18-207. Use of existing systems.** All cesspools, privies, privy vaults and septic tank systems in use in the Brush Creek, Knob Creek and Regional Wastewater Systems may continue to be used, if kept in a proper and sanitary condition, until such time as a sewer shall be constructed in a street or alley abutting or adjacent to or within two hundred feet (200') of the property on which the same may be located, so that such property may obtain the use of and be connected with such sewer when the same shall be connected therewith as provided in § 18-204. (Ord. #4051-04, Oct. 2004, as replaced by Ord. #4453-12, June 2012, and Ord. #4663-18, July 2018 *Ch11\_4-4-19*)

**18-208. Determination of costs.** (1) There shall be and there are hereby established monthly rates and charges for the use of the Brush Creek, Knob Creek and Regional Wastewater Systems and for the services supplied by the wastewater system. Said charges shall be based upon the costs categories of:

- (1) Administration costs including billing and accounting costs,
- (2) Operation and maintenance costs of the wastewater treatment system.

The distribution of the total yearly costs of the operation and maintenance costs of the wastewater system shall result in payment in proportion to each user's contribution to the total wastewater loading of the system. As a minimum the total wastewater loading per customer (user) shall be determined by three (3) factors as follows:

- (1) Wastewater flow in gallons per day or other appropriate unit rate of flow,
- (2) Biochemical Oxygen Demand (BOD) expressed in pounds per day or other appropriate weight per unit for time units, and
- (3) Suspended Solids (SS) expressed in pounds per day or other appropriate weight per unit of time units.

If it is determined by the city that the discharge of other loading parameters or wastewater substances are creating excessive operation and

maintenance costs within the wastewater system, whether collection or treatment, then the monetary effect of such a parameter or parameters shall be borne by the dischargers of such parameters in proportion to the amount of discharge. (Ord. #4051-04, Oct. 2004, as replaced by Ord. #4453-12, June 2012, and Ord. #4663-18, July 2018 *Ch11\_4-4-19*)

**18-209. Classification of users.** Users of the wastewater system shall be classified into two (2) general classes or categories depending upon the users' contribution of wastewater loads; each class being identified as follows:

Class I: Those users whose biochemical oxygen demand is two hundred (200) milligrams per liter (200 mg/l) by weight, and whose suspended solids discharge is two hundred (200) milligrams per liter (200 mg/l) by weight or less.

Class II: Those users whose biochemical oxygen demand exceeds two hundred (200) milligrams per liter concentration (200 mg/l) by weight and/or whose suspended solids exceeds two hundred (200) milligrams per liter concentration (200 mg/l). (Ord. #4051-04, Oct. 2004, as replaced by Ord. #4453-12, June 2012, and Ord. #4663-18, July 2018 *Ch11\_4-4-19*)

**18-210. Computation of costs.** (1) Operation and maintenance costs recovery. (a) All users who fall under Class I shall pay a single unit charge expressed as dollars per one thousand (1,000) gallons of water purchased (\$/1,000 gallons) with the unit charge being determined in accordance with the following formula:

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

Where;

$C_i$  = The Class I total unit cost in \$/1,000 gallons.

T.S.C. = The total system yearly operation and maintenance costs as determined by yearly budget projections.

$V_t$  = The total volume of wastewater contribution from all users per year as determined from projections from one city fiscal year to the next.

(b) All users who fall within the Class II classification shall pay the same base unit charge per one thousand (1,000) gallons of water purchased as for the Class I users and in addition shall pay a surcharge

rate on the excessive amounts of biochemical oxygen demand and suspended solids in direct proportion to the actual discharge quantities.

(c) When either or both the total suspended solids or biochemical oxygen demand quantities discharged into the Brush Creek, Knob Creek or Regional Wastewater Systems is in excess of those described in § 18-208 - Class I users, thus being classified as Class II users, the following formula shall be used to compute the appropriate user charge if deemed necessary by the director of the department of water and sewer services:

$$C_u = V_c V_u + B_c B_u + S_c S_u$$

Where:

$C_u$  = Total user charge per unit of time.

$V_c$  = Total cost for transportation and treatment of a unit of wastewater volume.

$V_u$  = Volume contribution per unit of time.

$B_c$  = Total cost for treatment of a unit of Biochemical Oxygen Demand (BOD).

$B_u$  = Total BOD contribution from a user per unit of time.

$S_c$  = Total cost of treatment of a unit of suspended solids.

$S_u$  = Total suspended solids contribution from a user per unit of time.

(2) Administrative and debt service costs recovery. All users, whether Class I or Class II shall pay an additional charge which shall be based on all costs necessary to bill, collect, and administer the wastewater program and that revenue necessary to repay all debts acquired by the city in order to design and construct said Brush Creek, Knob Creek and Regional Wastewater systems. (Ord. #4051-04, Oct. 2004, as replaced by Ord. #4453-12, June 2012, and Ord. #4663-18, July 2018 **Ch11\_4-4-19**)

**18-211. Frequency of analysis.** (1) The waste discharges of each Class II user discharging same into the city sanitary sewers shall be subject to periodic inspection and a determination of character and concentration of said wastes shall be made semi-annually, or more often as may be deemed necessary, by the director of the department of water and sewer services, or his authorized assistants.

(2) Samples shall be collected in such a manner as to be representative of the actual quality of the wastes. The laboratory methods used in the examination of said wastes shall be those set forth in the latest edition of "Standard Methods" for the examination of water and wastewater published by the American Public Health Association. (Ord. #4051-04, Oct. 2004, as replaced by Ord. #4453-12, June 2012, and Ord. #4663-18, July 2018 **Ch11\_4-4-19**)

**18-212. Disputed analysis; regauging and sampling of wastes.**

In the event that an analysis of wastes, determined by the samplings and gauging of wastes from a person or industry by the city is disputed; a program of resampling and gauging, with subsequent chemical determination may be instituted as follows:

(1) The person or industrial user interested must submit a request for resampling and gauging of their wastes to the director by letter and bind themselves to bear the expenses incurred by the city in resampling and gauging and subsequent determination of the wastes.

(2) The chemist or engineer employed by the company responsible for the request submitted to the city must confer with the city's person in charge of gauging and sampling, They will establish the length of the re-run and the methods to be employed to determine the flow and to sample the flow.

(3) The chemist or engineer engaged by the person or industry may be present during the gauging and sampling operation and also in the city's laboratory during the chemical analysis.

(4) The results of the analysis, determined from the quantity and quality of the flow shall be considered the analysis of record and shall be used to establish current billing procedures. (Ord. #4051-04, Oct. 2004, as replaced by Ord. #4453-12, June 2012, and Ord. #4663-18, July 2018 *Ch11\_4-4-19*)

**18-213. Monthly rates.** (1) Recovery of all costs. There shall be and hereby are established monthly rates and charges necessary to recover the costs associated with the administrative, debt service, and operation and maintenance of the Johnson City Brush Creek, Knob Creek and Regional Wastewater Systems based on the one hundred percent (100%) metered quantities of water purchased and in accordance with the following rate schedule. To be in effect with all bill calculations beginning August 1 for FY 2018-2019 and July 1 for FY 2019-2020 and for all subsequent fiscal years.

	<u>Inside City FY</u> <u>2018-2019</u>	<u>Outside City FY</u> <u>2018-2019</u>
Base Charge Per Bill	\$6.04	\$11.72
Rate per 1,000 gallons	\$6.06	\$11.76
	<u>Inside City FY</u> <u>2019-2020</u>	<u>Outside City FY</u> <u>2019-2020</u>
Base Charge Per Bill	\$6.34	\$11.98
Rate Per 1,000 gallons	\$6.68	\$12.02

	<u>Inside City FY</u> <u>2020-2021</u>	<u>Outside City FY</u> <u>2020-2021</u>
Base Charge Per Bill	\$6.65	\$12.24
Rate Per 1,000 gallons	\$6.68	\$12.29
	<u>Inside City FY</u> <u>2021-2022</u>	<u>Outside City FY</u> <u>2021-2022</u>
Base Charge Per Bill	\$6.98	\$12.49
Rate Per 1,000 gallons	\$7.01	\$12.55

(2) For Class II users an additional charge for strength of waste is as follows:

	<u>Inside City</u>	<u>Outside City</u>
BOD (based on the wastewater flow and discharge of concentration of BOD)	\$503.07/ton	\$1,006.11/ton
SS (suspended solids based on the wastewater flow and the discharge concentration suspended solids)	\$262.09/ton	\$524.17/ton

(Ord. #4051-04, Oct. 2004, as replaced by Ord. #4453-12, June 2012, and Ord. #4663-18, July 2018 *Ch11\_4-4-19*)

**18-214. Monthly bills.** Each water meter shall be read periodically and sewer bills rendered as promptly as may be possible following respective readings. Residential customers who seasonally use water for irrigation are allowed to purchase an irrigation meter for water use not returned to the wastewater systems. Commercial, institutional, governmental, and industrial customers with ongoing large processes may apply for a deduct water meter approval to measure only those segregated volumes not discharged to the wastewater systems. A system of billing shall be established by the finance department commonly known as "cycle billing." A penalty of ten percent (10%) of the sewer charge shall be added after billing due date if the bill has not been paid.

If the bill is not promptly paid two (2) days after the billing due date, then the same shall become delinquent and service shall be discontinued as provided in § 18-216. Such service shall not be continued again until all delinquent

charges and all penalties shall have been paid. An additional charge of twenty-five dollars (\$25.00) shall be made for reinstating service when such delinquent bill or bills are paid. (Ord. #4051-04, Oct. 2004, as replaced by Ord. #4453-12, June 2012, and Ord. #4663-18, July 2018 *Ch11\_4-4-19*)

**18-215. Water and sewer bills combined.** Water bills and sewer bills may be combined in one statement in such manner as to require the payment of both water charges and sewer charges as a unit. (Ord. #4051-04, Oct. 2004, as replaced by Ord. #4453-12, June 2012, and Ord. #4663-18, July 2018 *Ch11\_4-4-19*)

**18-216. Discontinuance of service upon failure to pay bills, etc.** Payments of such bills as presented under §§ 18-206 and 18-213 shall be enforced by discontinuing either the water service, the sewer service, or both except to the extent that the city cannot do so without impairment of the contract rights vested in the holders of the outstanding bonds payable from the revenues of the water and sewer systems of the city. (Ord. #4051-04, Oct. 2004, as replaced by Ord. #4453-12, June 2012, and Ord. #4663-18, July 2018 *Ch11\_4-4-19*)

**18-217. Service charges.** A service charge of twenty-five dollars (\$25.00) will be made for each water tap; connection of new service twelve dollars and fifty cents (\$12.50) for automatic landlord turn-on agreement or fifty dollars (\$50.00) for same day service); transfer of service; account name change; reconnection of service following non-payment of bill to include returned checks; and meter checks (no charge for first two (2) during last twelve (12) months). A service charge of twenty-five dollars (\$25.00) will be added to an account turned over to a collection agency. A seventy-five dollar (\$75.00) service fee will be charged for tampering with water meters, locks, or attempting illegal hook-ups. Tapping fees are presented under § 18-205 not paid within ten (10) days of issuance of a building permit will be subject to a service fee of an additional ten percent (10%) of the tapping fee. (Ord. #4051-04, Oct. 2004, as replaced by Ord. #4453-12, June 2012, and Ord. #4663-18, July 2018 *Ch11\_4-4-19*)

**18-218. Other charges.** For approved septage haulers a biannual permit is required. The permit fee is two hundred dollars (\$200.00) to be paid prior to the acceptance of septage by city. A fee of fifty dollars (\$50.00) per one thousand (1,000) gallons of septage received is required at the time of discharge. The fee for each one thousand (1,000) gallons of septage will not be prorated for partial loads. (as added by Ord. #4453-12, June 2013, and replaced by Ord. #4663-18, July 2018 *Ch11\_4-4-19*)

## CHAPTER 3

### WASTEWATER TREATMENT (SEWER) SYSTEM

#### SECTION

- 18-301. General provisions.
- 18-302. General sewer use requirements.
- 18-303. Pretreatment of wastewater.
- 18-304. Individual wastewater discharge permits and general permits.
- 18-305. Individual wastewater discharge and general permit issuance.
- 18-306. Reporting requirements.
- 18-307. Compliance monitoring.
- 18-308. Confidential information.
- 18-309. Publication of users in significant noncompliance.
- 18-310. Administrative enforcement remedies.
- 18-311. Judicial enforcement remedies.
- 18-312. Supplemental enforcement action.
- 18-313. Affirmative defenses to discharge violations.
- 18-314. Wastewater treatment rates.
- 18-315. Private domestic wastewater disposal.
- 18-316. Severability and effective date.
- 18-317. [Deleted.]
- 18-318. [Deleted.]
- 18-319. [Deleted.]
- 18-320. [Deleted.]
- 18-321. [Deleted.]
- 18-322. [Deleted.]
- 18-323. [Deleted.]
- 18-324. [Deleted.]
- 18-325. [Deleted.]
- 18-326. [Deleted.]
- 18-327. [Deleted.]
- 18-328. [Deleted.]
- 18-329. [Deleted.]

**18-301. General provisions.** (1) Purpose and policy. This chapter sets forth uniform requirements for users of the wastewater treatment system; hereinafter called Publicly Owned Treatment Works for the City of Johnson City; hereinafter called Johnson City, and enables the Johnson City to comply with all applicable state and federal laws, including the state pretreatment requirements (Tennessee Rule 1200-4-14), the Clean Water Act (33 United States Code [U.S.C.] section 1251, et seq.) and the general pretreatment regulations (title 40 of the Code of Federal Regulations [C.F.R.] part 403). The objectives of this chapter are:

- (a) To prevent the introduction of pollutants into the publicly owned treatment works that will interfere with its operation;
- (b) To prevent the introduction of pollutants into the publicly owned treatment works that will pass through the publicly owned treatment works, inadequately treated, into receiving waters, or otherwise be incompatible with the publicly owned treatment works;
- (c) To protect both publicly owned treatment works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- (d) To promote reuse and recycling of industrial wastewater and sludge from the publicly owned treatment works;
- (e) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the publicly owned treatment works; and
- (f) To enable Johnson City to comply with its national pollutant discharge elimination system permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the publicly owned treatment works is subject.

This chapter provides that all persons residing within the City Limits of the City of Johnson City must have adequate wastewater treatment either in the form of a connection to the publicly owned treatment works or, where the system is not available, a private disposal system approved by the city.

This chapter shall apply to all users of the publicly owned treatment works. The chapter authorizes the issuance of individual wastewater discharge permits or general permits to certain system users; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(2) Administration. Except as otherwise provided herein, the director shall administer, implement, and enforce the provisions of this chapter. Any powers granted to or duties imposed upon the director may be delegated by the director to a duly authorized Johnson City employee.

(3) Abbreviations. The following abbreviations, when used in this chapter, shall have the designated meanings:

- BOD – Biochemical Oxygen Demand
- BMP – Best Management Practice
- BMR – Baseline Monitoring Report
- C.F.R. – Code of Federal Regulations
- CIU – Categorical Industrial User
- COD – Chemical Oxygen Demand
- EPA – U.S. Environmental Protection Agency
- FOG – Fats, Oil and Grease
- FSE – Food Service Establishment
- GPD – Gallons per Day

IU – Industrial User  
 MGD- Million Gallons per Day  
 mg/l – milligrams per liter  
 NPDES – National Pollutant Discharge Elimination System  
 NSCIU – Non-Significant Categorical Industrial User  
 POTW – Publicly Owned Treatment Works  
 RCRA – Resource Conservation and Recovery Act  
 SIU – Significant Industrial User  
 SNC – Significant Noncompliance  
 TSS – Total Suspended Solids  
 U.S.C. – United States Code

(4) Definitions. Unless a provision explicitly states otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated.

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

(b) "Approval authority." The Tennessee Division of Water Pollution Control Director or his/her representative(s).

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

(i) If the user is a corporation:

(A) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(B) The manager of one (1) or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit or general permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

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

(iii) If the user is a federal, state, or local governmental facility: a director or highest official appointed or designated to

oversee the operation and performance of the activities of the government facility, or their designee.

(iv) The individuals described in subsections (i) through (iii), above, may designate a duly authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to Johnson City.

(d) "Biochemical Oxygen Demand" or "BOD." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at twenty degrees (20°) centigrade, usually expressed as a concentration (e.g., mg/l).

(e) "Best Management Practices" or "BMPs" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in § 18-302(1)(a) and (b) [Tennessee Rule 1200-4-14-.05(1)(a) and (2)]. BMPs include, but are not limited to, treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

(f) "Building inspector." The person representing the city's building department which is responsible for all plumbing inspection of establishments served by city utilities within the city limits.

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

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

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

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

(k) "City," or "Johnson City," or "City of Johnson City." The City of Johnson City, Tennessee.

(l) "Control authority." The City of Johnson City.

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

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

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

(o) "Director of sanitary sewer department" or "director." The person designated by Johnson City to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this chapter. The term also means a duly authorized representative of the director.

(p) "Environmental Protection Agency" or "EPA." The U.S. Environmental Protection Agency or, where appropriate, the regional water management division director, the regional administrator, or other duly authorized official of said agency.

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

(r) "Grab sample." A sample that is taken from a waste-stream without regard to the flow in the waste-stream and over a period of time not to exceed fifteen (15) minutes.

(s) "Indirect discharge" or "discharge." The introduction of pollutants into the POTW from any nondomestic source.

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

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

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

(w) "Medical waste." Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

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

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

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

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

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

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

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

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

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

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

(2) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(B) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do

not constitute a contractual obligation under this subsection.

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

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

(cc) "Person." Any and all persons, including individuals, firms, partnerships, associations, public or private institutions, state and federal agencies, municipalities or political subdivisions, or officers thereof, departments, agencies, or instrumentalities, or public or private corporations or officers thereof, organized or existing under the laws of this or any state or country.

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

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

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

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

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

(ii) "Prohibited discharge standards" or "prohibited discharges." Absolute prohibitions against the discharge of certain substances; these prohibitions appear in § 18-302(1) of this chapter.

(jj) "Publicly Owned Treatment Works" or "POTW." A treatment works, as defined by section 212 of the Act (33 U.S.C. section 1292), which is owned by the City of Johnson City. This definition

includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant.

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

(ll) "Sewage." Human excrement and gray water (household showers, dishwashing operations, etc.).

(mm) "Significant Industrial User (SIU)." Except as provided in subsections (iii) and (iv) of this subsection (mm), a significant industrial user is:

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

(ii) An industrial user that:

(A) Discharges an average of twenty-five thousand (25,000) Gallons Per Day (GPD) or more of process wastewater to the POTW (excluding sanitary, non-contact cooling and boiler blow-down wastewater);

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

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

(iii) Johnson City may determine that an industrial user subject to categorical pretreatment standards is a non-significant categorical industrial user rather than a significant industrial user on a finding that the industrial user never discharges more than one hundred (100) Gallons Per Day (GPD) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blow-down wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:

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

(B) The industrial user annually submits the certification statement required in § 18-306(13)(b) [see Tennessee Rule 1200-4-14-12(17)], together with any additional information necessary to support the certification statement; and

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

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

(nn) "Slug load" or "slug discharge." Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in § 18-302(1) of this chapter. A slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, local limits or permit conditions.

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

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

(qq) "User" or "industrial user." A source of indirect discharge.

(rr) "Wastewater." Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

(ss) "Wastewater treatment plant" or "treatment plant." That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste. (1985 Code, § 19-87, as replaced by Ord. #4407-11, Aug. 2011)

**18-302. General sewer use requirements.** (1) Prohibited discharge standards. (a) General prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.

(b) Specific prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

(i) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste-streams with a

closed-cup flashpoint of less than one hundred forty degrees (140°) Fahrenheit (sixty degrees (60°) centigrade) using the test methods specified in 40 C.F.R. 261.21;

(ii) Wastewater having a pH less than 5.0 or more than 9.5, or otherwise causing corrosive structural damage to the POTW or equipment;

(iii) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than one-half inch (1/2") or one and twenty-seven-hundredths centimeters (1.27 cm) in any dimension;

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

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

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

(vii) 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;

(viii) Trucked or hauled pollutants, except at discharge points designated by the director in accordance with § 18-303(4) of this chapter;

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

(x) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating Johnson City's NPDES permit;

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

(xii) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, de-ionized water,

noncontact cooling water, and unpolluted wastewater, unless specifically authorized;

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

(xiv) Medical wastes, except as specifically authorized by the director;

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

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

(xvii) Fats, oils, or greases of animal or vegetable origin in concentrations greater than one hundred (100) mg/l for IUs. FSEs are required to comply with the rules contained in the Johnson City FOG Policy;

(xviii) Wastewater causing two (2) readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than seven percent (7%) or any single reading over ten percent (10%) of the lower explosive limit of the meter;

(xix) Hazardous waste, except as specifically authorized by the director.

Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

(2) National categorical pretreatment standards. Users must comply with the categorical pretreatment standards found at 40 C.F.R. chapter I, subchapter N, parts 405–471.

(a) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the director may impose equivalent concentration or mass limits in accordance with § 18-302(2)(d) and (e).

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

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

(d) When a categorical pretreatment standard is expressed only in terms of pollutant concentrations, an industrial user may request that Johnson City convert the limits to equivalent mass limits. The

determination to convert concentration limits to mass limits is within the discretion of the director. Johnson City may establish equivalent mass limits only if the industrial user meets all the conditions set forth in § 18-302(2)(d)(i)(A) through (E) below.

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

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

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

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

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

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

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

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

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

(C) Continue to record the facility's production rates and notify the director whenever production rates are expected to vary by more than twenty percent (20%) from its baseline production rates determined in subsection (2)(d)(i)(C) of this section. Upon notification of a revised production rate, the director will reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and

(D) Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to subsection (2)(d)(i)(A) of this section so long as it discharges under an equivalent mass limit.

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

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

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

(C) May retain the same equivalent mass limit in subsequent individual wastewater discharge permit terms if the industrial user's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment pursuant to § 18-302(6). The industrial user must also be in compliance with § 18-313(3) regarding the prohibition of bypass.

(e) The director may convert the mass limits of the categorical pretreatment standards of 40 C.F.R. parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual industrial users. The conversion is at the discretion of the director.

(f) Once included in its permit, the industrial user must comply with the equivalent limitations developed in this § 18-302(2) in lieu of the promulgated categorical standards from which the equivalent limitations were derived.

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

(h) Any industrial user operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based standard shall notify the director within two (2)

business days after the user has a reasonable basis to know that the production level will significantly change within the next calendar month. Any user not notifying the director of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long term average production rate.

(3) State pretreatment standards. Users must comply with state pretreatment standards as found in Tennessee Rule 1200-04-14.

(4) Local limits. (a) The director is authorized to establish local limits pursuant to Tennessee Rule 1200-4-14.05(3).

(b) The director shall establish a policy granting industrial users concentration based limits based on the allowable headworks loadings as periodically revised. The policy shall be developed to equitably distribute the available mass loading for each drainage basin; allow for a reasonable percentage in reserve for future industrial users; and allow for a reasonable safety factor to protect against pass through and interference.

(c) The director may develop Best Management Practices (BMPs), by ordinance or in individual wastewater discharge permits or general permits, to implement local limits and the requirements of § 18-302(1).

(5) Johnson City's right of revision. The City of Johnson City reserves the right to establish, by ordinance or in individual wastewater discharge permits or in general permits, more stringent standards or requirements on discharges to the POTW consistent with the purpose of this chapter.

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

(7) Requirements for proper wastewater disposal. (a) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City Limits of the City of Johnson City, and human or animal excrement, garbage, or other objectionable waste.

(b) It shall be unlawful to discharge to any water of the State of Tennessee within the City Limits of the City of Johnson City any sewage, wastewater, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

(c) 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, wastewater, or other polluted waters within the City Limits of the City of Johnson City.

(d) Except as provided in § 18-302(1)(f), the owner of all houses, buildings, or properties used for human occupancy, recreation, employment, or other purposes situated within the city limits and abutting on any street, alley, right-of-way, or easement in which there is now located a public sanitary sewer in the city limits, is hereby required as his/her expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter, within sixty (60) days after an official notice to do so, provided that said public sewer is within two hundred feet (200') of the building drain as defined herein. The city may begin billing monthly sewer use charges after notifying the owner that a public sanitary sewer is available.

(e) Where a public sanitary sewer is not available under the provisions of § 18-302(7)(d), the building sewer shall be connected to a private sewage disposal system complying with § 18-315(1) of this chapter.

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

(8) Physical connection to the publicly owned treatment works.

(a) No unauthorized person shall uncover, make any connection with or opening into, use, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the building inspector for locations inside the city limits and/or the director for locations outside the city limits.

(b) A separate and independent building sewer shall be provided for every building; except where one (1) 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 (1) building sewer.

(c) Old building sewers may be used in connection with new buildings only when they are found on examination and tested by the building inspector or director to meet all requirements of this chapter.

(d) 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.

- (e) Building sewer shall conform to the following requirements:
- (i) The minimum size of a building sewer shall be four inches (4").
  - (ii) The minimum dept of a building sewer shall be eighteen inches (18").
  - (iii) Three inch (3") and larger building sewer shall be laid on a grade minimum of one-eighth inch (1/8") per foot. Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least two feet (2') per second.
  - (iv) Slope and alignment of all building sewers shall be neat and regular.
  - (v) Building sewer shall be constructed of:
    - (A) Lined cast or ductile iron soil pipe with compression joints of approved type;
    - (B) Polyvinyl Chloride (PVC) pipe with solvent welded or rubber compression joints of approved type; minimum thickness Schedule 40;
    - (C) ABS composite sewer pipe with solvent welded or with rubber compression joints of an approved type;
    - (D) Concrete sewer pipe using rubber or neoprene compression joints of an approved type; or
    - (E) Such other material of equal or superior quality as maybe approved by the building inspector or director. Cement mortar and leaded joints are expressly prohibited.
  - (vi) A cleanout shall be located no more than five feet (5') outside of the building, one (1) as it taps on to the utility lateral and one (1) at each change in direction of the building sewer which is greater than forty-five degrees (45°). Additional cleanouts shall be placed not more than seventy-five feet (75') apart in horizontal building sewers of four inch (4") nominal diameter and not more than one hundred feet (100') apart for larger pipes. Cleanouts shall be extended to or above the finished grade level directly above the place where the cleanout is installed. A Y and one-eighth (1/8) bend shall be used for the cleanout base. Cleanouts shall have a minimum size of four inches (4").
  - (vii) Connections of building sewer to the publicly owned treatment works shall be made at the appropriate existing wye or tee branch using compression type couplings or collar type rubber joint with corrosion resistant or stainless steel bands. Where existing wye or tee branches are not available, connections of building services shall be made at the tee, wye, saddle, or manhole installed or inspected by the city.

(viii) The building sewer may be brought into the building below the basement floor when gravity flow from the building to the sanitary sewer is at a grade of one-eighth inch (1/8") per foot or more if possible. In cases where the basement or floor levels are lower than the ground elevation at the point of connection to the sewer, adequate precautions by installation of check valves or other backflow prevention devices to protect against flooding shall be provided by the owner. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer at the expense of the owner.

(ix) All installed building sewer shall be gas and water tight.

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

(9) Inspection of connections. (a) The sewer connection and all building sewers from the building to the POTW shall be inspected before the underground portion is covered. Inspections are to be made by the building inspector inside the city limits or the director or duly authorized representative of the director outside the city limits.

(b) The applicant for discharge shall notify the building inspector or director when the building sewer is ready for inspection.

(10) Maintenance of building sewers. 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 director or building inspector. (1985 Code, § 19-88, as replaced by Ord. #4407-11, Aug. 2011)

**18-303. Pretreatment of wastewater.** (1) Pretreatment facilities. Users shall provide wastewater treatment as necessary to comply with this chapter and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in § 18-302(1) of this chapter within the time limitations specified by EPA, the state, or the director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans

describing such facilities and operating procedures shall be submitted to the director for review, and shall be acceptable to the director before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to Johnson City under the provisions of this chapter.

(2) Additional pretreatment measures. (a) Whenever deemed necessary, the director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste-streams from industrial waste-streams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this chapter.

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

(c) Grease, oil, sand interceptors shall be provided in accordance with the city's FOG policy.

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

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

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

(b) Description of stored chemicals;

(c) Procedures for immediately notifying the director of any accidental or slug discharge, as required by § 18-306(6) of this chapter; and

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

(4) Hauled wastewater. (a) Septic tank waste may be introduced into the POTW only at locations designated by the director, and at such times as are established by the director. Such waste shall not violate § 18-302 of this chapter or any other requirements established by Johnson City. The director will require septic tank waste haulers to obtain individual wastewater discharge permits or general permits.

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

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

(d) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes. (1985 Code, § 19-88.1, as replaced by Ord. #4407-11, Aug. 2011)

**18-304. Individual wastewater discharge permits and general permits.** (1) Wastewater analysis. When requested by the director, a user must submit information on the nature and characteristics of its wastewater within thirty (30) days of the request. The director is authorized to prepare a form for this purpose and may periodically require users to update this information.

(2) Individual wastewater discharge permit and general permit requirement. (a) No significant industrial user shall discharge wastewater into the POTW without first submitting an application to and receiving approval from the director for discharge.

(b) The director may require other users to obtain individual wastewater discharge permits or general permits as necessary to carry out the purposes of this chapter.

(c) Any violation of the terms and conditions of an individual wastewater discharge permit or a general permit shall be deemed a violation of this chapter and subjects the wastewater discharge permittee

to the sanctions set out in §§ 18-310 through 18-312 of this chapter. Obtaining an individual wastewater discharge permit or a general permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state, and local law.

(3) Individual wastewater discharge and general permitting: existing connections. Any user required to obtain an individual wastewater discharge permit or a general permit who was discharging wastewater into the POTW prior to the effective date of the ordinance comprising this chapter and who wishes to continue such discharges in the future, shall, within one hundred eighty (180) days after said date, apply to the director for an individual wastewater discharge permit or a general permit in accordance with § 18-304(5) of this chapter, and shall not cause or allow discharges to the POTW to continue after one (1) year of the effective date of the ordinance comprising this chapter except in accordance with an individual wastewater discharge permit or a general permit issued by the director.

(4) Individual wastewater discharge and general permitting: new connections. Any user required to obtain an individual wastewater discharge permit or a general permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this individual wastewater discharge permit or general permit, in accordance with § 18-304(5) of this chapter, must be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence.

(5) Individual wastewater discharge and general permit application contents. (a) All users required to obtain an individual wastewater discharge permit or a general permit must submit a permit application. Users that are eligible may request a general permit under § 18-304(6). The director may require users to submit all or some of the following information as part of a permit application:

- (i) Identifying information.
  - (A) The name and address of the facility, including the name of the operator and owner.
  - (B) Contact information, description of activities, facilities, and plant production processes on the premises.
- (ii) Environmental permits. A list of any environmental control permits held by or for the facility.
- (iii) Description of operations.
  - (A) A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic

process diagram, which indicates points of discharge to the POTW from the regulated processes;

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

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

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

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

(iv) Time and duration of discharges.

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

(vi) Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste-stream formula set out in § 18-302(2)(c) (Tennessee Rule 1200-4-14-.06(5)).

(vii) Measurement of pollutants.

(A) The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for existing sources.

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

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

(D) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in § 18-306(10) of this chapter. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the director or the applicable standards to determine compliance with the standard.

(E) Sampling must be performed in accordance with procedures set out in § 18-306(10) of this chapter.

(viii) Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge based on § 18-306(4)(b) [2300-4-14-.12(5)(b)].

(ix) Any request to be covered by a general permit based on § 18-304(6).

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

(b) Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

(6) Wastewater discharge permitting: general permits. (a) At the discretion of the director, the director may use general permits to control SIU discharges to the POTW if the following conditions are met. All facilities to be covered by a general permit must:

(i) Involve the same or substantially similar types of operations;

(ii) Discharge the same types of wastes;

(iii) Require the same effluent limitations;

(iv) Require the same or similar monitoring; and

(v) In the opinion of the director, are more appropriately controlled under a general permit than under individual wastewater discharge permits.

(b) To be covered by the general permit, the SIU must file a written request for coverage that identifies its contact information, production processes, the types of wastes generated, the location for monitoring all wastes covered by the general permit, any requests in accordance with § 18-306(4)(b) for a monitoring waiver for a pollutant neither present nor expected to be present in the discharge, and any other information the POTW deems appropriate. A monitoring waiver for a pollutant neither present nor expected to be present in the discharge is not effective in the general permit until after the director has provided written notice to the SIU that such a waiver request has been granted in accordance with § 18-306(4)(b).

(c) The director will retain a copy of the general permit, documentation to support the POTW's determination that a specific SIU meets the criteria in § 18-304(6)(a)(i) to (v) and applicable state regulations, and a copy of the user's written request for coverage for three (3) years after the expiration of the general permit.

(d) The director may not control an SIU through a general permit where the facility is subject to production-based categorical pretreatment standards or categorical pretreatment standards expressed as mass of pollutant discharged per day or for IUs whose limits are based on the combined waste-stream formula (§ 18-302(2)(c)) or net/gross calculations (§ 18-302(2)(d)).

(7) Application signatories and certifications. (a) All wastewater discharge permit applications, user reports and certification statements must be signed by an authorized representative of the user and contain the certification statement in § 18-306(13)(a).

(b) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this section must be submitted to the director prior to or together with any reports to be signed by an authorized representative.

(c) A facility determined to be a non-significant categorical industrial user by the director pursuant to § 18-301(4)(mm)(iii) must annually submit the signed certification statement in § 18-306(13)(b).

(8) Individual wastewater discharge and general permit decisions.

(a) The director will evaluate the data furnished by the user and may require additional information. Within thirty (30) days of receipt of a complete permit application, the director will determine whether to issue an individual wastewater discharge permit or a general permit. The director may deny any application for an individual wastewater discharge permit or a general permit.

(b) The receipt by the city of a prospective customer's application for a wastewater discharge or general permit shall not obligate the city to render the wastewater collection and treatment services. 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. (1985 Code, § 19-89, as replaced by Ord. #4407-11, Aug. 2011)

**18-305. Individual wastewater discharge and general permit issuance.** (1) Individual wastewater discharge and general permit duration. An individual wastewater discharge permit or a general permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. An individual wastewater discharge permit or a general permit may be issued for a period less than five (5) years at the discretion of the director. Each individual wastewater discharge permit or a general permit will indicate a specific date upon which it will expire.

(2) Individual wastewater discharge permit and general permit contents. An individual wastewater discharge permit or a general permit shall include such conditions as are deemed reasonably necessary by the director to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety,

facilitate sludge management and disposal, and protect against damage to the POTW.

(a) Individual wastewater discharge permits and general permits must contain:

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

(ii) A statement that the wastewater discharge permit is nontransferable without prior notification to Johnson City in accordance with § 18-305(5) of this chapter, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

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

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

(v) The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the discharge in accordance with § 18-306(4)(b);

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

(vii) Requirements to control slug discharge, if determined by the director to be necessary;

(viii) Any grant of the monitoring waiver by the director (§ 18-306(4)(b)) must be included as a condition in the user's permit or other control mechanism.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ix) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with § 18-305(5).

(b) The director may modify a general permit for good cause, including, but not limited to, the following reasons:

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

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

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

(iv) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with § 18-305(5).

(4) Individual wastewater discharge permit and general permit transfer. Individual wastewater discharge permits or coverage under general permits may be transferred to a new owner or operator only if the permittee gives at least thirty (30) days advance notice to the director and the director approves the individual wastewater discharge permit or the general permit coverage transfer. The notice to the director must include a written certification by the new owner or operator which:

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

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

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

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

(5) Individual wastewater discharge permit and general permit revocation. The director may revoke an individual wastewater discharge permit or coverage under a general permit for good cause, including, but not limited to, the following reasons:

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

(b) Failure to provide prior notification to the director of changed conditions pursuant to § 18-306(5) of this chapter;

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

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

(e) Tampering with monitoring equipment;

- (f) Refusing to allow the director timely access to the facility premises and records;
- (g) Failure to meet effluent limitations;
- (h) Failure to pay fines;
- (i) Failure to pay sewer charges;
- (j) Failure to meet compliance schedules;
- (k) Failure to complete a wastewater survey or the wastewater discharge permit application;
- (l) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- (m) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or the general permit or this chapter.

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

(6) Individual wastewater discharge permit and general permit reissuance. User with an expiring individual wastewater discharge permit or general permit shall apply for individual wastewater discharge permit or general permit reissuance by submitting a complete permit application, in accordance with § 18-304(5) of this chapter, a minimum of ninety (90) days prior to the expiration of the user's existing individual wastewater discharge permit or general permit. (1985 Code, § 19-90, as replaced by Ord. #4407-11, Aug. 2011)

**18-306. Reporting requirements.** (1) Baseline monitoring reports.

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

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

(i) All information required in §§ 18-304(5)(a)(i)(A)(2), 18-304(5)(a)(iii)(A), and 18-304(5)(a)(vi).

(ii) Measurement of pollutants.

(A) The user shall provide the information required in § 18-304(5)(a)(vii)(A) through (D).

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

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

(D) Sampling and analysis shall be performed in accordance with § 18-306(10).

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

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

(iii) Compliance certification. A statement, reviewed by the user's authorized representative as defined in § 18-301(4)(c) and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional Operation and Maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(iv) Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the

compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in § 18-306(2) of this chapter.

(v) Signature and report certification. All baseline monitoring reports must be certified in accordance with § 18-306(13)(a) of this chapter and signed by an authorized representative as defined in § 18-301(4)(c).

(2) Compliance schedule progress reports. The following conditions shall apply to the compliance schedule required by § 18-306(1)(b)(iv) of this chapter:

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

(b) No increment referred to above shall exceed nine (9) months without approval of the director;

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

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

(3) Reports on compliance with categorical pretreatment standard deadline. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the director a report containing the information described in §§ 18-304(5)(a)(vi) and (vii) and 18-306(1)(b)(ii) of this chapter. For users subject to equivalent mass or concentration limits established in accordance with the procedures in § 18-302(2), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with § 18-306(13)(a) of this chapter. All sampling will be done in conformance with § 18-306(10).

(4) Periodic compliance reports. (a) All significant industrial users must, at a frequency determined by the director submit no less than twice per year reports indicating the nature, concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the user must submit documentation required by the director or the pretreatment standard necessary to determine the compliance status of the user.

(b) The City of Johnson City may authorize an industrial user subject to a categorical pretreatment standard to forego sampling of a pollutant regulated by a categorical pretreatment standard if the industrial user has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the industrial user. [see Tennessee Rule 1200-4-14-.12(5)(b)] This authorization is subject to the following conditions:

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

(ii) The monitoring waiver is valid only for the duration of the effective period of the individual wastewater discharge permit, but in no case longer than five (5) years. The user must submit a new request for the waiver before the waiver can be granted for each subsequent individual wastewater discharge permit. See § 18-304(5)(a)(viii).

(iii) In making a demonstration that a pollutant is not present, the industrial user must provide data from at least one (1) sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.

(iv) The request for a monitoring waiver must be signed in accordance with § 18-301(4)(c), and include the certification statement in § 18-306(13)(a) (Tennessee Rule 1200-4-14-.06(1)(b)2).

(v) Non-detectable sample results may be used only as a demonstration that a pollutant is not present if the EPA approved method from 40 C.F.R. part 136 with the lowest minimum detection level for that pollutant was used in the analysis.

(vi) Any grant of the monitoring waiver by the director must be included as a condition in the user's permit. The reasons

supporting the waiver and any information submitted by the user in its request for the waiver must be maintained by the director for three (3) years after expiration of the waiver.

(vii) Upon approval of the monitoring waiver and revision of the user's permit by the director, the industrial user must certify on each report with the statement in § 18-306(13)(c) below, that there has been no increase in the pollutant in its waste stream due to activities of the industrial user.

(viii) In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the user's operations, the user must immediately: comply with the monitoring requirements of § 18-306(4)(a), or other more frequent monitoring requirements imposed by the director, and notify the director.

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

(c) All periodic compliance reports must be signed and certified in accordance with § 18-306(13)(a) of this chapter.

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

(e) If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the director, using the procedures prescribed in § 18-306(11) of this chapter, the results of this monitoring shall be included in the report.

(f) If a user opts to send electronic (digital) documents to the city to satisfy the requirements of this section, the user must confirm with the director the most recent form of transmittal accepted.

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

(a) The director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 18-304(5) of this chapter.

(b) The director may issue an individual wastewater discharge permit or a general permit under § 18-305(7) of this chapter or modify an

existing wastewater discharge permit or a general permit under § 18-305(4) of this chapter in response to changed conditions or anticipated changed conditions.

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

(b) Within seven (7) days following such discharge, the user shall, unless waived by the director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this chapter.

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

(d) Significant industrial users are required to notify the director immediately of any changes at its facility affecting the potential for a slug discharge.

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

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

(9) Analytical requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit

application or report shall be performed in accordance with the techniques prescribed in 40 C.F.R. part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 C.F.R. part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the director or other parties approved by EPA.

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

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

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

(c) For sampling required in support of baseline monitoring and ninety (90) day compliance reports required in § 18-306(1) and (3) [Tennessee Rule 1200-4-12-.12(2) and (4)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the director may authorize a lower minimum. For the reports required by § 18-306(4) (Tennessee Rule 1200-4-14-.12(5) and (8)), the industrial user is required to collect the number of grab samples necessary to assess and assure compliance by with applicable pretreatment standards and requirements.

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

(12) Recordkeeping. Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with best management practices established under § 18-302(4)(c). Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or Johnson City, or where the user has been specifically notified of a longer retention period by the director.

(13) Certification statements. (a) Certification of permit applications, user reports and initial monitoring waiver. The following certification statement is required to be signed and submitted by users submitting permit applications in accordance with § 18-304(7); users submitting baseline monitoring reports under § 18-306(1)(b)(v); users submitting reports on compliance with the categorical pretreatment standard deadlines under § 18-306(3); users submitting periodic compliance reports required by 18-306(4)(a) through (d), and users submitting an initial request to forego sampling of a pollutant on the basis of § 18-306(4)(b)(iv). The following certification statement must be signed by an authorized representative as defined in § 18-301(4)(c):

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

(b) Annual certification for non-significant categorical industrial users. A facility determined to be a non-significant categorical industrial

user by the director pursuant to §§ 18-301(4)(mm)(iii) and 18-304(7) must annually submit the following certification statement signed in accordance with the signatory requirements in § 18-301(4)(c). This certification must accompany an alternative report required by the director:

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

- (a) The facility described as \_\_\_\_\_ [facility name] met the definition of a Non-Significant Categorical Industrial User as described in § 18-301(4)(mm)(iii);
- (b) The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and
- (c) The facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.

This compliance certification is based on the following information.

\_\_\_\_\_  
\_\_\_\_\_

- (c) Certification of pollutants not present. Users that have an approved monitoring waiver based on § 18-306(4)(b) must certify on each report with the following statement that there has been no increase in the pollutant in its wastestream due to activities of the user.

Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 C.F.R. \_\_\_\_\_ [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of \_\_\_\_\_ [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under § 18-306(4)(a). (1985 Code, § 19-91, as replaced by Ord. #4407-11, Aug. 2011)

**18-307. Compliance monitoring.** (1) Right of entry: inspection and sampling. The director shall have the right to enter the premises of any user to

determine whether the user is complying with all requirements of this chapter and any individual wastewater discharge permit or general permit or order issued hereunder. Users shall allow the director ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

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

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

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

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

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

(2) Search warrants. If the director has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of Johnson City designed to verify compliance with this chapter or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the director may seek issuance of a search warrant from the appropriate court of jurisdiction. (1985 Code, § 19-92, as replaced by Ord. #4407-11, Aug. 2011)

**18-308. Confidential information.** Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, individual wastewater discharge permits, general permits, and monitoring programs, and from the director's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the director, that the release of

such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined at 40 C.F.R. 2.302 shall not be recognized as confidential information and shall be available to the public without restriction. (1985 Code, § 19-93, as replaced by Ord. #4407-11, Aug. 2011)

**18-309. Publication of users in significant noncompliance.** The director shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall be applicable to all significant industrial users (or any other industrial user that violates subsections (3), (4) or (8) of this section) and shall mean:

(1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits as defined in § 18-302;

(2) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by § 18-302 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

(3) Any other violation of a pretreatment standard or requirement as defined by § 18-302 (daily maximum, long-term average, instantaneous limit, or narrative standard) that the director determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;

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

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

(6) Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(7) Failure to accurately report noncompliance; or

(8) Any other violation(s), which may include a violation of best management practices, which the director determines will adversely affect the operation or implementation of the local pretreatment program. (1985 Code, § 19-94, as replaced by Ord. #4407-11, Aug. 2011)

**18-310. Administrative enforcement remedies.** (1) Notification of violation. When the director finds that a user has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other pretreatment standard or requirement, the director may serve upon that user a written notice of violation. Within seven (7) days of the receipt of such notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the director. Submission of such a plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the director to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(2) Consent orders. The director may enter into consent orders, assurances of compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents shall include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to § 18-310(4) and (5) of this chapter and shall be judicially enforceable.

(3) Show cause hearing. The director may order a user which has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the director and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified

mail (return receipt requested) at least thirty (30) days prior to the hearing. Such notice may be served on any authorized representative of the user as defined in § 18-301(4)(c) and required by § 18-304(7)(a). A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

(4) Compliance orders. When the director finds that a user has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other pretreatment standard or requirement, the director may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

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

(a) Immediately comply with all requirements; and

(b) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

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

(b) Users desiring to dispute such fines must file a written request for the director to reconsider the fine along with full payment of the fine amount within fifteen (15) days of being notified of the fine. Where a request has merit, the director may convene a hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The director may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

(c) Other fines may be levied in accordance with the city's enforcement response plan.

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

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

(a) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the director may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The director may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the director that the period of endangerment has passed, unless the termination proceedings in § 18-310(8) of this chapter are initiated against the user.

(b) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the director prior to the date of any show cause or termination hearing under §§ 18-310(3) or 18-310(8) of this chapter.

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

(8) Termination of discharge. In addition to the provisions in § 18-305(6) of this chapter, any user who violates the following conditions is subject to discharge termination:

(a) Violation of individual wastewater discharge permit or general permit conditions;

- (b) Failure to accurately report the wastewater constituents and characteristics of its discharge;
- (c) Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
- (d) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or
- (e) Violation of the pretreatment standards in § 18-302 of this chapter.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under § 18-310(3) of this chapter why the proposed action should not be taken. Exercise of this option by the director shall not be a bar to, or a prerequisite for, taking any other action against the user. (1985 Code, § 19-95, as amended by Ord. #3379, April 1996, and Ord. #3500, July 1997, and replaced by Ord. #4407-11, Aug. 2011)

**18-311. Judicial enforcement remedies.** (1) Injunctive relief. When the director finds that a user has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other pretreatment standard or requirement, the director may petition the appropriate court of jurisdiction through Johnson City's legal counsel for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the individual wastewater discharge permit, the general permit, order, or other requirement imposed by this chapter on activities of the user. The director may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

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

(b) The director may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by Johnson City.

(c) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

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

(3) Criminal prosecution. (a) A user who willfully or negligently violates any provision of this chapter, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than ten thousand dollars (\$10,000.00) or the maximum fine allowed under State of Tennessee law, whichever is greater at the time of violation per violation, per day, or imprisonment for not more than the maximum allowed under State of Tennessee law, or both.

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

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

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

(4) Remedies nonexclusive. The remedies provided for in this chapter are not exclusive. The director may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with Johnson City's Enforcement Response Plan. However, the director may take other action against any user when the

circumstances warrant. Further, the director is empowered to take more than one (1) enforcement action against any noncompliant user. (1985 Code, § 19-96, as replaced by Ord. #4407-11, Aug. 2011)

**18-312. Supplemental enforcement action.** (1) Liability insurance. The director may decline to issue or reissue an individual wastewater discharge or a general permit to any user who has failed to comply with any provision of this chapter, a previous individual wastewater discharge permit, or a previous general permit or order issued hereunder, or any other pretreatment standard or requirement, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

(2) Payment of outstanding fees and penalties. The director may decline to issue or reissue an individual wastewater discharge permit or a general permit to any user who has failed to pay any outstanding fees, fines or penalties incurred as a result of any provision of this chapter, a previous individual wastewater discharge permit, or a previous general permit or order issued hereunder.

(3) Water supply severance. Whenever a user has violated or continues to violate any provision of this chapter, an individual wastewater discharge permit, a general permit, or order issued hereunder, or any other pretreatment standard or requirement, water service to the user may be severed. Service will recommence, at the user's expense, only after the user has satisfactorily demonstrated its ability to comply.

(4) Public nuisances. A violation of any provision of this chapter, an individual wastewater discharge permit, a general permit, or order issued hereunder, or any other pretreatment standard or requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the director. Any person(s) creating a public nuisance shall be subject to the provisions of the city's ordinances governing such nuisances, including reimbursing Johnson City for any costs incurred in removing, abating, or remedying said nuisance. (1985 Code, § 19-97, as replaced by Ord. #4407-11, Aug. 2011)

**18-313. Affirmative defenses to discharge violations.** (1) Upset.

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

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

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

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

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

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

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

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

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

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

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

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

(2) Prohibited discharge standards. A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in § 18-302(1)(a) of this chapter or the specific prohibitions in § 18-302(1)(b)(iii) through (xix) of this chapter if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

(a) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or

(b) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when Johnson City was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

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

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

(ii) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

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

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

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

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

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

(B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have

been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

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

(ii) The director may approve an anticipated bypass, after considering its adverse effects, if the director determines that it will meet the three (3) conditions listed in subsection (d)(i) of this section. (1985 Code, § 19-98, as replaced by Ord. #4407-11, Aug. 2011)

**18-314. Wastewater treatment rates.** (1) Purpose. It is the purpose of this section to provide for the equitable and reasonable recovery of costs from users of the POTW, including costs of operation, maintenance, administration, bond service costs, capital improvements, depreciation, and equitable cost recovery of EPA administered federal wastewater grants.

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

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

(3) Classification of users for charges and fees. Users of the wastewater system shall be classified into two (2) general classes or categories depending on the users' contribution of wastewater loads. The classes are defined in general terms. The director may decide to select the class for a user

based on loading conditions not specifically defined. Each class user is identified as follows:

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

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

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

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

(c) All users shall pay a single unit charge expressed as dollars per thousand of gallons (\$/1,000 gallons) purchased. The rate shall be the total cost to pay debt service, operate, and maintain the POTW divided by the total volume of wastewater from all users per year as determined from one (1) fiscal year to the next.

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

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

(5) Other surcharge fees. If it is determined by the city that the discharge of other loading parameters or wastewater substances are creating excessive operation and maintenance costs within the wastewater system,

whether collection or treatment, then the monetary effect of such a parameter or parameters shall be borne by the dischargers of such parameters in proportion to the amount of discharge. (1985 Code, § 19-99, as replaced by Ord. #4407-11, Aug. 2011)

**18-315. Private domestic wastewater disposal.** (1) Availability.

(a) Where a public sanitary sewer is not available under the provisions of § 18-302(7)(d), the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this section and all other applicable local, state, and federal regulations.

(b) When a public sewer becomes available, the building sewer shall be connected to the POTW within sixty (60) days of official notice to do so.

(2) Requirements for private domestic wastewater disposal. (a) A private domestic wastewater disposal system shall not be constructed within the city limits unless and until a certificate is obtained from the director stating that the POTW is not accessible to the property and no such sewer is proposed for construction in the immediate future.

(b) The type, capacity, location, and layout of a private sewage disposal system shall comply with all recommendations of the Department of Environment and Conservation for the State of Tennessee. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(c) Before commencement of construction of a private sewage disposal system, the owner shall first obtain written permission from the director. The owner shall supply any plans, specifications, and other information deemed necessary by the director.

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

(e) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manor at all times, at no expense to the city. If the system is not maintained to the satisfaction of the director, the city reserves the right to remedy the situation by discontinuing water or other services.

(f) No statement contained in this article shall be constructed to interfere with any additional requirements that maybe imposed by the local county health department, State of Tennessee, or federal

government. (1985 Code, § 19-100, as replaced by Ord. #4407-11, Aug. 2011)

**18-316. Severability and effective date.** Severability. If any provision of this chapter is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect. (1985 Code, § 19-101, as replaced by Ord. #4407-11, Aug. 2011)

**18-317. [Deleted.]** (1985 Code, § 19-102, as deleted by Ord. #4407-11, Aug. 2011)

**18-318. [Deleted.]** (1985 Code, § 19-103, as deleted by Ord. #4407-11, Aug. 2011)

**18-319. [Deleted.]** (1985 Code, § 19-104, as deleted by Ord. #4407-11, Aug. 2011)

**18-320. [Deleted.]** (1985 Code, § 19-105, as deleted by Ord. #4407-11, Aug. 2011)

**18-321. [Deleted.]** (1985 Code, § 19-106, as deleted by Ord. #4407-11, Aug. 2011)

**18-322. [Deleted.]** (1985 Code, § 19-107, as deleted by Ord. #4407-11, Aug. 2011)

**18-323. [Deleted.]** (1985 Code, § 19-108, as deleted by Ord. #4407-11, Aug. 2011)

**18-324. [Deleted.]** (1985 Code, § 19-109, as deleted by Ord. #4407-11, Aug. 2011)

**18-325. [Deleted.]** (1985 Code, § 19-110, as deleted by Ord. #4407-11, Aug. 2011)

**18-326. [Deleted.]** (1985 Code, § 19-111, as deleted by Ord. #4407-11, Aug. 2011)

**18-327. [Deleted.]** (1985 Code, § 19-112, as deleted by Ord. #4407-11, Aug. 2011)

**18-328. [Deleted.]** (1985 Code, § 19-113, as deleted by Ord. #4407-11, Aug. 2011)

**18-329. [Deleted.]** (1985 Code, § 19-114, as deleted by Ord. #4407-11, Aug. 2011)

## CHAPTER 4

### WATER<sup>1</sup>

#### SECTION

- 18-401. Department designated.
- 18-402. Department--supervision; reports, etc.
- 18-403. Fluoridation authorized.
- 18-404. Fluoridation cost.
- 18-405. Disposition of revenues.
- 18-406. Prerequisites to laying service pipes to premises.
- 18-407. Application generally.
- 18-408. Application for construction or building purposes.
- 18-409. Application by tenants; deposit required; refund of deposit.
- 18-410. Furnishing water to persons outside city.
- 18-411. Connections to mains made by city; fees.
- 18-412. Laying service pipe--by plumbers.
- 18-413. Laying service pipe--extension to adjoining premises, etc.
- 18-414. Right of entry.
- 18-415. Turning water on or off.
- 18-416. Maintenance of service pipes, fixtures.
- 18-417. Meters.
- 18-418. Liability of city for interruption of services, etc.
- 18-419. Throwing sticks, etc.; injuring, defacing valves, pipes, etc.
- 18-420. Monthly billings generally.
- 18-421. Meter rates.
- 18-422. Cutoffs.
- 18-423. Connection fees and service charges.

**18-401. Department designated.** All business connected with the control, operation and maintenance of the city water plant or system shall be

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<sup>1</sup>Charter references

City bonds: art. XV.

Departments: art. XVIII.

Garbage removal charges on water bill: § 7.20.2.

Public utilities: § 7.12, et seq.

Waterworks: art. XXI.

State law references

Revenue bonds: Tennessee Code Annotated, § 7-34-101, et seq.

Safe Drinking Water Act: Tennessee Code Annotated, § 68-13-701, et seq.

Sewers and waterworks: Tennessee Code Annotated, Title 7, Ch. 35.

known as the water and sewer department of the city, the entire control and management of same to be vested in the board of commissioners, as set forth in this chapter. (1985 Code, § 24-1)

**18-402. Department--supervision; reports, etc.** (1) The city manager shall have general supervision over the operation of the water plant or system, subject to the control of the board of commissioners, through this code and other ordinances and resolutions. He shall see that all rules and regulations are enforced and that all contracts and specifications are fulfilled. He shall have the power and authority to hire all labor and buy all materials necessary to the operation and maintenance of the system and to the making of all ordinary repairs and extensions, subject to the conditions and restrictions of the charter of the city. He shall make trips of inspection, shall note all leaks and waste of water and notify persons to have same repaired at once.

(2) He shall submit to the board of commissioners monthly, a report showing the receipts and disbursements, in detail, and the improvements and extensions made, and such other matters as the board may deem necessary, with his recommendations looking toward the betterment of the plant or system.

(3) He shall also make an annual report to the board, at its first meeting in July of each year, containing a complete statement of all the operations of the plant for the year ending on the thirtieth day of June prior, and of its financial and physical condition on such date, together with an estimate showing what improvements, alterations, additions and extensions he may deem necessary or expedient and the probably cost of same. Such annual report shall be published in one (1) of the newspapers of the city, making the lowest bid for its publication.<sup>1</sup> (1985 Code, § 24-2)

**18-403. Fluoridation authorized.** The water and sewer department shall make plans for the fluoridation of the water supply of the city; shall submit such plans to the department of public health of the state for approval and, upon approval, shall add such chemicals as fluoride to the water supply in accord with such approval as will adequately provide for the fluoridation of such water supply. (1985 Code, § 24-3)

**18-404. Fluoridation cost.** The cost of fluoridation as provided by § 18-403 shall be borne by the revenues of the water and sewer department. (1985 Code, § 24-4)

**18-405. Disposition of revenues.** The revenue and income derived from the operation of the water plant shall be collected and paid over to the city treasurer, shall be deposited in the banks of the city, as provided for other

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<sup>1</sup>Charter reference

Report of city manager to board of commissioners: § 99.

funds, and shall be kept as a separate fund to be paid out in the manner and under the conditions and restrictions provided by law.<sup>1</sup> (1985 Code, § 24-5)

**18-406. Prerequisites to laying service pipes to premises.** No person shall have the right to demand that the city shall lay a line of pipe to his premises within the city limits, unless the revenue to be derived therefrom shall equal at least ten (10) percent annually of the cost of same, or unless the applicant shall pay such part of the cost of the proposed pipe line so that the remainder that the city shall pay shall yield a revenue of not less than ten (10) percent per annum. The board of commissioners shall require the applicant to enter into such written obligations as it may deem proper to secure for the city the prompt payment of such revenue. (1985 Code, § 24-6)

**18-407. Application generally.** All persons residing within the city, and desiring to do so, may take or use the city water within the city limits, upon paying the proper charges therefor, as specified in this chapter, or that may be adopted. The application for a connection to the water mains for the use of water must be signed by the owner of the premises to be supplied or his duly authorized agent, on the proper form provided for that purpose; an application signed by a tenant only will not be considered; provided, that such persons shall comply in all other respects with the rules and regulations prescribed in this chapter or that may hereafter be adopted by the board of commissioners. (1985 Code, § 24-7)

**18-408. Application for construction or building purposes.** (1) All persons desiring to use city water in the construction of work of any kind, or for building purposes, shall make proper application therefor, and shall first deposit with the water and sewer department, a sum of money sufficient to cover the expense or cost of tapping the city main, the cost of extending the pipe required inside the premises and for the water to be used in such work for such purpose based on the estimated amount of brick, stone, concrete and plastering work to be done, and shall obtain a receipt from the water clerk that the sum has been paid. The city manager shall not grant a permit for such water connection to be made in default of said requirement. Property where water is used for building will be held liable for the payment of water rent. If upon completion of the work, the sum so deposited shall be found to be insufficient to cover the cost of the water that was used, the balance due shall be collected from the person making the original application.

(2) Water that is used in the construction of concrete sidewalks shall be paid for when the contractor obtains a permit for the construction of such work. (1985 Code, § 24-8)

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<sup>1</sup>Charter reference

Disposition of water revenues: § 97.

**18-409. Application by tenants; deposit required; refund of deposit.**

(1) Any person who applies for water service through a meter, at premises owned by another person, shall be required to deposit with the cashier of the water and sewer department a guarantee that his water bill will be promptly paid. Any person who occupies such premises at which a meter is installed will be required to make such deposit at the time of installation of the meter.

(2) In the event the bill of such tenant who is required to make deposit required by this section is not paid within fifteen (15) days from the time it is due, the cashier of the finance department shall deduct the amount thereof from the deposit required by this section, cut off the water at such service and remit to the tenant the balance of his deposit.

(3) Upon the removal of the tenant from the premises so occupied, and the payment of all water bills, the cashier of the finance department shall refund to such tenant the amount of his deposit, less any deductions made. (1985 Code, § 24-9)

**18-410. Furnishing water to persons outside city.** All water supplied to persons or premises outside of the city limits shall be supplied only through meters, and the rates or charges for such water, when consumed outside the limits, shall be at least twenty-five (25) percent greater than is charged for water consumed within the city.<sup>1</sup> (1985 Code, § 24-10)

**18-411. Connections to mains made by city; fees.** All connections to water mains shall be made and furnished by the city, located four (4) feet from the property line and the person for whom such connection is made shall file application and pay to the city before the work is started, such fees as are prescribed for such connections. (1985 Code, § 24-11)

**18-412. Laying service pipe--by plumbers.** All plumbers who pay license and privilege tax to the city recorder shall be entitled to and shall obtain from the board of commissioners a permit giving them permission to lay service pipes upon the premises of private persons, and only plumbers so licensed shall lay such service pipes or connect same to the stopcock in the sidewalk. Such work shall be performed in accordance with the requirements of the city. (1985 Code, § 24-12)

**18-413. Laying service pipe--extension to adjoining premises, etc.** No plumber or other person shall extend any water pipes or attachments to conduct water into any adjoining premises or into any additional hydrant,

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<sup>1</sup>Charter reference

Extension of water lines beyond corporate limits: § 99.

stable, closet or for any purpose whatsoever; nor make any attachment to any old water pipe or fixture, nor to any pipe where water has been turned off, without written permission from the water and sewer department and in every case the plumber must turn off the water, after having tested his work, and make returns to the water office within twenty-four (24) hours. The penalty for a violation of this section shall be as provided in § 1-104 of this code, and in addition thereto, the plumber shall forfeit his license in the discretion of the city manager or the court trying the case. (1985 Code, § 24-13)

**18-414. Right of entry.** (1) The city manager or an inspector appointed by him shall have the right at all reasonable hours to enter any premises to inspect any pipe, fixture or meter, and shall he be refused admittance the person refusing shall be guilty of a misdemeanor and shall, upon conviction, pay a fine of not less than three dollars (\$3.00) nor more than fifty dollars (\$50.00) for each such offense; the supply of water shall be cut off until such examination is made, the required information obtained or repairs or alterations made.

(2) Inspectors and meter readers must be courteous and reasonable in all demands made and must take due pains to inform and explain to consumers the use of cutoffs, fixtures and meters and the nature of the service the city experts to render, so as to give customers, as far as possible, satisfactory service. (1985 Code, § 24-14)

**18-415. Turning water on or off.** (1) Water shall not be turned on or off, by the stopcock in the sidewalk, to any premises for any purpose, except by written authority from the water office.

(2) A stop and waste cock or cut-off valve must be placed by the property owner, just inside the property line, to be under the control of the tenant or owner, to be used by him in case of accident within the premises. This is not intended to take the place of the stop and waste cock to be located within the building as provided for in § 18-412.

(3) No person shall, by a false key or otherwise, after the water has been cut off from any premises, cause such premises to be supplied with city water.

(4) No person shall permit others to use water from his premises, and the supply of water may be cut off from such premises, until all proper charges for water so consumed shall have been paid. The owner or tenant of such premises, and the persons guilty of using water from same, without previously paying for same, shall be guilty of a misdemeanor.

(5) Persons moving from one (1) house to another, in order to get credit for vacancy, must notify the water office of such removal, so that the water may be shut off from the vacated premises. (1985 Code, § 24-15)

**18-416. Maintenance of service pipes, fixtures.** (1) All water consumers must keep their own pipes, and fixtures connected therewith, in good repair at their own expense and protected from frost, with stop and waste cock so arranged as to draw off all water from pipes when shut off.

(2) If the service pipe, stopcock or any fixture, in or upon the premises of any person, shall become leaky, it shall be the duty of such person to have same repaired, without delay, and upon failure to do so, within forty-eight (48) hours after notice has been served, the supply of water shall be shut off and not let on again until all necessary repairs are made, in a manner satisfactory to the city. (1985 Code, § 24-16)

**18-417. Meters.** Water meters shall be supplied and installed by the city in such location and in such manner as shall be determined by the city. There shall be at least one (1) meter to each consumer, installed under such conditions as the city may impose. (1985 Code, § 24-17)

**18-418. Liability of city for interruption of services, etc.** The city will not be liable for any damage that may result to consumers from the shutting off of a water main or service pipe for any purpose or from any cause whatsoever, even in cases where no notice is given and no deduction from water bills will be made in consequence thereof. (1985 Code, § 24-18)

**18-419. Throwing sticks, etc.; injuring, defacing valves, pipes, etc.** No person shall throw into any reservoir or basin, sticks, planks or anything calculated to pollute the water or clog up the pipes and intakes, or in any way injure, deface, impair or destroy any gate, valve, pipe or fixture of any kind, or any part of any engine house, reservoir, pump, hydrant, fountain, water trough or any property appertaining to the waterworks system or plant, nor shall any person, except a member of the fire department or employee of the city authorized so to do, open or in any way disturb any hydrant, fireplug, gate or valve or remove or lift the cover of same.<sup>1</sup> (1985 Code, § 24-19)

**18-420. Monthly billings generally.** Each water meter shall be read monthly and water bills rendered as promptly as may be following respective readings. A system of billing shall be established by the finance department commonly known as "cycle billing." All water accounts shall be due and payable ten (10) days after billing. All accounts unpaid by the due date shall be assessed a penalty of ten (10) percent of the gross amount of the bill. If the bill has not been properly paid within ten (10) days after the billing date, the same shall

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<sup>1</sup>State law reference

Injury to or pollution of water storage structures: Tennessee Code Annotated, § 39-6-1603.

become delinquent and service shall be discontinued as provided in § 18-216. Such service shall not be continued again until all delinquent charges and all penalties shall have been paid. An additional charge of five dollars (\$5.00) shall be made for reinstating service when such delinquent bills are paid. (1985 Code, § 24-20)

**18-421. Meter rates.** The monthly charges made by the water department of the city to consumers of water, supplied through a meter, shall be at the following rates to be in effect with all bill calculations beginning August 1 of FY 2018-2019 and July 1 for FY 2019-2020 for all subsequent fiscal years:

<b><u>Inside City FY 2018-2019</u></b>		<b><u>Outside City FY 2018-2019</u></b>	
	Base Charge Per Bill	\$4.86	\$9.43
Rate 1	0-20,000 gal	\$3.79/K gallons	\$7.35/K gallons
Rate 2	20,001-190,000 gal	\$3.03/K gallons	\$5.88/K gallons
Rate 3	190,001-490,000 gal	\$2.73/K gallons	\$5.30/K gallons
Rate 4	Over 490,000 gal	\$2.46/K gallons	\$4.77/K gallons
<b><u>Inside City FY 2019-2020</u></b>		<b><u>Outside City FY 2019-2020</u></b>	
	Base Charge Per Bill	\$5.10	\$9.64
Rate 1	0-20,000 gal	\$3.98/K gallons	\$7.52/K gallon
Rate 2	20,001-190,000 gal	\$3.18/K gallons	\$6.01/K gallon
Rate 3	190,001-490,000 gal	\$3.87/K gallons	\$5.42/K gallon
Rate 4	Over 490,000 gal	\$2.59/K gallons	\$4.90/K gallon
<b><u>Inside City 2020-2021</u></b>		<b><u>Outside City 2020-2021</u></b>	
	Base Charge Per Bill	\$5.35	\$9.84
Rate 1	0-20,000 gal	\$4.18/K gallons	\$7.69/K gallon
Rate 2	20,001-190,000 gal	\$3.34/K gallons	\$6.15/K gallon
Rate 3	190,001-490,000 gal	\$3.01/K gallons	\$5.54/K gallon
Rate 4	Over 490,000 gal	\$2.72/K gallons	\$5.01/K gallon
<b><u>Inside City 2021-2022</u></b>		<b><u>Outside City 2021-2022</u></b>	
	Base Charge Per Bill	\$5.62	\$10.06
Rate 1	0-20,000 gal	\$4.39/K gallons	\$7.86/K gallon
Rate 2	20,001-190,000 gal	\$3.51/K gallons	\$6.28/K gallon

Rate 3	190,001-490,000 gal	\$3.16/K gallons	\$5.66/K gallon
Rate 4	Over 490,000 gal	\$2.85/K gallons	\$5.10/K gallon

(1985 Code, § 24-21, as amended by Ord. #3896, June 2002, Ord. #4050-04, Oct. 2004, and Ord. #4315-08, June 2008, replaced by Ord. #4452-12, June 2012, and amended by Ord. #4463-12, Sept. 2012, and Ord. #4662-18, July 2018 *Ch11-4-4-19*)

**18-422. Cutoffs.** Every premises to be supplied with city water must be connected to the street main and have its separate cutoff. All cutoffs are under the absolute control of the water and sewer department. (1985 Code, § 24-22)

**18-423. Connection fees and service charges.** Connection fees and service charges for water connections inside and outside the city shall be as follows: and the water department shall make no water connections without having first collected the fees as fixed in this section, in cash:

(1) Fees for tapping (connection) and meter settings to be effective July 1, 2012.

		<u>Inside Corporate Limits</u>	<u>Outside Corporate Limits</u>
5/8"	Meter and Connection Charge	\$750	\$1,250
1"	Meter and Connection Charge	\$900	\$1,500
1" Fire Service	Meter and Connection Charge	\$950	\$1,635
1 1/2"	Meter and Connection Charge	\$1,180	\$1,965
2"	Meter and Connection Charge	\$1,360	\$2,265
2" Fire Service	Meter and Connection Charge	\$1,555	\$2,590
2"	Compound Meter and Connection Charge	\$2,395	\$3,990
3"	Meter and Connection Charge	\$3,740	\$6,235
4"	Meter and Connection Charge	\$6,000	\$10,000
6"	Meter and Connection Charge	\$9,550	\$15,920
8"	Meter and Connection Charge	\$13,150	\$21,920

All connections larger than eight inches (8") to be figured at cost including labor, materials, and overhead.

The water department of the city reserves the right to change meter size based on consumption patterns without reimbursement of fees. Connection size requested is not directly related to meter size. Requested meter and connection size is subject to review and verification by the water department of the city. Incorrectly sized meter and connections may be refused at the discretion of the

Water department director or designee.

- (2) Temporary meter installations.

All charges are annual fees per meter based on a calendar year.

	<u>Inside Corporate Limits</u>	<u>Outside Corporate Limits</u>
5/8" Meter Charge	\$150	\$260
3" Meter Charge	\$325	\$500

- (3) Private fire protection systems (sprinkler or hydrants) and cost of metering if required:

	<u>Inside Corporate Limits</u>	<u>Outside Corporate Limits</u>
Fire Hydrant	\$2,100	\$3,500
3" fire line	\$2,230 No monthly fee	\$3,715 \$50.00 monthly fee
4" fire line	\$2,545 No monthly fee	\$4,245 \$50.00 monthly fee
6" fire line	\$2,855 No monthly fee	\$4,760 \$50.00 monthly fee
8" fire line	\$3,325 No monthly fee	\$5,545 \$60.00 monthly fee
10" fire line	\$3,640 No monthly fee	\$6,070 \$60.00 monthly fee
12" fire line	\$4,420 No monthly fee	\$7,370 \$200.00 monthly fee

- (4) Service charges. A service charge of twenty-five dollars (\$25.00) will be made for each water tap connection of new service (twelve dollars and fifty cents (\$12.50) for automatic landlord turn-on agreement or fifty dollars (\$50.00) for same day service); transfer of service; account name change; reconnect ion of service following non-payment of bill to include returned checks and meter checks (no charge for first two (2) during last twelve (12) months). A service charge of twenty-five dollars (\$25.00) will be added to an account turned

over to a collection agency. A seventy-five dollar (\$75.00) service fee will be charged for tampering with water meters, locks, or attempting illegal hook-ups.

(5) Discontinuance of service upon failure to pay bills, etc. Payments of such bills as presented under §§ 18-421 and 18-423 shall be enforced by discontinuing either the water service, the sewer service, or both except to the extent that the city cannot do so without impairment of the contract rights vested in the holders of the outstanding bonds payable from the revenues of the water and sewer systems of the city. (Ord. #3896, June 2002, as amended by Ord. #4050-04, Oct. 2004, and Ord. #4315-08, June 2008, and replaced by Ord. #4452-12, June 2012, and Ord. #4662-18, July 2018 ***Ch11\_4-4-19***)

## CHAPTER 5

### CONNECTIONS WITH PUBLIC WATER SUPPLY

#### SECTION

- 18-501. Definitions.
- 18-502. Penalties.
- 18-503. City to comply with state regulations.
- 18-504. Cross-connections, generally.
- 18-505. Statement concerning cross-connections, etc.
- 18-506. Inspection for cross-connections.
- 18-507. Right of entry.
- 18-508. Compliance.
- 18-509. Backflow device, installation.
- 18-510. Notice of unsafe water.

**18-501. Definitions.** The following definitions and terms shall apply in the interpretation and enforcement of this chapter:

(1) "Auxiliary intake." Any piping, connection or other device whereby water may be secured from a source other than that normally used.

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

(3) "Cross connection." Any physical arrangement whereby a public water supply is connected, directly or indirectly, with any other water supply system, sewer, drain, conduit, pool, storage reservoir, plumbing fixture or other device which contains, or may contain, contaminated water, sewage or other waste or liquid of unknown or unsafe quality which may be capable of imparting contamination to the public water supply as a result of backflow. Bypass arrangements, jumper connections, removable sections or swivel or change-over devices through which, or because of which, backflow could occur are considered to be cross connections.

(4) "Interconnection." Any system of piping or other arrangement whereby the public water supply is connected directly with a sewer, drain, conduit, pool, storage reservoir or other device which does or may contain sewage or other waste or liquid which would be capable of imparting contamination to the public water supply.

(5) "Person." Any and all persons, natural or artificial, including any individual, firm or association and any municipal or private corporation organized or existing under the laws of this or any other state or country.

(6) "Public water supply." The water works system furnishing water to Johnson City for general use and which supply is recognized as the public

water supply by the Tennessee Department of Health and Environment.<sup>1</sup> (1985 Code, § 24-40)

**18-502. Penalties.** Any person who neglects or refuses to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction therefor, shall be fined not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00), and each day of continued violation after conviction shall constitute a separate offense. Where cross-connections, interconnections, auxiliary intakes or bypasses are found that constitute an extreme hazard of immediate concern of contaminating the public water system, the director of water and sewer services shall require that immediate corrective action be taken to eliminate the threat to the public water system. Immediate steps shall be taken to disconnect the public water supply from the on-site piping system unless the imminent hazard(s) is corrected immediately. If necessary, water service shall be discontinued (following legal notification) for failure to maintain backflow 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 water and sewer services. (1985 Code, § 24-41)

**18-503. City to comply with state regulations.** The city public water supply is to comply with Tennessee Code Annotated, §§ 68-13-703 and 68-13-711(6), as well as the rules and regulations for public water supplies, legally adopted in accordance with this code, which pertain to cross-connection, auxiliary intakes, bypasses and interconnections, and establish an effective, ongoing program to control these undesirable water uses. (1985 Code, § 24-42)

**18-504. Cross-connections, generally.** It shall be unlawful for any person to cause a cross-connection, auxiliary intake, bypass or interconnection to be made, or allow one to exist, for any purpose whatsoever unless the construction and operation of same has been approved by the Tennessee Department of Health and Environment, and the operation of such cross-connection, auxiliary intake, bypass or interconnection is at all times under the direct supervision of the city director of water and sewer services. (1985 Code, § 24-43)

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<sup>1</sup>State law reference

Definitions for Tennessee Safe Drinking Water Act of 1983: Tennessee Code Annotated, § 68-13-703.

**18-505. Statement concerning cross-connections, etc.** 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 water and sewer services a statement of the nonexistence of unapproved or unauthorized cross-connections, auxiliary intakes, bypasses or interconnections. Such statement shall also contain an agreement that no cross-connection, auxiliary intake, bypass or interconnection will be permitted upon the premises. (1985 Code, § 24-44)

**18-506. Inspection for cross-connections.** The water and sewer department shall cause inspections to be made of all properties served by the public water supply where cross-connections with the public water supply are deemed possible. The frequency of inspections and reinspections based on potential health hazards involved shall be as established by the director of water and sewer services of the city and as approved by the Tennessee Department of Health and Environment. (1985 Code, § 24-45)

**18-507. Right of entry.** The director of water and sewer services of the city or his authorized representative shall have the right to enter, at any reasonable time, any property served by a connection to the city water supply for the purpose of inspecting the piping system or systems thereof for cross-connections, auxiliary intakes, bypasses or interconnections. On request, the owner, lessee or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross-connections. (1985 Code, § 24-46)

**18-508. Compliance.** Any person who now has cross-connections, auxiliary intakes, bypasses or interconnections in violation of the provisions of this chapter shall immediately, upon notice, comply with the provisions of this chapter within the time designated to complete the work by the director of water and sewer services of the city. (1985 Code, § 24-47)

**18-509. Backflow device, installation.** (1) Where the nature of use of the water supplied a premises by the water and sewer 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 propose no threat to the safety or potability of the water supply;

(c) That the nature and mode of operation within any premises are such that frequent alterations are made to the plumbing; or

(d) That there is a likelihood that protective measures may be subverted, altered or disconnected;

the director of water and sewer services of the city, or his designated representative, shall require the use of an unapproved protective device on the service line serving the premises to assure that any contamination that may originate in the customer's premises is contained therein. The protective device shall be a reduced-pressure-zone-type backflow preventer approved by the Tennessee Department of Health and Environment as to manufacture, model and size. The method of installation of backflow protective devices shall be approved by said director prior to installation and shall comply with the criteria set forth by the Tennessee Department of Health and Environment. The installation shall be at the expense of the owner or occupant of the premises.

(2) The water and sewer department shall have the right to inspect and test the device or devices on an annual basis or whenever deemed necessary by the director or his designated representative. Water service shall not be disrupted to test the device without the knowledge of the occupant of the premises.

(3) Where the use of water is critical to the continuance of normal operations or protection of life, property or equipment, duplicate units shall be provided to avoid the necessity of discontinuing water service to test or repair the protective device or devices. Where only one (1) unit is installed and the continuance of service is critical, the director shall notify, in writing, the occupant of the premises of plans to discontinue water service and arrange for a mutually acceptable time to test and/or repair the device. The water system shall require the occupant of the premises to make all repairs, the costs of which shall be borne by the owner or occupant of the premises. These repairs shall be made by qualified personnel, acceptable to the director of water and sewer services of the city. (1985 Code, § 24-48)

**18-510. Notice of unsafe water.** The potable water supply made available on the properties served by the public water supply shall be protected from possible contamination as specified in this chapter. 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." The minimum acceptable sign shall have black letters, one (1) inch high, located on a red background. (1985 Code, § 24-49)

**CHAPTER 6****ADJUSTMENTS TO BILLS****SECTION**

18-601. City manager authorized to make adjustments to water and sewer bills.

**18-601. City manager authorized to make adjustments to water and sewer bills.** The city manager or his designee is hereby authorized, acting in his or her sound discretion, to make or cause to be made adjustments to any water and sewer service bill which may be owed to the aforesaid city or its regional utility system, with said adjustments to be made in accordance with a policy which shall be formulated in writing prior to any said adjustment, and which policy shall be adopted by the board of commissioners by resolution. (Ord. #3454, Jan. 1997)

## CHAPTER 7

### ILLICIT DISCHARGE ORDINANCE

#### SECTION

- 18-701. Purpose.
- 18-702. Definitions.
- 18-703. Illicit discharges.
- 18-704. Elimination of discharges or connections.
- 18-705. Notification of spills.
- 18-706. Enforcement.

**18-701. Purpose.** It is the purpose of this ordinance to:

(1) Protect, maintain, and enhance the environment of the City of Johnson City and the public health, safety and general welfare of the citizens of the city, by controlling discharges of pollutants to the city's storm water system and to maintain and improve the quality of the receiving waters into which the storm water 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 Johnson City to comply with the National Pollution Discharge Elimination System permit (NPDES) and applicable regulations, 40 CFR 122.26 for storm water discharges. (Ord. #4063-04, Dec. 2004)

**18-702. Definitions.** For the purpose of this ordinance, 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 Johnson City, TN.

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

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

(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) "Storm water 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." 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. (Ord. #4063-04, Dec. 2004)

**18-703. 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 sewer 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.

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

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

- (B) Diverted stream flows permitted by the State of Tennessee;
- (C) Rising ground water;
- (D) Groundwater infiltration (as defined at 40 CFR 35.2005(20)) to separate storm sewers;
- (E) Pumped ground water;
- (F) Foundation or footing drains;
- (G) Water discharged from crawl space pumps;
- (H) Air conditioning condensate;
- (I) Springs;
- (J) Individual, residential washing of vehicles;
- (K) Flows from natural riparian habitat or wetlands;
- (L) Swimming pools (if dechlorinated--typically less than one part per million chlorine);
- (M) Street wash waters resulting from normal street cleaning and de-icing operations;
- (N) Discharges resulting from emergency fire fighting activities;
- (O) Discharges pursuant to a valid and effective NPDES permit issued by the State of Tennessee;
- (P) Discharges necessary to protect public health and safety, as specified in writing by the city; and
- (Q) Dye testing permitted by the city; and
- (R) 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 limitation, illicit connections made in the past, regardless of whether the connection was permissible under laws or practices applicable or prevailing at the time of connection. (Ord. #4063-04, Dec. 2004)

**18-704. Elimination of discharges or connections.** (1) Any person responsible for a property or premises, including but not limited to an owner, operator, or occupant thereof, which is, or may be, the source of any illicit discharge, may be required to implement, at that 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, including but not limited to an owner, operator, or occupant thereof, where an illicit connection is located may be required, at that 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. (Ord. #4063-04, Dec. 2004)

**18-705. Notification of spills.** (1) Notwithstanding any other requirement of law, as soon as any person who is responsible for a facility or operation (including the owner, occupant, or operator thereof), or is 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, occupant, 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. (Ord. #4063-04, Dec. 2004)

**18-706. Enforcement.** (1) Authority. (a) The director or his/her designee(s) 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 or his/her designee shall have the right to enter onto private properties for the purposes of investigating a suspected violation of this ordinance.

(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 ordinance.

(c) Failure on the part of an owner or operator to allow such inspections by the director or his/her designee 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 ordinance shall be subject to a civil penalty, a 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 ordinance.

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

(d) The remedies provided for in this ordinance 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 ordinance 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 Johnson City, pursuant to Tennessee Code Annotated, § 68-221-1106, hereby declares that any person who violates this ordinance is subject to a civil penalty of not less than fifty dollars (\$50.00) or more than five thousand dollars (\$5000.00) 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 Johnson City;

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

(h) The City of Johnson 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 ordinance or any actual damages caused by the violation.

(i) Appeal from any assessment of civil penalty or damages or both shall be to the Board of Commissioners of the City of Johnson City. A written petition for review of such damage assessment or civil penalty shall be filed by the aggrieved party in the office of the City Manager of the City of Johnson City 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 City Manager of the City of Johnson City 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. (Ord. #4063-04, Dec. 2004)

## CHAPTER 8

### EROSION AND SEDIMENT CONTROL ORDINANCE

#### SECTION

- 18-801. Purpose.
- 18-802. Definitions.
- 18-803. General requirements.
- 18-804. Erosion and sediment control design standards.
- 18-805. Erosion and sediment control plans.
- 18-806. Compliance.

**18-801. Purpose.** The purposes of this ordinance are to:

(1) Protect, maintain, and enhance the environment of the City of Johnson City and the public health, safety and general welfare of the citizens of the city, by preventing soil erosion and sediment discharges and construction related wastes that occur as a result of residential, commercial, industrial, and other construction related activities from reaching the city's storm water system.

(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) Comply with the State of Tennessee National Pollutant Discharge Elimination System (NPDES) general permit for discharges from small municipal separate storm sewer systems. (Ord. #4064-04, Dec. 2004, as replaced by Ord. #4603-16, June 2016)

**18-802. Definitions.** For the purposes of this ordinance, 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 words "shall" and "must" are 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 the municipal separate storm sewer system. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage, or leaks, sludge or waste disposal, or drainage from raw material storage.

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

(3) "Clearing." In the definition of discharges associated with construction activity, clearing, grading, and excavation do not refer to clearing of vegetation along existing or new roadways, highways, dams or power lines for sight distance or other maintenance and/or safety concerns, or cold planing, milling, and/or removal of concrete and/or bituminous asphalt roadway pavement surfaces. Clearing typically refers to the removal of vegetation and disturbance of soil prior to grading or excavation in anticipation of construction

activities. Clearing may also refer to wide area land disturbance in anticipation of non-construction activities; for instance, cleared forested land in order to convert forest land to pasture for wildlife management purposes.

(4) "Commencement of construction or commencement of land disturbing activities." The initial disturbance of soils associated with clearing, grading or excavating activities or other construction activities.

(5) "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.

(6) "Construction related wastes." Refuse or unused materials that result from construction activities. Construction related wastes can include, but are not limited to, unused building and landscaping materials, chemicals, litter, sanitary waste, and concrete truck washout.

(7) "Construction support activities." Activities such as concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, or borrow areas provided all of the following are met:

(a) The support activity is primarily related to a construction site that is covered under a grading permit;

(b) The operator of the support activity is the same as the operator of the construction site;

(c) The support activity is not a commercial operation serving multiple unrelated construction projects by different operators;

(d) The support activity does not operate beyond the completion of the construction activity of the last construction project it supports; and

(e) Support activities are identified in the erosion and sediment control plan. The appropriate erosion prevention and sediment controls and measures applicable to the support activity shall be described in a comprehensive erosion and sediment control plan covering the discharges from the support activity areas.

(8) "Development." Any man-made change to improved or unimproved property including, but not limited to, construction of buildings or other structures, clearing, dredging, drilling operations, filling, grading, paving, excavation, or storage of equipment or materials.

(9) "Director." The director of public works of the city or his/her designee, who is responsible for the approval of development and redevelopment plans, grading permits, and implementation of the provisions of this ordinance.

(10) "Erosion." The removal of soil particles by the action of water, wind, ice or other agents, whether naturally occurring or acting in conjunction with or promoted by man-made activities or effects.

(11) "Erosion and sediment control plan." A written plan required by this ordinance and prepared in accordance with the Tennessee Construction General Permit, as amended, that includes, but not limited to, site map(s),

identification of construction/contractor activities that could cause pollutants in the storm water, and a description of measures or practices to control these pollutants.

(12) "Exceptional Tennessee waters." Surface waters of the State of Tennessee that satisfy characteristics of exceptional Tennessee waters as listed chapter 1200-4-3-.06 of the official compilation - Rules and Regulations of the State of Tennessee.

(13) "Filling." Any deposit or stock-piling of dirt, rock, stumps, or other natural or man-made solid waste material.

(14) "Grading." Any excavation, filling (including hydraulic fill), or stockpiling of earth materials or any combination thereof, including the land in its excavated or filled condition.

(15) "Grading permit." A permit issued by the city authorizing the commencement of land disturbing activities.

(16) "Land disturbing activity." Any activity on a property that results in a change in the existing soil cover (both vegetative and non-vegetative) or the existing soil topography. Land disturbing activities include, but are not limited to, development, re-development, demolition, construction, reconstruction, clearing, grading, filling, land transporting, and excavation.

(17) "Municipal Separate Storm Sewer System (MS4)." A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that is:

(a) Owned or operated by a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the state;

(b) Designed or used for collecting or conveying storm water;

(c) Which is not a combined sewer; and

(d) Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR §122.2, as amended from time to time.

(18) "Owner or operator." Any party associated with a construction project that meets either of the following two (2) criteria:

(a) This person or entity has operational or design control over construction plans and specifications, including the ability to make modifications to those plans and specifications. This person or entity is typically the owner or developer of the project or a portion of the project, and is considered the primary permittee; or

(b) This person or entity has day-to-day operational control of those activities at a project which are necessary to ensure compliance with a storm water pollution prevention plan for the site or other permit

conditions. This person or entity is typically a contractor or commercial builder who is hired by the primary permittee, and is considered a secondary permittee.

(19) "Plan." An erosion and sediment control plan, or a small lot erosion and sediment control plan.

(20) "Priority construction activity." Construction activities that discharge directly into or immediately upstream from waters the state recognizes as impaired for siltation or those waters designated as exceptional Tennessee waters. A property is considered to have a direct discharge if storm water runoff from the property does not cross any other property before entering the water of the state.

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

(22) "Small lot erosion and sediment control plan." A plan that is designed to eliminate and/or reduce erosion and off-site sedimentation from a site during construction activities, applicable to development and redevelopment sites that disturb less than one (1) acre and are not part of a larger plan of development.

(23) "Storm water pollution prevention plan." Document describing how an owner or operator intends to provide storm water management during land disturbing or construction activities.

(24) "Subdivision." The division, subdivision, or resubdivision of any lot or parcel of land as defined in the Subdivision Regulations of the Johnson City Regional Planning Commission and by the State of Tennessee.

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

(26) "Tennessee construction general permit." A permit issued and amended by TDEC titled "General NPDES Permit for Discharges of Storm Water Associated with Construction Activities." State of Tennessee General Permit No. TNR 100000.

(27) "Transporting." Any moving of earth materials from one (1) place to another, other than such movement incidental to grading, as authorized on an approved plan.

(28) "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. (Ord. #4064-04, Dec. 2004, as replaced by Ord. #4603-16, June 2016)

**18-803. General requirements.** (1) Applicability. (a) Land disturbing, construction or construction support activities that cause off-site

sedimentation or sediment discharges to waters of the state shall be in violation of this ordinance.

(b) No owner or operator of any property within the city shall commence land-disturbing activities unless he/she has obtained all applicable permits from state and federal agencies and an erosion and sediment control plan is submitted to and approved by the director.

(c) For construction resulting in less than one (1) acre of disturbed area, excluding single family residential construction that is part of an approved plan for a larger development or sale where best management practices are continuing to be implemented on site, a small lot erosion and sediment control plan shall be submitted to and approved by the director prior to commencement of any land disturbing activity.

(d) The issuance of a grading permit shall be conditioned upon the approval of the erosion and sediment control plan by the director. The city shall serve as the plan approval agency only, and in no instance are its regulations to be construed as designing erosion and sediment control or other storm water systems.

(e) No building permit shall be issued until the owner or operator has obtained a grading permit and is in compliance with the grading permit, where the same is required by this ordinance.

(f) All land disturbing activities including activities exempted from plans submittals shall employ adequate erosion and sediment control best management practices.

(2) Exemptions from plans submittal. (a) The following activities shall not require submittal and approval of an erosion and sediment control plan, or small lot erosion and sediment control plan:

(i) Minor land disturbing activities such as home gardens and individual home landscaping, repairs or maintenance work;

(ii) Additions or modifications to existing, individual, single family structures;

(iii) Emergency work to protect life, limb or property, and emergency repairs, provided that the land area disturbed shall be shaped and stabilized in accordance with the requirements of this regulation;

(iv) Nursery and agricultural operations conducted as a permitted main or accessory use; and

(v) State and federal projects subject to the submission requirements of TDEC.

(vi) Land disturbances comprising an area smaller than the smallest lot allowed in the Zoning Code of the City of Johnson City, Tennessee.

(b) All other provisions of this ordinance shall apply to the exemptions noted in (2)(a) above. (Ord. #4064-04, Dec. 2004, as replaced by Ord. #4603-16, June 2016)

**18-804. Erosion and sediment control design standards.**

(1) Adoption of standards. (a) The design, installation, operation and maintenance of construction site runoff control design standards and best management practices intended for erosion prevention and the control of sediment and other construction related wastes and/or pollutants shall be performed in accordance with the requirements of the Tennessee construction general permit effective at the time of erosion and sediment control plan approval. This requirement also applies to erosion and sediment control plan development and its contents, site inspection and documentation and reporting. Where the provisions of this section conflict or overlap with the Tennessee construction general permit, as amended, and the TDEC Erosion and Sediment Control Handbook, as amended, the regulation which is more restrictive or imposes higher standards or requirements shall prevail.

(b) The city adopts as its erosion and sediment control design standards and best management practices manual the latest TDEC Erosion and Sediment Control Handbook, as amended. This manual is incorporated by reference into this ordinance. This manual includes a list of acceptable BMPs, including the specific design performance criteria and operation and maintenance requirements for each BMP.

(c) Requirements for BMP design, installation, operation and maintenance, plan development and contents, site inspection, documentation and reporting presented in the Tennessee construction general permit, as amended, and/or the TDEC Erosion and Sediment Control Handbook, as amended, may be updated and expanded upon, at the discretion of the director, based on improvements in engineering, science, monitoring, and local maintenance experience.

(d) Erosion and sediment control BMPs that are designed, constructed and maintained in accordance with the Tennessee construction general permit, as amended and the BMP criteria presented in the TDEC Erosion and Sediment Control Manual shall be presumed to meet the minimum water quality performance standards required by the city.

(e) Additional requirements for discharges into impaired or exceptional Tennessee waters that are defined in the Tennessee construction general permit, as amended, shall be implemented for all priority construction activities. The director has the discretion to require BMPs that conform to a higher than minimum standard for priority construction activities, for exceptional Tennessee waters, or where deemed necessary.

(2) Other guidelines. (a) No solid materials, including building materials, shall be discharged to waters of the State, except as authorized by a section 404 permit or Tennessee Aquatic Resource Alteration Permit.

(b) Off-site vehicle tracking of sediments is prohibited.

(c) Dust generation shall be minimized.

(d) For installation of any waste disposal systems on site, or sanitary sewer or septic system, the plan shall provide for the necessary sediment controls. Owners/operators must also comply with applicable state and/or local waste disposal, sanitary sewer or septic system regulations for such systems to the extent that these are located within the permitted area.

(e) Erosion and sediment control measures must be in place and functional before commencement of land disturbing activities, and must be constructed and maintained throughout the construction period. Temporary measures may be removed at the beginning of the work day, but must be replaced at the end of the work day or prior to a rain event, whichever is sooner.

(f) Temporary construction riparian buffer zones shall be preserved in accordance with the Tennessee construction general permit, as amended. (Ord. #4064-04, Dec. 2004, as replaced by Ord. #4603-16, June 2016)

**18-805. Erosion and sediment control plans. (1) Requirements.**

(a) The erosion and sediment control plan shall present in detail the best management practices that will be employed to reduce erosion and control sedimentation.

(b) The plan shall be sealed in accordance with the Tennessee construction general permit, as amended.

(c) Best management practices presented in the plan shall conform to the requirements found in the TDEC Erosion and Sediment Control Handbook, as amended, and shall meet or exceed the requirements of the TDEC construction general permit.

(d) The plan shall include measures to protect legally protected state or federally listed threatened or endangered aquatic fauna and/or critical habitat (if applicable).

(e) The plan submitted shall comply with any additional requirements set forth in the city's subdivision regulations, zoning ordinance, or other city ordinances and regulations.

(f) Construction of the site in accordance with the approved plan must commence within one (1) year from the issue date of the grading permit, or the grading permit will become null and void and the plan must be resubmitted for approval.

(2) Plan contents. Erosion and sediment control plans shall include the components of a storm water pollution prevention plan, as required by the Tennessee construction general permit, as amended and any other information deemed necessary by the director.

(3) Small lot erosion and sediment control plan contents.

(a) Requirements:

(i) Land disturbing activities that affect less than one (1) acre and are not part of a larger common plan of development with

an approved plan shall submit and obtain approval of a small lot erosion and sediment control plan prior to obtaining a building permit.

- (ii) The plan shall include the following information:
  - (A) Address/location of land disturbing activity;
  - (B) Owner/operator name and contact information;
  - (C) Building permit application number (if available);
  - (D) Locations of streams, wetlands, ponds, sinkholes, easements, existing drainage structures with respect to the site;
  - (E) A description of other construction related waste controls that are expected to be implemented on-site. Such details should include, but are not limited to: the construction/location of vehicle wash pads; litter and waste materials control; sanitary and chemical waste control, and concrete truck washout areas.
  - (F) Approximate disturbed area limits; and
  - (G) Location of stabilized construction entrance/egress.

(iii) The small site erosion and sediment control plan will be included with the building permit and must be followed by the building permit holder and the owner or operator.

(iv) The director has the discretion to require a fully engineered erosion and sediment control plan as set forth in subsection (2). (Ord. #4064-04, Dec. 2004, as replaced by Ord. #4603-16, June 2016)

**18-806. Compliance.** (1) Conformity to approved plan:

(a) The owner or operator is responsible for maintaining compliance with the approved plan and grading permit.

(b) The approved erosion and sediment control plan shall be followed during the entire duration of construction at the site;

(c) The director may require reports or records from the permittee or person responsible for carrying out the plan to ensure compliance.

(d) No land disturbing activity shall be allowed to commence without prior plan approval by the director.

(e) Priority construction activities shall not commence until the owner/operator attends a pre-construction meeting with the director.

(2) Amendments to the approved plan: The permittee shall modify and update the plan in accordance with the requirements of the Tennessee construction general permit, as amended.

(3) Inspection and maintenance. (a) Maintenance, site assessments, and inspections of the best management practices shall be implemented

in the manner specified by the Tennessee construction general permit, as amended and the TDEC Erosion and Sediment Control Handbook, as amended, by qualified personnel who are provided by the owner/operator of the land disturbing activity.

(b) The owner/operator shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the owner/operator to achieve compliance with this ordinance. Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems, installed by an owner/operator only when necessary to achieve compliance with the conditions of this ordinance.

(c) Any inadequate control measures or control measures in disrepair shall be replaced or modified, or repaired as necessary, in accordance with the inspection and maintenance timeframes stated in the Tennessee general permit, as amended and the maintenance guidance provided in the TDEC Erosion and Sediment Control Handbook, as amended.

(d) If sediment escapes the permitted property, the permittee shall remove off-site accumulations in accordance with the requirements of the Tennessee construction general permit, as amended.

(e) Records shall be retained in accordance with the Tennessee construction general permit, as amended.

(4) Inspections by the city. (a) The director or his/her designee shall have the right to enter onto private properties for the purposes of conducting unrestricted periodic inspections of all land disturbing activities to verify compliance with the approved plan or to determine whether such a plan is necessary.

(b) The director or his/her designee shall have the right to enter onto private properties for the purposes of investigating a suspected violation of this ordinance.

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

(5) Enforcement, penalties, and liability. (a) Any person failing to have an approved erosion and sediment control plan prior to starting a land disturbing activity violates this ordinance.

(b) Any owner or contractor who fails to follow an approved erosion and sediment control plan shall have violated this ordinance and shall be subject to a civil penalty, a stop work order, withholding of a certificate of occupancy, and civil damages.

(c) If sediment escapes the permitted property, off-site accumulations of sediment that have not reached a stream shall be removed at a frequency sufficient to minimize offsite impacts. For example, fugitive sediment that has escaped the construction site and has

collected in the street must be removed so that it is not subsequently washed into storm sewers and streams by the next rain or so that it does not pose a safety hazard to users of public streets. Removal of fugitive sediments shall be done by the owner/operator at the owner/operator's expense. This ordinance does not authorize remediation/restoration of a stream without consultation with TDEC, nor does it authorize access by the owner/operator to other private property.

(d) The owner and/or contractor shall allow periodic inspections by the city of all land disturbing activities. Failure to allow such inspections shall be considered a failure to follow the approved plan, and shall be subject to civil penalties, a stop work order, and withholding of a certificate of occupancy.

(e) In order to gain compliance, the director may notify other departments to deny service to the property until the site has been brought into compliance with this ordinance.

(f) Any person who violates any provision of this ordinance may also be liable to the city in a civil action for damages.

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

(h) Neither the approval of a plan under the provisions of this ordinance nor compliance with the conditions of such plan 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.

(i) The City of Johnson City, pursuant to Tennessee Code Annotated, § 68-221-1106, hereby declares that any person who violates this ordinance 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. Civil penalties for any person who violates this ordinance involving property used or to be used solely as a single family residence, situated or to be situated on one (1) acre or less, shall be not less than fifty dollars (\$50.00) or more than five hundred dollars (\$500.00) per day for each day of violation. Each day of violation constitutes a separate violation.

(j) 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 Johnson City;

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

(k) The City of Johnson 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 ordinance or any actual damages caused by the violation.

(l) Appeal from any assessment of civil penalty or damages or both shall be to the Board of Commissioners of the City of Johnson City. A written petition for review of such damage assessment or civil penalty shall be filed by the aggrieved party in the office of the City Manager of the City of Johnson City within thirty (30) days after the damage assessment or civil penalty is served upon the violator either personally or by certified mail, return receipt requested. Failure on part of the violator to file a petition for appeal in the office of the City Manager of the City of Johnson City shall be deemed consent to the damage assessment or civil penalty and shall become final.

(m) 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. (Ord. #4064-04, Dec. 2004, as replaced by Ord. #4603-16, June 2016)

**CHAPTER 9****STORMWATER USER FEE****SECTION**

- 18-901. Definitions.
- 18-902. Establishment of enterprise service area.
- 18-903. User fee.
- 18-904. Billing.
- 18-905. User fee determination.

**18-901. Definitions.** For the purpose of this chapter, the following definitions shall apply; words used in the singular shall include the plural, and the plural, 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 herein shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

(1) "Billing period" means the period identified from the first day of the month to the last day of the month. All bills rendered during a month are for the period beginning on the first day of the same month and are valid for that entire month unless otherwise identified. When city water service is discontinued during a month, the stormwater user fee due for that account shall be the pro rata portion of the month for which water services were active. When a developed property that does not receive city water service changes ownership during a billing period, the account existing on the first day of the billing period shall be liable for the pro rata portion of the drainage fee for that billing period from the first day of the billing period until the day the property transaction is recorded with the Carter County, Sullivan County, or Washington County register of deeds offices.

(2) "Bonds" means revenue bonds, notes, loans or any other debt obligations issued or incurred to finance the costs of construction.

(3) "Calendar year" means a twelve (12) month period commencing on the first day of January of any year.

(4) "Costs of construction" means reasonable costs incurred in connection with providing capital improvements to the system or any portion thereof, including, but not limited to, the costs of (1) acquisition of all property, real or personal, and all interests in connection therewith including all rights-of-way and easements therefor, (2) physical construction, installation and testing, including the costs of labor, services, materials, supplies and construction services used in connection therewith, (3) architectural, engineering, legal and other professional services, (4) insurance premiums taken out and maintained during construction, to the extent not paid for by a contractor for construction and installation, (5) any taxes or other charges which become due during construction, (6) expenses incurred by the city or on its

behalf with its approval in seeking to enforce any remedy against any contractor or sub-contractor in respect of any default under a contract relating to construction, (7) principal of and interest of any bonds, and (8) miscellaneous expenses incidental thereto.

(5) "Debt service" means, with respect to any particular calendar year and any particular series of bonds, an amount equal to the sum of (i) all interest payable on such bonds during such calendar year, plus (ii) any principal installments of such bonds during such calendar year.

(6) "Developed property" means real property other than undisturbed property and vacant improved property.

(7) "Director" means the director of public works.

(8) "Dwelling unit" means a singular unit or apartment providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

(9) "Exempt property" means public rights of way, public streets, public alleys and public sidewalks.

(10) "Extension and replacement" means costs of extensions, additions and capital improvements to, or the renewal and replacement of capital assets of, or purchasing and installing new equipment for, the system, or land acquisitions for the system and any related costs thereto, or paying extraordinary maintenance and repair, including the costs of construction, or any other expenses which are not costs of operation and maintenance or debt service.

(11) "Impervious area" means the number of square feet of hard surfaced areas which either prevent or retard the entry of water into soil mantle, as it entered under natural conditions as undisturbed property, and/or causes water to run off the surface in greater quantities or at an increased rate of flow from that present under natural conditions as undisturbed property, including, but not limited to, roofs, roof extensions, patios, porches, driveway, sidewalks, pavement and athletic courts.

(12) "Multi-family residential property" means property designed to accommodate more than one residence, including multi-family residential structures, townhouses/condominiums, mobile homes and high rise multi-family structures.

(13) "Multi-family residential structure" means a residential structure designed with two or more dwelling units to accommodate two or more families or groups of individuals living separately and not sharing the same living space.

(14) "Nonresidential developed property" means developed property that is not utilized for dwelling units within the city.

(15) "Operating budget" means the annual operating budget adopted by the city for the succeeding fiscal year.

(16) "Operations and maintenance" means the current expenses, paid or accrued, of operation, maintenance and current repair of the system, as calculated in accordance with sound accounting practice, and includes, without

limiting the generality of the foregoing, insurance premiums, administrative expenses, labor, executive compensation, and cost of materials and supplies used for current operations, and charges for the accumulation of appropriate reserves for current expenses not annually incurred, but which are such as may reasonably be expected to be incurred in accordance with sound accounting practice.

(17) "Revenues" mean all rates, fees, assessments, rentals or other charges or other income received by the stormwater user fee fund, in connection with the management and operation of the system, including amounts received from the investment or deposit of moneys in any fund or account and any amounts contributed by the city, all as calculated in accordance with sound accounting practice.

(18) "Single family unit or SFU" means the average impervious area of a single family detached residential dwelling unit located within the city as periodically determined and established as provided in this article. The initial average impervious area is calculated to be three thousand three hundred fifteen (3,315) square feet.

(19) "SFU rate" means the dollar value periodically determined and assigned to each SFU as a charge for stormwater services, and expressed as a dollar value per SFU per month.

(20) "Stormwater management system" or "system" means the existing stormwater management of the city and all improvements thereto which by this chapter are constituted as the property and responsibility of the city, to be operated as an enterprise fund to, among other things, conserve water, control discharges necessitated by rainfall events, incorporate methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over-drainage, environmental degradation and water pollution or otherwise affect the quality and quantity of discharge from such system.

(21) "Stormwater user fee" means a fee authorized by ordinance(s) established to pay operations and maintenance, extension and replacement and debt service.

(22) "Stormwater user fee fund" means the enterprise fund created by this chapter to operate, maintain and improve the system and for such other purposes as stated in this chapter.

(23) "Undisturbed property" means real property which has not been altered from its natural state by grading, dredging, filling, removal of trees and vegetation or other activities which have disturbed or altered the topography or soils on the property.

(24) "User fee district" means the area or property within the corporate limits of Johnson City.

(25) "Vacant improved property" means vacant property which is, or could reasonably be, served by any subdivision improvements that allow egress. (as added by Ord. #4226-06, Jan. 2007)

**18-902. Establishment of enterprise service area.** The city finds, determines, and declares it to be conducive to the health, welfare, safety and convenience of the city and its residents that a stormwater service area be established within the city. Consequently, pursuant to Tennessee Code Annotated, §§ 68-221-1101 through 68-221-1113, a stormwater enterprise fund, to be known as the Johnson City Stormwater Enterprise Fund, is established, and it is ordained and declared that the city limits shall be and constitute the stormwater enterprise fund service area, and that the enterprise shall comprise and include elements of the city's stormwater drainage and flood protection systems which provide for the collection, treatment and disposal of stormwater, surface water, and groundwater. It is further found, determined, and declared that the elements of the stormwater enterprise fund are of benefit and provide services to all real properties within the incorporated city limits, including property not directly served by the stormwater drainage system, and that such benefits and services may include but are not limited to the provision of adequate systems of collection, conveyance, detention, treatment and release of stormwater; the reduction of hazard to property and life resulting from stormwater runoff and flooding; improvement in general health and welfare through reduction of undesirable stormwater conditions and flooding; and improvement to the water quality in the stormwater and surface water system and its receiving waters.

It is further determined and declared to be necessary and conducive to the protection of the public health, welfare, safety and convenience of the city and its residents that charges to be levied upon and collected from the owners or occupants of all lots, parcels of real estate, and buildings that discharge stormwater (surface or subsurface waters), directly or indirectly, to the city stormwater drainage system, and that the proceeds of such charges so derived be used for the purposes of operation, maintenance, repair, replacement and debt service for construction of stormwater drainage and flood protection improvements comprising the stormwater enterprise fund. (as added by Ord. #4226-06, Jan. 2007)

**18-903. User fee.** Subject to the provisions of this chapter, each and every residential developed property and nonresidential developed property, other than exempt property, within the corporate limits of the city, and the owners and non-owner users thereof, have imposed upon them a stormwater user fee. In the event the owner and non-owner users of a particular property are not the same, the liability for each the owner and non-owner user for the user fee attributable to that property shall be joint and several. The stormwater user fee shall be a monthly or a regular interval service charge and shall be determined by the provisions of this chapter and the SFU and SFU rate which shall be established and changed from time to time by the board of commissioners.

(1) Single family detached residential property. The stormwater fee for a single family detached residential property shall be the following percentage of the SFU rate:

<u>Impervious Area of the Property</u> (square feet)	<u>Percentage of SFU Rate</u>
1690 or less	51 percent
1691 to 5574	100 percent
5575 or more	168 percent

(2) Multi-family residential property. The stormwater fee for a non-single family detached residential property shall be seventy-one (71) percent of the SFU rate multiplied by the number of dwelling units on the property:

(3) Non-residential property. The stormwater fee for nonresidential properties shall be the SFU rate multiplied by the numerical factor obtained by dividing the total impervious area of a nonresidential property by the number of square feet associated with 1 SFU, or three thousand three hundred fifteen (3315) square feet. The minimum fee for any developed nonresidential property will be equal to 1 SFU rate. (as added by Ord. #4226-06, Jan. 2007)

**18-904. Billing.** The stormwater user fee for all metered property shall be billed and collected monthly with the monthly city's services utility bill for properties within the corporate limits of the city utilizing city utilities. For all properties not utilizing other city utilities, the stormwater user fee shall be billed and collected separately. All such bills for stormwater user fees shall be rendered monthly by Johnson City. The stormwater user fee for those properties utilizing city utilities is part of a consolidated statement for utility customers which are generally paid by a single payment. The stormwater user fee for unmetered property shall be billed at regular intervals. All bills for stormwater user fees shall become due and payable in accordance with the rules and regulations of Johnson City pertaining to the collection of the stormwater user fees. (as added by Ord. #4226-06, Jan. 2007)

**18-905. User fee determination.** There is hereby established the following uniform schedule of rates for the services and use of facilities of the stormwater management system by the owner, tenant, or occupant of the premises using the services and facilities of said system:

(1) Periodically, the board of commissioners, upon recommendation of the director, shall, by resolution, establish reasonable rates for stormwater management systems for each single family unit (SFU): Each single family unit shall be billed at a flat fee established by the board of commissioners for an SFU. A single family unit is hereby defined as the statistical average horizontal impervious area of detached single family residential units in Johnson City.

(2) Parcels which are undeveloped may be assessed a stormwater user fee. The bill shall be determined by dividing the total land area of the property, in square feet, by the area of an equivalent residential unit times a correction factor. The correction factor shall be based on the relative volume of runoff from an undeveloped property and that of a typical single family residence, under typical hydrologic conditions.

(3) For all nonresidential properties, that are enterprise, business establishment, building, or other occupancy not covered by subsection (1) and (2) of this section, the rate shall be computed based on the total impervious area of the property divided by the average impervious area of a single family detached residential property times the rate established for a single family unit. The billing amount shall be updated by the director based on any additions to the impervious areas as approved through the building permit process.

(4) Any owner or occupant of a property aggrieved by the director's calculation of the storm water fee or allocation among users as provided in this section may appeal such determination to the director.

(5) Procedures and policies associated with credits and/or adjustments to the storm water fee are set forth in the document entitled Stormwater Management Utility Adjustment and Credit Manual - City of Johnson City, Tennessee, as may be amended from time to time by the board of commissioners by resolution. (as added by Ord. #4226-06, Jan. 2007)

## CHAPTER 10

### UTILITY DEPOSIT POLICY

#### SECTION

- 18-1001. Policy statement.
- 18-1002. Single family residential customer deposits.
- 18-1003. Multi-unit residential and non-residential.
- 18-1004. Refund of deposits.

**18-1001. Policy statement.** A security deposit for utility services - water, sewer, solid waste, and stormwater - will be collected to ensure that all bills are paid in full by the due date. The city seeks to protect customers with good payment histories from the consequences of uncollectible accounts by other customers. Deposits may be reduced or waived based on credit rating or payment history with the utility. Security deposits are non-transferable to another person and cannot be used to pay regular bills. (as added by Ord. #4558-14, Nov. 2014)

**18-1002. Single family residential customer deposits.** New and current residential customers who move within the utilities' service areas will be subject to this policy as of the time its adoption. Also, customers receiving service before the implementation of this policy who are cut off for non-payment, meter tampering, or any other reason will be required to pay the standard deposit and all appropriate fees for each account before service is restored. The standard deposit will be approximately double the average monthly bill of services provided. The reduced deposit will be half the standard deposit (the equivalent of an average monthly bill). Deposits, if required, will be collected for each separate account opened by a customer.

(1) **Determining the deposit amount.** Deposit amounts are based on charges and rates for the fiscal year in which deposit is made. The full residential solid waste rate will determine the solid waste component of the utility deposit. The average residential stormwater rate will determine the stormwater component of the utility deposit. An average of four thousand eight hundred (4,800) water/sewer gallons billed per month will be the standard for determining the water and sewer component of the utility deposit. Current deposit requirements are published as part of the rates and charges schedule.

(2) **Credit rating.** The deposit amount (standard, reduced, zero) collected from new customers is determined by the customer's credit rating from a contracted rating agency. The rating scale to determine the standard, reduced, or zero deposit is established by the city. Applicants for service with rating presenting no credit risk will not be required to pay a deposit. Applicants with ratings presenting moderate credit risk will be charged the reduced deposit. Applicants with ratings presenting high credit risk will be charged the

standard deposit. New applicants for service who decline the option of using a credit rating to determine the deposit amount will be charged the standard deposit.

(3) Payment history with the utility. The city reserves the right to evaluate the payment histories of customers to assess risks. The city's current billing software provides a credit rating code for each customer based on payment history:

#### Credit Rating Codes (The Rating Code)

Code	Description
2	Balance paid before or on due date
3	Penalty applied to current bill if not paid by or on due date
4	Next bill printed with current amount plus previous bill with penalty
5	Penalty applied to current bill. Total bill includes current bill plus penalty and previous bill plus penalty
6	Appeared on cut off list for non-payment of previous two bills including penalties
7	Next bill printed with current amount plus previous two bills with penalties (It is very rare that a customer will get a third bill without having paid the previous two bills, for example, customers who have set up pay plans.)
8	Appeared on cut off list for non-payment of three previous bills (very rare)
9	Bad check returned (entered through returned check option in cash receipts)

Current customers who move within the service area, or seek new or additional utility services, will be subject to this policy. The rating code will determine the deposit amount to be collected from the customer. Current customers will not have their credit checked through the contracted credit rating service. Customers with credit rating code "2" will not be charged a deposit. Customers

with credit rating code "3" or "4" will be charged the reduced deposit. Customers with credit rating code "5" and higher will be charged the standard deposit. Current customers must be established for twelve (12) months for consideration of payment history. Current customers established for less than twelve (12) months will be considered new customers and subject to the provisions set for tin subsection (2) above.

(4) Future payment of deposits. Although deposits may be reduced or waived during the application process due to good credit or good payment history, the city shall require the customer to make a deposit or deposits in such amounts that will bring the deposit(s) to the standard deposit level should the customer's utility account become delinquent and cut off for non-payment. (as added by Ord. #4558-14, Nov. 2014)

**18-1003. Multi-unit residential and non-residential.** Deposits may be required for multi-unit residential (master metered) and non-residential customers who have a history of being disconnected. Deposit amounts will be determined on an individual basis based on customer history and usage patterns. (as added by Ord. #4558-14, Nov. 2014)

**18-1004. Refund of deposits.** When service is terminated, unused security deposits will be refunded with interest at the same rate applicable to the city's account in which the security deposit is held. The city may deduct such amount from the deposit(s) to offset any outstanding balance prior to the refund of the deposit. A deposit will not be refunded if a customer has another utility account with a balance owed to the city. (as added by Ord. #4558-14, Nov. 2014)