

CHAPTER 3**FEES AND BILLING****SECTION**

- 18-301. Purpose.
- 18-302. Types of charges and fees.
- 18-303. Fees for applications for discharge.
- 18-304. Inspection fee and tapping fee.
- 18-305. Sewer user charges.
- 18-306. Surcharge fees.
- 18-307. Industrial wastewater discharge permit fees.
- 18-308. Fees for industrial discharge monitoring.
- 18-309. Billing.
- 18-310. Annual notification.
- 18-311. Biennial review of operation and maintenance charges.
- 18-312. Validity.

18-301. Purpose. It is the purpose of this chapter to provide for the equitable recovery of costs from users of the town's wastewater treatment system, including costs of operation, maintenance, replacement, administration, bond service costs, capital improvements, and depreciation. (Ord. #135, June 1993)

18-302. Types of charges and fees. The charges and fees as established in the town's schedule of charges and fees, may include, but not be limited to:

- (1) Inspection fee and tapping fee;
- (2) Fees for application for discharge;
- (3) Sewer use charges;
- (4) Surcharge fees;
- (5) Industrial wastewater discharge permit fees;
- (6) Fees for industrial discharge monitoring;
- (7) Holding tank waste disposal permit fees; and
- (8) Other fees as the town may deem necessary to carry out the requirements of this chapter. (Ord. #135, June 1993)

18-303. Fees for applications for discharge. A fee may be charged when a user or prospective user makes application for discharge as required by §§ 18-214 and 18-215 of this title. (Ord. #135, June 1993)

18-304. Inspection fee and tapping fee. The inspection fee and tapping fee shall be set by the mayor and council. The inspection fee for

inspection not during normal working hours, Monday through Friday 8:00 A.M. through 4:30 P.M., may be increased at the discretion of the board.

(1) Tap fees--residential users. The minimum inspection fee, tapping fee, and capacity charge for all residential users shall be one thousand (\$1,000.00) dollars per tap which shall be paid at the time the application is filed. This fee shall include the cost of the extension of the sewer line to each applicant's property boundary or up to one hundred (100) feet from the nearest existing sewer line, whichever is less, with the applicant to be responsible for any additional costs from extending the sewer line to the residence. The fee shall cover the costs of inspecting new and/or existing plumbing within the applicant's building as well as sewer service lines and connections to public sewers. In addition to the tap fee of one thousand (\$1,000.00) dollars, each customer shall also pay a non-refundable thirty-five (\$35.00) dollar connection fee.

(2) Tap fees--commercial users. The minimum inspection fee, tapping fee, and capacity charge for all commercial users for each sewer tap shall be one thousand five hundred (\$1,500.00) dollars which shall be paid at the time the application is filed. This fee shall include the cost of the extension of the sewer line to each applicant's property boundary or up to one hundred (100) feet from the nearest existing sewer line, whichever is less, with the applicant to be responsible for any additional costs from extending the sewer line to the business. The fee shall cover the costs of inspecting new and/or existing plumbing within the applicant's building as well as sewer service lines and connections to public sewers. In addition to the tap fee of one thousand five hundred (\$1,500.00) dollars, each customer shall also pay a non-refundable thirty-five (\$35.00) dollar connection fee. (Ord. #135, June 1993, as amended by Ord. #177, Dec. 1998, and Ord. #195, July 2000)

18-305. Sewer user charges. (1) Classification of users. Users of the wastewater system shall be classified into two (2) general classes or categories depending upon the user's contribution of wastewater loads; each class user being identified as follows:

(a) Class I. Those users whose average biochemical oxygen demand is two hundred fifty milligrams per liter (250 mg/l) by weight or less, and whose suspended solids discharge is two hundred fifty milligrams per liter (250 mg/l) by weight or less.

(b) Class II. Those users whose average biochemical oxygen demand exceeds two hundred fifty milligrams per liter (250 mg/l) concentration by weight and/or whose suspended solids exceeds two hundred fifty milligrams per liter (250 mg/l) concentration.

(2) Determination of costs. The mayor and council shall establish monthly rates and charges for the use of the system and for the services supplied by the wastewater system. Said charges shall be based upon the cost categories of administration costs, including billing and accounting costs;

operation and maintenance costs of the wastewater collection and treatment system; water distribution; debt service costs; and general replacement costs.

(a) All users who fall under Class I shall pay a single unit charge expressed as dollars per 1000 gallons of water purchased (\$/1000 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 \$/1000 gallons.

T.S.C. = the total operation, maintenance, and minor equipment replacement, administration, and debt service determined by yearly budget provisions.

V_t = the total volume of water in 1000 gallons purchased from all users per year as determined from projections from one town fiscal year to the next.

(b) All users who fall within the Class I classification shall pay the same base unit charge per 1000 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/or suspended solids in direct proportion to the actual discharge quantities.

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

(d) When either or both the total suspended solids or biochemical oxygen demand quantities discharged into the treatment works is in excess of those described in § 18-353(1)(b), above, thus being classified as Class II users, the following formula shall be used to compute the appropriate user surcharge:

$$C_u = (B_c(B_u - 250) + S_c(S_u - 250)) \times 0.00834 \times V_u$$

Where formula components are as follows:

C_u = Total user surcharge per unit of time

V_u = Volume in 1000's of gallons per unit of time. No reduction in sewage service charges, fees, or taxes shall be permitted because of the fact that certain wastes discharged to the sewage works contain less than 250 mg/l of BOD, and/or 250 mg/l of total suspended solids (TSS).

B_c = Total cost for treatment of a unit of biochemical oxygen demand (BOD)

B_u = Average concentration of BOD contribution from a user per unit of time. If actual value is less than 250 mg/l the value used in the formula shall be 250.

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

S_u = Average concentration of suspended solids contribution from a user per unit of time. If actual value is less than 250 mg/l the value used in the formula shall be 250. (Ord. #135, June 1993)

18-306. Surcharge fees. If it is determined by the town 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 discharger of such parameters in proportion to the amount of discharge. (Ord. #135, June 1993)

18-307. Industrial wastewater discharge permit fees. A fee may be charged for the issuance of an industrial wastewater discharge permit in accordance with § 18-302 of this chapter. (Ord. #135, June 1993)

18-308. Fees for industrial discharge monitoring. Fees may be collected from industrial users having pretreatment or other discharge requirements to compensate the town for the necessary compliance monitoring and other administrative duties of the pretreatment program. (Ord. #135, June 1993)

18-309. Billing. The billing for normal domestic wastewater services shall consist of monthly billing in accordance with the rates specified by the town and in accordance with Article 8-11-1 of this code. (Ord. #135, June 1993)

18-310. Annual notification. Each user of the system will be notified, at least annually, in conjunction with a regular bill, of the rate and that portion

of the user charges which are attributable to wastewater treatment services. (Ord. #135, June 1993)

18-311. Biennial review of operations and maintenance charges.

The user charge system will be reviewed not less than every two (2) years. At this time, the total wastewater contribution of users and user classes and the total cost of operation and maintenance of the system will be reviewed to assess the need for revision of the user charge rate. (Ord. #135, June 1993)

18-312. Validity. (1) All chapters or parts of chapters in conflict herewith are hereby repealed.

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

(3) This chapter and its provisions shall be valid for all service areas, regions and sewage works under the jurisdiction of the Town of White Bluff, Tennessee. (Ord. #135, June 1993)

CHAPTER 4

DEVELOPER'S POLICY

SECTION

18-401. Inspection and tap fees for developers.

18-401. Inspection and tap fees for developers. (1) The following definitions shall apply to this sub-section:

(a) "Developer." Any person, firm or corporation, both public and private, engaged in the development of land, such as subdivisions and other land improvements.

(b) "New subdivisions." A development of a tract or parcel of land having two (2) or more lots and having dedicated streets which have not been accepted by the appropriate governing agency.

(2) Tap fees. Each developer shall pay to the Town of White Bluff, a privilege fee in the amount of one-half (½) of the normal tap fee for each residential or commercial lot in the proposed development. The tap fees must be prepaid by the developer within ten (10) days of the final approval of the new subdivision by the planning commission as provided therein.

(3) The following rules and regulations shall apply to new subdivisions:

(a) The developer shall be responsible for paying all costs and installation expenses for all sewer mains, pump stations, and other equipment required for the new subdivision sewer project.

(b) The developer shall submit preliminary plot plans of the new subdivision to the planning commission for approval.

(c) The developer shall submit sewer plans, cost estimates, and any off-site improvements that may be required to serve the proposed development to the waste water superintendent and the city engineer for review. Approved plans shall then be submitted to the State of Tennessee Department of Environment and Conservation for approval.

(d) The developer shall submit shop drawings to the waste water superintendent for approval and shall install sewer lines and taps at each lot and pump station as provided in the approval plans and specifications for on-site and off-site development.

(e) The developer shall receive credit for off-site improvements by deducting the pre-paid tap fees for the full amount of the off-site improvements. Verified records must be presented and approved by the waste water superintendent for this credit. If pre-paid tap fees exceed the off-site improvements, then this amount shall be credited to the developer who shall have the right to use this credit for future tap fees for future developments by the same developer.

(f) All work by developer shall be inspected and approved by the Town of White Bluff Sewer Superintendent, City Engineer, prior to habitation or use.

(g) The developer shall be responsible for maintenance of the new development including mains, pump stations, accessories and appurtenant structures for the first twelve (12) months after acceptance by the Town of White Bluff.

(h) The developer shall be required to post a bond or letter of credit in favor of the Town of White Bluff in an amount to be determined by the waste water superintendent to insure that the new development and all improvements are maintained by the developer for the first twelve (12) months following approval. The bond or letter of credit must be approved by the waste water superintendent. The developer shall warranty all improvements and repair all improvements for one (1) year following final inspection. (Ord. #177, Dec. 1998, as amended by Ord. #195, July 2000)

CHAPTER 5

CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.¹

SECTION

- 18-501. Definitions.
- 18-502. Standards.
- 18-503. Construction, operation, and supervision.
- 18-504. Statement required.
- 18-505. Inspections required.
- 18-506. Right of entry for inspections.
- 18-507. Correction of existing violations.
- 18-508. Use of protective devices.
- 18-509. Unpotable water to be labeled.
- 18-510. Violations.

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

(1) "Public water supply." The waterworks system furnishing water to the Town of White Bluff for general use and which supply is recognized as the public water supply by the Tennessee Department of Environment and Conservation.

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

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

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

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

(6) "Person." Any and all persons, natural or artificial, including any individual, firm, or association, and any municipal or private corporation

¹Municipal code references

Plumbing code: title 12.

Water and sewer system administration: title 18.

Wastewater treatment: title 18.

organized or existing under the laws of this or any other state or country. (1983 Code, § 8-301)

18-502. Standards. The municipal public water supply is to comply with Tennessee Code Annotated, §§ 68-221-701 through 68-221-720 as well as the Rules and Regulations for Public Water Supplies, legally adopted in accordance with this code, which pertain to cross connections, auxiliary intakes, bypasses, and interconnections, and establish an effective ongoing program to control these undesirable water uses. (1983 Code, § 8-301)

18-503. Construction, operation, and supervision. It shall be unlawful for any person to cause a cross connection to be made, or allow one to exist for any purpose whatsoever, unless the construction and operation of same have been approved by the Tennessee Department of Environment and Conservation and the operation of such cross connection, auxiliary intake, bypass or interconnection is at all times under the direct supervision of the superintendent of the waterworks of the municipality or his representative. (1983 Code, § 8-303)

18-504. Statement required. Any person whose premises are supplied with water from the public water supply and who also has on the same premises a separate source of water supply, or stores water in an uncovered or unsanitary storage reservoir from which the water stored therein is circulated through a piping system, shall file with the superintendent of the waterworks a statement of the non-existence 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. (1983 Code, § 8-304)

18-505. Inspections required. It shall be the duty of the superintendent of the waterworks to cause inspections to be made of all properties served by the public water supply where cross connections with the public water supply are deemed possible. The frequency of inspections and reinspection, based on potential health hazards involved, shall be established by the superintendent of the waterworks and as approved by the Tennessee Department of Environment and Conservation. (1983 Code, § 8-305)

18-506. Right of entry for inspections. The superintendent of the waterworks or his authorized representative shall have the right to enter, at any reasonable time, any property served by a connection to the public water supply for the purpose of inspecting the piping system or systems therein 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. (1983 Code, § 8-306)

18-507. Correction of existing violations. Any person who now has cross connections, auxiliary intakes, bypasses, or interconnections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with the provisions of this chapter. After a thorough investigation of existing conditions and an appraisal of the time required to complete the work, the amount of time shall be designated by the superintendent of the waterworks.

The failure to correct conditions threatening the safety of the public water system as prohibited by this chapter and the Tennessee Code Annotated, § 68-221-711, within a reasonable time and within the time limits set by the superintendent of the waterworks shall be grounds for denial of water service. If proper protection has not been provided after a reasonable time, the utility shall give the customer legal notification that water service is to be discontinued and shall physically separate the public water supply from the customer's on-site piping system in such a manner that the two systems cannot again be connected by an unauthorized person.

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 management of the water supply shall require that immediate corrective action be taken to eliminate the threat to the public water system. Immediate steps shall be taken to disconnect the public water supply from the on-site piping system unless the imminent hazard(s) is (are) corrected immediately. (1983 Code, § 8-307)

18-508. Use of protective devices. Where the nature of use of the water supplied a premises by the water department is such that it is deemed:

(1) Impractical to provide an effective air-gap separation.
(2) That the owner and/or occupant of the premises cannot, or is not willing, to demonstrate to the superintendent of the water supply, 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.

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

(4) There is a likelihood that protective measures may be subverted, altered, or disconnected, the superintendent of the waterworks of the municipality or his designated representative, shall require the use of an approved protection 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 Environment and Conservation as to manufacture, model, and size. The method of installation of backflow protective devices shall be approved by the superintendent of the waterworks prior to installation and shall comply with the criteria set forth by the Tennessee Department of Environment and Conservation. The installation shall be at the expense of the owner or occupant of the premises.

Personnel of the municipal public water supply shall have the right to inspect and test the device or devices on an annual basis or whenever deemed necessary by the superintendent of the waterworks or his designated representative. Water service shall not be disrupted to test the device without the knowledge of the occupant of the premises.

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 it is found that only one unit has been installed and the continuance of service is critical, the superintendent of the waterworks 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 superintendent shall require the occupant of the premises to make all repairs indicated promptly, to keep the unit(s) working properly, and the expense of such repairs shall be borne by the owner or occupant of the premises. Repairs shall be made by qualified personnel acceptable to the superintendent of the waterworks.

The failure to maintain backflow prevention devices in proper working order shall be grounds for discontinuing water service to a premises. Likewise, the removal, bypassing, or altering of the protective devices or the installation thereof so as to render the devices 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 superintendent of the waterworks. (1983 Code, § 8-308)

18-509. Unpotable water to be labeled. In order that the potable water supply made available to premises served by the public water supply shall be protected from possible contamination as specified herein, any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

WATER UNSAFE
FOR DRINKING

The minimum acceptable sign shall have black letters at least one-inch high located on a red background. (1983 Code, § 8-309)

18-510. Violations. The requirements contained herein shall apply to all premises served by the municipal water system whether located inside or outside the corporate limits and are hereby made a part of the conditions required to be met for the municipality to provide water services to any premises. Such action, being essential for the protection of the water distribution system against the entrance of contamination which may render the water unsafe healthwise, or otherwise undesirable, shall be enforced rigidly without regard to location of the premises, whether inside or outside the corporate limits.

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 under the general penalty clause for this municipal code of ordinances. (1983 Code, § 8-310)

CHAPTER 6

USER CHARGE SYSTEM

SECTION

- 18-601. Upgrading of sewage treatment facilities.
- 18-602. Proposed user charge system.
- 18-603. The procedure used to estimate rates follows.
- 18-604. Surcharge for high strength wastes.
- 18-605. Inconsistent agreements.

18-601. Upgrading of sewage treatment facilities. The Town of White Bluff, Tennessee, has undertaken the task of upgrading their sewage treatment facilities to provide adequate service for the town and to meet water quality requirements as outlined by PL92-500. The project is expected to be financed by the State Revolving Loan Program at an estimated interest rate of 2.8%.

The cost of labor, chemicals, plant maintenance and equipment replacement shall be borne by the town. This money must be raised through a user charge system which distributes the cost of operation, maintenance and replacement among all the users in proportion to their waste loads.

The town will be responsible for financing all fees, interest and principal payments associated with the loan. These payments shall be recovered through the user charge system.

The user charge system should be constructed to insure that the following criteria are met:

- (1) Cost should be fairly proportioned among all users according to waste load and flow characteristics;
- (2) The system should produce enough annual revenue to offset all annual costs; and
- (3) The system should comply with all local, state and federal laws and be accepted by all local, state and federal authorities.

The following user charge system should adequately meet all of these requirements. (Ord. #110, Jan. 1991, as amended by Ord. #123, Jan. 1992)

18-602. Proposed user charge system. Users of the White Bluff Wastewater Collection and Treatment System presently discharge only domestic waste. However, provisions should be made in the user charge system for the possibility of future industrial and/or commercial waste of higher strength. Accordingly, the user charge system will be based on a fee for average daily flows with a surcharge for wastes with a strength greater than domestic. This system is described in Appendix B of 40 CFR part 35 and is presented hereinafter.

- (1) Class I - Generally describes residential users

$$C_u = \frac{c_t (V_u)}{V_t} \qquad C_d = \frac{C_{dt}}{N}$$

$$\text{Total charge} = C_u + C_d$$

- (2) Class II - Generally describes industrial users

$$C_s = [B_c(B) + S_c(S) + P_c(P)] V_u$$

C_d = Charge to user for recovery of debt service
 C_{dt} = Total debt service charge per year.
 C_u = Charge to user per unit time.
 C_t = Total O&M costs per unit time.
 V_t = Total volume of waste per unit time.
 V_u = Volume contributed by a user per unit time.
 N = Total number of sewer customers
 C_s = Surcharge for excessive strength wastewater.
 B_c = O&M cost for treatment of a unit of BOD.
 S_c = O&M cost for treatment of a unit of SS.
 P_c = O&M cost for treatment of a unit of any pollutant.
 B = Concentration of BOD from a user above a base level.
 S = Concentration of SS from a user above a base level.
 P = Concentration of any pollutant from a user above a base level.

Users discharging only sanitary waste will be charged in accordance with the Class I model while those discharging higher strength wastes will be charged in accordance with the Class I model plus the Class II model as a surcharge.

Values for pollutants discharged by individual users will be determined by the manner described in the White Bluff Sewer Use chapter.

Operation, maintenance, and replacement costs are estimated for the first year of operation in order to determine the initial user charge. The user charge system will undergo a biennial review to reflect actual O&M costs association with wastewater treatment.

Operational expenses for the sewer system will be published with the users' bill on an annual basis in order to inform the users of how collected fees are allocated. (Ord. #110, Jan. 1991, as amended by Ord. #123, Jan. 1992)

18-603. The procedure used to estimate rates follows.

Loan payback: \$1,524,000

\$1,524,000 @ 2.8% for 20 years => \$100,600/year distributed to 501 customers => \$16.73/cust./month increase

O&M (increase)

Utilities \$40,000 - \$5,000 existing =	\$35,000
Chemicals \$5,000 - \$2,000 existing =	\$ 3,000
Maintenance =	<u>\$ 5,000</u>
	\$43,000/year increase

Estimated water usage per year 36,000 gallons/year

	<u>\$43,000</u>	
36,000 thousand gallons used	=	\$1.19/1000 gallons

Sewer rates. The following rates shall apply to all users of the White Bluff sanitary sewer system:

- (1) 0-2,000 gallons - \$28.00 per month;
- (2) 2,000 gallons and over - \$28.00 per month + \$5.50 per 1,000 gallons use in excess of 2,000 gallons per month;
- (3) Non-metered residential users of the sewer system that do not have their water usage metered will be charged a flat rate of \$44.50 per month;
- (4) Commercial users who do not have their water usage metered shall be required to install a metering device, approved by the superintendent of the sewer department, at the user's expense. (Ord. #110, Jan. 1991, as amended by Ord. #123, Jan. 1992, Ord. #128, April 1992, and Ord. #194 July 2000)

18-604. Surcharge for high strength wastes. At such time that a user discharges a higher strength waste that average sewage an equitable surcharge will be levied based upon costs of chemicals, time and maintenance required to treat the extra component of waste. (Ord. #110, Jan. 1991, as amended by Ord. #123, Jan. 1992)

18-605. Inconsistent agreements. This user charge system shall take precedence over the terms or conditions of contracts between the city and users which are inconsistent with the requirements of this chapter; and all resolutions, or chapters in conflict with this chapter are hereby repealed insofar as such conflict exists. (Ord. #110, Jan. 1991, as amended by Ord. #123, Jan. 1992)

CHAPTER 7**STORMWATER MANAGEMENT****SECTION**

- 18-701. General provisions.
- 18-702. Definitions.
- 18-703. Waivers.
- 18-704. Stormwater system design: construction and permanent stormwater management.
- 18-705. Permanent stormwater management: operation, maintenance, and inspection.
- 18-706. Existing locations and ongoing developments.
- 18-707. Illicit discharges.
- 18-708. Enforcement.
- 18-709. Penalties.
- 18-710. Appeals.

18-701. General provisions. (1) **Purpose.** It is the purpose of this chapter to:

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

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

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

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

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

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

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

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

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

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

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

(2) Administering entity. The town's engineer shall administer the provisions of this chapter.

(3) Stormwater management ordinance. The intended purpose of this chapter is to safeguard property and public welfare by regulating stormwater drainage and requiring temporary and permanent provisions for its control. It should be used as a planning and engineering implement to facilitate the necessary control of stormwater. (as added by Ord. #348, July 2012 *Ch2_5-7-19*)

18-702. Definitions. For the purpose of this chapter, the following definitions shall apply: Words used in the singular shall include the plural, and the plural shall include the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

(1) "Administrative or civil penalties." Under the authority provided in Tennessee Code Annotated, § 68-221-1106, the town declares that any person violating the provisions of this chapter may be assessed a civil penalty by the town of not less than fifty dollars (\$50.00) and not more than five thousand dollars (\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation.¹

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

(3) "Best Management Practices" ("BMPs") means schedules of activities, prohibitions of practices, maintenance procedures, and other

¹Appendix A contains a defense of the proposition that a municipality can legally impose an administrative penalty of more than fifty dollars (\$50.00).

management practices to prevent or reduce the discharge of pollutants to waters of the state. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

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

(5) "Buffer zone" means a setback from the top of water body's bank of undisturbed vegetation, including trees, shrubs and herbaceous vegetation; enhanced or restored vegetation; or the re-establishment of native vegetation bordering streams, ponds, wetlands, springs, reservoirs or lakes, which exists or is established to protect those water bodies. The goal of the water quality buffer is to preserve undisturbed vegetation that is native to the streamside habitat in the area of the project. Vegetated, preferably native, water quality buffers protect water bodies by providing structural integrity and canopy cover, as well as stormwater infiltration, filtration and evapotranspiration. Buffer width depends on the size of a drainage area. Streams or other waters with drainage areas less than one (1) square mile will require buffer widths of thirty feet (30') minimum. Streams or other waters with drainage areas greater than one (1) square mile will require buffer widths of sixty feet (60') minimum. The sixty-foot (60') criterion for the width of the buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer zone is more than thirty feet (30') at any measured location. The town must develop and apply criteria for determining the circumstances under which these averages will be available. A determination that standards cannot be met may not be based solely on the difficulty or cost associated with implementation. Every attempt should be made for development and redevelopment activities not to take place within the buffer zone. If water quality buffer widths as defined above cannot be fully accomplished on-site, the town must develop and apply criteria for determining the circumstances under which alternative buffer widths will be available. A determination that water quality buffer widths cannot be met on site may not be based solely on the difficulty or cost of implementing measures, but must include multiple criteria, such as: type of project, existing land use and physical conditions that preclude use of these practices.

(6) "Buffer zone requirements."

(a) "Construction" applies to all streams adjacent to construction sites, with an exception for streams designated as impaired or Exceptional Tennessee waters, as designated by the Tennessee Department of Environment and Conservation. A thirty-foot (30') natural riparian buffer zone adjacent to all streams at the construction site shall be preserved, to the maximum extent practicable, during construction

activities at the site. The water quality buffer zone is required to protect waters of the state located within or immediately adjacent to the boundaries of the project, as identified using methodology from Standard Operating Procedures for Hydrologic Determinations (see rules to implement a certification program for Qualified Hydrologic Professionals, TN Rules Chapter 0400-40-17). Buffer zones are not primary sediment control measures and should not be relied on as such. Rehabilitation and enhancement of a natural buffer zone is allowed, if necessary, for improvement of its effectiveness of protection of the waters of the state. The buffer zone requirement only applies to new construction sites. The riparian buffer zone should be preserved between the top of stream bank and the disturbed construction area. The thirty-foot (30') criterion for the width of the buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer zone is more than fifteen feet (15') at any measured location.

Buffer zone requirements for discharges into impaired or high quality waters.

A sixty-foot (60') natural riparian buffer zone adjacent to the receiving stream designated as impaired or high quality waters shall be preserved, to the maximum extent practicable, during construction activities at the site. The water quality buffer zone is required to protect waters of the state (e.g., perennial and intermittent streams, rivers, lakes, wetlands) located within or immediately adjacent to the boundaries of the project, as identified on a seven and one-half (7.5) minute USGS quadrangle map, or as determined by the director. Buffer zones are not sediment control measures and should not be relied upon as primary sediment control measures. Rehabilitation and enhancement of a natural buffer zone is allowed, if necessary, for improvement of its effectiveness of protection of the waters of the state. The buffer zone requirement only applies to new construction sites. The riparian buffer zone should be established between the top of stream bank and the disturbed construction area. The sixty feet (60') criterion for the width of the buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer zone is more than twenty-five feet (25') at any measured location,

(b) "Permanent" new development and significant redevelopment sites are required to preserve water quality buffers along waters within the town. Buffers shall be clearly marked on site development plans, grading permit applications, and/or concept plans. Buffer width depends on the size of a drainage area. Streams or other waters with drainage areas less than one (1) square mile will require buffer widths of thirty feet (30') minimum. Streams or other waters with drainage areas greater than one (1) square mile will require buffer widths of sixty feet (60') minimum. The sixty-foot (60') criterion for the width of

the buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer zone is more than thirty feet (30') at any measured location.

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

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

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

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

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

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

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

(14) "Erosion prevention and sediment control plan (EPSCP)" means a written plan (including drawings or other graphic representations) that is designed to minimize the erosion and sediment runoff at a site during construction activities.

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

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

(16) "Illicit connections" means illegal and/or unauthorized connections to the municipal separate stormwater system whether or not such connections result in discharges into that system.

(17) "Illicit discharge" means any discharge to the municipal separate storm sewer system that is not composed entirely of stormwater and not specifically exempted under § 18-707(2).

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

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

- (a) Oversee the requirements of other construction-related permits, such as Aquatic Resources Alteration Permit (ARAP) or Corps of Engineers permit for construction activities in or around waters of the state;
- (b) Update field SWPPPs;
- (c) Conduct pre-construction inspection to verify that undisturbed areas have been properly marked and initial measures have been installed; and
- (d) Inform the permit holder of activities that may be necessary to gain or remain in compliance with the Construction General Permit (CGP) and other environmental permits.

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

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

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

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

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

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

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

(27) "Peak flow" means the maximum instantaneous rate of flow of water at a particular point resulting from a storm event.

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

(29) "Runoff" means that portion of the precipitation on a drainage area that is discharged from the area into the municipal separate storm sewer system.

(30) "Sediment" means solid material, both inorganic and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface either above or below sea level.

(31) "Sedimentation" means soil particles suspended in stormwater that can settle in stream beds.

(32) "Soils report" means a study of soils on a subject property with the primary purpose of characterizing and describing the soils. The soils report shall be prepared by a qualified soils engineer, who shall be directly involved in the soil characterization either by performing the investigation or by directly supervising employees conducting the investigation.

(33) "Stabilization" means providing adequate measures, vegetative and/or structural, that will prevent erosion from occurring.

(34) "Stormwater" means stormwater runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration and drainage.

(35) "Stormwater entity" means the entity designated by the town to administer the stormwater management ordinance, and other stormwater rules and regulations adopted by the town.

(36) "Stormwater management" means the programs to maintain quality and quantity of stormwater runoff to pre-development levels.

(37) "Stormwater management facilities" means the drainage structures, conduits, ponds, ditches, combined sewers, sewers, and all device appurtenances by means of which stormwater is collected, transported, pumped, treated or disposed of.

(38) "Stormwater management plan" means the set of drawings and other documents that comprise all the information and specifications for the programs, drainage systems, structures, BMPs, concepts and techniques intended to maintain or restore quality and quantity of stormwater runoff to pre-development levels.

(39) "Stormwater Pollution Prevention Plan (SWPPP)" means a written plan that includes site map(s), an identification of construction/contractor activities that could cause pollutants in the stormwater, and a description of measures or practices to control these pollutants. It must be prepared and approved before construction begins. In order to effectively reduce erosion and sedimentation impacts, Best Management Practices (BMPs) must be designed, installed, and maintained during land disturbing activities. The SWPPP should be prepared in accordance with the current Tennessee Erosion and Sediment Control Handbook. The handbook is intended for use during the design and construction of projects that require erosion and sediment controls to protect waters of the state. It also aids in the development of SWPPPs and other reports, plans, or specifications required when participating in Tennessee's water quality regulations. All SWPPPs shall be prepared and updated in accordance with section 3 of the General NPDES permit for discharges of stormwater associated with construction activities.

(40) "Stormwater runoff" means flow on the surface of the ground, resulting from precipitation.

(41) "Structural BMPs" means facilities that are constructed to provide control of stormwater runoff.

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

(43) "Waste site" means an area where waste material from a construction site is deposited. When the material is erodible, such as soil, the site must be treated as a construction site.

(44) "Water quality buffer." See "buffer."

(45) "Watercourse" means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

(46) "Watershed" means all the land area that contributes runoff to a particular point along a waterway.

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

(48) "Wetland(s)" means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted to life in saturated soil conditions. "Wetlands" include, but are not limited to, swamps, marshes, bogs, and similar areas.

(49) "Wet weather conveyances" are man-made or natural watercourses, including natural watercourses that have been modified by channelization, that flow only in direct response to precipitation runoff in their immediate locality and whose channels are above the groundwater table and are not suitable for drinking water supplies; and in which hydrological and biological analyses indicate that, under normal weather conditions, due to naturally occurring ephemeral or low flow, there is not sufficient water to support fish or multiple populations of obligate lotic aquatic organisms whose life cycle includes an aquatic phase of at least two (2) months. (Rules and Regulations of the State of Tennessee, chapter 1200-4-3-.04(3)). (as added by Ord. #348, July 2012 *Ch2_5-7-19*)

18-703. Waivers. (1) General. No waivers will be granted on any construction or site work project. All construction and site work shall provide for stormwater management as required by this chapter. However, alternatives to the 2010 NPDES General Permit for Discharges from small municipal separate storm sewer systems primary requirement for on-site permanent stormwater management may be considered, if:

(a) Management measures cannot be designed, built and maintained to infiltrate, evapotranspire, harvest and/or use, at a minimum, the first inch of every rainfall event preceded by seventy-two

(72) hours of no measurable precipitation. This first inch of rainfall must be one hundred percent (100%) managed with no discharge to surface waters.

(b) It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this chapter. Alternative minimum requirements for on-site management of stormwater discharges have been established in a stormwater management plan that has been approved by the town.

(2) Downstream damage, etc. prohibited. In order to receive consideration, the applicant must demonstrate to the satisfaction of the town's engineer that the proposed alternative will not lead to any of the following conditions downstream:

- (a) Deterioration of existing culverts, bridges, dams, and other structures;
 - (b) Degradation of biological functions or habitat;
 - (c) Accelerated streambank or streambed erosion or siltation;
- and
- (d) Increased threat of flood damage to public health, life or property.

(3) Grading permit not to be issued where alternatives requested. No grading permit shall be issued where an alternative has been requested until the alternative is approved. If no alternative is approved, the plans must be resubmitted with a stormwater management plan that meets the primary requirement for on-site stormwater management. (as added by Ord. #348, July 2012 *Ch2_5-7-19*)

18-704. Stormwater system design: construction and permanent stormwater management. (1) Stormwater design or BMP manuals.

(a) Adoption. The town adopts as its stormwater design and best management practices (BMP) manuals for stormwater management, construction and permanent, the following publications, which are incorporated by reference in this chapter as if fully set out herein:

(i) TDEC Erosion Prevention and Sediment Control Handbook; most current edition.

(ii) The Nashville-Davidson County Metro Stormwater Management Manual (Best Management Practices (BMP) Manual - Volume 4) (Note: this selection is provided as a suggestion only. TDEC plans on issuing a similar manual in cooperation with the University of Tennessee's Water Resources Center in 2013); most current edition.

(iii) A collection of approved BMPs developed or collected by the town that comply with the goals of the town and/or the CGP.

(b) The town's BMP manual(s) include a list of acceptable BMPs including the specific design performance criteria and operation and maintenance requirements for each stormwater practice. These include town approved BMPs for permanent stormwater management including green infrastructure BMPs.

(c) The town manual(s) may be updated and expanded from time to time, at the discretion of the governing body of the town, upon the recommendation of the town's engineer, based on improvements in engineering, science, monitoring and local maintenance experience, or changes in federal or state law or regulation. Stormwater facilities that are designed, constructed and maintained in accordance with these BMP criteria will be presumed to meet the minimum water quality performance standards.

(2) Land development. This section shall be applicable to all land development, including, but not limited to, site plan applications, subdivision applications, land disturbance applications and grading applications. These standards apply to any new development or redevelopment site that meets one or more of the following criteria:

- (a) One (1) acre or more;
 - (i) New development that involves land development activities of one (1) acre or more;
 - (ii) Redevelopment that involves other land development activity of one (1) acre or more.

(b) Projects or developments of less than one (1) acre of total land disturbance may also be required to obtain authorization under this chapter if:

- (i) The town's engineer has determined that the stormwater discharge from a site is causing, contributing to, or is likely to contribute to a violation of a state water quality standard;
- (ii) The town's engineer has determined that the stormwater discharge is, or is likely to be a significant contributor of pollutants to waters of the state;
- (iii) Changes in state or federal rules require sites of less than one (1) acre that are not part of a larger common plan of development or sale to obtain a stormwater permit;
- (iv) Any new development or redevelopment, regardless of size, that is defined by the town or town's engineer to be a hotspot land use; or
- (v) Minimum applicability criteria set forth in item (a) above if such activities are part of a larger common plan of development, even multiple, that is part of a separate and distinct land development activity that may take place at different times on different schedules.

Note: Any discharge of stormwater or other fluid to an improved sinkhole or other injection well, as defined, must be authorized by permit or rule as a Class V underground injection well under the provisions of Tennessee Department of Environment and Conservation (TDEC) Rules, Chapter 1200-4-6.

(3) Submittal of a copy of the NOC, SWPPP and NOT. Permittees who discharge stormwater through the municipal separate storm sewer system who are not exempted in section 1.4.5 (permit coverage through qualifying local program) of the Construction General Permit (CGP) must provide proof of coverage under the Construction General Permit (CGP); submit a copy of the Stormwater Pollution Prevention Plan (SWPPP); and at project completion, a copy of the signed Notice of Termination (NOT) to the town's engineer.

Copies of additional applicable local, state or federal permits (i.e., ARAP, etc.) must also be provided upon request.

If requested, these permits must be provided before the issuance of any land disturbance permit or the equivalent.

(4) Stormwater Pollution Prevention Plan (SWPPP) for construction stormwater management. The applicant must prepare a stormwater pollution prevention plan for all construction activities that complies with subsection (7) below. The purpose of this plan is to identify construction/contractor activities that could cause pollutants in the stormwater, and to describe measures or practices to control these pollutants during project construction.

(5) Stormwater pollution prevention plan requirements. The erosion prevention and sediment control plan component of the SWPPP shall accurately describe the potential for soil erosion and sedimentation problems resulting from land disturbing activity and shall explain and illustrate the measures that are to be taken to control these problems. The length and complexity of the plan is to be commensurate with the size of the project, severity of the site condition, and potential for off-site damage. If necessary, the plan shall be phased so that changes to the site during construction that alter drainage patterns or characteristics will be addressed by an appropriate phase of the plan. The plan shall be sealed by a registered professional engineer or landscape architect licensed in the State of Tennessee. The plan shall also conform to the requirements found in the approved BMP manual, and shall include at least the following:

(a) Project description. Briefly describe the intended project and proposed land disturbing activity including number of units and structures to be constructed and infrastructure required.

(b) A topographic map with contour intervals of five feet (5') or less showing present conditions and proposed contours resulting from land disturbing activity.

(c) All existing drainage ways, including intermittent and wet weather. Include any designated floodways or flood plains.

(d) A general description of existing land cover. Individual trees and shrubs do not need to be identified.

(e) Stands of existing trees as they are to be preserved upon project completion, specifying their general location on the property. Differentiation shall be made between existing trees to be preserved, trees to be removed and proposed planted trees. Tree protection measures must be identified, and the diameter of the area involved must also be identified on the plan and shown to scale. Information shall be supplied concerning the proposed destruction of exceptional and historic trees in setbacks and buffer strips, where they exist. Complete landscape plans may be submitted separately. The plan must include the sequence of implementation for tree protection measures.

(f) Approximate limits of proposed clearing, grading and filling.

(g) Approximate flows of existing stormwater leaving any portion of the site.

(h) A general description of existing soil types and characteristics and any anticipated soil erosion and sedimentation problems resulting from existing characteristics.

(i) Location, size and layout of proposed stormwater and sedimentation control improvements.

(j) Existing and proposed drainage network.

(k) Proposed drain tile or waterway sizes.

(l) Approximate flows leaving site after construction and incorporating water run-off mitigation measures. The evaluation must include projected effects on property adjoining the site and on existing drainage facilities and systems. The plan must address the adequacy of outfalls from the development: when water is concentrated, what is the capacity of waterways, if any, accepting stormwater off-site; and what measures, including infiltration, sheeting into buffers, etc., are going to be used to prevent the scouring of waterways and drainage areas off-site, etc.

(m) The projected sequence of work represented by the grading, drainage and sedimentation and erosion control plans as related to other major items of construction, beginning with the initiation of excavation and including the construction of any sediment basins or retention/detention facilities or any other structural BMPs.

(n) Specific remediation measures to prevent erosion and sedimentation run-off. Plans shall include detailed drawings of all control measures used; stabilization measures including vegetation and non-vegetation measures, both temporary and permanent, will be detailed. Detailed construction notes and a maintenance schedule shall be included for all control measures in the plan.

(o) Specific details for: the construction of stabilized construction entrance/exits, concrete washouts, and sediment basins for controlling erosion; road access points; eliminating or keeping soil, sediment, and debris on streets and public ways at a level acceptable to

the town. Soil, sediment, and debris brought onto streets and public ways must be removed by the end of the work day to the satisfaction of the town. Failure to remove the sediment, soil or debris shall be deemed a violation of this chapter.

(p) Proposed structures: location and identification of any proposed additional buildings, structures or development on the site.

(q) A description of on-site measures to be taken to recharge surface water into the ground water system through runoff reduction practices.

(r) Specific details for construction waste management. Construction site operators shall control waste such as discarded building materials, concrete truck washout, petroleum products and petroleum related products, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality. When the material is erodible, such as soil, the site must be treated as a construction site.

(6) General design performance criteria for permanent stormwater management. The following performance criteria shall be addressed for permanent stormwater management at all development sites:

(a) Site design standards for all new and redevelopment require, in combination or alone, management measures that are designed, built and maintained to infiltrate, evapotranspire, harvest and/or use, at a minimum, the first inch of every rainfall event preceded by seventy-two (72) hours of no measurable precipitation. This first inch of rainfall must be one hundred percent (100%) managed with no discharge to surface waters.

(b) Limitations to the application of runoff reduction requirements include, but are not limited to:

(i) Where a potential for introducing pollutants into the groundwater exists, unless pretreatment is provided;

(ii) Where pre-existing soil contamination is present in areas subject to contact with infiltrated runoff; and

(iii) Presence of sinkholes or other karst features.

(c) Pre-development infiltrative capacity of soils at the site must be taken into account in selection of runoff reduction management measures.

(d) Incentive standards for re-developed sites: a ten percent (10%) reduction in the volume of rainfall to be managed for any of the following types of development. Such credits are additive such that a maximum reduction of fifty percent (50%) of the standard in the paragraph above is possible for a project that meets all five (5) criteria:

(i) Redevelopment;

(ii) Brownfield redevelopment;

(iii) High density (>seven (7) units per acre);

(iv) Vertical density, (Floor to Area Ratio (FAR) of two (2) or >eighteen (18) units per acre); and

(v) Mixed use and transit oriented development (within one-half (1/2) mile of transit).

(e) For projects that cannot meet one hundred percent (100%) of the runoff reduction requirement unless subject to the incentive standards, the remainder of the stipulated amount of rainfall must be treated prior to discharge with a technology documented to remove eighty percent (80%) total suspended solids (TSS) unless an alternative provided under this chapter is approved. The treatment technology must be designed, installed and maintained to continue to meet this performance standard.

(f) For projects that cannot meet one hundred percent (100%) of the runoff reduction requirements, the town's engineer may allow runoff reduction measures to be implemented at another location within the same USGS twelve (12) digit hydrologic unit code (HUC) as the original project. Off-site mitigation must be a minimum of one and one-half (1.5) times the amount of water not managed on site. The off-site mitigation location (or alternative location outside the twelve (12) (HUC) and runoff reduction measures must be approved by the town's engineer. The town's engineer shall identify priority areas within the watershed in which mitigation projects can be completed. The town and/or town's engineer must create an inventory of appropriate mitigation projects, and develop appropriate institutional standards and management systems to value, evaluate and track transactions. Mitigation can be used for retrofit or redevelopment projects, but should be avoided in areas of new development.

(g) To protect stream channels from degradation, specific channel protection criteria shall be provided as prescribed in the approved BMP manual.

(h) Stormwater discharges to critical areas with sensitive resources (i.e., cold water fisheries, shellfish beds, swimming beaches, recharge areas, water supply reservoirs) may be subject to additional performance criteria, or may need to utilize or restrict certain stormwater management practices.

(i) Stormwater discharges from hot spots may require the application of specific structural BMPs and pollution prevention practices. In addition, stormwater from a hot spot land use may not be infiltrated.

(j) Prior to or during the site design process, applicants for land disturbance permits shall consult with the town's engineer to determine if they are subject to additional stormwater design requirements,

(k) The calculations for determining peak flows as found in the approved BMP manual shall be used for sizing all stormwater facilities.

(7) Minimum volume control requirements. (Note: the volume control requirements are by the town and not any TDEC MS4 permit) in accordance with 18-701(1)(c)(iii) the town may establish standards to regulate the quantity of stormwater discharged, therefore:

(a) Stormwater designs shall meet the multi-stage storm frequency storage requirements as identified in the approved BMP manual.

(b) If hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the town's engineer may impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.

(8) Permanent stormwater management plan requirements. The stormwater management plan shall include sufficient information to allow the town's engineer to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project site. To accomplish this goal the stormwater management plan shall include the following:

(a) Topographic base map: Topographic base map of the site which extends a minimum of one hundred feet (100') beyond the limits of the proposed development and indicates:

(i) Existing surface water drainage including streams, ponds, culverts, ditches, sink holes, wetlands; and the type, size, elevation, etc., of nearest upstream and downstream drainage structures;

(ii) Current land use including all existing structures, locations of utilities, roads, and easements;

(iii) All other existing significant natural and artificial features;

(iv) Proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns; locations of utilities, roads and easements; the limits of clearing and grading.

(b) Proposed structural and non-structural BMPs;

(c) A written description of the site plan and justification of proposed changes in natural conditions may also be required;

(d) Calculations: Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in the approved BMP manual. These calculations must show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with this chapter and the guidelines of the approved BMP manual. Such calculations shall include:

- (i) A description of the design storm frequency, duration, and intensity where applicable;
- (ii) Time of concentration;
- (iii) Soil curve numbers or runoff coefficients including assumed soil moisture conditions;
- (iv) Peak runoff rates and total runoff volumes for each watershed area;
- (v) Infiltration rates, where applicable;
- (vi) Culvert, stormwater sewer, ditch and/or other stormwater conveyance capacities;
- (vii) Flow velocities;
- (viii) Data on the increase in rate and volume of runoff for the design storms referenced in the approved BMP manual; and
- (ix) Documentation of sources for all computation methods and field test results.

(e) Soils information: If a stormwater management control measure depends on the hydrologic properties of soils (e.g., infiltration basins), then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles and soil survey reports. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure.

(9) Maintenance and repair plan. The design and planning of all permanent stormwater management facilities shall include detailed maintenance and repair procedures to ensure their continued performance. These plans will identify the parts or components of a stormwater management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan. (as added by Ord. #348, July 2012 *Ch2_5-7-19*)

18-705. Permanent stormwater management: operation, maintenance, and inspection. (1) As built plans. All applicants are required to submit actual as built plans for any structures located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be sealed by a registered professional engineer licensed to practice in Tennessee. A final inspection by the town is required before any performance security or performance bond will be released. The town shall have the discretion to adopt provisions for a partial pro-rata release of the performance security or performance bond on the completion of various stages of development. In addition, occupation permits shall not be granted until corrections to all BMPs have been made and accepted by the town.

(2) Landscaping and stabilization requirements. (a) Any area of land from which the natural vegetative cover has been either partially or wholly cleared by development activities shall be stabilized. Stabilization measures shall be initiated as soon as possible in portions of the site where construction activities have temporarily or permanently ceased. Temporary or permanent soil stabilization at the construction site (or a phase of the project) must be completed not later than fifteen (15) days after the construction activity in that portion of the site has temporarily or permanently ceased. In the following situations, temporary stabilization measures are not required:

(i) Where the initiation of stabilization measures is precluded by snow cover or frozen ground conditions or adverse soggy ground conditions, stabilization measures shall be initiated as soon as practicable; or

(ii) Where construction activity on a portion of the site is temporarily ceased, and earth disturbing activities will be resumed within fifteen (15) days.

(b) Areas where construction activities have removed the top soil layer shall be replaced with a minimum of two inches (2") of top soil before further stabilization efforts are completed. The top soil from the construction site may be retained and reused as part of stabilization activities.

(c) Permanent stabilization with perennial vegetation (using native herbaceous and woody plants where practicable) or other permanently stable, non-eroding surface shall replace any temporary measures as soon as practicable. Unpacked gravel containing fines (silt and clay sized particles) or crusher runs will not be considered a non-eroding surface.

(d) The following criteria shall apply to revegetation efforts:

(i) Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over ninety percent (90%) of the seeded area.

(ii) Replanting with native woody and herbaceous vegetation must be accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.

(iii) Any area of revegetation must exhibit survival of a minimum of seventy-five percent (75%) of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum seventy-five percent (75%) survival for one (1) year is achieved.

(iv) In addition to the above requirements, a landscaping plan must be submitted with the final design describing the vegetative stabilization and management techniques to be used at a site after construction is completed. This plan will explain not only how the site will be stabilized after construction, but who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved.

(3) Inspection of stormwater management facilities. Periodic inspections of facilities shall be performed, documented, and reported in accordance with this chapter, as detailed in § 18-706.

(4) Records of installation and maintenance activities. Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation of the stormwater facility, and of all maintenance and repairs to the facility, and shall retain the records for at least three (3) years. These records shall be made available to the town during inspection of the facility and at other reasonable times upon request.

(5) Failure to meet or maintain design or maintenance standards. If a responsible party fails or refuses to meet the design or maintenance standards required for stormwater facilities under this chapter, the town, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the town shall notify in writing the party responsible for maintenance of the stormwater management facility. Upon receipt of that notice, the responsible person shall have thirty (30) days to effect maintenance and repair of the facility in an approved manner. In the event that corrective action is not undertaken within that time, the town may take necessary corrective action. The cost of any action by the town under this section shall be charged to the responsible party. (as added by Ord. #348, July 2012 *Ch2_5-7-19*)

18-706. Existing locations and ongoing developments. (1) On-site stormwater management facilities maintenance agreement:¹

(a) Where the stormwater facility is located on property that is subject to a development agreement, and the development agreement provides for a permanent stormwater maintenance agreement that runs with the land, the owners of property must execute an inspection and

¹Appendix B contains a sample maintenance agreement that runs with the land. Numerous other maintenance agreements are available from MTAS and Tennessee cities. Appendix C contains an outline of the law governing covenants that run with the land.

maintenance agreement that shall operate as a deed restriction binding on the current property owners and all subsequent property owners and their lessees and assigns, including but not limited to, homeowner associations or other groups or entities.

(b) The maintenance agreement shall:

(i) Assign responsibility for the maintenance and repair of the stormwater facility to the owners of the property upon which the facility is located and be recorded as such on the plat for the property by appropriate notation.

(ii) Provide for a periodic inspection by the property owners in accordance with the requirements of subsection (5) below for the purpose of documenting maintenance and repair needs and to ensure compliance with the requirements of this chapter. The property owners will arrange for this inspection to be conducted by a registered professional engineer licensed to practice in the State of Tennessee, who will submit a signed written report of the inspection to the town's engineer. It shall also grant permission to the town to enter the property at reasonable times and to inspect the stormwater facility to ensure that it is being properly maintained.

(iii) Provide that the minimum maintenance and repair needs include, but are not limited to: the removal of silt, litter and other debris, the cutting of grass, cutting and vegetation removal, and the replacement of landscape vegetation, in detention and retention basins, and inlets and drainage pipes and any other stormwater facilities. It shall also provide that the property owners shall be responsible for additional maintenance and repair needs consistent with the needs and standards outlined in the approved BMP manual.

(iv) Provide that maintenance needs must be addressed in a timely manner, on a schedule to be determined by the town's engineer.

(v) Provide that if the property is not maintained or repaired within the prescribed schedule, the town and/or town's engineer shall perform the maintenance and repair at its expense, and bill the same to the property owner. The maintenance agreement shall also provide that the town and/or town engineer's cost of performing the maintenance shall be a lien against the property.

(2) Existing problem locations - no maintenance agreement.

(a) The town's engineer shall in writing notify the owners of existing locations and developments of specific drainage, erosion or sediment problems affecting or caused by such locations and developments, and the specific actions required to correct those problems.

The notice shall also specify a reasonable time for compliance. Discharges from existing BMPs that have not been maintained and/or inspected in accordance with this chapter shall be regarded as illicit.

(b) Inspection of existing facilities. The town may, to the extent authorized by state and federal law, enter and inspect private property for the purpose of determining if there are illicit non-stormwater discharges, and to establish inspection programs to verify that all stormwater management facilities are functioning within design limits. These inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of the town's NPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other BMPs.

(3) Owner/operator inspections; generally. The owners and/or the operators of stormwater management practices shall:

(a) Perform routine inspections to ensure that the BMPs are properly functioning. These inspections shall be conducted on an annual basis, at a minimum. These inspections shall be conducted by a person familiar with control measures implemented at a site. Owners or operators shall maintain documentation of these inspections. The town's engineer may require submittal of this documentation.

(b) Perform comprehensive inspection of all stormwater management facilities and practices. These inspections shall be conducted once every five (5) years, at a minimum. Such inspections must be conducted by either a professional engineer or landscape architect, licensed in the State of Tennessee. Complete inspection reports for these five year inspections shall include:

- (i) Facility type;
- (ii) Inspection date;
- (iii) Latitude and longitude and nearest street address;
- (iv) BMP owner information (e.g., name, address, phone number, fax, and email);
- (v) A description of BMP condition including: vegetation and soils; inlet and outlet channels and structures; embankments,

slopes, and safety benches; spillways, weirs, and other control structures; and any sediment and debris accumulation;

(vi) Photographic documentation of BMPs; and

(vii) Specific maintenance items or violations that need to be corrected by the BMP owner along with deadlines and reinspection dates.

(c) Owners or operators shall maintain documentation of these inspections. The town's engineer may require submittal of this documentation.

(4) Requirements for all existing locations and ongoing developments.

The following requirements shall apply to all locations and development at which land disturbing activities have occurred previous to the enactment of this chapter:

(a) Denuded areas must be vegetated or covered under the standards and guidelines specified in § 18-705(2)(d)(i), (2)(d)(ii), (2)(d)(iii) and on a schedule acceptable to the town's engineer.

(b) Cuts and slopes must be properly covered with appropriate vegetation and/or retaining walls constructed.

(c) Drainage ways shall be properly covered in vegetation or secured with rip-rap, channel lining, etc., to prevent erosion.

(d) Trash, junk, rubbish, etc. shall be cleared from drainage ways.

(e) Stormwater runoff shall, at the discretion of the town's engineer be controlled to the maximum extent practicable to prevent its pollution. Such control measures may include, but are not limited to, the following:

(i) Ponds.

(A) Detention pond.

(B) Extended detention pond.

(C) Wet pond.

(D) Alternative storage measures.

(ii) Constructed wetlands.

(iii) Infiltration systems.

(A) Infiltration/percolation trench.

(B) Infiltration basin.

(C) Drainage (recharge) well.

(D) Porous pavement.

(iv) Filtering systems.

(A) Catch basin inserts/media filter.

(B) Sand filter.

(C) Filter/absorption bed.

(D) Filter and buffer strips.

(v) Open channel: Swale.

(5) Corrections of problems subject to appeal. Corrective measures imposed by the town's engineer under this section are subject to appeal under § 18-710 of this chapter. (as added by Ord. #348, July 2012 *Ch2_5-7-19*)

18-707. Illicit discharges. (1) Scope. This section shall apply to all water generated on developed or undeveloped land entering the town's separate storm sewer system.

(2) Prohibition of illicit discharges. No person shall introduce or cause to be introduced into the municipal separate storm sewer system any discharge that is not composed entirely of stormwater or any discharge that flows from stormwater facility that is not inspected in accordance with § 18-706 shall be an illicit discharge. Non-stormwater discharges shall include, but shall not be limited to, sanitary wastewater, car wash wastewater, radiator flushing disposal, spills from roadway accidents, carpet cleaning wastewater, effluent from septic tanks, improper oil disposal, laundry wastewater/gray water, improper disposal of auto and household toxics. The commencement, conduct or continuance of any non-stormwater discharge to the municipal separate storm sewer system is prohibited except as described as follows:

- (a) Uncontaminated discharges from the following sources:
 - (i) Water line flushing or other potable water sources;
 - (ii) Landscape irrigation or lawn watering with potable water;
 - (iii) Diverted stream flows;
 - (iv) Rising ground water;
 - (v) Groundwater infiltration to storm drains;
 - (vi) Pumped groundwater;
 - (vii) Foundation or footing drains;
 - (viii) Crawl space pumps;
 - (ix) Air conditioning condensation;
 - (x) Springs;
 - (xi) Non-commercial washing of vehicles;
 - (xii) Natural riparian habitat or wetland flows;
 - (xiii) Swimming pools (if dechlorinated - typically less than one (1) PPM chlorine);
 - (xiv) Firefighting activities; and
 - (xv) Any other uncontaminated water source.
- (b) Discharges specified in writing by the town as being necessary to protect public health and safety.
- (c) Dye testing is an allowable discharge if the town has so specified in writing.
- (d) Discharges authorized by the Construction General Permit (CGP), which comply with section 3.5.9 of the same:

(i) Dewatering of work areas of collected stormwater and ground water (filtering or chemical treatment may be necessary prior to discharge);

(ii) Waters used to wash vehicles (of dust and soil, not process materials such as oils, asphalt or concrete) where detergents are not used and detention and/or filtering is provided before the water leaves site;

(iii) Water used to control dust in accordance with CGP section 3.5.5;

(iv) Potable water sources including waterline flushings from which chlorine has been removed to the maximum extent practicable;

(v) Routine external building washdown that does not use detergents or other chemicals;

(vi) Uncontaminated groundwater or spring water; and

(vii) Foundation or footing drains where flows are not contaminated with pollutants (process materials such as solvents, heavy metals, etc.).

(3) Prohibition of illicit connections. The construction, use, maintenance or continued existence of illicit connections to the municipal separate storm sewer system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(4) Reduction of stormwater pollutants by the use of best management practices. Any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, the BMPs necessary to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section. Discharges from existing BMPs that have not been maintained and/or inspected in accordance with this chapter shall be regarded as illicit.

(5) Notification of spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into, the municipal separate storm sewer system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, the person shall notify the town in person

or by telephone, fax, or email, no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the town within three (3) business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

(6) No illegal dumping allowed. No person shall dump or otherwise deposit outside an authorized landfill, convenience center or other authorized garbage or trash collection point, any trash or garbage of any kind or description on any private or public property, occupied or unoccupied, inside the town. (as added by Ord. #348, July 2012 *Ch2_5-7-19*)

18-708. Enforcement.¹ (1) Enforcement authority. The town and/or town's engineer shall have the authority to issue notices of violation and citations, and to impose the civil penalties provided in this section. Measures authorized include:

(a) Verbal warnings. At a minimum, verbal warnings must specify the nature of the violation and required corrective action.

(b) Written notices. Written notices must stipulate the nature of the violation and the required corrective action, with deadlines for taking such action.

(c) Citations with administrative penalties. The town and/or town's engineer has the authority to assess monetary penalties, which may include civil and administrative penalties.

(d) Stop work orders. Stop work orders that require construction activities to be halted, except for those activities directed at cleaning up, abating discharge, and installing appropriate control measures.

(e) Withholding of plan approvals or other authorizations. Where a facility is in noncompliance, the town's own approval process affecting the facility's ability to discharge to the town's separate storm sewer system can be used to abate the violation.

(f) Additional measures. The town may also use other escalated measures provided under local legal authorities. The town and/or town's engineer may perform work necessary to improve erosion control measures and collect the funds from the responsible party in an appropriate manner, such as collecting against the project's bond or directly billing the responsible party to pay for work and materials.

(2) Notification of violation:

¹See Appendix D for consideration of possible conflicts between building codes and stormwater regulations.

(a) Verbal warning. Verbal warning may be given at the discretion of the inspector when it appears the condition can be corrected by the violator within a reasonable time, which time shall be approved by the inspector.

(b) Written notice. Whenever the town's engineer finds that any permittee or any other person discharging stormwater has violated or is violating this chapter or a permit or order issued hereunder, the town and/or town's engineer may serve upon such person written notice of the violation. Within ten (10) days of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the town's engineer. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation.

(c) Consent orders. The town's engineer is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the person to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to paragraphs (d) and (e) below.

(d) Show cause hearing. The town's engineer may order any person who violates this chapter or permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the person specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the violator show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing.

(e) Compliance order. When the town's engineer finds that any person has violated or continues to violate this chapter or a permit or order issued thereunder, he may issue an order to the violator directing that, following a specific time period, adequate structures or devices be installed and/or procedures implemented and properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the construction of appropriate structures, installation of devices, self monitoring, and management practices.

(f) Cease and desist and stop work orders. When the town's engineer finds that any person has violated or continues to violate this chapter or any permit or order issued hereunder, the town or town's engineer may issue a stop work order or an order to cease and desist all such violations and direct those persons in noncompliance to:

- (i) Comply forthwith; or
 - (ii) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation; including halting operations except for terminating the discharge and installing appropriate control measures.
- (g) Suspension, revocation or modification of permit. The town's engineer may suspend, revoke or modify the permit authorizing the land development project or any other project of the applicant or other responsible person within the town. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated upon such conditions as the town's engineer may deem necessary to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.
- (h) Conflicting standards. Whenever there is a conflict between any standard contained in this chapter and in the BMP manual adopted by the town under this chapter, the strictest standard shall prevail. (as added by Ord. #348, July 2012 *Ch2_5-7-19*)

18-709. Penalties. (1) Violations. Any person who shall commit any act declared unlawful under this chapter, who violates any provision of this chapter, who violates the provisions of any permit issued pursuant to this chapter, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by the town and/or town's engineer, shall be guilty of a civil offense.

(2) Penalties. Under the authority provided in Tennessee Code Annotated, § 68-221-1106, the town declares that any person violating the provisions of this chapter may be assessed a civil penalty by the town and/or town's engineer of not less than fifty dollars (\$50.00) and not more than five thousand dollars (\$5,000.00) per day for each day of violation.¹ Each day of violation shall constitute a separate violation.

(3) Measuring civil penalties. In assessing a civil penalty, the town and/or town's engineer may consider:

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

¹Appendix A contains a defense of the proposition that municipalities can legally impose an administrative fine of more than fifty dollars (\$50.00).

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

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

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

(4) Recovery of damages and costs. In addition to the civil penalty in subsection (2) above, the town may recover:

(a) All damages proximately caused by the violator to the town, which may include any reasonable expenses incurred in investigating violations of, and enforcing compliance with, this chapter, or any other actual damages caused by the violation.

(b) The costs of the town's maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by this chapter.

(5) Referral to TDEC. Where the town has used progressive enforcement to achieve compliance with this chapter, and in the judgment of the town has not been successful, the town may refer the violation to TDEC. For the purposes of this provision, "progressive enforcement" shall mean two (2) follow-up inspections and two (2) warning letters. In addition, enforcement referrals to TDEC must include, at a minimum, the following information:

(a) Construction project or industrial facility location;

(b) Name of owner or operator;

(c) Estimated construction project or size or type of industrial activity (including SIC code, if known); and

(d) Records of communications with the owner or operator regarding the violation, including at least two (2) follow-up inspections, two (2) warning letters or notices of violation, and any response from the owner or operator.

(6) Other remedies. The town may bring legal action to enjoin the continuing violation of this chapter, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.

(7) Remedies cumulative. The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted. (as added by Ord. #348, July 2012 *Ch2_5-7-19*)

18-710. Appeals. Pursuant to Tennessee Code Annotated, § 68-221-1106(d), any person aggrieved by the imposition of a civil penalty or damage assessment as provided by this chapter may appeal said penalty or damage assessment to the town's governing body.

(1) Appeals to be in writing. The appeal shall be in writing and filed with the municipal recorder or clerk within fifteen (15) days after the civil penalty and/or damage assessment is served in any manner authorized by law.

(2) Public hearing. Upon receipt of an appeal, the town's governing body, or other appeals board established by the town's governing body shall hold a public hearing within thirty (30) days. Ten (10) days prior notice of the time, date, and location of said hearing shall be published in a daily newspaper of general circulation. Ten (10) days' notice by registered mail shall also be provided to the aggrieved party, such notice to be sent to the address provided by the aggrieved party at the time of appeal. The decision of the governing body of the town shall be final.

(3) Appealing decisions of the town's governing body. Any alleged violator may appeal a decision of the town's governing body pursuant to the provisions of Tennessee Code Annotated, title 27, chapter 8. (as added by Ord. #348, July 2012 *Ch2_5-7-19*)

CHAPTER 8

SEWER BILL ADJUSTMENT POLICY

SECTION

- 18-801. Background and purpose.
- 18-802. General limitations.
- 18-803. Exceptional circumstances.
- 18-804. Policy.

18-801. Background and purpose. In general, a Town of White Bluff ("the town") resident or property owner is responsible for all water that passes through the resident's or property owner's meter and for all wastewater resulting from the same that enters the town's sewer system. When a resident or property owner does not pay for all water metered and/or wastewater treated, the cost for such services must be recovered from others. Also, since an unknown leak may cause an undue burden on individual residents or property owners, this policy attempts to balance these interests by allowing the resident or property owner a sewer bill adjustment under certain approved circumstances.

The town operates for the benefit of its present and future residents and property owners. The town seeks to treat individuals with consideration and understanding but the town cannot favor a resident or property owner in a way that compromises the interests of other current and future residents and property owners. (as added by Ord. #356, Feb. 2016 *Ch2_5-7-19*)

18-802. General limitations. The town is subject to various federal, state, and/or local statutes, rules, regulations, decrees, and policies which govern its operational and financial policies. The town has no discretion to make any adjustment to any resident's or property owner's bill which would violate any portion of the requirements to which it is subject. Additionally, the town cannot and does not favor any specific resident or property owner in any manner which would be fiscally irresponsible to the town's resources, its residents or property owners. (as added by Ord. #356, Feb. 2016 *Ch2_5-7-19*)

18-803. Exceptional circumstances. It is impossible to foresee all circumstances in which an adjustment to a resident's or property owner's bill may or may not be made with propriety in light of the town's obligations. In circumstances which are not specifically addressed by this policy, the city recorder shall determine, in conformity with the town's general policy objectives and business practices, whether or not to make a billing adjustment. It is the will of the town council that the city recorder shall make the final, binding decision in the disposition of billing disputes. (as added by Ord. #356, Feb. 2016 *Ch2_5-7-19*)

18-804. Policy. (1) This sewer bill adjustment policy is only applicable to those customers who are connected to the town's sewer system and, therefore, are billed for such service through the town's billing service, currently the Water Authority of Dickson County. The passage of water through the water meter serving a resident's or property owner's service location unconditionally obligates the resident or property owner and all other persons responsible for payment of charges with respect to that account to pay for such water (and wastewater in equivalent quantities), in full and within the period prescribed by the town's policies, as from time to time amended. Any adjustment in the bill for such wastewater is a discretionary decision of the town. No person has any legally enforceable right to an adjustment of such person's bill.

(2) It is the resident's or property owner's obligation to keep and maintain all portions of the water and plumbing systems located at and serving the resident's or property owner's service location in good condition and repair, without leaks, breaks, or other compromises to the system's integrity. The town neither has nor assumes any obligation for any portion of such systems or their operation, except such as may arise by the direct action of the town's employees, agents, or contractors.

(3) A request for an adjustment to a resident's or property owner's sewer bill shall only be considered after the resident or property owner can show proof that the bill has been paid in full.

(4) A request for an adjustment to a resident's or property owner's sewer bill shall be initiated exclusively by the submission by the resident or property owner, in writing, under oath, and on a form to be prescribed by the town, of a notice of disputed bill, which shall set forth a complete statement of all facts which the resident or property owner believes render an adjustment to such bill appropriate, together with a copy of the disputed bill(s). Sewer bill adjustments will only be made when town personnel have received satisfactory proof from a resident or property owner that water did not enter the sewer system. Residents or property owners wishing to obtain an adjustment must sign an affidavit to this effect and present documentation proving that water did not enter the sewer system. The notice/affidavit shall be submitted in person, by the resident or property owner or the resident's or property owner's agent, to the town during the town's normal working hours. Alternatively, such notice may be mailed to the town at the town's main office and principal place of business (52 Graham St. P.O. Box 300 White Bluff, TN 37187) by United States certified mail, return receipt requested.

(5) If the town determines that an adjustment to a resident's or property owner's sewer bill is appropriate, the amount of the adjustment shall be based upon the resident's or property owner's average sewer usage. The resident's or property owner's average sewer usage is calculated based on the twelve (12) month period immediately prior to the period for which an adjustment is being requested. In the event the resident's or property owner's account at such location has not been in effect for at least twelve (12) full

months preceding the period for which an adjustment is being requested, then the resident's or property owner's usage shall be averaged based upon all months of service completed prior to the period for which an adjustment is being requested. Copies of prior bills needed to calculate the average sewer usage must be provided by the resident or property owner before an adjustment can be determined.

(6) No adjustment shall be made to a disputed bill unless and until the resident or property owner has presented evidence in a form satisfactory to the town that the cause of the leak has been promptly identified and remedied. The town reserves to itself the exclusive and binding discretion to determine what shall constitute such evidence. The resident's or property owner's presentation of such evidence to the town shall constitute permission for the town's staff to communicate with any person to verify any matters set forth in such evidence.

(7) The following bills shall not be adjusted:

(a) The bill of any resident or property owner whose bill (whether for the current or any prior service account) has been the subject of an adjustment during the twelve (12) month period immediately preceding the billing date of the disputed bill;

(b) Any bill for any period in excess of two (2) consecutive monthly billing cycles;

(c) Any bill not disputed within ninety (90) days from and after the billing date shown on such bill, even if the bill has not been paid in full; or

(d) Any bill in which the resident or property owner cannot show adequate proof that the water did not enter the sewer system as a result of a concealed leak. For example, water used to water a lawn or garden or to fill a swimming pool, water used due to a leaking faucet or toilet is not an acceptable reason for a sewer bill adjustment.

(8) No dispute regarding any bill shall operate to reduce the amount due with respect to such resident's or property owner's previous or subsequent charges, nor shall any such dispute operate to extend the date on which payment with respect to such charges is due.

(9) A copy of this policy, as from time to time amended, shall be available to any resident or property owner at White Bluff Town Hall and via other methods deemed appropriate. (as added by Ord. #356, Feb. 2016 *Ch2_5-7-19*)