Chapter 31

SEWERS, MAINS AND DRAINAGE[1]

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[1] **Charter references**--Sewage system, § 15.19 et seq.; removal, relocation and installation of utilities in connection with public improvements § 15.44 et seq.; sewer connections by city, § 15.61 et seq.

Cross references--Garbage and refuse, Ch. 18; health and sanitation, Ch. 20; plumbing, Ch. 27.

State law reference--Authority to require connections, T.C.A., § 7-35-201(1).

ARTICLE I. IN GENERAL

Sec. 31-1. General provisions.

(a) The purpose of this article is to establish uniform requirements for the disposal of wastewater and to regulate wastewater discharged into the City of Chattanooga's (hereinafter "city") sewer system. This article establishes conditions for connection to the sanitary sewer system and requires a permit. Certain acts which may be detrimental to the sewer system are prohibited, and the article provides measures for enforcement of its provisions and abatement of violations thereof.

(b) The superintendent (hereinafter "superintendent") shall exercise administrative management, control and jurisdiction over sanitary and storm sewers, sewage treatment and disposal facilities, mains and drainage, including their location, design, construction, operation, maintenance, repair and rehabilitation.

(c) The Wastewater Regulations and Appeals Board (hereinafter "board"), established pursuant to Section 31-57, shall hold hearings upon appeals from orders or actions of the superintendent as may be provided under any provision of this chapter.
(Ord. No. 9409, § 1, 6-5-90)

Sec. 31-2. Connection with city sanitary sewer required.

(a) *Sewer connection required*. Every building having plumbing fixtures installed and intended for human habitation, occupancy, or use on premises abutting a street, alley, or easement in which segment there is a sanitary sewer which is within one hundred (100') feet of the property line of the parcel containing the building shall be considered as being served by the city's sanitary sewer system.

All new buildings hereafter constructed which may be served by the city's sewer system shall not be occupied until the connection has been made. The owner or occupant of each lot or parcel of land which is now served or which may hereafter be served by the city's sewer system shall cease to use any other method for the disposal of sewage except as approved for direct discharge by the Tennessee Department of Health and Environment or by discharge to a properly functioning and approved septic tank. Septic tanks shall not be used where sewers are available. The superintendent shall make any decision as to the availability of sewers. Notwithstanding the above exceptions, all premises served by the city sanitary sewer are subject to sewer user charges as described in article II of this chapter.

(b) *Unconnected sewer service lines a nuisance where connection is available*. Except for discharge to a properly functioning septic tank system approved by the Chattanooga-Hamilton County Health Department or discharges permitted by a national discharge elimination system permit (hereinafter "NPDES") issued by the State of Tennessee Department of Health and Environment, the discharge of sewage into places other than the city's sewer system is declared a nuisance. All permanently moored boats, floating houses or floating restaurants which are not intended to be used as a means of transportation, are likewise required to discharge sanitary sewage into the city sewer system. If the owner of any property which requires a sewer connection fails or refuses to connect to the city's system, a notice shall be given to the Public Officer of the Department of Neighborhood Services for such action as may be proper under chapter 21 of this code. The superintendent may take such other action to abate the nuisance as may be warranted under the circumstances. (Ord. No. 11345, §12, 11-12-02)

(c) *Insufficient capacity, connection moratorium*. In those parts of the city sewer system where there is no additional capacity, and a sewer moratorium has been established pursuant to orders of the Tennessee Department of Health and Environment, no new or additional sewer connections shall be permitted. Permits issued prior to the date of the moratorium may be completed. No new plumbing permits shall be issued for new buildings in a moratorium area after the effective date of the moratorium. A moratorium shall continue in effect until the capacity restriction has been corrected.
(Ord. No. 9409, § 1, 6-5-90; Ord No. 11345, §12, 11-12-02)

Sec. 31-3. Adequate and minimum fixtures, water heaters.

(a) *Minimum number of fixtures*. A dwelling shall have at least one commode, one bathtub or shower, one lavatory, one kitchen-type sink, and an adequate source of hot water for each family unit to meet minimum basic requirements for health, sanitation and personal hygiene. All other buildings, structures, or premises intended for human occupancy or use shall be provided with adequate sanitary facilities as may be required by any other law or regulation, but not less than one commode and one hand-washing lavatory.

(b) *Adequate water for disposal of waste required*. It shall be unlawful for any person in possession of premises into which a pipe or other connection with the city sanitary sewers and drains have been laid to permit the same to remain without adequate fixtures attached to allow a sufficient quantity of water to be so applied as properly to carry off all waste matter and keep the same unobstructed.

(c) *Water heaters*. Water heating facilities shall be accessible for emergency maintenance without entering any individual apartment or living unit, except that water heaters may be located within an apartment or living unit when supplying hot water to that unit only. (Ord. No. 9409, § 1, 6-5-90)

Sec. 31-4. Installation, maintenance, repair of sewer service lines; charge; exception.

(a) *Definition*. A "standard sanitary sewer service line" is a four inch (4") or six inch (6") pipe extending from the sewer main or trunk location in a street, alley, or easement to the property served by the main or trunk.

(b) *Installation of sewer service lines*. Four-inch building sewers shall be laid on a grade of at least one percent (1.0%). Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least two feet (2') per second. Slope and alignment of all building sewers shall be neat and regular.

Building sewers shall be constructed only of: (1) cast-iron soil pipe using rubber compression joints of approved type; (2) polyvinylchloride pipe with rubber compression joints; (3) ABS composite sewer pipe with solvent-welded or rubber compression joints of approved type; or (4) such other materials of equal or superior quality as may be approved by the superintendent. Under no circumstances will cement mortar joints be acceptable. Each connection to the sewer system must be made at a wye, or service line stubbed out, or in the absence of any other provision, by means of a saddle of a type approved by the city, attached to the sewer. No connection may be made by breaking into an existing sewer and inserting the service line.

The building sewer may be brought into the building below the basement floor when gravity flow from the building to the sewer is at a grade of one percent (1.0%) or more if possible. In cases where basement or floor levels are lower than the ground elevation at the point of connection to the sewer, adequate precautions through the installation of check valves or other backflow prevention devices, to protect against flooding shall be provided by the owner. In all buildings in which any building drain is too low to permit gravity flow to the sewer, wastes carried by such building drain shall be lifted by an approved means and discharged into the city sewer.

(c) *Standard Sewer Stubouts*. Hereafter, as a part of sanitary sewer projects in the city, the city shall install, or cause to be installed, standard sanitary sewer service lines from mains or trunks located in a street, alley, or easement to the property line of each lot or residence on the street being sewered. In the case of sewers being constructed in undeveloped

subdivisions located within a designated sewer project, the standard sanitary sewer service lines may be constructed to each lot as shown on the plat of the subdivision by the developer as filed in the Register's Office of Hamilton County, Tennessee. Sewer service lines may not be constructed by the city in a street where the property is unsubdivided and undeveloped. A fee shall be charged upon connection to the sewer line as provided in article II.

(d) *Fee*. There is hereby levied and imposed a sewer service line charge of eight hundred dollars ($800) for every sanitary sewer service line installed hereafter where a lateral sewer connection has been provided for use by the applicant. The service line charge shall be paid by property owners at the time that application is made to the city for permission to tie on to the sanitary sewer service line. The collection of such payments shall be the responsibility of the inspection division of the department of public works, streets and airports. In lieu of the payment of eight hundred dollars ($800) at the time of application, the property owners may execute an authorization to have the sum of twenty dollars ($20) per month added to the statement for sewer charges for a period of sixty (60) months. If a sixty (60) months' payment is authorized and the property is sold, the property owner shall either pay the balance remaining or have the new property owner execute authorization to continue the twenty dollars ($20) per month payments for the balance of the sixty (60) months. This eight hundred dollars ($800) charge shall be in addition to any required fee for a plumbing permit, street cuts, or other fees; provided that, such sewer service line charge shall not apply if the lateral sewer connection was constructed by and the cost of same borne by the developer of a subdivision incident to the construction of a collector sewer system for the subdivision or there has been no lateral sewer connection provided; and the applicant shall be required to show that he is entitled to this exception.

(e) *Title and maintenance*. When a property owner ties on to a sanitary sewer service line installed pursuant to paragraph (c) of this section, and pays the sewer service line charge levied in paragraph (d) of this section, the city, by appropriate instrument, shall convey and release to the property owner all its right, title and interest in the sanitary sewer service line so installed by the city. Thereafter, all repairs and maintenance of the sanitary sewer service line shall be the responsibility of the property owner or user of the sewer; provided, for all sanitary sewer service lines hereafter installed by developers in subdivisions and not by the city, for which no sewer service line charge is charged to the property owner, all repairs and maintenance of such sanitary sewer service lines shall be the responsibility of either the property owner, user of the sewer, or the developer, as the owner, user and developer shall agree by separate contract between themselves.

(f) *Location of sewer stubout*. The plumbing contractor is responsible for locating the sewer stubout. City personnel will provide whatever information is available for this

purpose. If no "wye" or "tee" exists within three (3) feet of either side of the location shown in the city's records then a tap will be provided by the city when the sewer main is uncovered. If a manhole needed for locating a service line has been lost, then the city shall be responsible for locating the manhole.

(g) *Taps on city sewers*. All taps directly made unto the city's sewer lines shall be made by city sewer maintenance personnel. The request for the tap shall be made by the plumbing inspector. The plumbing contractor shall excavate to the city's sewer and expose the pipe in preparation for the tap. Only one service line shall be allowed to be installed in a trench. New taps shall be made using a "wye" type connection.

(h) *Manhole required*. A new manhole will be required whenever a sewer service line larger than six inches (6") is needed to tie unto the city's sewer. The plumbing contractor shall excavate to the city's sewer and sufficiently expose the pipe for installation of a manhole. The city's sewer maintenance personnel shall install the manhole after a request is made by the plumbing inspector. The cost of the manhole, including labor and materials, shall be charged to the owner after construction is completed.

(i) *Maintenance of sewer service lines*. All repairs and maintenance of the sanitary sewer service line to include correction of excessive inflow or infiltration shall be the responsibility of the property owner or user of the sewer. The city shall be responsible for the maintenance of collector lines and interceptor lines only up to the point where the owner's sewer service line connects to the city's lines.

(j) *Exceptions for state highways and railroads*. When the installation of sanitary sewer service lines is required for sewers constructed in highways or streets owned by the State of Tennessee for which boring rather than open cutting is required by regulation of the State of Tennessee, installation shall be at the expense of the property owner, and the provisions of paragraph (c) shall not be applicable. Whenever a sanitary sewer service line must be installed under a railroad track or railroad right-of-way, the provisions of paragraph (c) shall not be applicable, and the property owner shall construct and maintain the sanitary sewer service line at his own expense. Installation of sanitary sewer service lines in state highways or streets must additionally be approved by the State Department of Transportation, and in railroad rights-of-way by the railroad.
(Ord. No. 9409, § 1, 6-5-90; Ord. No. 11175, § 32, 9-11-01)

Sec. 31-5. Service lines to enter sanitary sewers at junction; exception.

No service lines shall enter a sanitary sewer at any point except where a junction has been made and left therefor, unless by special permission of the superintendent, which authority he may delegate to the chief plumbing inspector. In all cases where such permission is given, the work shall be done under the inspection of the chief plumbing inspector and at the risk and expense of the party making the connection.
(Ord. No. 9409, § 1, 1-6-92)

Sec. 31-6. Permit required to make connection.

(a) Before the owner of any property within or beyond the corporate limits of the city connects such property to the city sewer, he or his agent shall make application to the building official for, and have issued to him, a permit so to do. Such work shall only be performed by a licensed master plumber who must sign the permit. The permit application shall be a form prescribed by the chief plumbing inspector. All connections shall be inspected and approved by a city inspector before being used.

(b) Connections made without an approved application may be cut off by order of the superintendent or chief plumbing inspector. Such unapproved connection may be allowed to remain active if inspected and accepted, however, the owner shall be required to pay a fee in lieu of a permit application fee that is double the regular permit fee then in effect.

(c) No permit for a connection which may be used for discharge of industrial process wastes or other non-domestic wastes regulated by article III of this chapter shall be issued except upon separate application to the superintendent and approval of the discharge under the provisions of article III.
(Ord. No. 9409, § 1, 6-5-90)

Sec. 31-7. Reserved.

Sec. 31-8. Sewer construction; acceptance of work.

All sewer construction involving interceptor sewer lines, pump stations, metering stations and appurtenances which shall become a part of the city's sewer system shall not be constructed without the plans therefore having first been approved and the construction inspected and approved by the superintendent. Any construction work where city sewers are opened, uncovered, or undercut shall have been previously approved by the superintendent or the city engineer.
(Ord. No. 9409, § 1, 6-5-90)

Sec. 31-9. Right to enter, inspect connection.

The superintendent, the building inspector or other designated employees of the city shall have free and unobstructed access to any part of the premises where house drains or other drains connected with or draining into the city sewers are laid, for the purpose of examining the construction, condition and method of use of the same, upon cause or reasonable suspicion that there may be inadequate facilities, the facilities present may not be properly functioning, there is an improper discharge, or upon a periodic systematic inspection of a particular drainage basin or other large segment of the system through those facilities at any time of the day between the hours of 7:00 a.m. and 6:00 p.m. or any other time in the event of an emergency. If such entry is refused, the sewer service may be disconnected upon reasonable notice and an opportunity for a hearing. The service may be suspended immediately in the event of an emergency if there is reasonable cause to suspect that the discharge will endanger the public health or the environment, shall have the potential to interrupt the treatment process, or shall damage the city's lines or facilities, and a hearing shall thereafter be afforded the user as soon as possible.
(Ord. No. 9409, § 1, 6-5-90)

Sec. 31-10. Demolished buildings.

When a building is demolished, it shall be the responsibility of the owner to have the sewer service line plugged securely so that extraneous water will not enter the sewer. The owner of the premises or his agent shall notify the building inspector of such a plug, and allow same to be inspected prior to covering of any work. If such line is to be reused, it must first undergo inspection by the building inspector and be in conformity with then-existing standards.
(Ord. No. 9409, § 1, 6-5-90)

Sec. 31-11. Limitations on point of discharge; temporary facilities.

No person shall discharge any substance directly into a manhole or other opening in a city sanitary sewer other than through an approved building sewer, unless he shall have been issued a temporary permit by the superintendent. A temporary permit may be issued in the discretion of the superintendent to provide for discharges from portable sanitary facilities for festivals or public shows or for other reasonable purposes. The superintendent shall incorporate in such a temporary permit such conditions as he deems reasonably necessary to insure compliance with the provisions of this chapter. The user shall be required to pay reasonable charges and fees for the permit and service in an amount not less than the charges and fees for normal discharges. Any discharge other than through an approved building sewer or upon a permit issued by the superintendent shall be unlawful.
(Ord. No. 9409, § 1, 6-5-90)

Sec. 31-12. Vehicle wash racks.

All filling stations, garages, self-service automobile washers and other public wash racks where automobiles or other vehicles are washed shall install catch basins in conformity with the plumbing code upon a permit obtained from the building official. In the event any existing premises shall not have a catch basin and the sewer line servicing the facility shall stop up due to grit or slime in the sewer lines, then the owner or operator of such premises shall be required to modify their facilities to construct a catch basin as a condition of continuing to use the system. If such users are industrial users as defined in article III of this chapter, they are required to obtain a permit as specified therein.
(Ord. No. 9409, § 1, 6-5-90)

Sec. 31-13. Grease traps, grit traps, oil traps and lint traps.

Restaurants, laundries, wash racks, vehicle service stations, private multi-user systems, engine or machinery repair shops and other facilities that produce grease, grit, oil, lint or other materials which accumulate and cause or threaten to cause stoppages or impair the efficiency of the city's sewers or threaten the safety of its employees, shall install and maintain a grease trap, grit trap, lint trap, oil interceptor, or other appropriate device of standard design and construction to prevent excess discharges of such materials. The design and construction of any such device shall be subject to prior approval of the superintendent, and constructed in accord with applicable building codes.
(Ord. No. 9409, § 1, 6-5-90)

Sec. 31-14. Multi-user private sewer systems.

Excluding industrial waste facilities issued a permit pursuant to article III, the owner or operator of a private sewer system such as but not limited to multi-tenant buildings, building complexes, or shopping malls shall be responsible for the quality of wastewater discharged at the point of connection to the city's sanitary sewer system, and shall be responsible for any violations of the provisions of this chapter including liability for the damage or injury caused to the city's system as a result of any discharge through the private system. (Ord. No. 9409, § 1, 6-5-90)

Sec. 31-15. Prohibitions on storm drainage, ground water, unpolluted water, and contaminated storm water.

(a) No storm water, ground water, rain water, street drainage, rooftop drainage, basement drainage, subsurface drainage, foundation drainage, yard drainage, cooling water,

process water drainage, or other unpolluted water shall be discharged to the city's sanitary sewer system unless no other reasonable alternative is available, and then no such water shall be discharged to the city's sanitary sewer system except upon permission by the superintendent upon such reasonable conditions as he may prescribe and upon payment of a sewer service charge based upon the quantity of water discharged as measured by a flow meter or a reasonable estimate accepted by the superintendent. All users shall be required to maintain their private sewer lines so as to prevent infiltration of ground or storm water as a condition of use of the system and shall immediately repair or replace any leaking or damaged lines.
(Ord. No. 12023, § 4, 10-2-07)

(b) The city will accept the discharge of contaminated storm water if the following criteria are met: 1) all known and available technology will not prevent contamination or treat contaminated water to meet state standards for discharge to receiving waters or will cause unreasonable financial burden; 2) the contaminated storm water meets the city's discharge limits and all state and federal pretreatment requirements; and 3) volume of the discharge will not exceed the hydraulic loading in the collection system or the treatment plant.
(Ord. No. 9409, § 1, 6-5-90; Ord. No. 12023, § 4, 10-2-07)

Sec. 31-16. Limitations on the use of garbage grinders.

No waste from garbage grinders shall be discharged into the city's sewers except for private garbage grinders used in an individual residence or upon permit issued by the superintendent for preparation of food consumed on premises, and then only where applicable fees therefor are paid. Installation of any garbage grinder equipped with a three-fourths horsepower (or greater) motor shall require a permit. The superintendent may issue a permit when there is inadequate space on the user's premises to properly store food preparation waste between regularly scheduled garbage pickup by city crews or a private collection service with equal or greater frequency of collection. Provided, further, that such grinders shall shred the waste sufficiently that it can be carried freely under normal flow conditions prevailing in the city's sewer lines. It shall be unlawful for any person to use a garbage grinder connected to the sewer system for the purpose of grinding and discharging plastic, paper products, inert materials or anything other than the waste products from normal food preparation and consumption.
(Ord. No. 9409, § 1, 6-5-90)

Sec. 31-17. Hospital or pathological waste.

It shall be unlawful for any person to dispose of pathological waste, surgical operating room waste or delivery room waste by discharging same to the city's sewer system.
(Ord. No. 9409, § 1, 6-5-90)

Sec. 31-18. Obstruction of or damage to sewer lines.

It shall be unlawful for any person to deposit or cause to be deposited any waste of any character whatsoever which may obstruct or damage storm or sanitary sewer lines or which may inhibit, disrupt, or damage either system, including the sewer treatment process and operations. This prohibition shall include any and all substances, whether liquid, solid, gaseous or radioactive and whether associated with human habitation, of human or animal origin, or from any producing, manufacturing or processing. It shall be unlawful to block or obstruct any catch basin, sewer line, or other appurtenance, or to break, injure or remove any portion from any part of a sewer, drain or catch basin including plates covering manholes.
(Ord. No. 9409, § 1, 6-5-90)

Sec. 31-19. Assessment of damages to users.

When the discharge of waste or any other act or omission causes an obstruction, damage, or any other impairment to the city's facilities, causing an expense or damages of whatever character or nature to the city, the superintendent shall assess the expenses and damages incurred by the city to clear the obstruction, repair damage to the facility, and otherwise rectify any impairment, and bill the person responsible for the damage for reimbursement of all expenses and damages suffered by the city. If the person responsible refuses to pay, then the superintendent shall forward a copy of the statement and documentation of all expenses to the city attorney who shall be authorized to take such legal action as shall be appropriate.
(Ord. No. 9409, § 1, 6-5-90)

Sec. 31-20. Violations, discontinuance of water service.

(a) *Penalties for violations of article*. Anyone violating a provision of this article shall be guilty of a misdemeanor, and upon conviction, is punishable as provided in section 1-8 of this code.

(b) *Violations deemed separate offenses*. Separate violations shall constitute separate offenses and, upon conviction, each day of violation shall constitute a separate offense.

(c) *Other remedies*. In addition to other remedies provided herein, the superintendent may issue a show cause notice to any user who appears to be violating any provisions of this article or chapter to show cause why sewer service should not be discontinued. The notice shall include the nature of the violation with sufficient specificity as to the character of the violation, and the date(s) on which such violation(s) occurred to enable the user to prepare a defense. Such notice shall be mailed to the user by certified mail, return receipt requested, or shall be personally delivered to the user at least twenty (20) days prior to the proposed action except in

the event of an emergency. At the show cause hearing, the user may present any defense he may have to such charges, either in person or through submission of written or documentary proof. Following such hearing or opportunity for a hearing, the superintendent may in his discretion order the termination of sewer service if satisfied from all the proof available that the violation was willful and the termination is necessary to abate the offending condition, or to prevent future violations. The superintendent may terminate service for a period not to exceed one (1) year for a willful violation and may terminate service indefinitely to abate offending conditions or prevent future violations, subject to the correction of such conditions or violations by the user.

(d) *Emergency termination of service*. If in the opinion of the superintendent it appears that such violation presents or may present an emergency situation endangering the public health, the environment, sewer system personnel, or the operation of the system, he may take immediate action to abate the condition and terminate service. In the event such emergency action adversely affects the user, the superintendent shall provide the user an opportunity for a hearing as soon as practicable thereafter to consider restoration of service upon abatement of the condition or other reasonable conditions. Following the hearing, the superintendent may take any such action authorized by paragraph (c) should the proof warrant such action.

(e) *Water service*. Any violation of provisions of article I, II or III which is not corrected or abated following a notice and opportunity for a hearing shall be grounds for the termination of water service and/or plugging the sewer line.
(Ord. No. 9409, § 1, 6-5-90)

Secs. 31-21 -- 31-30. Reserved.

ARTICLE II. SEWER SERVICE CHARGES[2]

Sec. 31-31. Levied.

For the purpose of paying the interest on and principal of revenue bonds issued by the city for the payment of the cost and expenses appurtenant, incident or necessary thereto for the construction and acquisition of additions, extensions and improvements to the sewer system,

[2] **Cross reference**--Businesses, trades and occupations generally, Ch. 11.

consisting of sanitary sewers, intercepting and outfall sewers, pumping facilities, treatment and disposal plants and other facilities for the collection, treatment and disposal of sewage and industrial waste and the operation and maintenance of the sewers and sewerage system and sewage disposal facilities of the city, there hereby is imposed sewer service charges upon the owner or occupant of all property now served or which may hereafter be served by the city's sewer system at the rates set forth in this article.
(Code 1986, § 31-31)

Sec. 31-32. Abutting property owners, to pay charges.

The owner or occupant of each lot or parcel of land which abuts upon a street or other public way containing a sanitary sewer upon which lot or parcel a building has been or may hereafter be constructed for residential, commercial or industrial use shall pay the sewer service charges as provided in this article. The superintendent or his designee shall make the determination whether or not a lot or parcel abuts upon a segment of street, alley, easement or other public way in which there is a sewer for the purposes of levying services charges; provided that he or she may waive the collection of such charges where the connection is infeasible based upon engineering or hydraulic principles, the connection would not comport with applicable plumbing or building codes, or the connection would not comport with other applicable codes, laws or regulations.
(Code 1986, § 31-32; Ord. No. 9384, § 1, 5-29-90)

Sec. 31-33. Contracts for disposal of sewage authorized; charges.

The superintendent may, subject to approval by the city council, enter into contracts with any municipality, county, incorporated district or person for the treatment and disposal of sewage collected and pumped or delivered to some part of the sewage collected and pumped or delivered to some part of the sewer system; provided, however, that the charges to be paid for the treatment and disposal of such sewage shall not be less than an amount which is fair and equitable, taking into account the cost to the city of such treatment and disposal and the cost of the sewage disposal system. All revenues received pursuant to such contract shall be deemed to be revenues of the sewer system, and shall be applied and accounted for in the same manner as other revenues derived from the operation of such system.
(Code 1986, § 31-33; Ord. No. 9384, § 2, 5-29-90)

Sec. 31-34. Charge to be based on water consumption.

The sewer service charges imposed by this article shall be based upon the water consumption of the owner or occupant of the properties served, as measured by the meters of the

water company or meters installed by the owner or occupant of property, as provided in this article.
(Code 1986, § 31-34; Ord. No. 9384, § 12, 5-29-90)

Sec. 31-35. Billing procedure.

(a) The sewer service charges shall become effective on water company services rendered at the rates hereinafter imposed and shall be billed by the water company at the same time it bills the owner or occupant for water service charges, and shall be due and payable at the same time as are the water service charges.

(b) Sewer service charges shall be billed by the water company as a separate designated item on its water bills.
(Code 1986, § 31-35; Ord. No. 9384, § 12, 5-29-90)

Sec. 31-36. Schedule.[3]

(a) Enumeration of charges; quantity of water used. Sewer service charges shall be based upon the quantity of water used as shown by water meter readings and shall be the dollar amount derived by applying the total charge in dollars per one thousand (1,000) gallons for the quantities of water shown in the following table:

User Class (gallons)	Fiscal Year 2007/2008 - 1 Total Charges ($/1,000 gallons)	Fiscal Year 2007/2008 - 2 Total Charges ($/1,000 gallons)
First 100,000	$ 4.69	$ 4.83
Next 650,000	3.48	3.58
Next 1,250,000	2.82	2.90
Next 30,000,000	2.16	2.25
Over 32,000,000	2.05	2.15

[3] **Editor's note:** Ordinance No. 11221, Section 7, adopted December 18, 2001, provided that the operative date for changes in rates shall be July 1, 2001, and the operative date for residential users billed through the water suppliers shall be November 1, 2001.

In addition, the total charges derived from the above chart for residential users will be multiplied by ninety (90) percent to compensate for water use not going to the sewer such as lawn and garden watering. Any residential location where a separate water meter has been installed for the purpose of lawn and garden watering shall not be entitled to have the multiplier applied to any water consumed through the primary water meter. Each residence or apartment unit shall have a maximum monthly sewer service charge for a volume of no more than 12, 000 gallons water used; unless the minimum charge due to water meter size exceeds the 12,000 gallon limit then the monthly sewer service charge shall be at least the minimum for that particular size water meter.
[Ord. No. 12023, § 5, 10-2-07]

(b) Regional service charge rates (wheelage and treatment). The regional sewer service use charge (wheelage and treatment) shall be collected from regional users of the system including Collegedale, Tennessee; Hamilton County, Tennessee; Walker County, Georgia; Catoosa County, Georgia; Lookout Mountain, Georgia; Dade County, Georgia; Rossville, Georgia; Ringgold, Georgia and Fort Oglethorpe, Georgia: and shall be determined either under the "billable flow" methods based on the quantity of water used as shown by applicable water company meter readings or the "total flow" method based upon flow meter measured flow according to the applicable contract with the regional user pursuant to subparagraphs (c) and (d).
[Ord. No. 12023, § 6, 10-2-07]

(c) Billable flow. The amount due from the regional user shall be the dollar amount derived by applying the total charge shown in the table below per one thousand (1,000) gallons of water sold.

	Regional Operation & Maintenance Charge ($/1,000 gallons)	Regional Debt Charge ($/1,000 gallons)	Regional Total Charge (Wheelage and Treatment) ($/1,000 gallons)
Wheelage and Treatment	$ 1.3138	$ 0.6813	$ 1.9951

If regional customers are billed directly through the water company, the rate to be charged shall be two dollarsand four cents ($2.04) per one thousand (1,000) gallons.
(Ord. No. 11728, § 16, 8-16-05; Ord. No. 12023, § 7, 10-2-07)

(d) Total flow. The amount due from the regional user shall be the dollar amount derived by applying the total charge shown in the table below applied to the quantity of water measured by a flow meter installed and maintained at or near the point of connection between the system of the regional user and the Chattanooga system. In the event of any malfunction of said meters, flow shall be estimated, interpolated and/or projected in the most equitable manner possible. Such estimates, along with available readings for periods where there was no malfunction, shall be the basis for billing.

	Operation & Maintenance Charge ($/1,000 gallons)	Regional Debt Charge ($/1,000 gallons)	(Wheelage and Treatment) ($/1,000 gallons)
Wheelage and Treatment	$ 0.7190	$ 0.3579	$ 1.0769

(Ord. No. 11728, § 17, 8-16-05; Ord. No. 12023, § 8, 10-2-07)
(Code 1986, § 31-36; Ord. No. 9187, §§ 1-3, 7-5-89; Ord. No. 9384, §§ 3-5, 5-29-90; Ord. No. 9631, §§ 1-3, 10-22-91; Ord. No. 9761, §§ 1-3, 7-28-92; Ord. No. 9963, §§ 1-3, 10-19-93; Ord. No. 10094, §§ 1-3, 8-30-94; Ord. No. 10285, §§ 1-3, 9-12-95; Ord. No. 10495, §§ 1-3, 11-12-96; Ord. No. 10632, §§ 1-3, 10-28-97; Ord. No. 10769, §§ 1-3, 10-6-98; Ord. No. 10935, §§ 1-3, 11-16-99; Ord. No. 11070, §§ 1-3, 9-19-00; Ord. No. 11221, §§ 1-3, 12-18-01; Ord. No. 11344, §§1, 3, 5, 11-05-02; Ord. No. 11473, §2, 10-21-03; Ord. No. 11581, §§17-18, 07-06-04; Ord. No. 11728, §§ 16-17, 8-16-05; Ord. No. 12023, §§ 6-8, 10-2-07)

Sec. 31-37. Minimum service charges.

Minimum sewer service charges based upon water meter connection size shall be as follows:

Monthly Minimum Sewer Service Charges

Meter Size (inches)	Fiscal Year 2007/2008-1 Charge per Month	Fiscal Year 2007-2008-2 Charge per Month

5/8	$ 9.70	$ 9.98
3/4	34.60	35.60
1	60.45	62.21
1-1/2	135.29	139.23
2	239.54	246.52
3	561.51	577.86
4	1,037.68	1,067.90
6	2,471.59	2,543.57
8	4,371.79	4,499.12

The minimum sewer service change for residential users with various meter size shall be multiplied by ninety (90) percent to compensate for water use not going to the sewer such as lawn and garden watering. Any residential location where a separate water meter has been installed for the purpose of lawn and garden watering shall not be entitled to have the multiplier applied to any water consumed through the primary water meter.
(Code 1986, § 31-37; Ord. No. 9187, § 4, 7-5-89; Ord. No. 9384, § 6, 5-29-90; Ord. No. 9631, § 4, 10-22-91; Ord. No. 9761, § 4, 7-28-92; Ord. No. 9963, § 4, 10-19-93; Ord. No. 10094, § 4, 8-30-94; Ord. No. 10935, § 4, 11-16-99; Ord. No. 11344, §2, 11-05-02; Ord. No. 12023, § 9, 10-2-07)

Sec. 31-38. Designation of water accounts to be charged.

The superintendent shall designate and report to the water company the water service accounts which shall be billed for sewer service charges, and shall furnish the water company serving the user with the rates as they may be changed from time to time to be charged for sewer services. This designation and report shall include all properties for which sewer service has been provided by the city. In event of the extension of the city's sewer system to any property now served by sewers, the superintendent shall immediately notify the water company serving the user of the additional accounts to be billed for sewer service.
(Code 1986, § 31-38; Ord. No. 9384, § 7, 5-29-90)

Sec. 31-39. Charges where water usage not metered.

(a) *Generally*. The owners or occupants of property obtaining water from a source or sources other than through a meter of the city water company which is discharged into the city's sewers shall install, without cost to the city, a meter to measure the quantity of water received from such source, and shall pay the same rates as provided in sections 31-36 and 31-37 of this Code. No meter shall be installed or used for such purpose without the approval of the city engineer. If the owner of such property fails to install an approved meter or meters, the city

engineer shall make an estimate of the quantity of such water used by such property owner and discharged into the city's sewers from the property, and the owner or occupant of the property shall be liable to the city for the sewer service charges due, which may be collected by suit in any court of competent jurisdiction.

(b) *Multi-unit complexes*. To provide more equality between single-family and multi-unit dwellings (with just one (1) or less number of water meters than the total number dwelling units in complex), sewer service charges to multi-unit apartment complexes served by master meters or any combination of meters totaling less than the number of units served shall be charged by the following formula:

$U_{ADJ} \times S_C \times O_C$

Where:

U_{ADJ} = U_{TOT} / O_C

U_{TOT} = Total usage of individual meter or master meter

O_C = The number of units served by the referenced meter times a ninety (90) percent occupancy rate

S_C = The service charge as detailed in sections 31-36(a) and 31-37

(Code 1986, § 31-39)

Sec. 31-40. Consumers not to be charged sewer user charges for water used for industrial, commercial purposes not discharged into city sewers.

(a) *Secondary metering.* Whenever a property upon which a sewer user charge is imposed under this article uses water for an industrial or commercial purpose, which water so used is not discharged into the sewerage system of the city, the quantity of water so used and not discharged into the city's sewers shall be excluded in determining the sewer user charge of the owner or occupant; provided that, the quantity of water so used and not discharged into the city sewers is measured by a device or meter (called a secondary meter) approved by the superintendent and installed by the owner or occupant without cost to the city. The sewer user charge based upon the consumption of water to be paid by the owner or occupant of such property shall be computed at the rates provided in this article less the quantity not discharged into the city's sewers. The city reserves the right to require calibration of secondary meters when appropriate. A secondary meter shall meet the following requirements:

(1) Meters should read in hundred (100) cubic feet.

(2) Meters must be located either in an outdoor meter box or vault, or inside the customer's building or structure in a clean, dry, safe place not subject to wide temperature variations so that the meter can be easily examined, read or removed.

(3) The customer shall, at its expense, provide suitable pipe connections and shut-off valves, one each at the inlet and outlet sides of the meter.

(4) The meter box or vault may be constructed to protect the meter from freezing and damage by vehicular traffic, and its location and design shall prevent, as far as possible, the inflow of surface water.

(5) Any changes in location of secondary meters, malfunctions, replacements or any other changes in the approved secondary meter installation must be reported to the superintendent in writing. Also a copy must be forwarded to the water company containing all pertinent information regarding that particular meter.

(6) No retroactive credits will be issued, if the holder of the secondary meter permit fails to comply with the rules and regulations in force at any particular time.

(7) If any water exempted from the sewer service charge is returned to the sewer system at any time or point, a metering device shall be installed. Any flow registered through such a meter shall be charged for sewer service.

(8) Any secondary meter must be easily accessible by the water company. If this is not possible, remote read meters shall be installed and be protected from any magnetic interference. It is the responsibility of the permit holder to assure the accuracy of the remote read to the installed meter.

(9) All meters must be calibrated and certified for accuracy once every eighteen (18) months. The certification of the inspection or a copy thereof has to be forwarded to the Moccasin Bend Treatment Plant.

(b) *Other sewer user charge credits.* User charge credits may also be given by the superintendent for the following purposes:

(1) Hidden or underground leaks except for accounts identified as residential; (Ord. No. 12023, § 10, 10-2-07)

(2) Catastrophic leaks where the water does not enter the sewer line except for accounts identified as residential; (Ord. No. 12023, § 10, 10-2-07)

(3) Where secondary meters are installed for swimming pools, lawn or garden watering, sprinkling systems, and other processes where water is used but not returned to the sewer;

(4) Filling a swimming pool will be allowed one credit per year for the initial fill if the water is not returned to the sewer at the end of the swimming season.

No sewer user may receive a credit for an amount which would reduce the resultant sewer bill below the minimum charge required by Section 32-31 of this article. To be considered for credit, leaks must be reported to the water company, and corrected by the owner or occupant without cost to the city. The sewer user charge based upon the consumption of water to be paid by the owner or occupant of such property shall be computed at the rates provided in this article less the quantity not discharged into the city's sewers.
(Code 1986, § 31-40; Ord. No. 9384, § 8, 5-29-90; Ord. No. 12023, § 10, 10-2-07)

Sec. 31-41. Industrial user sewer surcharge.[4]

(a) *Levy.* There shall be and is hereby levied upon industrial users which discharge wastewater in concentrations in excess of "normal wastewater" a surcharge as set forth in this section.

(b) *Charge formula.* The industrial user surcharge is based upon the increased operation and maintenance cost and other increased expenses incurred in the handling of such wastewater as determined by the following formula:

$$Cs = [(Bc \times B) + (Sc \times S) + (Pc \times P)]\ Vu \times 8.34$$

[4] **Editor's note:** Ordinance No. 11221, Section 7, adopted December 18, 2001, provided that the operative date for changes in rates shall be July 1, 2001, and the operative date for residential users billed through the water suppliers shall be November 1, 2001.

Cs = Surcharge for wastewaters exceeding the strength of "normal wastewater" expressed in dollars per billing period.

Bc = Operation and maintenance (O & M) cost for treatment of a unit of BOD_5 expressed in dollars per pound.

B = Concentration of BOD_5 from a user above the base level of 300 mg/l expressed in mg/l.

Sc = Operation and maintenance (O & M) cost for treatment of a unit of total suspended solids expressed in dollars per pound.

S = Concentration of total suspended solids from a user above the base level of 400 mg/l, expressed in mg/l.

Pc = Operation and maintenance (O & M) cost for treatment of a unit of any pollutant which the city is committed to treat by virtue of its NPDES permit or other regulatory requirement expressed in dollars per pound.

P = Concentration of any pollutant from a user above the base level. Base levels for pollutants subject to surcharge as may be hereafter established by the city expressed in mg/l.

Vu = Volume contribution of a user per billing period. Expressed in million gallons.

8.34 = Conversion factor to make units cancel. Expressed as (pounds/million gallons)/mg/l.

(c) Rates. Based upon the current cost of treating wastewater containing constituents with concentrations in excess of “normal wastewater,” numerical rates are hereby established for Bc and Sc as follows:

Bc = $0.094 per pound of BOD for concentrations in excess of three hundred (300) milligrams per liter.

Sc = $0.067 per pound of total suspended solids for concentrations in excess of four hundred (400) milligrams per liter.

(Ord. No. 11728, § 18, 8-16-05; Ord. No. 12023, § 11, 10-2-07)

(d) *Billing.* The superintendent shall notify and in conjunction with a normal bill charge each industrial user within sixty (60) days following the semi-annual periods ending on December thirty-first and June thirtieth, and such surcharges shall be payable no later than April first and October first respectively. The superintendent, at his discretion, may enter into an agreement with the industrial user to bill and collect such fees on a monthly basis. Each user shall 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.

(e) *Data concerning concentration.* The concentrations of any pollutant of an industrial user and the volume contribution of that user shall be calculated from discharge monitoring reports which shall be submitted by the industrial user following the semi-annual periods ending on December thirty-first and June thirtieth by January thirty-first and July thirtieth respectively and being subject to verification by inspection and monitoring undertaken by the superintendent pursuant to division 9 of this article, from records maintained by the industrial user pursuant to division 8 of this article, and from reliable information obtained from any other source.

(f) *User charge and surcharge studies.* The superintendent shall, based upon a documented study, recommend to the mayor and city council no less frequently than biennially an equitable rate structure for purposes of establishing a basic user charge computed on the basis of "normal wastewater" and a surcharge for industrial users which discharge effluent in concentrations in excess of "normal wastewater". The superintendent shall consider in his report the amount of revenue needed for the purposes specified in section 31-31, consistent with 40 CFR part 35 and all other applicable federal and state laws and regulations. Such recommendation shall be based upon the premises that each user or user class pays his proportionate share of the operation and maintenance including replacement costs of the treatment works, based upon the user's proportionate contribution to the total wastewater loading from all users or user classes. The superintendent shall also recommend as warranted that surcharges be placed upon specific wastewater constituents, including a surcharge for all users which discharge any toxic pollutant which causes an increase in the cost of managing the effluent or the sludge of the city's treatment works, so as to recover such increased costs. In making his recommendation relative to changes in user charges or surcharges, the superintendent may recommend that any excess revenues or any deficiency in revenues collected from a class of users in the preceding period be applied to the operation and maintenance cost attributed to that class for the next period and that the rate for that class of users be adjusted accordingly.

(g) *Appeal.* An industrial user may contest the accuracy of a user sewer surcharge bill by paying such bill under protest and within thirty (30) days following the date of the bill

lodging with the superintendent a notice of appeal to the wastewater regulation board. No particular form of notice of appeal is required, but it shall set forth with particularity the nature of any errors allegedly committed in the computation of such bill. Unless the superintendent shall agree to correct any error or enter into a reasonable compromise concerning same, he shall notify the board at its next regularly scheduled meeting of the pendency of an appeal. The board shall, upon notice to the industrial users, schedule a hearing to receive evidence relating to the matter, and shall render such determinations and issue such orders as the law and facts of the case may require.
(Code 1986, § 31-136; Ord. No. 9187, § 5, 7-5-89; Ord. No. 9384, § 9, 5-29-90; Ord. No. 9631, § 5, 10-22-91; Ord. No. 9654, § 108, 1-6-92; Ord. No. 9761, § 5, 7-28-92; Ord. No. 9963, § 5, 10-19-93; Ord. No. 10094, § 5, 8-30-94; Ord. No. 10285, § 4, 9-12-95; Ord. No. 10495, § 4, 11-12-96; Ord. No. 10632, § 4, 10-28-97; Ord. No. 10769, § 4, 10-6-98; Ord. No. 10935, § 5, 11-16-99; Ord. No. 11070, § 4, 9-19-00; Ord. No. 11221, § 4, 12-18-01; Ord. No. 11344, §5, 11-05-02; (Ord. No. 11473, §3, 10-21-03; Ord. No. 11581, §19, 07-06-04)

Sec. 31-42. Appeals.

A user may contest a credit or billing determination by the superintendent by paying said bill under protest and within thirty (30) days following the due date of said bill lodging with the superintendent a notice of appeal with the Wastewater Regulations and Appeals Board. The appeal shall follow the procedures in Section 31-295.
(Ord. No. 9384, § 10, 5-29-90)

Sec. 31-43. Miscellaneous fees.[5]

(a) *Applicability*. There shall be and is hereby levied miscellaneous fees to be collected by the superintendent for various purposes relating to this chapter as set forth in this section.

(b) *Fees for garbage grinders*. Any user of a garbage grinder, except users in a premise used exclusively for an individual residence, shall be charged at a rate of one hundred forty six dollars ($146.00) per month. The superintendent shall bill users on a bi-monthly basis and the bills shall be due and payable within thirty (30) days following the last day of the billing period.

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[5] **Editor's note:** Ordinance No. 11221, Section 7, adopted December 18, 2001, provided that the operative date for changes in rates shall be July 1, 2001, and the operative date for residential users billed through the water suppliers shall be November 1, 2001.

(Ord. No. 11728, § 23, 8-16-05; Ord. No. 12023, § 12, 10-2-07)

(c) *Monitoring Requested by User*. The superintendent shall charge and collect from any user requesting the collection of effluent samples and the analysis of same a sum of money sufficient to pay for the personnel, equipment, and materials needed to collect and analyze same. He shall publish no less frequently than yearly a schedule of such fees, and shall charge all persons uniformly according to said schedule of charges. No such monitoring requested by user shall be performed unless the user shall agree in advance to payment of charges according to said schedule. The superintendent shall bill for such monitoring reports within one (1) week following the completion thereof, said bills to be payable within thirty (30) days following the date of the bill. The superintendent shall not perform for a user routine self-monitoring required under the provisions of an industrial discharge permit.

(d) *Permit Fee*. All significant industrial users as defined in article III of this chapter shall be charged an annual permit fee of five hundred dollars ($500.00) per year. The superintendent shall bill significant industrial users annually and the bills shall be due and payable within thirty (30) days.

(e) *Truck discharge operation fee*. The superintendent shall charge and collect the sum of forty dollars ($40.00) per truck per year for a truck discharge operation permit as authorized pursuant to division 6 of this article. The holders of such permits shall also be charged a fee set forth in paragraphs (d) and (e) of this section. Such additional fees shall be collected by the superintendent at the time of the discharge or, in his discretion, he may enter into an agreement with the holder of such a permit to bill and collect the fees on a monthly basis.

(f) *Fees for septic tank discharge*. All persons discharging concentrated, domestic septic tank sewage waste from a truck under the provisions of Article III of this Chapter shall be charged at the rate of fifty three dollars ($53.00) per one thousand (1,000) gallons of such waste. The minimum charge for septic tank discharges shall be one half (1/2) of the rate for one thousand (1,000) gallons of the rate in effect at the time of such discharge. All persons discharging grease trap or grease interceptor waste or loads where septic tank waste has been mixed or blended with grease trap or grease interceptor waste shall be charged at the rate two (2) times the rate for septic tank wastes.

(Ord. No. 11728, § 23, 8-16-05; Ord. No. 12023, § 12, 10-2-07)

(g) *Fees holding tank wastes*. All persons discharging any holding tank waste authorized pursuant to division 6 of this article shall be charged at the rate of four dollars and sixty-nine cents ($4.69) per one thousand (1,000) gallons of such discharge, plus any surcharge rate authorized by Article III of this chapter for concentrations of pollutants in excess of normal

waste water without regard to the definition of the industrial user or other limitations set forth in such section. The superintendent may also require a chemical analysis of such waste and charge therefore. The fee for fiscal year 2007/2008 – 2 shall be four dollars and eighty-three cents ($4.83). The minimum charge for holding tank wastes shall be the fee for one thousand (1,000) gallons of said discharge of the rate in effect at the time of such discharge.

(Ord. No. 12023, § 12, 10-2-07)

(Ord. No. 9384, § 11, 5-29-90; Ord. No. 9631, §§ 6-8, 10-22-91; Ord. No. 9761, §§ 6-7, 7-28-92; Ord. No. 9963, §§ 6-7, 10-19-93; Ord. No. 10094, §§6-8, 8-30-94; Ord. No. 10632, §§ 5-6, 10-28-97; Ord. No. 10769, §§ 5-6, 10-6-98; Ord. No. 10935, §§ 6-7, 11-16-99; Ord. No. 11070, §§ 5-6, 9-19-00; Ord. No. 11221, §§ 5-6, 12-18-01; Ord. No. 11344, §§6-8, 11-05-02; Ord. No. 11728, §§ 16-18 and 23, 8-16-05, Ord. No. 12023, § 12, 10-2-07)

Secs. 31-44 -- 31-49. Reserved.

ARTICLE III. INDUSTRIAL WASTE

DIVISION 1. GENERALLY

Sec. 31-50. General provisions.

(a) *Purpose and policy.* The purpose of this article is to set uniform requirements for users of the city's wastewater collection system and treatment works to enable the city to comply with the provisions of the Clean Water Act and other applicable federal and state law and regulations, and to provide for the public health and welfare by regulating the quality of wastewater discharged into the city's wastewater collection system and treatment works. This article provides a means for determining wastewater volumes, constituents and characteristics, the setting of charges and fees, and the issuance of permits to certain users. This article establishes effluent limitations and other discharge criteria and provides that certain users shall pretreat waste to prevent the introduction of pollutants into the publicly owned treatment works (hereinafter referred to as POTW) which will interfere with the operation of the POTW, may cause environmental damage, interfere with the use or disposal of sewage sludge; and to prevent the introduction of pollutants into the POTW which will pass through the treatment works into the receiving waters or the atmosphere, or otherwise be incompatible with the treatment works; and to improve the opportunities to recycle and reclaim wastewaters and the sludges resulting

from wastewater treatment. This article provides measures for the enforcement of its provisions and abatement of violations thereof. This ordinance establishes a "Wastewater Regulations and Appeals Board" and establishes its duties and establishes the duties of the superintendent to insure that the provisions of this ordinance are administered fairly and equitably to all users.

(b) *Definitions.* For purposes of this article the following phrases and words shall have the meaning assigned below, except in those instances where the content clearly indicates a different meaning:

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

(2) **"Approved POTW Pretreatment Program" or "Program" or "POTW Pretreatment Program".** This means a program administered by a POTW that meets the criteria established in 40 CFR (§ 403.8 and 403.9) and which has been approved by a regional administrator or state director in accordance with § 403.11 of Chapter 40 of the Code of Federal Regulations.

(3) **Building Sewer.** A sewer conveying wastewater from the premises of a user to a community sanitary sewer.

(4) **Board.** Wastewater Regulations and Appeals Board.

(5) **Categorical Standards.** National Pretreatment Standards, established by EPA for specific industrial user SIC (Standard Industrial classification) code categories.

(6) **Centralized Waste Treatment Facility or "CWT".** The term "CWT" means a commercial centralized waste treatment facility (other than a landfill or an incinerator) which treats or stores aqueous wastes generated by facilities not located on the site of the CWT and which disposes of these wastes by introducing them to the POTW.

(7) **City.** The City of Chattanooga, Tennessee, a municipal corporation.

(8) **Combined sewer.** A sewer which has been designed to carry both sanitary sewage and storm water runoff.

(9) **Community sewer.** Any sewer containing wastewater from more than one premise.

(10) **Conventional pollutant.** Biochemical oxygen demand, total suspended solids, pH, fecal coliform bacteria, and oil and grease.

(11) **Direct Discharge.** The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(12) **Discharge Monitoring Report.** A report submitted by an industrial user to the superintendent pursuant to this article containing information relating to the nature and concentration of pollutants and flow characteristics of a discharge from the industrial user to the POTW, using standard methods approved by the superintendent.

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

(14) **Grab Sample.** A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

(15) **Holding tank waste.** Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks. This specifically includes wastewaters from industrial users, which wastewaters are conveyed to the POTW by any means other than by a standard connection to a sanitary or combined sewer.

(16) **Indirect Discharge.** The discharge or the introduction of pollutants from any source regulated under section 307(b), (c), or (d) of the Act, (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system) for treatment before direct discharge to the waters of the state.

(17) **Industrial User.** A source of indirect discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to section 402 of the Act. For the purposes of this article, an industrial user is a source of non-domestic wastes from industrial processes.

(18) **Interceptor Sewer System or "ISS".** Any portion of or all of the City of Chattanooga's wastewater collection system, treatment works, pump stations, and other appurtenances.

(19) **Interference.** The term "interference" means a discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

(i) inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and

(ii) therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations), Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

(20) **Mass emission rate.** The weight of material discharged to the community sewer system during a given time interval. Unless otherwise specified, the mass emission rate shall mean pounds per day of the particular constituent or combination of constituents.

(21) **Maximum concentration.** The maximum amount of a specified pollutant in a volume of water or wastewater.

(22) **National Pretreatment Standard.** Any regulations containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 U.S.C. 1347) which applies to industrial users. These terms also include prohibited discharges promulgated in 40 CFR 403.5, and local limits adopted as part of the City's Approved Pretreatment Program.

(23) **New Source.**

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

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

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

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

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

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

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

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

2) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures,

or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment; or

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

(24) **National Pollutant Discharge Elimination System or NPDES permit.** A permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342).

(25) **Normal Wastewater.** Effluent which contains constituents and characteristics similar to effluent from a domestic premise and specifically for the purposes of this article does not contain biochemical oxygen demand (BOD), or total suspended solids (TSS) in concentrations in excess of the following:

BOD -- 300 milligrams per liter
TSS -- 400 milligrams per liter

(26) **Pass Through.** The term "pass through" means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation). In the case of POTW receiving discharges from CWTs as defined above, pass through also means the failure of the CWT and the POTW to reduce pollutant discharges from the POTW to the degree which would be required under section 301(b)(2) of the CWA if the CWT discharged directly to surface waters.

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

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

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

(30) **Pretreatment.** The term "pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration may be obtained by physical, chemical or biological processes, process changes or by other means, except as prohibited by 40 CFR § 403.6(d). Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the POTW. However, where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with 40 CFR § 403.6(e).

(31) **Pretreatment Requirements.** Any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard imposed on an industrial user.

(32) **Publicly owned treatment works or POTW.** A treatment works as defined by section 212 of the Act, (33 U.S.C. 1292). This definition includes any sewers that convey wastewater to such a treatment works, and any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or liquid industrial waste but does not include pipes, sewers or other conveyances not connected to a facility providing treatment.

The term in some contexts also means the City of Chattanooga, a municipality, as defined in Section 502(4) of the Act, (33 U.S.C. 1362) which has jurisdiction over the indirect discharges and the discharges from such a treatment works.

(33) **Reclaimed water.** Water which, as a result of treatment of waste, is suitable for direct beneficial uses or a controlled use that would not occur otherwise.

(34) **Significant Industrial User.** This term shall mean:

i) All dischargers subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR Chapter 1, subchapter N; or

ii) All noncategorical dischargers that contribute more than 10,371 pounds per day of BOD, or more than 10,656 pounds per day of total suspended solids, or more than 700 pounds per day of ammonia nitrogen, or more than 25,000 gallons per day of process wastewater to the POTW; or

iii) All noncategorical dischargers that, in the opinion of the superintendent, have a reasonable potential to adversely affect the POTW's operation. This shall include but shall not be limited to all centralized waste treatment discharges, all tank and drum cleaning facilities, and all paint manufacturing facilities; or

iv) All noncategorical discharges that contain more than 100 pounds per day of combined BOD and total suspended solids load above that level found in "normal wastewater", or that contain more than 1000 pounds in a month of combined BOD and total suspended solids load above that level found in normal wastewater.

(35) **Standard industrial classification.** A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

(36) **Superintendent.** The person designated by the city to supervise the operation of the publicly owned treatment works and the interceptor sewer system and who is charged with certain duties and responsibilities by this article, or his duly authorized representative, or in his absence or inability to act the person then in actual charge of said system.

(37) **Toxic pollutant.** Any pollutant or combination of pollutants listed as toxic in 40 CFR Part 401 promulgated by the Administrator of the Environmental Protection Agency under the provisions of 33 U.S.C. 1317.

(38) **Treatment works.** Any devices and systems used in the storage, treatment, recycling and reclamation of domestic sewage or industrial wastes of a liquid nature including interceptor sewers, outfall sewers, sewage collection systems,

pumping, power, and other equipment and appurtenances; extensions, improvements, remodeling, additions and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment; and including combined storm water and sanitary sewer systems.

(39) **Twenty-four hour, flow proportional composite sample.** A sample consisting of several effluent portions collected during a twenty-four (24) hour period in which the portions of sample are proportionate to the flow and combined to form a representative sample.

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

(41) **User.** Any person, firm, corporation or governmental entity that discharges, causes or permits the discharge of wastewater into a community sewer.

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

(43) **Wastewater.** Waste and water, whether treated or untreated, discharged into or permitted to enter a community sewer.

(44) **Wastewater constituents and characteristics.** The individual chemical,, physical, bacteriological and radiological parameters, including toxicity, volume and flow rate and such other parameters that serve to define, classify or measure the contents, quality, quantity and strength of wastewater.

(45) **Waters of the State of Tennessee.** Any water, surface or underground, within the boundaries of the state.

(c) The following abbreviations shall have the following meanings:

(1) BAT - Best Available Technology.

(2) BPT - Best Practical Technology.

(3) BPJ - Best Professional Judgment.

a) BOD - Biochemical oxygen demand.

b) BOD_5 - Biochemical oxygen demand (5 day).

(4) CFR - Code of Federal Regulations.

(5) CWA - Clean Water Act.

(6) CWT - Centralized Waste Treatment Facility.

(7) EPA - Environmental Protection Agency.

(8) GMP - Good Management Practices.

(9) ISS - Interceptor Sewer System.

(10) 1 - Liter.

(11) MBAS - Methylene-blue-active substances.
(12) mg - Milligrams.

(13) mg/l - Milligrams per liter.

(14) NPDES - National Pollutant Discharge Elimination System.

(15) POTW - Publicly owned treatment works.

(16) RCRA - Resource Conservation and Recovery Act.

(17) SIC - Standard Industrial Classification.

(18) SWDA - Solid Waste Disposal Act, 42 U.S.C. 6901, et seq.

(19) TSS - Total Suspended Non-filterable Solids.

(20) USC - United States Code.
(Ord. No. 9409, § 2, 6-5-90)

DIVISION 2. PRETREATMENT STANDARDS

Sec. 31-51. Prohibitions and limitations on discharge into the publicly owned treatment works.

(a) *Purpose and policy.* This section establishes limitations and prohibitions on the quantity and quality of wastewater which may be lawfully discharged into the publicly owned treatment works. Pretreatment of some wastewater discharges will be required to achieve the goals established by this article and the Clean Water Act. The specific limitations set forth in Paragraph (i) hereof, and other prohibitions and limitations of this article, are subject to change as necessary to enable the city to provide efficient wastewater treatment, to protect the public health and the environment, and to enable the city to meet requirements contained in its NPDES permit. The superintendent shall review said limitations from time to time to insure that they are sufficient to protect the operation of the treatment works, the health and safety of ISS personnel, to enable the treatment works to comply with its NPDES permit, to provide for a cost effective means of operating the treatment works, and to protect the public health and the environment. The superintendent shall recommend changes or modifications as necessary.

(b) *Prohibited pollutants.* No person shall introduce into the publicly owned treatment works any pollutant(s) which cause pass through or interference. Additionally, the following specific prohibitions apply:

(1) Pollutants which create a fire or explosion hazard in the POTW,, including, but not limited to, pollutants with a closed cup flashpoint of less than 140 degrees Fahrenheit (sixty degrees Centigrade), as determined by a Pensky-Martens Closed Cup Tester, using the test method specified in the American Society for Testing and Materials (ASTM) standard D-93-79 or D-93-80k or a Setaflash Closed Cup Tester, using the test method specified in ASTM Standard D-3278-78 and pollutants which cause an exceedance of 10% of the lower explosive limit (LEL) at any point within the POTW;

(2) Pollutants which cause corrosive structural damage to the POTW, but in no case discharges with a pH lower than 5.0 or higher than 10.5;

(3) Solid or viscous pollutants in amounts which cause obstruction to the flow of the sewers, or other interference with the operation of or which cause injury to the POTW; including waxy or other materials which tend to coat and clog a sewer line or other appurtenances thereto;

(4) Any pollutant, including oxygen demanding pollutants (BOD, etc.), released in a discharge (slug) of such volume or strength as to cause interference in the POTW or individual unit operations or cause adverse effects on its workers or the environment;

(5) Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the treatment works influent exceed 40E Centigrade (104E Fahrenheit). Unless a higher temperature is allowed in the user's wastewater discharge permit, no user shall discharge into any sewer line or other appurtenance of the POTW wastewater with a temperature exceeding 63.50E Centigrade (150E Fahrenheit).

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

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

(c) *Affirmative Defenses.* A user shall have an affirmative defense in any action brought against it alleging a violation of the general prohibitions established in paragraph (b) of this section and the specific prohibitions in paragraphs (b)(3), (4) and (5) of this section where the user can demonstrate that:

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

(2) (A) A local limit designed to prevent pass through and/or interference, as the case may be, was developed pursuant to section 31-51(i) and (j) for each pollutant in the user's discharge that caused pass through or interference, and the user was in compliance with each such local limit directly prior to and during the pass through or interference; or

(B) If a local limit designed to prevent pass through and/or interference, as the case may be, has not been developed for the pollutant(s) that caused

the pass through or interference, and the user's discharge directly prior to and during the pass through or interference did not change substantially in nature of constituents from the user's prior discharge activity when the POTW was regularly in compliance with the POTW's NPDES permit requirements and, in the case of interference, applicable requirements for sewage sludge use or disposal.

(d) *Wastewater Constituent Evaluation.* The wastewater of every industrial user shall be evaluated using the following criteria:

(1) Wastewater containing any element or compound which is not adequately removed by the treatment works which is known to be an environmental hazard;

(2) Wastewater causing a pass through, discoloration, foam, floating oil or grease, or any other condition in the quality of the city's treatment works' effluent such that receiving water quality requirements established by law cannot be met;

(3) Wastewater causing conditions at or near the city's treatment works which violate any statute, any rule, or regulation, of any public agency of this state or the United States;

(4) Wastewater containing any element or compound known to act as a lacrimator, known to cause nausea, or known to cause odors constituting a public nuisance;

(5) Wastewater causing interference with the effluent or any other product of the treatment process, residues, sludges, or scums causing them to be unsuitable for reclamation, reuse, causing interference with the reclamation process, or causing them to be unsuitable for disposal;

(6) Wastewater discharged at a point in the collection system that is upstream of any overflow, bypass, or combined sewer overflow and which may thereby cause special environmental problems or specific discharge limitations;

(7) Wastewater having constituents and concentrations in excess of those listed in section 31-51(i), or cause a violation of the limits in section 31-51(j).

(8) The capacity of existing sewer lines to carry the anticipated wastewater flow, particularly with respect to any problems, overflows, or overloads caused by heavy rain infiltration.

(9) The toxicity of each wastewater shall be evaluated by an appropriate biomonitoring technique to determine if a specific discharge may significantly affect the overall toxic level of the POTW influent.

The superintendent or the Board, as applicable, shall establish reasonable limitations or prohibitions or monitoring requirements in addition to the limits established pursuant to section 31-51(e) and (i) in the wastewater discharge permit of any industrial user that discharges wastewater violating any of the above criteria or that has processes that generate wastewater that could violate any of the above criteria prior to pretreatment as shall be reasonably necessary to achieve the purpose and policy of this article.

(e) *National Pretreatment Standards.* Certain industrial users are now or hereafter shall become subject to National Pretreatment Standards promulgated by the Environmental Protection Agency specifying quantities or concentrations of pollutants or pollutant properties which may be discharged into the POTW. All industrial users subject to a National Pretreatment Standard shall comply with all requirements of such standard, and shall also comply with any additional or more stringent limitations contained in this article. Compliance with National Pretreatment Standards for existing sources subject to such standards or for existing sources which hereafter become subject to such standards shall be within three (3) years following promulgation of the standards unless a shorter compliance time is specified in the standard. Compliance with National Pretreatment Standards for new sources shall be required upon promulgation of the standard. New sources shall install and have in operating condition, and shall "start-up" all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge. Within the shortest feasible time (not to exceed 90 days), new sources must meet all applicable pretreatment standards. Except where expressly authorized by an applicable National Pretreatment Standard, no industrial user shall increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitution for adequate treatment to achieve compliance with such standard.

(f) *Limitation on Radioactive Waste.* No person shall discharge or permit to be discharged any radioactive waste into a community sewer except:

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

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

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

(g) *Septic Tank Pumping, Hauling, and Discharge.* No person owning vacuum or "cess pool" pump trucks or other liquid waste transport trucks shall discharge directly or indirectly such sewage into the POTW, unless such person shall first have applied for and received a truck discharge operation permit from the superintendent for each vehicle used in this manner. All applicants for a truck discharge operation permit shall complete such forms as required by the superintendent, pay appropriate fees, and agree in writing to abide by the provisions of this chapter and any special conditions or regulations established by the superintendent.

(1) The owners of such vehicles shall affix and display the permit number in four inch (4") block figures on the side of each vehicle used for such purposes.

(2) Such permit shall be valid for a period of one (1) year from date of issuance; provided, that such permit shall be subject to suspension or revocation by the superintendent for violation of any provisions of this code, regulations as established by the superintendent, or any other applicable law or regulations. A revocation or suspension of such a permit shall be for a period of time not to exceed five (5) years. Such revocation or suspension shall bind the permittee, any member of the immediate family of the permittee, or any person who has purchased the business or a substantial amount of the assets of the permittee who paid less than fair market value for such business or assets. Users found operating in violation of a permit issued under this subsection and whose permit is therefore revoked by the superintendent, shall be notified by certified mailing or notice shall personally be delivered to the user.

(3) Truck discharge operation permits are not automatically renewed. Application for renewal must be made to the superintendent.

(4) Such permits shall be limited to the discharge of domestic sewage waste containing no industrial waste. All other hauled wastes shall be governed by paragraph (h) of this section. Any user transporting, collecting, or discharging non-domestic industrial process wastewaters, or a mixture of such wastewaters with domestic wastewater shall obtain a holding tank discharge permit in accordance with paragraph (h).

(5) The superintendent shall designate the locations and times where such trucks may be discharged, and may refuse to accept any truckload of waste in his absolute discretion where it appears that the waste could interfere with the effective operation of the treatment works or any sewer line or appurtenance thereto, or where it appears that a truckload of waste contains industrial process waste or a mixture of domestic sewage and industrial process waste.

(6) The superintendent shall have authority to investigate the source of any hauled waste and to require testing of the waste at the expense of the discharger prior to discharge.

(h) *Other Holding Tank Waste.* No user shall discharge any other holding tank wastes including hauled industrial waste into the POTW unless he shall have applied for and have been issued a 'holding tank discharge permit' by the superintendent. Unless otherwise allowed under the terms and conditions of the permit, a separate permit must be secured for each separate discharge. All applicants for a holding tank discharge permit shall complete such forms as required by the superintendent, pay appropriate fees, and agree in writing to abide by the provisions of this chapter and any special conditions or regulations established by the superintendent. All such dischargers and transporters must show that they have complied with federal manifests and other regulations under RCRA. The permit shall state the specific location of the discharge, the time of day the discharge is to occur, the volume of the discharge, the source and character of such waste, and shall limit the wastewater constituents and characteristics of the discharge. Such user shall pay any applicable charges or fees therefor, and shall comply with the conditions of the permit issued by the superintendent; provided, however, the superintendent may waive in his discretion the completion of an application and for the payment of fees for the requirement for discharge of domestic waste from a recreational vehicle holding tank.

(i) *Limitations on Wastewater Strength (Local Limits).* No user shall discharge wastewater with pollutant concentrations in excess of the concentration set forth in the table below unless: (1) an exception has been granted the user under the provisions of section 31-52; or (2) the wastewater discharge permit of the user provides as a special permit condition a higher interim concentration level in conjunction with a requirement that the user construct a pretreatment facility or institute changes in operation and maintenance procedures to reduce the concentration of pollutants to levels not exceeding the standards set forth in the table within a fixed period of time.

Maximum Concentration mg/l (24 Hour Flow	*Maximum Instantaneous*

Pollutant	*Proportional Composite Sample)*	*Concentration mg/l (Grab Sample)*
Cadmium (Cd)	1.0	2.0
Chromium (Cr)	5.0	10.0
Copper (Cu)	5.0	10.0
Cyanide (CN)	2.0	4.0
Lead (Pb)	1.5	3.0
Mercury (Hg)	0.1	0.2
Nickel (Ni)	5.0	10.0
Silver (Ag - free ionic)	1.0	2.0
Zinc (Zn)	5.0	10.0
pH		5-10.5 Standard units

NOTE: All measurements for the above-listed pollutants are in the total form except for silver.

(j) *Criteria to Protect the Treatment Plant Influent.* The superintendent shall monitor the treatment works influent for each pollutant in the following table. Industrial users shall be subject to the reporting and monitoring requirements set forth in section 31-53 and section 31-54 as to these pollutants. In the event that the influent at the treatment works reaches or exceeds the levels established by said table, the superintendent shall initiate technical studies to determine the cause of the influent violation, and shall recommend such remedial measures as are necessary, including but not limited to recommending the establishment of new or revised pretreatment levels for these pollutants. The superintendent shall also recommend changes to any of these criteria in the event the POTW effluent standards are changed, there are changes in any applicable law or regulation affecting same, or when changes are needed for more effective operation of the POTW.

Pollutant	*Monthly Average Maximum Concentration (mg/l)*
Copper (Cu)	0.40
Chromium (Cr)	0.47
Nickel (Ni)	0.35
Cadmium (Cd)	0.01
Lead (Pb)	0.10
Mercury (Hg)	0.015
Silver (Ag-free ionic)	0.036

Zinc (Zn)		0.80
Cyanide (CN)		0.05
Toluene		0.115
Benzene		0.015
1,1,1-Trichloroethane		0.167
Ethylbenzene		0.031
Carbon tetrachloride		0.015
Chloroform		0.193
Tetrachloroethylene		0.278
Trichloroethylene		0.077
1,2 Transdichloroethylene		0.150
Methylene chloride		0.111
Phenols		0.555
Naphthalene		0.011
Bis (2-ethyl hexyl) phthalate \		
Butyl benzyl phthalate \		
Di-n-butyl phthalate /	=	0.064
Diethyl phthalate /		
Chromium - Hexavalent (Cr+6)		0.02
Iron (Fe)		6.7
Manganese (Mn)		0.33
Total Kjeldahl Nitrogen (TKN)		30.0
Oil & Grease		*
MBAS		*
Total Dissolved Solids		2,500
BOD		207,420 lb/day
Suspended Solids		213,137 lb/day
Ammonia Nitrogen		14,000 lb/day
Ph		6-9 standard units
Lower Explosion Limit		10%

NOTE: All measurements for these pollutants are for the total form except as noted.

*No limit established for plant protection, however monitoring will be required to provide numerical correlation with NPDES conditions.

(k) *Pretreatment Requirements.* Industrial users of the POTW shall design, construct, operate, and maintain wastewater pretreatment facilities whenever necessary to reduce or modify the user's wastewater composition to achieve compliance with the limitations in wastewater strength set forth in paragraph (i) of this section, to meet applicable National Pretreatment Standards, to prevent slug discharge or to meet any other wastewater condition or limitation contained in the industrial user's wastewater discharge permit.

(l) *Plans and Specifications.* Plans and specifications for such wastewater pretreatment facilities shall be prepared, signed, dated, and sealed by a registered engineer, and shall be submitted to the superintendent for review in accordance with accepted engineering practices. The superintendent shall review said plans within 45 days and shall recommend to the industrial user any appropriate changes. Prior to beginning construction of said pretreatment facility, the user shall submit a set of construction plans and specifications to be maintained by the superintendent. Prior to beginning construction the industrial user shall also secure such building, plumbing, or other permits that may be required by other parts of this code. The industrial user shall construct said pretreatment facility within the time provided in the industrial user's wastewater discharge permit. Following completion of construction the industrial user shall provide the superintendent with "as built" drawings to be maintained by the superintendent.

(m) *Prevention of Accident Discharges.* All users shall provide such facilities and institute such procedures as are reasonably necessary to prevent or minimize the potential for accidental discharge into the POTW of waste regulated by this article from liquid or raw material storage areas, from truck and rail car loading and unloading areas, from inplant transfer or processing and materials handling areas, and from diked areas or holding ponds of any waste regulated by this article. The wastewater discharge permit of any industrial user who has a history of significant leaks, spills or other accidental discharge of waste regulated by this article shall be subject on a case-by-case basis to a special permit condition or requirement for the construction of facilities or establishment of procedures which will prevent or minimize the potential for such accidental discharge. Plans,, specifications, and operating procedures for such special permit conditions shall be developed by the user and submitted to the superintendent for review under the provisions of paragraph (k) and (1) of this section.

(n) *Oil & Grease Discharge Control Program.* Disposal of "oil" by discharge to the sewer system is not permitted. oils include automotive lubricating oils, transmission and brake fluid, other industrial oils, and vegetable oils used in a restaurant or food processing facility.

The superintendent shall contact all city discharge permit holders, restaurants, auto shops, septic tank pumpers, commercial food processors, oil tank firms and transporters, and

others as appropriate, as often as needed by letter to advise them of requirements for oil and grease discharge control. These dischargers will also be informed of approved alternate oil and grease disposal options available in the Chattanooga vicinity. The above dischargers of oil and grease waste shall be required to provide an equivalent of primary treatment based on gravity separation of visible, and floating oil and grease and oil and grease sludge from wastewater discharges. Such pretreatment processes shall be subject to the good management practices as required by section 31-52 and approval by the superintendent. Discharges shall also be subject to monitoring, entry, inspection, reporting and other requirements as determined by the superintendent at his discretion. These dischargers may be required by the superintendent to apply for industrial waste discharge permits if he determines that they are a source of prohibited pollutants, toxic pollutants in toxic amounts, or are otherwise controlled by federal or state regulations. All dischargers of oil and grease as listed above are subject to all enforcement and penalty provisions of this article.

(o) *Slug Control Program.*

(1) Each user shall provide protection from slug discharges of restricted materials or other substances regulated by this article. A "slug" shall be defined as any pollutants, including oxygen demanding pollutants (BOD) (COD, NH3 etc.) released in a discharge of such volume or strength as to cause interference in the POTW or individual unit operations or cause adverse effects upon its workers or the environment. No user who commences discharge to the sewerage system after July 1, 1990 shall be permitted to introduce pollutants into the system until the need for slug discharge control plans or procedures has been evaluated by the superintendent.

(2) Certain users will be required to prepare Slug Discharge Prevention and Contingency Plans (SDPC) showing facilities and operating procedures to provide this protection. These plans shall be submitted to the superintendent for review and approval. All existing users required to have SDPC Plans shall submit such a plan within three months after notification from the superintendent and complete implementation within six months. Review and approval of such plans and operating procedures shall not relieve the user from the responsibility to modify the user's facility as necessary to meet the requirements of this article.

(3) In the case of a slug discharge, it is the responsibility of the user to <u>immediately</u> by telephone or in person notify the POTW of the incident. The notification shall

include location of discharge, type of waste, concentration and volume, and corrective action.

Within five (5) days following a slug discharge, the user shall submit a detailed written report describing the cause of the discharge and the measures being taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the sewerage system, fish kills, or any other damage to person or property, nor shall notification relieve the user of any fines, civil penalties, or other liability which may be imposed by the article or other applicable law.

(4) A notice shall be permanently posted on the user's premises advising employees whom to call in the event of a slug discharge. The user shall ensure that all employees who may cause, or allow such slug discharge to occur, are advised of the emergency notification procedure.

(p) *Centralized Waste Treatment Facilities.* The superintendent shall establish effluent limits for centralized waste treatment facilities to insure that the level of pollution discharged from the CWT through the POTW to the environment will not exceed the level that would be allowed if the CWT discharged directly to surface waters under section 301(b)(2) of the Act (33 U.S.C. § 1311). Additionally, centralized waste treatment facilities shall maintain records and submit reports as directed by the superintendent regarding the SIC codes of their customers, and the frequency, characteristics, and volume of wastes from the various categories. (Ord. No. 9409, § 2, 6-5-90)

Sec. 31-52. Exception to wastewater strength standard.

(a) *Applicability.* This section provides a method for industrial users subject to the limitation on wastewater strength pollutants listed in section 31-51(i) to apply for and receive a temporary exception to the discharge level for one or more pollutants or parameters.

(b) *Time of Application.* Applicants for a temporary exception shall apply for same at the time they are required to apply for a wastewater discharge permit or renewal thereof. Provided, however, that the superintendent shall allow applications at any time unless the applicant shall have submitted the same or substantially similar application within the preceding year and the same shall have been denied by the board.

(c) *Written Applications.* All applications for an exception shall be in writing, and shall contain sufficient information for evaluation of each of the factors to be considered by the superintendent pursuant to paragraph (d) hereof.

(d) *Review by Superintendent.* All applications for an exception shall be reviewed by the superintendent. If the application does not contain sufficient information for complete evaluation, the superintendent shall notify the applicant of the deficiencies and request additional information. The applicant shall have thirty (30) days following notification by the superintendent to correct such deficiencies. This thirty (30) day period may be extended by the superintendent upon application and for just cause shown. Upon receipt of a complete application the superintendent shall evaluate same within thirty (30) days and shall approve or deny the application based upon the following factors:

(1) The superintendent shall consider whether or not the applicant is subject to a national pretreatment standard containing discharge limitations more stringent than those in section 31-51 and grant an exception only if such exception may be granted within limitations of applicable federal regulations;

(2) The superintendent shall consider whether or not the exception would apply to discharge of a substance classified as a toxic substance under regulations promulgated by the Environmental Protection Agency under the provisions of section 307(a) of the Act (33 U.S.C. 1317), or similar state regulation, and then grant an exception only if such exception may be granted with the limitations of applicable federal or state regulations;

(3) The superintendent shall consider whether or not the granting of an exception would create conditions or be a hazard to city personnel that would reduce the effectiveness of the treatment works taking into consideration the concentration of said pollutant in the treatment works' influent and the design capability of the treatment works;

(4) The superintendent shall consider whether or not the granting of an exception might cause the treatment works to violate the limitations in its NPDES permit;

(5) The superintendent shall consider whether or not the granting of an exception would cause elements or compounds to be present in the sludge of the treatment works which would prevent sludge use or disposal by the city or which would cause the city to violate any regulation promulgated by EPA under the provisions of section 405 of the Act (33 U.S.C. 1345) or similar state regulatory measure;

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

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

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

(9) The superintendent may consider the engineering aspects of various types of pretreatment or other control techniques available to the user to improve the quality or quantity of wastewater discharge;

(10) The superintendent may consider an application for exception based upon the fact that water conservation measures instituted by the user or proposed by the user result in a higher concentration of particular pollutants in the wastewater discharge of the user without increasing the amount of mass of pollutants discharged. To be eligible for an exception under this subparagraph, the applicant must show that except for water conservation measures, the applicant's discharge has been or would be in compliance with the limitations on wastewater strength set forth in section 31-51. Provided however, no such exception shall be granted if the increased concentration of pollutants in the applicant's wastewater would have significant adverse impact upon the operation of the POTW.

(e) *Review by Wastewater Regulations and Appeals Board.* The board shall review any appeal from a denial by the superintendent of an application for an exception and shall take into account the same factors considered by the superintendent. At such hearing, the applicant and the superintendent shall have the right to present relevant proof by oral or documentary evidence. The procedure set forth in section 31-295 hereof shall be applicable to such a hearing. The applicant shall bear the burden of proof in such hearing.

(f) *Good Management Practices Required.* The superintendent or the board shall not grant an exception unless the applicant shall demonstrate to the board that he is utilizing "good management practices" (GMP) to prevent or reduce his contribution of pollutants to the POTW.

GMP's include but are not limited to preventative operating and maintenance procedures, schedule of activities, process changes, prohibiting activities, and other management practices to reduce the quality or quantity of effluent discharged and to control plant site runoff, spillage, leaks, and drainage from raw material storage.
(Ord. No. 9409, § 2, 6-5-90)

DIVISION 3. PERMITS AND ADMINISTRATION

Sec. 31-53. Wastewater discharge permit; discharge reports; and administration.

(a) *Applicability.* The provisions of this section are applicable to all industrial users of the POTW. The City of Chattanooga has an "Approved POTW Pretreatment Program" as that term is defined in 40 CFR Section 403.3(d), and any permits issued hereunder to industrial users who are subject to or who become subject to a "National Categorical Pretreatment Standard" as that term is defined in 40 CFR 403.3(j) shall be conditioned upon the industrial user also complying with all applicable substantive and procedural requirements promulgated by the Environmental Protection Agency or the State of Tennessee in regard to such "Categorical Standards" unless an exception for the city's program or for specific industrial categories has been authorized.

(b) *Application and Permit Requirements for Industrial Users.* All significant industrial users of the POTW prior to discharging non-domestic waste into the POTW shall apply for and obtain a wastewater discharge permit in the manner hereinafter set forth. Prior to discharge of non-domestic wastewater into the POTW, an industrial user shall request the superintendent to determine if the proposed discharge is significant as defined in section 31-50(b). If the discharge is determined not to be significant, then the superintendent may still establish appropriate discharge conditions for the user. Any noncategorical industrial user designated as significant may petition the superintendent to be deleted from the list of significant industrial users on the grounds that it has no potential for adversely affecting the POTW's operation or violating any pretreatment standard or requirement. All significant industrial users shall obtain an industrial wastewater discharge permit and shall complete such forms as required by the superintendent, pay appropriate fees, and agree to abide by the provisions of this article and any specific conditions or regulations established by the superintendent. All original applications shall be accompanied by a report containing the information specified in subparagraph (c) hereof. All original applications shall also include a site plan, floor plan, mechanical and plumbing plans with sufficient detail to show all sewers and appurtenances in

the user's premises by size, location, and elevation; and the industrial user shall submit to the superintendent revised plans whenever alterations or additions to the user's premises affect said plans.

(c) *Report Requirement.* The report required by paragraph (b) above or other provisions of this article for all significant industrial users shall contain in units and terms appropriate for evaluation the information listed in subparagraphs (1) through (5) below. Industrial users subject to national pretreatment standards shall submit to the superintendent a report which contains the information listed in subparagraphs (1) through (6) below within one hundred and eighty days (180) after the promulgation by the Environmental Protection Agency of a National Pretreatment Standard under Section 307(b) or (c) (33 U.S.C. 1317 (b) or (c)) of the Act. This report is called the "Baseline Monitoring Report" or BMR. Industrial users who are unable to achieve a discharge limit set forth in section 31-51 hereof without improved operation and maintenance procedures or pretreatment shall submit a report which contains the information listed in subparagraph (1) through (7) of this paragraph.

As specified hereinabove, the report shall contain all or applicable portions of the following:

(1) the name and address of the industrial user;

(2) the location of such industrial user;

(3) the nature, average rate of production and standard industrial classification of the operation(s) carried out by such industrial user;

(4) the average and maximum flow of the discharge from such industrial user to the POTW, in gallons per day;

(5) the nature and concentration of pollutants in the discharge from each regulated process from such industrial user and identification of any applicable pretreatment standards and requirements. The concentration shall be reported as a maximum or average level as provided for in the applicable pretreatment standard and as determined by standard methods approved by the superintendent. If an equivalent concentration limit has been calculated in accordance with any pretreatment standard, this adjusted concentration limit shall also be submitted to the superintendent for approval. Whenever pH information is required in the initial report or in regular periodic self-monitoring reports, it shall be collected in the form of a chart from a continuous pH recorder;

(6) a statement, reviewed by an authorized representative of the industrial user (as defined in paragraph (h)(11) below) and certified by a professional engineer indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance procedures or additional pretreatment is required for the industrial user to meet the pretreatment standards and requirements; and

(7) if additional pretreatment or operation and maintenance procedure will be required to meet the pretreatment standards, then the report shall contain the shortest schedule by which the industrial user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard.

For purposes of this paragraph when the context so indicates the phrase "pretreatment standard" shall include either a national pretreatment standard or a pretreatment standard imposed as a result of the industrial user's discharging any incompatible pollutant regulated by section 31-51 hereof. For purposes of this paragraph the term "pollutant" shall include any pollutant identified in a national pretreatment standard or any incompatible pollutant identified in section 31-51 hereof.

(d) *Incomplete Applications.* The superintendent will act only on applications that are accompanied by a report which contains all the information required in paragraph (c) above. Industrial users who have filed incomplete applications will be notified by the superintendent that the application is deficient and the nature of such deficiency and will be given thirty (30) days to correct the deficiency. If the deficiency is not corrected within thirty (30) days or with such extended period as allowed by the superintendent, the superintendent shall deny the application and notify the applicant in writing of such action.

(e) *Evaluation of Application Permit Conditions.* Upon receipt of complete applications, the superintendent shall review and evaluate the applications and shall propose such special permit conditions as he deems advisable. All wastewater discharge permits shall be expressly subject to all the provisions of this article and all other applicable ordinances, laws, and regulations. The superintendent may also propose that the wastewater discharge permit be subject to one or more special conditions in regard to any of the following:

(1) Pretreatment requirements;

(2) The average and maximum wastewater constituents and characteristics;

(3) Limits on rate and time of discharge of requirements for flow regulations and equalization;

(4) Requirements for installation of inspection and sampling facilities;

(5) Specifications for monitoring programs which may include sampling, number, types and standards for tests and reporting schedule;

(6) Requirements for submission of technical reports or discharge reports;

(7) Requirements for maintaining records relating to wastewater discharge;

(8) Mean and maximum mass emission rates, or other appropriate limits when toxic pollutants (as set forth in section 31-51) are proposed or present in the industrial user's wastewater discharge;

(9) Other conditions as deemed appropriate by the superintendent to insure compliance with this article or other applicable ordinance, law or regulation;

(10) A reasonable compliance schedule, as determined by the superintendent up to one year in duration, or such earlier date as may be required by other applicable law or regulation, whichever is sooner, to ensure the industrial user's compliance with pretreatment requirements or improved methods or operation and maintenance;

(11) Requirements for the installation of facilities to prevent and control accidental discharge or "spills" at the user's premises; and

(12) The unit charge or schedule of charges and fees for the wastewater to be discharged to a community sewer.

(f) *Applicant to be Notified of Proposed Permit Conditions; Right to Object.*

(1) Upon completion of his evaluation, the superintendent shall notify the applicant of any special permit conditions which he proposed be included in the wastewater discharge permit;

(2) The applicant shall have forty-five (45) days from and after the date of the superintendent's recommendations for special permit conditions to review same and file written objections with the superintendent in regard to any special permit conditions recommended by the superintendent. The superintendent may, but shall not be required, to schedule a meeting with applicant's authorized representative within fifteen (15) days following receipt of the applicant's objections, and attempt to resolve disputed issues concerning special permit conditions;

(3) If applicant files no objection to special permit conditions proposed by the superintendent, or a subsequent agreement is reached concerning same, the superintendent shall issue a wastewater discharge permit to applicant with such special conditions incorporated therein. otherwise, the superintendent shall submit the disputed matters to the board for resolution as hereinafter provided.

(g) *Board to Establish Permit Conditions; Hearing.*

(1) In the event the superintendent cannot issue a wastewater discharge permit pursuant to paragraph (f) above, the superintendent shall submit to the board his proposed permit conditions and the applicant's written objections thereto at the next regularly scheduled meeting of the board or a specially called meeting;

(2) The board shall schedule a hearing within ninety (90) days following the meeting referred to hereinabove unless such time be extended for just cause shown to resolve any disputed matters relevant to such permit;

(3) The superintendent shall notify the applicant of the date, time, place, and purpose of the hearing scheduled by the board. The applicant and the superintendent shall have the right to participate in such hearing and present any relevant evidence to the board concerning proposed special permit conditions or other matters being considered by the board;

(4) Following such hearing or such additional hearings as shall be deemed necessary and advisable by the board, the board shall establish such special permit conditions as it deems advisable to insure the applicant's compliance with this article or other applicable law or regulation and direct the superintendent to issue a wastewater discharge permit to the applicant accordingly.

(h) *Compliance Schedule and Reporting Requirements.* The following conditions shall apply to the schedules and reports required by paragraphs (c), (e), or (g) of this section:

(1) Schedule components. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment requirements for the industrial user to meet the applicable pretreatment standards (e.g. hiring an engineer, completing the engineering report, completing final plans, executing contracts for major components, commencing construction, completing construction, etc.)

(2) Schedule intervals. No increment referred to in subparagraph (h)(1) shall exceed nine (9) months.

(3) Progress reports. No later than fourteen (14) days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the superintendent including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for the delay, and steps being taken by the industrial user to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to the superintendent.

(4) 90 Day report, new source compliance. Within ninety (90) days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any industrial user subject to pretreatment standards and requirements shall submit to the superintendent a report containing the information described in section 31-53(c)(4)-(6).

(5) Semiannual Reports.

(i) All significant industrial users shall submit to the superintendent during the months of June and December, unless required more frequently in the pretreatment standard or by the superintendent, a report indicating the nature and concentration, of pollutants in the effluent which are limited by their permit. In addition, this report shall include a record of average and maximum daily flows. At the discretion of the superintendent, and in consideration of such factors as local high or low flow rates, holidays,

budget cycles, etc., the superintendent may agree to alter the months during which the above reports are to be submitted.

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

(6) Slug Reporting. The industrial user shall notify the POTW immediately by telephone of any slug loading, as defined by section 31-51 (b)(4), by the industrial user.

(7) The reports required in this section shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production rates and mass limits where requested by the superintendent, as applicable, of pollutants contained therein which are limited by the applicable pretreatment standards or industrial permit. For industrial users subject to equivalent mass or concentration limits established by the superintendent as alternative standards, the report required by paragraph (h)(5) shall contain a reasonable measure of the user's long term production rate. For all other industrial users subject to categorical pretreatment standards expressed only in terms of allowable pollutant discharge per unit of production (or other measure of operation), the report required by paragraph (h)(5) shall include the user's actual average production rate for the reporting period. The frequency of monitoring shall be prescribed in the applicable treatment standard. All analyses shall be performed in accordance with procedures established by the Environmental Protection Agency under the provisions of section 304(h) of the Act (33 U.S.C. 1314 (h)) and contained in 40 C.F.R. Part 136 and amendments thereto or with any other test procedures approved by the Environmental Protection Agency or the superintendent. Sampling shall be performed in accordance with the techniques approved by the Environmental Protection Agency, or the superintendent.

(8) Notification of the discharge of hazardous wastes.

(i) The industrial user shall notify, as soon as practicable, the POTW, the EPA Regional Waste Management Division Director, and State

hazardous waste authorities of any discharge into the POTW of a substance which is a listed or characteristic waste under section 3001 of RCRA (42 USCA §6921). Such notification must include a description of any such wastes discharged, specifying the volume and concentration of such wastes and the type of discharge (continuous, batch, or other), identifying the hazardous constituents contained in the listed wastes, and estimating the volume of hazardous wastes expected to be discharged during the following twelve months. The notification must take place within 180 days after notification by the superintendent. This requirement shall not apply to pollutants already reported under the self-monitoring requirements of section 31-53.

(ii) Dischargers are exempt from the requirements of this paragraph during a calendar month in which they generate no more than 100 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.5(e), (f), (g), and (j). Generation of more than one hundred kilograms of hazardous wastes in any given month requires a one-time notification. Subsequent months during which the industrial user generates more than one hundred kilograms of hazardous waste do not require additional notification, except for the acute hazardous wastes specified in 40 261.5(e), (f), (g), and (j).

(iii) In the case of new regulations under section 3001 of RCRA (42 USCA 56921) identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the industrial user must notify the POTW of the discharge of such substance within 90 days of the effective date of such regulations, except for the exemption in paragraph (ii) of this section.

(iv) In the case of any notification made under this paragraph, the industrial user shall certify that it has a program in place to reduce the volume and toxicity of wastes generated to the degree it has determined to be economically practicable and that it has selected the method of treatment, storage, or disposal currently available which minimizes the present and future threat to human health and the environment.

(9) Notification of Changed Discharge. All industrial users shall promptly notify the POTW in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous

wastes for which the industrial user has submitted initial notification under paragraph (8) above.

(10) Provisions Governing Fraud and False Statements. The reports required to be submitted under this section shall be subject to the provisions of 18 U.S.C. §1001 relating to fraud and false statements and the provisions of sections 309(c)(4) and (6) of the Act (33 USCA §1311), as amended, governing false statements, representation or certifications in reports required under the Act.

(11) Signatory requirements for industrial user reports. The reports required by this section shall include a certification statement as follows:

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

The reports shall be signed as follows:

(A) By a responsible corporate officer, if the industrial user submitting the reports required by this section is a corporation. For the purpose of this paragraph, a responsible corporate officer means (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(B) By a general partner or proprietor if the industrial user submitting the reports required by this section is a partnership or sole proprietorship respectively.

(C) By a duly authorized representative of the individual designated in subparagraph (A) of this section if:

i) The authorization is made in writing by the individual described in subparagraph (A);

ii) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates, such as the position of plant manager, operator of a well, or well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and

iii) The written authorization is submitted to the superintendent.

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

(12) If sampling performed by an industrial user indicates a violation, the user shall notify the superintendent within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the superintendent within 30 days after becoming aware of the violation, except the industrial user is not required to resample if:

(A) The city performs sampling at the industrial user at a frequency of at least once per month, or

(B) The city performs sampling at the user between the time when the user performs its initial sampling and the time when the user receives the results of this sampling.

(13) If an industrial user subject to the reporting requirement in paragraph (e) of this section monitors any pollutant more frequently than required by the superintendent, using approved procedures prescribed in this section, the results of this monitoring shall be included in the report.

(i) *Bypass.*

(1) Definitions.

(i) "Bypass" means the intentional division of wastestreams from any portion of an industrial user's treatment facility.

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

(2) Bypass not violating applicable Pretreatment Standards or Requirements. An industrial user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (3) and (4) of this section.

(3) Notice.

(i) If an industrial user knows in advance of the need for a bypass, if shall submit prior notice to the superintendent, if possible at least ten days before the date of the bypass.

(ii) An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the superintendent within 24 hours from the time the industrial user becomes aware of the bypass. A written submission shall also be provided within 5 days of the time the industrial user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been

corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The superintendent may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(4) Prohibition of Bypass.

(i) Except as allowed in (2) above, bypass is prohibited, and the superintendent may take enforcement action against an industrial user for a bypass, unless:

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

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

c) The industrial user submitted notices as required under subparagraph (3) of this section.

(ii) The superintendent may approve an anticipated bypass, after considering its adverse effect, if the superintendent determines that it will meet the three conditions listed in subparagraph (4)(i) of this section.

(j) *Maintenance of Records.* Any industrial user subject to the reporting requirements established in this section shall maintain records of all information resulting from any monitoring activities required by this section. Such records shall include for all samples:

(1) The date, exact place, method, and time of sampling and the names of the persons taking the samples;

(2) The dates analyses were performed:

(3) Who performed the analyses;

(4) The analytical techniques/methods; and

(5) The results of such analyses.

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

(l) *Duration of Permit.* All existing permits for significant industrial users shall be reviewed and reissued with revisions as necessary to comply with new regulatory measures of this article on or before June 30, 1991.

Wastewater discharge permits shall be issued for a period of three (3) years. Provided that permits issued prior to June 30, 1991, may be issued for a period between two (2) and three (3) years for the administrative convenience of the superintendent so as to stagger the renewal dates of the permits. Provided further that permits issued to industrial users granted an exception pursuant to section 31-52 shall be issued for a period of one (1) year. Notwithstanding the foregoing, industrial users becoming subject to a national pretreatment standard shall apply for new permits on the effective date of such national pretreatment standards. The superintendent shall notify in writing any industrial user whom he has cause to believe is subject to a national pretreatment standard of the promulgation of such federal regulations, but any failure of the superintendent in this regard shall not relieve the industrial user of the duty of complying with such national pretreatment standards. An industrial user must apply in writing for a renewal permit within the period of time not more than ninety (90) days and not less than thirty (30) days prior to expiration of the current permit. Provided further that limitations or conditions of a permit are subject to modification or change as such changes may become necessary due to changes in applicable water quality standards, changes in the city's NPDES permit, changes in section 31-51(i), changes in other applicable law or regulation, or for other just cause, industrial users shall be notified of any proposed changes in their permit by the superintendent at least thirty (30) days prior to the effective date of the change. Any change or new condition in a permit shall include a provision for a reasonable time schedule for compliance. The industrial

user may appeal the decision of the superintendent in regard to any changed permit conditions as otherwise provided in this article.

(m) *Transfer of a Permit.* Wastewater discharge permits are issued to a specific industrial user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, or for different premises, or a new or changed operation, unless approved by the superintendent.

(n) *Revocation of Permit.* Any permit issued under the provisions of this article is subject to be modified, suspended, or revoked in whole or in part during its term for cause including but not limited to, the following:

(1) Violation of any terms or conditions of the wastewater discharge permit or other applicable law or regulation;

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

(3) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

(4) Refusal of reasonable access to the user's premise for the purpose of inspection or monitoring.

(Ord. No. 9409, § 2, 6-5-90)

Sec. 31-54. Inspections, monitoring, entry, and confidentiality.

(a) Whenever required to carry out the objective of this article, including but not limited to (1) developing or assisting in the development of any effluent limitation, or other limitation, prohibition, or effluent standard, pretreatment standard, standard of performance, or permit condition under this article; (2) determining whether any person is in violation of any such effluent limitation, or other limitation, prohibition or effluent standard, pretreatment standard, standard of performance, or permit condition; (3) any requirement established under this section;

(1) The superintendent shall require any industrial user to (a) establish and maintain such record, (b) make such reports, (c) install, use, and maintain such monitoring equipment or methods, including where appropriate, biological monitoring methods, (d) sample such effluents in accordance with such methods, at such

locations, at such intervals, and in such manner as the superintendent shall prescribe, and (e) provide such other information as he may reasonably require; and

(2) The superintendent or his authorized representative, upon presentation of his credentials -

A) shall have a right of entry to, upon, or through any user's premises in which an effluent source is located or in which any records required to be maintained under this subsection are located, and

B) may at reasonable times have access to and copy any records, inspect any monitoring equipment or method required under clause (a)(1), and sample any effluents which the owner or operator of such source is required to sample under such clause.

(b) Any records, reports, or information obtained under this section (1) shall, in the case of effluent data, be related to any applicable effluent limitations, toxic, pretreatment, or permit condition, and (2) shall be available to the public to the extent provided by 40 CFR Part 2.302 except that upon a showing satisfactory to the superintendent by any person that records, reports, or information, or particular part thereof (other than effluent data), to which the superintendent has access under this section, if made public would divulge methods or processes entitled to protection as trade secrets of such person, the superintendent shall consider such record, report, or information, or particular portion thereof confidential in accordance with the purposes of this article, except that such record, report or information may be disclosed to officers, employee, or authorized representatives of the State of Tennessee or the United States concerning with carrying out the provisions of the Clean Water Act or when relevant in any proceeding under this article or other applicable laws.

(c) Specific requirements under the provisions of paragraph (a)(1) of this section shall be established by the superintendent, or the board as applicable, for each industrial user and such requirements shall be included as a condition of the industrial user's wastewater discharge permit. The nature of degree of any requirement under this provision shall depend upon the nature of the user's discharge, the impact of the discharge on the POTW, the volume of water discharged, and the technical feasibility of an economic reasonableness of any such requirement imposed.

(d) The industrial user shall be required to design any necessary facility, and to submit according to the permit compliance schedule, an engineering report, including detailed

design plans and operating procedures to the superintendent for review in accordance with accepted engineering practices. The superintendent shall review said plans and other documents within 45 days and shall recommend to the industrial user any change he deems appropriate.

(e) Upon approval of plans and other documents as specified in paragraph (d), the industrial user shall secure such building, electrical, plumbing or other permits as may be required by this code and proceed to construct any necessary facility and establish such operating procedures as are required within the time provided in the industrial user's wastewater discharge permit.

(f) All significant industrial users shall install a monitoring station of a standard design or designed in a manner satisfactory to the superintendent by June 30, 1991.

(g) In the event any industrial user denies the superintendent or his authorized representative the right of entry, to or upon the user's premises, for purposes of inspection, sampling effluents, inspecting and copying records, or verifying that a user is not discharging industrial wastes and is not subject to section 31-51, or performing such other duties as shall be imposed upon him by this article, the superintendent shall seek a warrant or use such other legal procedures as shall be advisable and reasonably necessary to discharge his duties under this section.

(h) Any industrial user failing or refusing to discharge any duty imposed upon him under the provisions of this section, or who denies the superintendent or his authorized representative the right to enter upon the industrial user's premises for purposes of inspection, sampling effluents, inspecting and copying records, or such other duties as may be imposed upon him by this section, shall be deemed to have violated the conditions of his wastewater discharge permit and such permit shall be subject to modification, suspension, or revocation under the procedures established in this article. A user who does not have an industrial waste discharge permit and denies the superintendent or his authorized representative the right to inspect as described in section 31-9 or 31-54(g) is subject to having the sewer service in question terminated by the superintendent.
(Ord. No. 9409, § 2, 6-5-90)

Sec. 31-55. Dangerous discharge notification requirements.

(a) *Telephone Notification.* Any person or user causing or suffering any discharge whether accidental or not, which presents or may present an imminent or substantial endangerment to the health and welfare of persons, to the environment, or which is likely to cause interference with the POTW, shall notify the superintendent immediately by telephone. In

the absence of the superintendent, notification shall be given to the city employee then in charge of the treatment works.

(b) *Written Report.* Within five (5) days following such occurrence, the user shall provide the superintendent with a detailed written report describing the cause of the dangerous discharge and measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law.

(c) *Notice to Employees.* A notice shall be permanently posted on the user's bulletin board or other prominent place advising employers whom to call in the event of a dangerous discharge. Employers shall insure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.
(Ord. No. 9409, § 2, 6-5-90)

Sec. 31-56. Reserved.

DIVISION 4. WASTEWATER REGULATIONS BOARD

Sec. 31-57. Wastewater Regulations and Appeals Board.

(a) *Established.* There is hereby established a Board of seven (7) members to be known as the "Wastewater Regulations and Appeals Board."

(b) *Composition; Terms; Filling Vacancies.* The seven (7) members of this board shall be appointed by the mayor, subject to the approval of the city council. The mayor shall appoint one (1) member each with the following qualifications: one (1) environmental engineer or environmental scientist, one (1) attorney, one (1) person employed or retired from an industrial or commercial establishment regulated by this article, and one (1) person that is experienced in the science or practice of finance. One (1) member shall be nominated by a regional user located in the State of Georgia and one (1) member nominated by a regional user in the State of Tennessee, but subject to approval by the mayor and confirmation by the city council of Chattanooga. The remaining member shall not have any qualification other than being an adult citizen of the area served by the regional system. The five (5) members of the board appointed before this reconstitution of the board shall continue to serve until their terms expire. The new members of the board and all future members of the board shall be appointed for terms

of four (4) years. All members shall serve until their successor is appointed and all members shall serve at the pleasure of the mayor and the city council. In the event of a vacancy, the mayor shall appoint a member to fill the unexpired term subject to approval by the city council. The board shall organize and select its own chairman, vice chairman, and secretary who shall serve in said offices for terms of one (1) year. The members shall serve without compensation, but shall receive their actual expenses incurred in attending meetings of the board and the performance of any duties as members of the board.

(c) *General Duties of the Board.* In addition to any other duty or responsibility otherwise conferred upon the board by this chapter, the board shall have the duty and power as follows:

(1) To recommend from time to time to the city council that it amend or modify the provisions of this chapter;

(2) To grant exceptions pursuant to the provisions of section 31-52 hereof, and to determine such issues of law and fact as are necessary to perform this duty;

(3) To hold hearings upon appeals from orders or actions of the superintendent as may be provided under any provision of this chapter;

(4) To hold hearings relating to the suspension, revocation, or modification of a wastewater discharge permit and issue appropriate orders relating thereto;

(5) To hold such other hearings as may be required in the administration of this chapter and to make such determinations and issue such orders as may be necessary to effectuate the purposes of this article;

(6) To request assistance from any officer, agent, or employee of the city or the Chattanooga-Hamilton County Regional Planning Commission and to obtain such information or other assistance as the board might need;

(7) The board acting through its chairman shall have the power to issue subpoenas requiring attendance and testimony of witnesses and the production of documentary evidence relevant to any matter properly heard by the board;

(8) The chairman, vice chairman or chairman pro tem shall be authorized to administer oaths to those persons giving testimony before the board;

(9) The board shall hold regular annual meetings and such special meetings as the board may find necessary;

(d) *Quorum.* Five (5) members of the board shall constitute a quorum, but a lesser number may adjourn a meeting from day to day. Any substantive action of the board shall require four (4) votes, but a majority of the quorum may decide any procedural matter.
(Ord. No. 9409, § 2, 6-5-90)

DIVISION 5. SUPERINTENDENT

Sec. 31-58. Superintendent.

(a) *Superintendent and Staff.* The superintendent and his staff shall be responsible for the administration of all sections of this chapter. Administratively, he shall be appointed by the mayor.

(b) *Authority of Superintendent.* The superintendent shall have the authority to enforce all sections of this chapter. He shall be responsible and have the authority to maintain and operate the various treatment works, sewer lines, pump stations, and other appurtenances. He shall be responsible for the preparation of operating budgets subject to the normal budgetary processes of the City.

(c) *Records.* The superintendent shall keep in this office or at an appropriate storage facility all applications required under this chapter, a complete record thereof, including a record of all wastewater discharge permits. He shall also maintain the minutes and other records of the Wastewater Regulations and Appeals Board.

(d) *Superintendent to Assist Board.* The superintendent shall attend all meetings of the Wastewater Regulations and Appeals Board, or whenever it is necessary for him to be absent he shall send a designated representative, and shall make such reports to and assist said board in the administration of this article.

(e) *Notice of National Pretreatment Standard.* The superintendent shall notify industrial users identified in 40 CFR 403.8(f)(2) of any applicable pretreatment standards or other applicable requirements promulgated by the Environmental Protection Agency under the provisions of section 204(b) of the Act (33 U.S.C. 1284), section 405 of the Act (33 U.S.C. 1345), or under the provisions of sections 3001 (42 U.S.C. 6921), 3004 (42 U.S.C. 6924) or 4004 (42 U.S.C. 6944) of the Solid Waste Disposal Act. Failure of the superintendent to so notify

industrial users shall not relieve said users from the responsibility of complying with said requirements.

(f) *Public Participation Notice.* The superintendent shall comply with the public participation requirements of 40 CFR Part 25 in the enforcement of National Pretreatment Standards. The superintendent shall at least annually provide public notification, in the largest daily newspaper published in Chattanooga, of a significant industrial user which, during the previous 12 months, were significantly violating applicable Pretreatment Standards or other Pretreatment Requirements. For the purposes of this provision, a significant industrial user is in significant violation if its violations meet one or more of the following criteria:

(1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;

(2) Technical review criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements taken during a six-month period equal or exceed the product of the daily average maximum limit or the average limit times the applicable TRC [TRC=1.2 for toxic pollutants except pH];

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

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

(5) Violation, by ninety (90) days or more after the schedule date, of a compliance schedule milestone contained in a permit or enforcement order, for starting construction, completing construction, or attaining final compliance;

(6) Failure to provide required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules within thirty (30) days of the due date;

(7) Failure to accurately report noncompliance; or

(8) Any other violation or group of violations which the superintendent considers to be significant.

(g) *Regulations and Standards Authorized.* The superintendent may promulgate rules, regulations and design criteria not inconsistent with this chapter and have them printed for distribution. These rules may include requirements for performing wastewater characterizations, analysis and other measurements by standard methods approved by the superintendent. Such rules and regulations shall be ratified and adopted by the city council.

(h) *Certification of Wastewater Laboratories.* On and after July 1, 1991, all wastewater monitoring and preparation of reports required in sections 31-53 or 31-54 shall be done by laboratories approved and certified by the superintendent. Laboratories aspiring to be approved for purposes of submitting such monitoring reports shall submit to an inspection by the superintendent or his representative, and to annual reinspections thereafter. Such laboratories shall for a period of one (1) year maintain records of all monitoring activities for users of the city's sewer system containing the information specified in section 31-53. Such laboratories shall agree with and shall utilize the analytical test procedures described in section 31-53 and shall implement and maintain a reasonable quality control-quality assurance program. As a further condition of certification, such laboratories shall agree to and shall participate in a program of blind cross-check analyses with the city's laboratory at no cost to the City of Chattanooga.

(i) *Sewer Credits.* Approves secondary meters and determines other kinds of sewer user charge credits.

(j) *Approves New Construction.* Gives approval in acceptance of newly constructed sanitary sewer lines, pump stations and other appurtenances.
(Ord. No. 9409, § 2, 6-5-90)

DIVISION 6. PRETREATMENT ENFORCEMENT

Sec. 31-59. Pretreatment enforcement; procedure; complaints; orders.

(a) *Complaints and Orders.*

(1) Whenever the superintendent has reason to believe that a violation of any provision of the pretreatment program of the city or orders of the Wastewater

Regulations and Appeals Board issued pursuant thereto has occurred, is occurring, or is about to occur, the superintendent may cause a written complaint to be served upon the alleged violator or violators.

(2) The complaint shall specify the provision or provisions of the pretreatment program or order alleged to be violated or about to be violated, the facts alleged to constitute a violation thereof, may order that necessary corrective action be taken within a reasonable time to be prescribed in such order, and shall inform the violators of the opportunity for a hearing before the Wastewater Regulations and Appeals Board.

(3) Any such order shall become final and not subject to review unless the person or persons named therein request by written petition a hearing before the local hearing authority as provided in section 31-60, no later than thirty (30) days after the date such order is served; provided, however, that the Wastewater Regulations and Appeals Board may review such final order on the same grounds upon which a court of the state may review default judgments.

(b) *Emergency Suspensions.*

(1) Whenever the superintendent finds that an emergency exists imperatively requiring immediate action to protect the public health, safety or welfare, the health of animals, fish or aquatic life, a public water supply, or the facilities of the publicly owned treatment works of the pretreatment agency, the superintendent may, without prior notice, issue an order reciting the existence of such an emergency and requiring that such action be taken as the superintendent deems necessary to meet the emergency.

(2) If the violator fails to respond or is unable to respond to the superintendent's order, the superintendent may take such emergency action as he deems necessary, or contract with a qualified person or persons to carry out the emergency measures. The superintendent may assess the person or persons responsible for the emergency condition for actual costs incurred by the superintendent in meeting the emergency.

(c) *Service.* Except as otherwise expressly provided, any notice, complaint, order or other instrument issued by or under authority of this chapter may be served on any person affected thereby personally, by the superintendent or any person designated by him, or such

service may be made in accordance with Tennessee statutes authorizing service of process in civil actions. Proof of service shall be filed in the office of the superintendent.
(Ord. No. 9409, § 2, 6-5-90)

Sec. 31-60. Pretreatment enforcement; hearings.

(a) Any hearing or rehearing brought before the Wastewater Regulations and Appeals Board shall be conducted in accordance with the following:

(1) Upon receipt of a written petition from the alleged violator pursuant to this section, the superintendent shall give the petitioner thirty (30) days' written notice of the time and place of the hearing, but in no case shall such hearing be held more than sixty (60) days from the receipt of the written petition, unless the superintendent and the petitioner agree to a postponement;

(2) The hearing herein provided may be conducted by the Wastewater Regulations and Appeals Board at a regular or special meeting. A quorum of the Wastewater Regulations and Appeals Board must be present at the regular or special meeting in order to conduct the hearing herein provided;

(3) A verbatim record of the proceedings of such hearings shall be taken and filed with the Wastewater Regulations and Appeals Board, together with the findings of fact and conclusions of law made pursuant to subdivision (6) of this section. The transcript so recorded shall be made available to the petitioner or any party to a hearing upon payment of a charge set by the superintendent to cover the costs of preparation;

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

(5) Any member of the Wastewater Regulations and Appeals Board may administer oaths and examine witnesses;

(6) On the basis of the evidence produced at the hearing, the Wastewater Regulations and Appeals Board shall make findings of fact and conclusions of law and enter such decisions and orders as in its opinion will best further the purposes of the pretreatment program and shall give written notice of such decisions and orders to the alleged violator. The order issued under this subsection shall be issued no later than thirty (30) days following the close of the hearing by the person or persons designated by the chairman;

(7) The decision of the Wastewater Regulations and Appeals Board shall become final and binding on all parties unless appealed to the courts as provided in subsection (b); and

(8) Any person to whom an emergency order is directed pursuant to section 31-59 shall comply therewith immediately but on petition to the Wastewater Regulations and Appeals Board shall be afforded a hearing as soon as possible, but in no case shall such hearing be held later than three (3) days from the receipt of such petition by the Wastewater Regulations and Appeals Board.

(b) An appeal may be taken from any final order or other final determination of the superintendent or the City of Chattanooga by any party, including the Wastewater Regulations and Appeals Board, who is or may be adversely affected thereby, to the chancery court pursuant to the common law writ of certiorari set out in T.C.A. §27-8-101, within sixty (60) days from the date such order or determination is made.
(Ord. No. 9409, § 2, 6-5-90)

Sec. 31-61. Pretreatment enforcement; violations; civil penalty.

(a) (1) Any person including, but not limited to industrial users, who does any of the following acts or omissions shall be subject to a civil penalty of up to ten thousand dollars ($10,000) per day for each day during which the act or omission continues or occurs:

(i) Violates an effluent standard or limitation imposed by a pretreatment program;

(ii) Violates the terms or conditions of a permit issued pursuant to a pretreatment program;

(iii) Fails to complete a filing requirement of a pretreatment program;

(iv) Fails to allow or perform an entry, inspection, monitoring or reporting requirement of a pretreatment program;

(v) Fails to pay user or cost recovery charges imposed by a pretreatment program; or

(vi) Violates a final determination or order of the Wastewater Regulations and Appeals Board.

(2) Any civil penalty shall be assessed in the following manner:

(i) The superintendent may issue an assessment against any person or industrial user responsible for the violation;

(ii) Any person or industrial user against whom an assessment has been issued may secure a review of such assessment by filing with the superintendent a written petition setting forth the grounds and reasons for his objections and asking for a hearing in the matter involved before the Wastewater Regulations and Appeals Board and if a petition for review of the assessment is not filed within thirty (30) days after the date the assessment is served, the violator shall be deemed to have consented to the assessment and it shall become final;

(iii) Whenever any assessment has become final because of a person's failure to appeal the superintendent's assessment, the superintendent may apply to the appropriate court for a judgment and seek execution of such judgment and the court, in such proceedings, shall treat a failure to appeal such assessment as a confession of judgment in the amount of the assessment;

(iv) In assessing the civil penalty the superintendent may consider the following factors:

a) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;

b) Damages to the city, including compensation for the damage or destruction of the facilities of the publicly owned treatment works, and also including any penalties, costs and attorneys' fees incurred by the city as the result of the illegal activity, as well as the expenses involved in enforcing this section and the costs involved in rectifying any damages;

c) Cause of the discharge or violation;

d) The severity of the discharge and its effect upon the facilities of the publicly owned treatment works and upon the quality and quantity of the receiving waters;

e) Effectiveness of action taken by the violator to cease the violation;

f) The technical and economic reasonableness of reducing or eliminating the discharge; and

g) The economic benefit gained by the violator.

(v) The superintendent may institute proceedings for assessment in the chancery court of the county in which all or part of the pollution or violation occurred, in the name of the City of Chattanooga.

(3) The Wastewater Regulations and Appeals Board may establish by regulation a schedule of the amount of civil penalty which can be assessed by the superintendent for certain specific violations or categories of violations.

(b) Any civil penalty assessed to a violator pursuant to this section may be in addition to any civil penalty assessed by the Commissioner of Health and Environment for violations of T.C.A. §69-3-115(a)(1)(F). Provided, however, the sum of penalties imposed by this section and

by §69-3-115(a) shall not exceed ten thousand dollars ($10,000) per day for each day during which the act or omission continues or occurs.
(Ord. No. 9409, § 2, 6-5-90)

Sec. 31-62. Pretreatment enforcement; assessment for noncompliance with program permits or orders.

(a) The superintendent may assess the liability of any polluter or violator for damages to the pretreatment agency resulting from any person's or industrial user's pollution or violation, failure, or neglect in complying with any permits or orders issued pursuant to the provisions of the pretreatment program, T.C.A. §§ 69-3-123, 69-3-124, or 69-3-125, or Sections 31-59, 31-60, or 31-61.

(b) If an appeal from such assessment is not made to the Wastewater Regulations and Appeals Board by the polluter or violator within thirty (30) days of notification of such assessment, he shall be deemed to have consented to such assessment and it shall become final.

(c) Damages may include any expenses incurred in investigating and enforcing the pretreatment program or T.C.A. §§ 69-3-123 - 69-3-129, or Sections 31-61 - 31-65, in removing, correcting, and terminating any pollution, and also compensation for any actual damages caused by the pollution or violation.

(d) Whenever any assessment has become final because of a person's failure to appeal within the time provided, the superintendent may apply to the appropriate court for a judgment, and seek execution on such judgment. The court, in such proceedings, shall treat the failure to appeal such assessment as a confession of judgment in the amount of the assessment.
(Ord. No. 9409, § 2, 6-5-90)

Sec. 31-63. Pretreatment enforcement; judicial proceedings and relief.

The superintendent may initiate proceedings in the chancery court of the county in which the activities occurred against any person or industrial user who is alleged to have violated or is about to violate the pretreatment program, T.C.A. §§ 69-3-123 - 69-3-129, Sections 31-61 - 31-65, or orders of the Wastewater Regulations and Appeals Board or the superintendent. In such action, the superintendent may seek, and the court may grant, injunctive relief and any other relief available in law or equity.
(Ord. No. 9409, § 2, 6-5-90)

Sec. 31-64. Administrative enforcement remedies.

(a) *Notification of Violation.* Whenever the superintendent finds that any industrial user has violated or is violating this article, or a wastewater permit or order issued hereunder, the superintendent or his agent may serve upon said user written notice of the violation. Within 10 days of the receipt date 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 superintendent. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation.

(b) *Consent Orders.* The superintendent is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the industrial user responsible for the noncompliance. Such orders will include specific action to be taken by the industrial user 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 paragraph (d) below.

(c) *Show Cause Hearing.* The superintendent may order any industrial user which causes or contributes to violation of this article or wastewater permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the user 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 10 days prior to the hearing. Such notice may be served on any principal executive, general partner or corporate officer. Whether or not a duly notified industrial user appears as noticed, immediate enforcement action may be pursued.

(d) *Compliance Order.* When the superintendent finds that an industrial user has violated or continues to violate this article or a permit or order issued thereunder, he may issue an order to the industrial user responsible for the discharge directing that, following a specified time period, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances have been installed and are properly operated. orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring, and management practices.

(e) *Cease and Desist Orders.* When the superintendent finds that an industrial user has violated or continues to violate this ordinance or any permit or order issued hereunder, the

superintendent may issue an order to cease and desist all such violations and direct those persons in noncompliance to:

(1) Comply forthwith; or

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

(Ord. No. 9409, § 2, 6-5-90)

Sec. 31-65. Disposition of damage payments and penalties; special fund.

All damages and/or penalties assessed and collected under the provisions of sections 31-59 through 31-64 shall be placed in a special fund by the city and allocated and appropriated to the sewer system for the administration of its pretreatment program.
(Ord. No. 9409, § 2, 6-5-90)

Secs. 31-66 -- 31-240. Reserved.

ARTICLE IV. DISPOSAL OF EXCRETA

Sec. 31-241. Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Cesspool. An underground cavity without watertight walls, in which human excreta is placed.

Human excreta. The bowel and kidney discharges of human beings.

Sanitary water closet. Any flush-type toilet which is properly connected to a city sewer or to a septic tank of approved construction.

Septic tank. An underground cavity with watertight walls into which the effluent of a sanitary water closet flows, and from which the effluent does not come to the surface of the ground.
(Code 1986, § 31-241)

Sec. 31-242. Disposal prohibited except in water closets.

It shall be unlawful for any person to dispose of any human excreta in the city except in a sanitary water closet.
(Code 1986, § 31-242)

Sec. 31-243. Where water closet required.

Every residence and building in the city in which human beings reside, are employed or congregated shall have, for the disposal of human excreta, a sanitary water closet.
(Code 1986, § 31-243)

Sec. 31-244. Liability of property owner.

It shall be unlawful for any person owning, leasing or renting property in the city to permit the disposal of human excreta on any property owned, leased or rented by such person or his agent, except in a sanitary water closet.
(Code 1986, § 31-244)

Sec. 31-245. Connection with septic tank required.

Any building in the city in which toilet facilities are required, which is not located within an area required for connection with a sewer, as provided in section 31-1 of this Code, shall have such toilet facilities connected with a septic tank.
(Code 1986, § 31-245)

Sec. 31-246. Permit and inspection fees required for septic tank installations.

No septic tank shall be constructed in the city without a permit having first been obtained from the county health department. An inspection fee of fifteen dollars ($15.00) shall be charged for each septic tank permit issued and for which a receipt shall be given. No permit shall be issued before payment is received therefor. The funds received from the collection of such fees shall be used by the department for the enforcement of the provisions of this article.
(Code 1986, § 31-246)

Sec. 31-247. Privies declared a nuisance; abatement.

All privies in the city are declared to be a nuisance, dangerous to the public health, and shall be condemned and abated as provided in article II of chapter 20 of this Code.
(Code 1986, § 31-247)

Sec. 31-248. Cesspools prohibited.

No cesspools shall be built or maintained in the city.
(Code 1986, § 31-248)

Sex. 31-249 -- 31-265. Reserved.

ARTICLE V. WATER AND GAS MAINS[6]

Sec. 31-266. Location; notice of required improvements; variances.

(a) All water companies shall lay their water mains on streets running east and west in the city on the south side of the center of the street, and on streets running north and south in the city on the west side of the center of the street.

(b) All gas companies shall lay their gas mains on streets running east and west in the city on the north side of the center of the street, and on all streets running north and south in the city on the east side of the center of the street.

(c) When any street is widened, reconstructed, repaved, or otherwise improved, the city engineer may designate the part of the street in which utility facilities shall be placed. The city engineer shall give the utility companies and abutting landowners notice of the improvements and require the utility companies and the abutting landowners to provide for service connections from the mains in the street to the abutting owners' property line.

(d) Nothing in this section shall be deemed to prohibit the Tennessee-American Water Company from installing a water main on the east side of Amnicola Highway from a point beginning at Citico Creek and extending northwardly and eastwardly to its intersection with Riverside Drive in the City of Chattanooga.

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[6] **Cross reference--**Plumbing generally, Ch. 27.

(e) Nothing in this section shall be deemed to prohibit the Chattanooga Gas Company from installing a four (4) inch gas main on the west side of Dorris Street, beginning at Hooker Road and extending a distance of three hundred fifty (350) feet northward along Dorris Street.
(Code 1986, § 31-266)

Sec. 31-267. Depth.

All water or gas companies shall lay their mains not less than three (3) feet in depth below the established curb grade.
(Code 1986, § 31-267)

Sec. 31-268. Location of pipes laid parallel to mains.

All water mains or gas companies laying pipes alongside of or parallel to water or gas mains previously laid shall lay such pipes on the outside of such mains, between the mains and the center of the street and not less than three (3) feet from such mains.
(Code 1986, § 31-268)

Sec. 31-269. Service connections.

All water and gas companies or persons doing the work shall make service pipe connections on the sides of mains and conduct the same to the inside of the curbstone at a depth not less than three (3) feet below the curb grade.
(Code 1986, § 31-269)

Secs. 31-270 -- 31-285. Reserved.

ARTICLE VI. SEWER AGREEMENTS WITH CHATTANOOGA AREA REGIONAL COUNCIL MEMBERS

Sec. 31-286. Agreements for wheelage and treatment of wastewater discharges authorized.

The mayor of the city is hereby authorized to execute a contract with individual members of the Chattanooga Area Regional Council of Governments for sewer charges for wheelage and

treatment of wastewater discharged into the city's interceptor sewer system and to execute any and all documents in connection therewith.
(Code 1986, § 31-286)

Sec. 31-287. Sewer charges for wheelage and treatment of wastewater discharges established.

For the purpose of providing wheelage and treatment of wastewater discharged into the city's interceptor sewer system by a member of the Chattanooga Area Regional Council of Governments, sewer charges are hereby established which shall be designated "Sewer Charges for Wheelage and Treatment of Wastewater Discharged into the Chattanooga Interceptor Sewer System."
(Code 1986, § 31-287)

Sec. 31-288. Areas where rates applicable.

The rates established for sewer charges for wheelage and treatment shall apply only to a municipality or other eligible local governmental unit which has constructed and shall operate and maintain its own complete sewerage collection system including necessary lift stations, trunk and outfall sewers to the point of connection with one (1) or more available city interceptors, outfall or trunk sewers which have ample capacity to handle the expected flows to be discharged into the city's system, and sewage flow meter at each such connection, provided such municipal or other sewerage system has been constructed in accordance with policies and standards of design and construction required by the city.
(Code 1986, § 31-288)

Sec. 31-289. Methods of calculating sewer charges.

The sewer charge for wheelage and treatment may be based upon either a "billable blow" method which is based upon the gross quantity of water sold as determined by water company meter readings or a "total flow" method as based upon flow meter readings as either method may be required or allowed according to the applicable contract with the user or applicable law or regulations.
(Code 1986, § 31-289)

Sec. 31-290. Estimated charges; increased charges.

In the event a water meter or flow meter is inoperative or is malfunctioning, the engineering management consultant shall estimate, interpolate and/or project in the most equitable manner possible quantities of flow for such connection. Such projection along with

available readings shall be used by the engineering consultant in calculating monthly charges and shall be for certifying such estimates for billing purposes. sewer service charges for residents of the city be the same percentage of increase may be applied to the above rate.
(Code 1986, § 31-290)

Sec. 31-291. Connection to interceptor sewer system; agreements authorized.

The mayor is authorized to execute on behalf of the city an agreement with any member of the Chattanooga Area Regional Council of Governments for such member to connect to the city's interceptor sewer system provided the aforementioned provisions are contained in such agreement.
(Code 1986, § 31-291)
Secs. 31-292 -- 31-294. Reserved.

ARTICLE VII. OTHER ENFORCEMENT AND APPEAL PROCEDURES

Sec. 31-295. Applicability; procedure.

(a) The Wastewater Regulations and Appeals Board shall schedule adjudicatory hearings to resolve disputed questions of law and fact whenever provided by a provision of this chapter or whenever a due process hearing is constitutionally required, excluding pretreatment enforcement provided for by Sections 31-59 to 31-65.

(b) Any person aggrieved by any order or determination of the superintendent where an appeal is not otherwise provided by this chapter may appeal said order or determination to be reviewed by the board under the provisions of this section. A written notice of appeal shall be filed with the superintendent and with the chairman, and said notice shall set forth with particularity the action or inaction of the superintendent complained of and the relief being sought by the person filing said appeal. A special meeting of the board may be called by the chairman upon the filing of such appeal, and the board may in its discretion suspend the operation of the order or determination of the superintendent appealed from until such time as the board has acted upon the appeal.

(c) The chairman may issue subpoenas requiring the attendance of witnesses or the production of evidence, or both. Upon endorsement by the chairman, they may be served in accordance with Tennessee statutes authorizing service of subpoenas.

(d) The party at such hearing bearing the affirmative burden of proof shall first call witnesses, to be followed by witnesses called by other party. Rebuttal witnesses shall be called in the same order. The chairman shall rule on any evidentiary questions arising during such hearing, and shall make such other rulings as shall be necessary or advisable to facilitate an orderly hearing subject to approval of the board. The board, the superintendent, or his representative, and all parties shall have the right to examine any witness. The board shall not be bound by or limited to rules of evidence applicable to legal proceedings.

(e) The vice-chairman or the chairman pro tem shall possess all the authority delegated to the chairman by this section when acting in his absence or in his stead.

(f) Any person aggrieved by any final order of determination of the board hereunder shall have judicial review by common law writ of certiorari.
(Ord. No. 9409, § 3, 6-5-90)

Sec. 31-296. Injunctive relief.

Upon approval of the mayor, the superintendent shall in the name of the city file in circuit or chancery court of the county, or such other courts as may have jurisdiction, a suit seeking the issuance of an injunction, damages or other appropriate relief to enforce the provisions of this chapter or other applicable law or regulation. Suit may be brought to recover any and all damages suffered by the city as a result of any action or inaction of any user or other person who causes or suffers damage to occur to the POTW or for any other expense, loss or damage of any kind or nature suffered by the city.
(Ord. No. 9409, § 3, 6-5-90)

Secs. 31-297 -- 31-300. Reserved.

ARTICLE VIII. STORM WATER MANAGEMENT

DIVISION 1. GENERALLY

Sec. 31-301. Purpose.

(a) It is the purpose of this article to protect, maintain, and enhance the environment of the City of Chattanooga and the short-term and long-term public health, safety, and general welfare of the citizens of Chattanooga by controlling discharges of pollutants to the Chattanooga Storm Water System and to maintain and improve the quality of the community waters into

which the storm water outfalls flow, including without limitation, the lakes, rivers, streams, ponds, wetlands, sinkholes, and groundwater of Chattanooga.

(b) It is further the purpose of this article to enable Chattanooga to comply with the National Pollution Discharge Elimination System permit (NPDES) and applicable regulations (40 CFR §122.26) for storm water discharges.
(Ord. No. 9942, § 1, 8-31-93)

Sec. 31-302. Definitions.

For the purpose of this article the following terms, phrases and words and their derivatives, shall have the meaning given herein:

"Accidental Discharge" means a discharge prohibited by this article into the "Community Waters" or to the "Waters of the State" which occurs by chance and without planning or consideration prior to occurrence.

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

"Clean Water Act" means the Federal Water Pollution Control Act, as amended, codified at 33 U.S.C. §1251 et. seq.

"Commercial" means property devoted in whole or in part to the commerce, that is, the exchange and buying and selling of commodities or services. The term shall include, by way of example but not of limitation, the following businesses: amusement establishments, animal clinics or hospitals, automobile service stations, new or used automobile dealerships, automobile car washes, automobile and vehicular repair shops, banking establishments, beauty and barber shops, bowling alleys, bus terminals and repair shops, camera shops, dental offices or clinics, day care centers, department stores, drug stores, funeral homes, furniture stores, gift shops, grocery stores, hardware stores, hotels, jewelry stores, laboratories, laundries and dry cleaning establishments, liquor stores, medical offices and clinics, motels, movie theaters, office buildings, paint stores or shops, parking lots, produce markets, professional offices, radio stations, repair establishments, retail stores, restaurants and similar establishments serving

prepared food and beverages, rooming houses, shopping centers, stationary stores, television stations and production facilities, and theaters.

"Community Waters" means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wetlands, wells and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the City of Chattanooga the waters into which the Chattanooga Storm Water System outfalls flow.

"Erosion and sediment control plan" means a written plan, including drawings or other graphic representations, for the control of soil erosion and sedimentation resulting from a land disturbing activity.

"Impervious" means not allowing the passage of water through the surface of the ground or ground covering or a substantial reduction in the capacity for water to pass through the surface of the ground or ground covering.

"Industrial" means a business engaged in industrial production or service, that is a business characterized by manufacturing or productive enterprise or a related service business. This term shall include, by way of example but not of limitation, the following: apparel and fabric finishers, blast furnace, blueprint and related shops, boiler works, cold storage plants, contractors plants and storage facilities, foundries, furniture and household good manufacturing, forge plants, foundries, greenhouses, junk yards, manufacturing plants, metal fabricating shops, ore reduction facilities, planing mills, rock crushers, rolling mills, saw mills, smelting operations, stockyards, stone mills or quarries, textile production, utility transmission or storage facilities, warehousing, and wholesaling facilities.

"Institutional" means an established organization, especially of a public or eleemosynary character. This term shall include, by way of example but not of limitation, the following: churches, community buildings, colleges, day care facilities, dormitories, drug or alcohol rehabilitation facilities, fire halls, fraternal organizations, golf courses and driving ranges, government buildings, hospitals, libraries, kindergartens or preschools, nursing homes, mortuaries, schools, social agencies, synagogues, parks and playgrounds.

"Manager" means the person designated by the city to supervise the operation of the storm water management system and who is charged with certain duties and responsibilities by this article, or his duly authorized representative.

"Multi-family Residential" means an apartment building or other residential structure built for three or more family units, mobile home parks with three or more units or lots under common ownership, and condominiums of three or more units.

"National Pollution Discharge Elimination System" or "NPDES" permit means a permit issued pursuant to Section 402 of the Act (33 U.S.C. §1342).

"Notice of Intent" (NOI) means a written notice by a discharger to the Commissioner of the Tennessee Department of Environment and Conservation, or his designee, that the person wishes his discharge to be authorized under a general permit authorized by state law or regulation, particularly Rule 1200-4-10-.04 or Rule 1200-4-10-.05, Rules and Regulations of the State of Tennessee.

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

"Pollution Prevention Plans" means a written site specific plan to eliminate or reduce and control the pollution of storm water through designed facilities, sedimentation ponds, natural or constructed wetlands, and best management practices.

"Significant spills" includes, but is not limited to releases of oil or hazardous substances in excess of reportable quantities under section 311 of the Clean Water Act (see 40 CFR 110.10 and CFR 117.21) or section 102 of CERCLA (see 40 CFR 302.4)

"Storm Water" means storm water runoff, snow melt runoff, and surface runoff and drainage.

"Storm Water Management" means the collection, conveyance, storage, treatment and disposal of storm water runoff in a manner to meet the objectives of this article and its terms, including, but not limited to measures that control the increased volume and rate of storm water runoff and water quality impacts caused by manmade changes to the land.

"Storm Water Management Plan" or "SWMP" means the set of drawings and other documents that comprise all of the information and specifications for the programs, drainage systems, structures, BMPs, concepts, and techniques for the control of storm water and which is incorporated as part of the NPDES permit for Chattanooga and as part of this article.

"Toxic Pollutant" means any pollutant or combination of pollutants listed as toxic in 40 CFR Part 401 promulgated by the Administrator of the Environmental Protection Agency under the provisions of 33 U.S.C. §1317.

"Variance" means the modification of the minimum storm water management requirements contained in this article and the Storm Water Management Plan for specific circumstances where strict adherence of the requirements would result in unnecessary hardship and not fulfill the intent of this article.

"Water Quality" means those characteristics of storm water runoff that relate to the physical, chemical, biological, or radiological integrity of water.

"Water Quantity" means those characteristics of storm water runoff that relate to the rate and volume of the storm water runoff.

"Waters of the State of Tennessee" or "Waters of the State" means any water, surface or underground, within the boundaries of the state, which the Department of Environment and Conservation exercises primary control over with respect to storm water permits.
(Ord. No. 9942, § 1, 8-31-93)

Sec. 31-303. Same - Abbreviations.

"BMP" means Best Management Practices.

"CFR" means Code of Federal Regulations.

"NOI" means Notice of Intent.

"NPDES" means National Pollutant Discharge Elimination System.

"T.C.A." means Tennessee Code Annotated.

"U.S.C." means United States Code.
(Ord. No. 9942, § 1, 8-31-93)

Secs. 31-304 -- 31-309. Reserved.

DIVISION 2. APPLICATIONS AND PERMITS
FOR INDUSTRIAL, COMMERCIAL, INSTITUTIONAL

AND CERTAIN RESIDENTIAL FACILITIES

Sec. 31-310. Existing facilities required to obtain permit.

(a) Any existing Industrial, Commercial, Institutional, and multi-family or group residential facilities having an impervious surface greater than three thousand four hundred (3,400) square feet which discharges storm water into community waters and which does not have current NPDES permits issued by the Tennessee Department of Environment and Conservation authorizing a discharge storm water into the waters of the state will be required to develop Pollution Prevention Plans, and apply for a Chattanooga Storm Water Discharge Permit on or before the dates set forth in the following schedule:

(1) Service stations and convenience stores by May 1, 1994;

(2) Vehicular repair and vehicular parts repair shops by May 1, 1994;

(3) Industrial, warehousing, and manufacturing facilities by May 1, 1995;

(4) Commercial uses and institutional uses with six (6) or more parking places north of the Tennessee River by May 1, 1996;

(5) Commercial uses and institutional uses with six (6) or more parking places south of the Tennessee River by May 1, 1997;

(6) Apartments and other multi-family or group residential uses with six (6) or more parking places by May 1, 1998.

(b) These plans will be submitted to the Manager of the Storm Water Management Section for approval or denial. Upon approval, a permit will be issued within six (6) months of the submittal date, which will incorporate any approved Pollution Prevention Plans into the permit. The permit may require the facility to implement structural and non-structural Best Management Practices (BMP) to reduce pollution discharge. If the application is disapproved, the Manager shall notify the applicant of deficiencies and allow ninety (90) days for the application to be revised and re-submitted. If the noted deficiencies are not corrected within ninety (90) days, and the application re-submitted for approval or if after being submitted is disapproved, any discharge of storm water after that date into waters of the community shall be unlawful. Once issued, a permit shall be valid for five (5) years, unless sooner revoked for violations of permit conditions, changes in applicable law, or other good cause.

(c) The application for a Chattanooga Storm Water Discharge Permit for an existing facility shall comply with the following:

(1) A site map of facility showing buildings, parking, drives, materials loading and access areas, type of each impervious surface, ditches, pipes, catch basins, drainage basin limits, area of facility, acreage of off-site water draining onto facility, discharge points to "Waters of the State" or "Community Waters" with name of the water or drainage basin. This map will be a minimum of scale of 1"=100'.

(2) Description of facility, nature of work performed and type of facility.

(3) A narrative description of significant materials (as defined at 40 CFR §122.26, November 16, 1990) that are currently or in the past have been treated, stored or disposed outside; method of on site storage or disposal; materials management practices used to minimize contact of these material with storm water runoff for the past three years and presently; materials loading and access area; the location and a description of existing structural and non-structural control measures to reduce pollutants in storm water runoff; and a description of any treatment the storm water receives;

(4) Cleanup schedule for debris, material storage areas, garbage storage or disposal areas, or other areas that have the potential to pollute stormwater.

(5) Description of plan of instruction to employees of all level in ways to prevent pollution. The plan shall identify periodic dates for such training.

(6) Name of contact person for permit compliance, including job title, address, and phone number.

(7) Maintenance schedule of sweeping or vacuuming of facility to prevent washout of a build-up of emissions laden with hydrocarbons, oxides, salts, metals, worn pavement particulates, hydrocarbons for leaks and spills, trash, debris, garbage, metals, tire particles, brake lining particles and various chemicals from the wear, deterioration, and deposition from vehicles.

(8) Description of other ways the facility plans to implement programs to reduce the discharge of pollutants through stormwater flow. For each area of the facility that generates storm water discharges associated with an activity with a

reasonable potential for containing significant amounts of pollutants, a prediction of the direction of flow, and an estimate of the types of pollutants which are likely to be present in storm water discharges associated with industrial activity.

(9) Each application shall include plans showing the construction of an appropriately sized grit sediment basin and oil skimmer structure for discharge outfalls into "Community Waters" in accordance with detail drawings of these structures are shown in the Stormwater Management Section Best Management Practices Manual. Provided that this requirement may be waived in the discretion of the Manager if similar facilities are available or soon will be available in public rights-of-way or when programs implemented at the facility substantially eliminate grit and oil discharges.

(10) Each application shall include a record of available sampling data describing pollutants in storm water discharges.

(11) Each application shall include a preventive maintenance program that includes regular inspection and maintenance of storm water management devices (e.g. cleaning grit chambers, catch basins) as well as inspecting and testing plant equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters.

(12) Each application shall designate a person to keep record of incidents such as significant spills of toxic pollutants or other discharges which materially affect the storm water, along with other information describing the quality and quantity of storm water discharges. Inspections and maintenance activities shall be documented and recorded.

(Ord. No. 9942, § 1, 8-31-93; Ord. No. 10111, § 2, 9-20-94)

Sec. 31-311. New facility permits.

(a) All new "industrial", "commercial", "institutional", and "multi-family residential" facilities, and all new residential subdivisions of ten (10) or more lots shall obtain a Chattanooga Storm Water Discharge Permit prior to construction of the facility. This permit shall be required in addition to any permits required by the State of Tennessee for storm water discharges associated with industrial activity or for storm water discharges associated with construction activity.

(b) The minimum standards for issuance of a new facility permit shall be a pollution prevention plan, and either an approved NPDES permit from the Tennessee Department of Environment and Conservation for storm water discharges associated with construction activity or a land disturbing activity plan. The application for a new facility permit shall include:

(1) If the facilities is to be covered under the Tennessee Department of Environment and Conservation General NPDES Permit for Storm Water Discharges Associated with Industrial Activity, a General NPDES Permit for Storm Water Discharges Associated with Construction Activity, or an individual NPDES permit, the owner or developer shall timely obtain such permits or file the Notice of Intent (NOI) and shall submit copies to the Manager.

(2) The application for a new facility permit shall demonstrate how the owner or developer will insure that post-development off-site discharge rates shall not exceed the pre-development discharge rates.

(3) Unless otherwise specified, off-site discharges for the existing and developed conditions shall be computed using the twenty-five (25) year return frequency, and Soil Conservation Service (SCS Type II) design. The design shall also show an evaluation of the result of the one hundred (100) year return frequency storm.

(4) To reduce the "first flush" pollutant load, facilities shall be designed to capture the design storm in a detention or retention pond and achieve a ninety-six (96) hours drawdown time of the first three quarters(3/4) of an inch of the runoff. A grit trap and oil separator shall be installed upstream of any detention or retention pond.

(5) Detention or retention ponds shall have at least one (1) foot of freeboard above the design storm, provide a paved emergency overflow, and the maximum level in the pond to be one (1) foot below any finished floor level of the facility. Ponds shall also have permanent vehicle access for maintenance purposes. A plan for the routine maintenance of the ponds will be incorporated in the Pollution Prevention Plan.

(6) Constructed wetlands may be used to deal with the "first flush" pollutant load instead of the ninety-six (96) hours drawdown. Grit trap and oil separators are to be installed upstream of the wetland to prevent contamination.

(7) A Pollution Prevention Plan shall be prepared for the facility. This plan shall demonstrate how the facility will collect, control, and treat stormwater so as to

control the quantity and quality of stormwater leaving the site. The plan shall include as necessary structural controls and non-structural Best Management Practices (BMP) adequate to prevent the violation of any water quality standard, and shall meet the provisions of Sections 301 and 402 of the Federal Water Pollution Control Act (BCT and BAT treatment requirements).

(8) All developments installing new detention facilities, retrofitting existing detention facilities or other stormwater management facilities shall be required to execute an Inspection and Maintenance Agreement for Private Stormwater Management Facilities designating the party or parties responsible for maintenance and granting the City the right to inspect said facilities. In cases where the responsible party or parties do not perform required maintenance after being given appropriate notice in writing, the Agreement shall grant authority to the City to perform such maintenance as may be required and bill the responsible party in an amount equal to double the City's cost of maintenance and enforcement.
(Ord. No. 11883, § 1, 9-5-06)

(c) The Pollution Prevention Plan must be approved by the Manager prior to the issuance of a Certificate of Occupancy by the Building Official.
(Ord. No. 9942, § 1, 8-31-93; Ord. No. 10111, § 3, 9-20-9; Ord. No. 11883, § 1, 9-5-06)

Sec. 31-312. Permit application fees.

(a) Each application for the issuance of a New Facility Permit under this article shall be accompanied by a minimum non-refundable fee of one hundred dollars ($100.00) plus such additional fees for land disturbing activity or industrial activity as may be required below.

(b) Each application for the issuance of a land disturbing permit under this article shall be accompanied by a nonrefundable permit fee thirty dollars ($30.00) per acre developed or a minimum fee of one hundred dollars ($100.00).

(c) Each application for an existing facility permit required by Section 31-310 shall be accompanied by a fee of one hundred dollars ($100.00).
(Ord. No. 9942, § 1, 8-31-93)

Secs. 31-313 -- 31-319. Reserved.

DIVISION 3. LAND DISTURBING ACTIVITY AND EROSION AND SEDIMENTATION CONTROL

Sec. 31-320. Land disturbing activity.

All land disturbing activities shall be in compliance with and permitted under this division of this article. If five acres or more are disturbed, an application shall be applied for under the "State of Tennessee's General NPDES Permit for Storm Water Discharges Associated with Construction Activity." If a Tennessee General NPDES Permit is applied for, a copy of the Notice of Intent (NOI) shall be sent to the Manager of the Storm Water Management Section. To seek coverage under the Tennessee Department of Environment and Conservation General Permit the NOI shall be submitted to the following address:

Storm Water Coordinator
Division of Water Pollution Control
150 Ninth Ave. North, 4th floor
Tennessee Dept. of Environment
and Conservation
Nashville, TN 37243-1534

(Ord. No. 9942, § 1, 8-31-93)

Sec. 31-321. Land disturbing activity regulated.

(a) It shall be unlawful for any person to conduct or permit to be conducted any land disturbing activity upon land owned or controlled by them without a permit issued under this article or, if five acres or more are disturbed, a General Permit for Storm Water Discharges Associated with Construction Activity from the Tennessee Department of Environment and Conservation with a copy provided to the Manager. For purposes of this article the phrase land disturbing activity is defined as follows:

Land disturbing activity. Any land change which may result in soil erosion from water and wind and the movement of sediments into community waters or onto lands and roadways within the community, including, but not limited to, clearing, dredging, grading, excavating, transporting and filling of land, except that the term shall not include the following:

(1) "Surface mining" as the same is defined in Tennessee Code Annotated Section 59-8-202;

(2) Such minor land disturbing activities as home gardens and individual home landscaping, home repairs, home maintenance work, and other related activities which result in minor soil erosion;

(3) The construction of single-family residences when built separately on lots within subdivisions which have been approved and recorded in the office of the Hamilton County Register, and when applicable for subdivisions of ten or more lots have been issued a permit under this article; provided that excavation is limited to trenches for the foundation, basements, service and sewer connections, and minor grading for driveways, yard areas and sidewalks;

(4) Individual service and sewer connections for single- or two-family residences;

(5) Agricultural practices involving the establishment, cultivation or harvesting of products of the field or orchard, preparing and planting of pasture land, farm ponds, dairy operations, and livestock and poultry management practices, and the construction of farm buildings; (Ord. No. 11470, §1, 10-14-03)

(6) Any project carried out under the technical supervision of the Soil Conservation Service of the United States Department of Agriculture;

(7) Construction, installation or maintenance of electrical, telephone and cable television lines and poles;

(8) Installation, maintenance and repair of any underground public utility lines when such activity occurs on an existing hard-surface road, street or sidewalk, provided the activity is confined to the area of the road, street or sidewalk which is hard-surfaced and a street, curb, gutter or sidewalk permit has been obtained;

(9) Construction, repair or rebuilding of tracks or other related facilities of a railroad company;

These activities may be undertaken without a permit; however, the persons conducting these excluded activities shall remain responsible for otherwise conducting those activities in accordance with the provisions of this article and other applicable law including responsibility for controlling sedimentation and runoff.

(b) *Best Management Practices for Land Disturbing Activities*. The minimum standards for controlling erosion and sedimentation from land disturbing activities shall be set forth in the "Best Management Practices Manual," as adopted and amended from time to time by resolution approved by the City Council. The "General Criteria" handbook adopted by reference by Ordinance No. 8959, adopted June 21, 1988, shall be renamed "Best Management Practices Manual, and a copy of same shall be maintained on file in the offices of the Manager, the City Engineer, and the City Finance Officer.
(Ord. No. 9942, § 1, 8-31-93; Ord. No. 11470, §1. 10-14-03; Ord. No. 11639, § 2, 11-09-04)

Sec. 31-322. Land disturbing permit required.

No land disturbing activity, whether temporary or permanent, shall be conducted within the City of Chattanooga until either a land disturbing permit shall have been issued by the Manager allowing such activity pursuant to the provisions of this article or pursuant to a General NPDES Permit for Storm Water Discharges Associated with Construction Activity issued by the Department of Environment and Conservation. Such permit shall be available for inspection by the Manager or Manager's representative on the job site at all times during which land disturbing activities are in progress. Such permit shall be required in addition to any building permit or other permit required upon the site.
(Ord. No. 9942, § 1, 8-31-93)

Sec. 31-323. Data required in land disturbing permit application.

(a) Any application for the issuance of a land disturbing permit under this article shall include the following:

(1) Name of applicant;

(2) Business or residence address of applicant;

(3) Name and address of owner of subject property;

(4) Address and legal description of subject property;

(5) Name and address of the contractor and any subcontractor(s) who shall perform the land disturbing activity and who shall implement the erosion and sediment control plan;

(6) A statement setting forth the nature, extent and purpose of the land disturbing activity including the size of the area for which the permit shall be applicable and a schedule for the starting and completion dates of the land disturbing activity.

(b) Each application for a land disturbing permit shall be accompanied by a map or plat of the premises showing the present contour lines and the proposed contour lines resulting from the land disturbing activity in relation to all parts of the premises and the properties immediately adjacent thereto and in relation to all abutting street grades and elevations; such map or plat shall show all existing drainage facilities and the proposed permanent disposition of surface waters upon completion of the land disturbing activity.

(c) Each application for a land disturbing permit shall be accompanied by an erosion and sediment control plan which shall accurately describe the potential for soil erosion and sedimentation problems resulting from the land disturbing activity and shall explain and illustrate the measures which 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; the plan shall contain a description of the existing site conditions, a description of adjacent topographical features, a description of soil types and characteristics in the area, potential problems of soil erosion and sedimentation, stabilization specifications, storm water management considerations, a time schedule for completion of the land disturbing activity and for maintenance after completion of the project, clearing and grading limits, and all other information needed to accurately depict solutions to potential soil erosion and sedimentation problems. Any erosion and sediment control plan shall meet the Best Management Practices Manual and shall be approved by the Manager prior to the issuance of the land disturbing permit. The land disturbing permit shall be issued promptly upon approval of the plan.

(d) At any time the Manager determines that an erosion and sediment control plan does not comply with the provisions of this article, he shall notify the applicant in writing of all deficiencies within said plan.
(Ord. No. 9942, § 1, 8-31-93)

Sec. 31-324. General requirements.

No land disturbing activity shall be conducted within the city except in such manner that:

(a) Stripping of vegetation, regrading and other development activities shall be conducted so as to minimize erosion. Clearing and grubbing must be held to the minimum necessary for grading and equipment operation. Pre-construction vegetative ground cover shall

not be destroyed, removed or disturbed more than twenty (20) calendar days prior to grading or earth moving. Construction must be sequenced to minimize the exposure time of cleared surface area.

(b) Property owners shall be responsible upon completion of land disturbing activities to leave slopes so that they will not erode. Such methods could include revegetation, mulching, rip-rapping, or gunniting. Regardless of the method used, the objective will be to leave the site as erosion-free and maintenance-free as practicable.

(c) Whenever feasible, natural vegetation shall be retained, protected and supplemented.

(d) Permanent or temporary soil stabilization must be applied to disturbed areas to the extent feasible within seven days on areas that will remained unfinished for more than thirty (30) calendar days. Permanent soil stabilization with perennial vegetation shall be applied as soon as practicable after final grading is reached on any portion of the site. Soil stabilization refers to measures which protect soil from the erosive forces of wind, raindrop impact and flowing water, and includes the growing of grass, sod, application of straw, mulch, fabric mats, and the early application of gravel base on areas to be paved.

(e) A permanent vegetative cover shall be established on disturbed areas not otherwise permanently stabilized.

(f) To the extent necessary, sediment in runoff water must be trapped by the use of debris basins, sediment basins, silt traps or similar measures until the disturbed area is stabilized.

(g) Neighboring persons and property shall be protected from damage or loss resulting from excessive storm water runoff, soil erosion or deposition upon private property or public streets of water transported silt and debris. Adjacent property owners shall be protected from land devaluation due to exposed bare banks.

(h) Erosion and sediment control measures must be in place and functional before earth moving operations begin, and must be constructed and maintained throughout the construction period. Temporary measures may be removed at the beginning of the work day, but must be replaced at the end of the work day.

(i) Structural controls shall be designed and maintained as required to prevent pollution. All surface water flowing toward the construction area shall to the extent practicable be diverted by using berms, channels, or sediment traps as necessary. Erosion and sediment

control measures shall be designed according to the size and slope of disturbed or drainage areas, to detain runoff and trap sediment. Discharges from sediment basins and traps must be through a pipe or lined channel so that the discharge does not cause erosion. Muddy water to be pumped from excavation and work areas must be held in settling basins or treated by filtration prior to its discharge into surface waters where practicable. Waters must be discharged through a pipe or lined channel so that the discharge does not cause erosion and sedimentation.

(j) All control measures shall be checked, and repaired as necessary, weekly in dry periods and within 24 hours after any rainfall of 0.5 inches with a 24 hour period. During prolonged rainfall, daily checking and repairing is necessary. The permittee shall maintain record of such checks and repairs.

(k) A specific individual shall be designated to be responsible for erosion and sediment controls on each site.

(l) There shall be no distinctly visible floating scum, oil or other matter contained in the storm water discharge. The storm water discharge must not cause an objectionable color contrast in the receiving water. The storm water discharge must result in no materials in concentrations sufficient to be hazardous or otherwise detrimental to humans, livestock, wildlife, plant life, or fish and aquatic life in the receiving stream.

(m) When the land disturbing activity is finished and stable perennial vegetation has been established on all remaining exposed soil, the developer shall notify the Manager of these facts and request termination of the permit issued under this section. The Manager shall then inspect the site within twenty (20) days after receipt of such notice, and when advisable may require additional measures to stabilize the soil and prevent erosion. If such requirements are given by letter, the owner or developer shall continue to be covered by this provisions of this section, until a request for termination of the permit has been accepted by the Manager.
(Ord. No. 9942, § 1, 8-31-93)

Sec. 31-325. Landfilling requirements in certain residential areas.

(a) It shall be unlawful for any person to fill any unimproved land in any property which is within one hundred (100) feet of any R-1 Residential Zone, RT-1 Residential Townhouse Zone, RZ-1 Zero Lot Line Residential Zone, R-T/Z Residential Townhouse/Zero Lot Line Zone or R-2 Residential Zone or which is itself zoned in one of these categories without first obtaining a land disturbing activity permit, which shall be subject to the following additional restrictions:

(1) Fill material must be comprised only of suitable dirt, bricks, concrete without exposed rebars, stones or other similar inert materials;

(2) Maximum height of fill shall be two (2) feet above adjacent roads or two (2) feet above the one hundred (100) year flood elevation, whichever is higher;

(3) Fill must not interfere with the free drainage of adjoining properties;

(4) Except where existing stormwater conveyances are adequate for any increase in drainage, appropriately sized on-site retention facilities shall be provided;

(5) Filling of the property must be completed, including capping the fill with stable perennial vegetation, within one (1) year of permit issue date, at which time the permit shall become null and void; and

(6) A second land disturbing activity permit may be issued only in conjunction with building on the property but only after ninety (90) days from the termination or completion of the preceding land disturbing permit on the same property.

(b) Each application for permit, with the required fee therefor, shall be filed with the Stormwater Manager and in addition to the requirements of Section 31-321, shall contain the following information:

(1) Written approval of the request for a permit from the owner of the property;

(2) The character and description of the fill materials to be deposited;

(3) The rate at which the fill materials are expected to be deposited on a weekly or monthly basis;

(4) Equipment to be used; and

(5) The date upon which the applicant desires the permit to be issued.

(c) The Stormwater Manager may impose conditions upon the issuance of a permit which are reasonably calculated to eliminate excessive noise, scattering of dust or dirt, scattering of materials, to prevent nuisances and to prevent obstruction of public streets or interference with traffic.

(d) An additional twenty-five dollar ($25.00) fee shall be charged for any application for a permit to fill property.

(e) Where any filling work for which a permit is required is started prior to obtaining said permit, the fee herein specified shall be doubled but the payment of such double fee shall not relieve any person from fully complying with the requirements of this Code in the execution of the work nor from any other penalties prescribed herein.

(f) Any person filling property at the time of the enactment of this provision shall obtain a permit within sixty (60) days and shall to the extent practical comply with all provisions in this section.
(Ord. No. 10708, § 1, 6-2-98)

Sec. 31-325.1. Timber Removal Requirements - Applicability.

These Timber Removal Requirements apply to the removal of timber from a site which:

(a) will not be developed within the subsequent three (3) years after such timber removal; and

(b) is one (1) acre in size or larger and five thousand (5,000) square feet or more of the tree canopy is going to be harvested, cut, or removed within a 1 (one) year period; or

(c) is having timber harvested, cut, or removed for the purpose of conducting Forestry Land Management Practices.

These Timber Removal requirements are not to be construed as eliminating other permit requirements in this Chapter for land which is to be developed within three (3) years following such timber removal.

Sec. 31-325.2. Timber Removal Requirements - Exemptions.

(a) Special exceptions may be granted if undue hardship can be proven.

(b) Such application for exception shall be made to the Municipal Forester and shall show:

(1) the special conditions peculiar to the property that would cause the undue

hardship;

(2) how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas;

(3) that the granting of the modification will not confer on the landowner a special privilege that would be denied to other applicants;

(4) that the modification request is not based on conditions or circumstances that are the result of actions by the applicant;

(5) that the request does not arise from a condition relating to land or building use, either permitted or legally nonconforming, on a neighboring property; and

(6) that the granting of a modification will not adversely affect water quality.

Sec. 31-325.3 Removal - Definitions.

DBH (Diameter at Breast Height) – shall mean the total cross sectional diameter in inches of a tree measured at a height of four and one-half (4 1/2) feet above ground level.

Forestry Land Management Practices - shall mean the practice of controlling forest establishment, composition and growth, as set forth by the Tennessee Department of Agriculture's Division of Forestry's, "Forestry Best Management Practices".

Municipal Forester - means an employee of the City of Chattanooga who manages the City's Urban Forestry Program.

Re-Vegetation Management Plan - shall mean a site plan drawn to scale that shows in graphic and text form all the necessary re-planting and / or re-growth requirements.

Slash - shall mean unutilized wood debris.

Steep Slope - shall mean any parcel or group of contiguous parcels with 1 acre or more of a minimum 30% slope.

Timber - means a tree of a size greater than a four-inch (4") diameter at a height of five

(5) feet from ground level.

Tree Canopy - shall mean the effective radial circumference area of a mature tree's vegetative cover, including all branches and leaves. The canopy can be conveyed in values of percentage area of total land space being assessed or by numerical measurement.

Timber Removal - means the cutting of timber and / or removal of forest products including logs, pulpwood, or chips.

Tree Protection Area (TPA) - shall mean the area set aside for the express purpose of removing no trees.

Tree Removal Area - shall mean the location indicated on a site plan and physically marked on the ground designating an area set aside for the express purpose of removing trees.

Watercourse - shall mean any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine, or wash in which water flows in a definite direction or course, either continuously or intermittently, and has a definite channel, bed, and banks and includes any area adjacent thereto subject to inundation by reason of overflow or floodwater.

Sec. 31-325.4. Permit.

(a) For applicable sites pursuant to Section 31-325.1, a Timber Removal Permit is required prior to any timber removal.

(b) The Timber Removal Permit is effective for 180 days for the cutting, removal or harvesting of timber and the permit is effective for an additional for 12 months for the exclusive purpose of re-vegetation. If the timber removal activity is not completed during the 180 days, a new Timber Removal Permit must be applied for. One permit extension of up to ninety (90) days may be granted at the discretion of the Municipal Forester.

(c) Each application for the issuance of a timber removal permit under this article shall be accompanied by a non-refundable permit fee of thirty dollars ($30.00) per acre affected or a minimum fee of fifty dollars ($50.00).

(d) The Timber Removal Permit Application will include information which includes, but is not limited to:

(1) Applicant’s name, address and contact information.

(2) Names and addresses of the owner of the subject parcel and the contractor/ subcontractors who shall perform the timber removal activity.

(3) Address and location of subject parcel.

(4) A statement setting forth the nature, extent and purpose of the timber removal activity, including the size of the area for which the permit shall be applicable and a schedule for the starting and completion of the timber removal activity.

(5) Type of removal method to be used (i.e. clear-cut, shelterwood, selective cut)

(6) The proposed method of disposal of all slash/ unutilized wood debris, which will provide for either chipping or burning (provided such burning is approved by the Air Pollution Control Board).

(7) Ingress and egress locations.

(8) Additional information as may be required by the Inspection Department or the Municipal Forester.

(e) The Re-vegetation Management Plan, as defined in Sec. 31-325.5, must be submitted and approved before a Timber Removal Permit and a Timber Removal Notice Sign is issued.

(f) A Timber Removal Notice Sign must be posted 21 days prior to tree removal activity.

(g) No development that would require approval, such as the issuance of a land disturbance permit, a building permit, or re-zoning of the subject parcel shall be permitted for a period of three (3) years following the issuance of a Timber Removal Permit. The three year period shall begin to run at the time the permitted timber removal is completed.

(h) All required permits must be in place before harvesting or tree removal begins.

Sec. 31-325.5. **Re-Vegetation Plan.**

(a) The Re-Vegetation Management Plan shall identify and demonstrate the following:

(1) The location of the mandated undisturbed buffer around the perimeter and any other tree protection areas, including types of existing vegetation and trees.
(2) Location of tree removal areas.

(3) Location of re-vegetation areas and types of trees/ vegetation to be planted. Re-vegetation with trees is to have a density of 8’ x 10’ for pine and a density of 10’ x 10’ for white pine, other softwoods and all hardwoods.

(4) The method to be used to regenerate the timber removal area.

(5) That a fifty-foot undisturbed buffer shall be provided and maintained along the entire perimeter of the property, including road frontages, during and after the timber removal activities, except for authorized access crossings.

Notwithstanding the other provisions of this section, no property owner shall be required to preserve an undisturbed buffer that covers more than thirty (30) percent of the total land area of the property. In any such case, an alternative buffer width shall be provided, as determined by the municipal forester.

(6) Contours of the land in 10 foot increments.

(7) Location of watercourses.

(8) Additional information as may be required by the Inspection Department or the Municipal Forester.

(b) Required re-vegetation of the permitted site must be completed within 12 (twelve) months of the timber removal.

Sec. 31-325.6. Provisions.

(a) The Forestry Best Management Practices as established by the Tennessee Division of Forestry must be utilized.

(b) The use of a Master Logger is strongly encouraged.

(c) At completion of the required re-vegetation, a final inspection must be requested.

Sec. 31-325.7. Bond.

No person shall be issued a permit for or engage in timber removal as set out in this chapter without first posting a surety bond not to exceed $100 per acre of land to be cut/ cleared.

Upon the satisfactory final inspection at the completion of the required re-vegetation, the amount of surety posted shall be returned/released.

Sec. 31-325.8. Violations.

If the Municipal Forester or the Inspection Department determines that violations of these requirements have occurred, the Timber Removal Permit may be revoked and/ or citations issued as otherwise authorized by City Code. Each day a violation continues is a separate violation.

Sec. 31-325.9. Conflict.

Where the standards and management requirements of this ordinance are in conflict with other City, State or Federal laws, regulations, and policies regarding streams, steep slopes, erodible soils, wetlands, floodplains, timber removal, or other environmental protective measures, the more restrictive shall apply.

DIVISION 4. GENERAL REQUIREMENTS APPLICABLE TO ALL PERMITS ISSUED UNDER THIS ARTICLE

Sec. 31-326. Maintenance and submittal of records.

Appropriate proof and records of compliance with the provisions of the Chattanooga Storm Water Discharge Permit or Land Disturbing Permit will be maintained in the office of the designated contact person and be made available for review at any time by the Manager. A copy of the records of compliance will be sent yearly on the anniversary date of the permit to the Manager.
(Ord. No. 9942, § 1, 8-31-93)

Sec. 31-327. Transfer of permit.

A Chattanooga Storm Water Discharge Permit or Land Disturbing Permit may be transferred only upon the filing of an amendment to the permit application or an amended or restated application containing all changes from the original application providing there are no changes in the operation of the facility which may affect the quantity or quality of the storm water runoff. If there are to be any changes in the operation of he facility which may effect the quantity or quality of storm water runoff, then the new owner or operator shall re-apply for a Chattanooga Storm Water Discharge Permit or Land Disturbing Permit prior to the beginning of operation of the facility. The filing of an amended or restated application shall be treated as an interim permit allowing the continued operation of the facility pending review of the application by the Manager, which shall remain in force until the application shall be approved or denied by the Manager.
(Ord. No. 9942, § 1, 8-31-93)

Sec. 31-328. Signatory requirements.

(a) All applications and reports required by this article to be submitted to the Manager shall be signed as follows:

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

(2) Partnership or sole proprietorship: by a general partner or the proprietor.

(3) Municipality, State, Federal, or other public facility: by either a principal executive officer or the chief executive officer of the agency, or a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

(b) Any person signing any document above shall make the following certification: "I certify under the penalty of law that I have personally examined and am familiar with the information submitted in the attached document; and based on my inquiry of those individuals immediately responsible for obtaining the information. I believe the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and civil penalty."
(Ord. No. 9942, § 1, 8-31-93)

Sec. 31-329. Reserved.

DIVISION 5. MONITORING AND INSPECTION

Sec. 31-330. Monitoring.

The Manager shall periodically monitor the quantity of, and the concentration of pollutants in storm water discharges from the areas and locations designated in the Chattanooga Storm Water Management Plan.
(Ord. No. 9942, § 1, 8-31-93)

Sec. 31-331. Detection of illicit connections and improper disposal.

(a) The Manager shall take appropriate steps to detect and eliminate illicit connections to the Chattanooga Storm Water System, including the adoption of a program to screen illicit discharges and identify their source or sources.

(b) The Manager shall take appropriate steps to detect and eliminate improper discharges, including programs to screen for improper disposal and programs to provide for public education, public information, and other appropriate activities to facilitate the proper management and disposal of used oil, toxic materials and household hazardous waste.
(Ord. No. 9942, § 1, 8-31-93)

Sec. 31-332. Inspections.

(a) The Manager or his designee, bearing proper credentials and identification, may enter and inspect all properties for regular periodic inspections, investigations, monitoring, observation, measurement, enforcement, sampling and testing, to effectuate the provisions of this article and the storm water management program. The Manager or his designee shall duly notify the owner of said property or the representative on site and the inspection shall be conducted at reasonable times.

(b) Upon refusal by any property owner to permit an inspector to enter or continue an inspection, the inspector shall terminate the inspection or confine the inspection to areas concerning which no objection is raised. The inspector shall immediately report the refusal and the grounds to the Manager. The Manager may seek appropriate compulsory process.

(c) In the event the Manager or his designee reasonably believes that discharges from the property into the Chattanooga Storm Water System may cause an imminent and substantial threat to human health or the environment, the inspection may take place at any time and without notice to the owner of the property or a representative on site. The inspector shall present proper credentials upon reasonable request by the owner or representative.

(d) At any time during the conduct of an inspection or at such other times as the Manager or his designee may request information from an owner or representative, the owner or representative may identify areas of its facility or establishment, material or processes which contains or which might reveal a trade secret. If the Manager or his designee has no clear and convincing reason to question such identification, the inspection report shall note that trade secret information has been omitted. To the extent practicable, the Manager shall protect all information which is designated as a trade secret by the owner or their representative.
(Ord. No. 9942, § 1, 8-31-93)

Secs. 31-333 -- 31-339. Reserved.

DIVISION 6. ENFORCEMENT AND ABATEMENT

Sec. 31-340. Unauthorized discharge a public nuisance.

Discharge of storm water in any manner in violation of this article or of any condition of a permit issued pursuant to this article or a stormwater discharge permit issued by the State of Tennessee is hereby declared a public nuisance and shall be corrected or abated.
(Ord. No. 9942, § 1, 8-31-93)

Sec. 31-341. Illicit discharge and illegal dumping.

The following direct or indirect discharges into "Community Waters" or "Waters of the State" are prohibited and shall be unlawful:

(1) Sewage dumping or dumping of sewage sludge;

(2) Chlorinated swimming pool discharge;

(3) Discharge of any polluted household wastewater, such as but not limited to laundry washwater and dishwater, except to a sanitary sewer or septic system;

(4) Leaking sanitary sewers and connections, which shall have remained uncorrected for seven days or more;

(5) Leaking water lines shall have remained uncorrected for seven days or more;

(6) Commercial, industrial or public vehicle wash discharge;

(7) Garbage or sanitary waste disposal;

(8) No dead animals or animal fecal waste shall be directly discharged or discarded into the "Community Waters"

(9) No non-storm water discharges shall be discharged into the "Community Waters", except pursuant to a permit issued by the State of Tennessee or the City of Chattanooga;

(10) No dredged or spoil material shall be directly or indirectly discharged or discarded into "Community Waters;"

(11) No solid waste shall be directly or indirectly discharged or discarded into "Community Waters;"

(12) No chemical waste shall be directly or indirectly discharged or discarded into "Community Waters;"

(13) No wrecked or discarded vehicles or equipment shall be discharged or discarded into "Community Waters."

(Ord. No. 9942, § 1, 8-31-93)

Sec. 31-342. Prohibition of pollutant discharge not covered by the NPDES Program.

(a) A permit is a license to conduct an activity which is regulated by the Clean Water Act, the Water Pollution Control Act (T.C.A. § 69-3-101, et seq) or this article.

(b) Every person who is or who is planning to carry out any of the activities requiring a permit, shall obtain such a permit prior to carrying out such activities.

(c) It shall be unlawful for any person to carry out any of the following activities, except in accordance with the conditions of a valid permit:

(1) The alteration of the physical, chemical, radiological, biological, or bacteriological properties of any waters of the state or community waters;

(2) The construction, installation, modification, or operation of any treatments works or part thereof, or any extension or addition thereto;

(3) The increase in volume or strength of any wastes in excess of permissive discharges specified under any exiting permit;

(4) The development of a natural resource or the construction, installation, or operation of any establishment or any extension or modification thereof or addition thereto; the operation of which will or is likely to cause an increase in the discharge of wastes into the waters of the waters of the state or would otherwise alter the physical, chemical, radiological, biological or bacteriological properties of any waters of the state in any manner not already lawfully authorized;

(5) The construction or use of any new outlet for the discharge of any wastes into the waters of the state;

(6) The discharge of sewage, industrial wastes or other wastes into waters, or a location from which it is likely that the discharged substance will move into waters;

(7) The discharge of sewage, industrial wastes, or other wastes into a well or a location that is likely that the discharged substance will move into a well, or the underground placement of fluids and other substances which do or may affect the waters of the state.

(Ord. No. 9942, § 1, 8-31-93)

Sec. 31-343. Accidental discharges.

(a) In the event of any discharge or a hazardous substance in amounts which could cause a threat to public drinking supplies, a "significant spill", or any other discharge which could constitute a threat to human health or the environment, the owner or operator of the facility shall give notice to the Manager of Storm Water Management Section and the field office of Tennessee Department of Environment and Conservation as soon as practicable, but in no event later than the close of business on the day following the accidental discharge or the discharger

becomes aware of the circumstances. If an emergency response by governmental agencies is needed, the owner or operator should also call 911 immediately to report the discharge. A written report must be provided within five days of the time the discharger becomes aware of the circumstances, unless this requirement is waived by the Manager for good cause shown on a case-by-case basis, containing the following particulars: 1) a description of the discharge, 2) the exact dates and times of discharge, and 3) steps being taken to eliminate and prevent recurrence of the discharge.

(b) The discharger shall take all reasonable steps to minimize any adverse impact to the "Community Waters" or the "Waters of Tennessee," including such accelerated or additional monitoring as necessary to determine the nature and impact of the discharge. It shall not be a defense for the discharger in an enforcement action that it would have been necessary to halt or reduce the business or activity of the facility in order to maintain water quality and minimize any adverse impact that the discharge may cause.

(c) It shall be unlawful for any person to fail to comply with the provisions of this section.
(Ord. No. 9942, § 1, 8-31-93)

Sec. 31-344. Administrative enforcement remedies.

(a) *Notification of Violation*. Whenever the Manager finds that any permittee or any person discharging storm water has violated or is violating this article, or a Storm Water permit or order issued hereunder, the Manager or his agent may serve upon said user written notice of the violation. Within 10 days of the receipt date 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 Manager. 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.

(b) *Consent Orders*. The Manager is hereby 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 industrial user 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 paragraph (d) below.

(c) *Show Cause Hearing*. The Manager may order any person who causes or contributes to violation of this article or Storm Water 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 10 days prior to the hearing. Such notice may be served on any principal executive, general partner or corporate officer.

(d) *Compliance Order*. When the Manager finds that any person has violated or continues to violate this article or a permit or order issued thereunder, he may issue an order to the violator directing that, following a specified time period, adequate structures, devices, be installed 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.

(e) *Cease and Desist Orders*. When the Manager finds that any person has violated or continues to violate this article or any permit or order issued hereunder, the Manager may issue an order to cease and desist all such violations and direct those persons in noncompliance to:

(1) Comply forthwith; or

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

(Ord. No. 9942, § 1, 8-31-93)

Sec. 31-345. Unlawful acts, misdemeanor.

It shall be unlawful for any person to:

(a) violate any provision of this article;

(b) violate the provisions of any permit issued pursuant to this article;

(c) fail or refuse to comply with any lawful notice to abate issued by the Manager, which has not been timely appealed to Storm Water Regulations Board, within the time specified by such notice; or

(d) violate any lawful order of the Storm Water Regulations Board within the time allowed by such order shall be guilty of a misdemeanor; and each day of such violation or failure or refusal to comply shall be deemed a separate offense and punishable accordingly. Any person found to be in violation of the provisions of this article shall be punished by a fine of not less than twenty-five dollars ($25.00) nor more than five hundred dollars ($500.00) for each offense. (Ord. No. 9942, § 1, 8-31-93)

Sec. 31-346. Civil penalty.

(a)(1) Any person who does any of the following acts or omissions shall be subject to a civil penalty of up to five thousand dollars ($5,000) per day for each day during which the act or omission continues or occurs:

(i) Who fails to obtain any permit required;

(ii) Violates the terms or conditions of a permit issued pursuant to a pretreatment program;

(iii) Violates a final determination or order of the Storm Water Regulations Board; or

(iv) Violates any provisions of this article.

(2) Any civil penalty shall be assessed in the following manner:

(i) The Manager may issue an assessment against any person or permittee responsible for the violation;

(ii) Any person against whom an assessment has been issued may secure a review of such assessment by filing with the Manager a written petition setting forth the grounds and reasons for his objections and asking for a hearing in the matter involved before the Storm Water Regulations Board and if a petition for review of the assessment is not filed within thirty (30) days after the date the assessment is served, the violator shall be deemed to have consented to the assessment and it shall become final;

(iii) Whenever any assessment has become final because of a person's failure to appeal the Manager's assessment, the Manager may apply to the appropriate court for a judgment and seek execution of such judgment

and the court, in such proceedings, shall treat a failure to appeal such assessment as a confession of judgment in the amount of the assessment;

(iv) In assessing the civil penalty the Manager may consider the following factors:

a) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;

b) Damages to the city, including compensation for the damage or destruction of public storm water facilities, and also including any penalties, costs and attorneys' fees incurred by the city as the result of the illegal activity, as well as the expenses involved in enforcing this article and the costs involved in rectifying any damages;

c) Cause of the discharge or violation;

d) The severity of the discharge and its effect upon public storm water facilities and upon the quality and quantity of the receiving waters;

e) Effectiveness of action taken by the violator to cease the violation;

f) The technical and economic reasonableness of reducing or eliminating the discharge; and

g) The economic benefit gained by the violator.

(3) The Storm Water Regulations Board may establish by regulation a schedule of the amount of civil penalty which can be assessed by the Manager for certain specific violations or categories of violations.

(b) Any civil penalty assessed to a violator pursuant to this section may be in addition to any civil penalty assessed by the Commissioner of Environment and Conservation for violations of T.C.A. §69-3-115; however, the sum of penalties imposed by this section and by §69-3-115 shall not exceed ten thousand dollars ($10,000) per day for each day during which the act or omission continues or occurs.

(Ord. No. 9942, § 1, 8-31-93)

Sec. 31-347. Judicial proceedings and relief.

(a) The Manager may initiate proceedings in any court of competent jurisdiction against any person who has or is about to:

(1) violate the provisions of this article;

(2) violate the provisions of any permit issued pursuant to this article;

(3) fail or refuse to comply with any lawful order issued by the Manager, which has not been timely appealed to the Storm Water Regulations Board, within the time allowed by this article;

(4) violates any lawful order of the Storm Water Regulations Board within the time allowed by such order.

(b) Any person who shall commit any act or fail to perform any act declared unlawful under this article shall be guilty of a misdemeanor, and each day of such violation or failure shall be deemed a separate offense and punishable accordingly.

(c) The Manager with consent of the Mayor may also initiate civil proceedings in any court of competent jurisdiction seeking monetary damages for any damages caused to publicly owned storm water facilities by any person, and to seek injunctive or other equitable relief to enforce compliance with the provisions of this article or to enforce compliance with any lawful orders of the Manager or the Storm Water Regulations Board.
(Ord. No. 9942, § 1, 8-31-93)

Sec. 31-348. Disposition of damage payments and penalties; special fund.

All damages collected under the provisions of sections 31-346 and civil penalties collected under section 31-347, following adjustment for the expenses incurred in making such collections, shall be allocated and appropriated to the storm water system for the administration of its program.
(Ord. No. 9942, § 1, 8-31-93)

Sec. 31-349. Reserved.

DIVISION 7. FEES

Sec. 31-350. Levied.

For the purpose of operating the storm water program of the City and the payment of the costs and expenses appurtenant, incident or necessary thereto for the construction, extension, enlargement, or acquisition of necessary storm water facilities or flood control improvement, including replacement thereof, and for the operation and maintenance thereof, there hereby is imposed a storm water user's fee upon the owner of property now served directly or indirectly by the city's storm sewer system at the rates set forth in this division.
(Ord. No. 9942, § 1, 8-31-93)

Sec. 31-351. Property owners to pay charges.

The owner of each lot or parcel which directly or indirectly uses the storm water system maintained by the City shall pay the storm water fees and charges as provided in this division. The owner of record as determined by the records of the Assessor of Property for Hamilton County as of October 1 shall be liable for payment of the storm water fees for that calendar year; providing nothing herein shall preclude the proration of fees between property owners.
(Ord. No. 9942, § 1, 8-31-93; Ord. No. 10670, § 1, 2-24-98)

Sec. 31-352. Charges to be based upon area and intensity development factors.

The charges for each lot or parcel shall be based upon the size of the lot or parcel and the category of land use as shown on the records of the Assessor of Property of Hamilton County and intensity development factors. The intensity development factor is based upon the relative degree of runoff of storm water anticipated from various uses of the land and proportions the cost based upon the estimated proportionate contribution to the total storm water runoff from all user classes, based upon such factors as impervious areas, the water quality of the user class runoff, storm water runoff and the volume or rate of runoff per user class. For ease of administration of the charges, single unit or two unit residential development shall be divided into categories, those with 10,000 square feet or less of land and those with greater than 10,000 square feet of land. The square footage for each parcel and the category of development shall be based upon the records maintained by the Assessor of Property of Hamilton County as the same may be changed from time to time; provided, that should an error in those records be brought to the attention of the City it shall seek to have the records corrected and shall adjust any erroneous charges made in reliance thereon.
(Ord. No. 9942, § 1, 8-31-93)

Sec. 31-353. Billing procedure.

(a) The storm water charges shall become effective at the rates hereinafter imposed, shall be billed annually by the City Treasurer at the same time that the city's real property taxes are mailed, and shall be due and payable at the same time as property taxes, October 1 of each year.

(b) The storm water charge shall be designated as a separate item on the property tax bill.

(c) The storm water charge shall be paid in person or by mail at the City Treasurer's Office and shall become delinquent as of the next February 1 following the billing. Any unpaid storm water charge shall bear interest at the legal rate if it remains unpaid after March 1.

(d) Pursuant to section 13, Public Chapter Number 257, T.C.A. §68-221-1112, each bill that shall contain storm water charges shall contain the following statement in bold-faced type:

"**THIS TAX HAS BEEN MANDATED BY CONGRESS**"

(Ord. No. 9942, § 1, 8-31-93)

Sec. 31-354. Schedule of charges.

(a) The annual storm water charge, fee, or tax shall be based upon the land area, the category of land use, and the intensity development factor as shown in the following table:

Land Use Group	IDF	Annual Cost
Residential with 2 or less units and located on a lot of 10,000 square feet or less	0.25	$24.00
Residential with 2 or less units and located on a lot of greater than 10,000 square feet	N/A	$36.00
Multi-family residential with 3 or more units	0.60	$0.00576 times the lot area in square feet

Industrial	0.75	$0.0072 times the lot area in square feet
Commercial	0.85	$0.00816 times the lot area in square feet
Institutional	0.50	$0.0048 times the lot area in square feet
Transportation, Communication and Utility	0.70	$0.00672 times the lot area in square feet
Recreational	0.05	$0.00048 times the lot area in square feet
Roadway	0.00	$0.0000 times the lot area in square feet
Agricultural	0.04	$0.000384 times the lot area in square feet
Vacant	0.02	$0.000192 times the lot area in square feet
Water	0.00	$0.00000 times the lot area in square feet
Forest	0.00	$0.00000 times the lot area in square feet

(b) Provided, however, that where the charge calculated pursuant to sub-paragraph (a) shall be less than five dollars ($5.00), then no bill shall be issued.
(Ord. No. 9942, § 1, 8-31-93; Ord. No. 10111, § 4, 9-20-94)

Sec. 31-355. Correction of erroneous billing.

(a) Any owner or duly authorized agent may contest the accuracy of the charges imposed pursuant to this article by lodging with the Manager of the Storm Water Management Section a notice of protest. The Manager shall develop and maintain appropriate forms for the lodging of such protest, but any written protest shall be sufficient providing that it sets forth with

particularity the nature of any errors allegedly committed in the computation of such bill. Such a protest may be filed without payment of the storm water fee on or before the first December 31 following the billing, but thereafter the protest must be accompanied by payment of the bill and which shall be considered as payment under protest.

(b) The Manager shall duly consider all notices of protest as soon as practicable, and when he or she shall agree with all or any portion of the protest shall adjust the billing in accordance with such factors as are in this article. The Manager shall refund any erroneous billing for the year involved in the protest and when the conditions in the previous years also warrant an agreement, the Manager shall adjust the previous two (2) years' fees for a total of three (3) years of adjustment of erroneous fees.

(c) If the Manager disapproves the protest in whole or in part, he or she shall notify the owner or duly authorized agent as soon as practicable. In no event shall there be more than a ninety (90) day delay in resolving any protest. In the event more than ninety (90) days elapses following the filing of the protest without a decision having been rendered by the Manager, the protest shall be deemed to have been denied.

(d) If the owner disagrees with the administrative ruling of the Manager concerning a protest which was timely filed, the owner may within thirty (30) days following the date of the decision of the Manager appeal the bill and the Manager's administrative determination to the Storm Water Regulations Board by filing a notice of appeal to said board in care of the Administrator of the Department of Public Works, City Hall, Chattanooga, Tennessee, 37402, with a copy of said notice provided to the Manager. The Manager shall develop and maintain forms appropriate for filing the notice of appeal, but no particular form for such an appeal shall be required providing that the appeal sets forth with particularity the nature of the owner's complaint.

(e) If a notice of appeal to the Storm Water Regulations Board is timely filed, the board shall schedule a time and place within which to consider the appeal. The hearing on such appeals shall be informal, but the owner and Manager will each be given the opportunity to present documentary evidence in support of their position and will be given the opportunity to address the board. The board shall receive such evidence relating to the matter as may be necessary to resolve the dispute, and shall render such determinations and issue such orders as the law and facts of the case may require.
(Ord. No. 9942, § 1, 8-31-93; Ord. No. 10670, § 2, 2-24-98)

Sec. 31-356. Adjustment for users constructing storm water retention and control facilities.

(a) Upon application by any user adequately supported by documentation to show that the user has constructed facilities to retain and control the quantity of storm water runoff and the nature and extent of any such retention and control quantified by adequate data, the user shall be entitled to an adjustment of their storm water user fee as provided in this section.

(b) The storm water user's fee shall be reduced by twenty-five percent (25%) for users who shall have constructed and properly maintained storm water detention facilities which are adequate in design and operation for a ten (10) year storm event and discharging at the pre-development rate into the storm water system or to other waters.

(c) The storm water user's fee of commercial, industrial, institutional and multi-family residential users of the storm water system which shall have constructed and properly maintained storm water treatment facilities which are adequate in design and operation to treat or remove oil and other pollutants shall be reduced by twenty-five percent (25%) providing that the user can demonstrate that the facility removes at least eighty percent (80%) of the pollutant load which would otherwise go into the receiving storm water facility or other waters.

(d) In the event the owner shall design and construct a storm water detention or treatment facility larger or technologically more advanced than necessary for present or anticipated future development of the owner's site which is used to remediate an existing water quantity or quality problem either upstream or downstream of the owner's facility, the owner may receive an additional twenty-five percent (25%) reduction in the owner's storm water fee.

(e) The reductions authorized under sections b, c and d above shall be cumulative, providing that the total reduction in storm water users fee shall not exceed seventy-five percent of the fee as it would be calculated without reduction for the construction and operation of storm water retention and treatment facilities.

(f) The user shall make application to the Manager of the Storm Water Section for reductions in the storm water fee pursuant to this section. Each application shall be accompanied by plans or drawing of the storm water facility, and any claim of a reduction in the rate of reduction of storm water runoff or the quality thereof shall be supported by adequate data to demonstrate the accuracy of the claims. The Manager shall not be bound to accept such plans or data, but may make such independent investigation thereof as he or she may deem necessary to determine the accuracy of the claimed reductions.

(g) To the extent that the Manager is satisfied that the reductions applied for are warranted by the circumstances, he shall reduce the bill as provided herein. If the fee shall have been paid, a refund shall be authorized to the extent warranted by the reductions.

(h) The Manager shall act upon any application for a reduction in fees within ninety (90) days of the receipt thereof. In the event he shall not have acted upon same within this time, then the application shall be deemed to have been denied.

(i) The user may appeal the denial by the Manager of any claimed reduction in the quantity or quality of the storm water runoff to the Storm Water Regulations Board by filing a written notice of appeal in care of the Administrator of Public Works within thirty (30) days following the action of the Manager. No particular form for a notice of appeal shall be required and any written notice setting forth with reasonable particularity the grounds for the appeal shall be acceptable, but the Manager shall develop and maintain a form for such purposes. A copy of the notice of appeal shall be filed with the Manager. Unless the Storm Water Regulations Board shall consent to an enlargement of the administrative record, the appeal shall be decided upon the plans and data submitted by the applicant in support of the claimed reduction and any information relating thereto generated by the Administrator in review of the application. The board shall schedule a meeting to consider the appeal and both the applicant and the Manager shall be allowed to make a written and oral argument before the board in support of their respective positions.
(Ord. No. 9942, § 1, 8-31-93)

Sec. 31-357. Elderly low-income or disabled homeowner exemption from fees.

Those persons who have qualified as an elderly low-income homeowner pursuant to T.C.A. § 67-5-702 or who have qualified as a disabled homeowner pursuant to T.C.A. § 67-5-704 shall be exempt from payment of fees on that property which they use as their residence.
(Ord. No. 10111, § 1, 9-20-94)

Secs. 31-358 -- 31-359. Reserved.

DIVISION 8. STORM WATER REGULATIONS BOARD

Sec. 31-360. Established.

There is hereby established a Board of nine (9) members to be known as the "Storm Water Regulations Board."
(Ord. No. 9942, § 1, 8-31-93; Ord. No. 11496, §1, 12-02-03)

Sec. 31-361. Composition; terms; filling vacancies.

(a) The nine (9) members of the Board shall initially be appointed by the Mayor for staggered terms of one (1) to three (3) years, subject to the approval of the City Council, with terms, after the initial appointments being for three (3) years. Members shall not serve more than two (2) consecutive three (3) year terms. The Mayor shall appoint members with the following qualifications: environmental engineer or environmental scientist or educator; a representative of an industrial or commercial establishment that is regulated by this Article; two (2) representatives of neighborhood groups; a representative of the development community; a representative of an environmental interest or environmental organization; and a representative of the contractor community. The remaining two (2) members shall not have any particular qualifications, but to the extent practical, shall be selected to maintain diversity on the Board. All members shall serve at the pleasure of the Mayor and the City Council. In the event of a vacancy, the Mayor shall appoint a member to fill the unexpired term, subject to approval by the City Council. The Mayor shall select the Chairman, subject to approval by the City Council
(Ord. No. 9942, § 1, 8-31-93; Ord. No. 10111, § 5, 9-20-94; Ord. No. 11496, §2, 12-02-03)

(b) The Board shall select its own Vice-Chairman and Secretary. All officers other than the Chairman shall serve for terms of one (1) year. (Ord. No. 11496, §2, 12-02-03)

(c) If any member of the Board misses two (2) regular meetings during a calendar year without an adequate justification, they shall be notified by the Chairman they are being placed on probation. They must attend the next two (2) regularly scheduled meetings to be released from probation. If they shall fail to satisfactorily complete a probation or if they are placed on probation for a second time during a term of office, the Chairman of the Storm Water Regulations Board shall request the Mayor to dismiss the Board member and to appoint a new member approved by the City Council. If the Chairman of the Storm Water Regulations Board shall be absent from two (2) regular meetings in one (1) year without an adequate justification, the Vice-Chairman shall request the Mayor to dismiss the Chairman of the Storm Water Regulations Board and select a new Chairman to perform the duties. (Ord. No. 11496, §2, 12-02-03)

Sec. 31-362. General duties of the board.

In addition to any other duty or responsibility otherwise conferred upon the board by this chapter, the board shall have the duty and power as follows:

(a) To recommend from time to time to the city council that it amend or modify the provisions of this article;

(b) To hold hearings upon appeals from orders or actions of the Manager as may be provided under any provision of this chapter;

(c) To hold hearings relating to the suspension, revocation, or modification of a storm water discharge permit and issue appropriate orders relating thereto;

(d) To hold hearings relating to an appeal from a user concerning the accuracy of any fees imposed upon the user by this article;

(e) To hold such other hearings as may be required in the administration of this chapter and to make such determinations and issue such orders as may be necessary to effectuate the purposes of this article;

(f) To request assistance from any officer, agent, or employee of the city or the Chattanooga-Hamilton County Regional Planning Commission and to obtain such information or other assistance as the board might need;

(g) The board acting through its chairman shall have the power to issue subpoenas requiring attendance and testimony of witnesses and the production of documentary evidence relevant to any matter properly heard by the board; and

(h) The chairman, vice chairman or chairman pro tem shall be authorized to administer oaths to those persons giving testimony before the board.
(Ord. No. 9942, § 1, 8-31-93)

i) To prepare, with the assistance of the storm water management staff, a storm water program mission, goals, and objectives for a five (5) year time frame to plan for the existing NPDES permit and to plan for at least one (1) year subsequent to the anticipated renewal of a permit. The goals and objectives shall be reviewed on an annual basis and with the assistance of the staff an annual report shall be prepared in a timely manner for consideration in the annual capital budget submissions by the storm water staff. (Ord. No. 11496, §3, 12-02-03)

(j) The Board shall consider the proposed capital budget submission and recommend to the Mayor and Council any suggestion to change those priorities. (Ord. No. 11496, §3, 12-02-03)

(k) To review at least on a bi-annual basis the storm water rates and to recommend to the Mayor and City Council any changes to make them fairer and to insure that they adequately fund the storm water program. (Ord. No. 11496, §3, 12-02-03)

(l) To review and provide constructive comments to the storm water management staff relative to the development and implementation of a level of storm water service acceptable to the rate payers. (Ord. No. 11496, §3, 12-02-03)

(m) To respond to citizen complaints and petitions and to recommend an appropriate remedial action when appropriate. (Ord. No. 11496, §3, 12-02-03)

(n) To provide a report to the Mayor and City Council on an annual basis addressing such matters as programmatic direction, project review, and effectiveness of the storm water program. (Ord. No. 11496, §3, 12-02-03)

Sec. 31-363. Variances.

(a) The board may grant a variance from the requirements of this article providing to do so would not result in the violation of any state or federal law or regulation and if exceptional circumstances applicable to the site exist such that strict adherence to the provisions of this article will result in unnecessary hardship and will not result in a condition contrary to the intent of the ordinance.

(b) A written petition for a variance shall be required and shall state the specific variance sought and the reasons, with supporting data, why a variance should be granted. The request shall include all information necessary to evaluate the proposed variance. The petition shall be filed with the Manager.

(c) The Manager shall conduct a review of the request for a variance within ten (10) working days after receipt and may either support the petition or may object to the petition. The manager may elect to receive advice of the City Attorney or designee prior to rendering a decision and may defer to the advice of the City Attorney on legal issues. If the Manager objects to the variance, he shall state the reasons therefore. (Ord. No. 11496, §4, 12-02-03)

(d) Once the Manager's review is complete or the ten (10) days for review have expired, the petition shall be subject to board action at the next regularly scheduled meeting or at a special meeting called in the discretion of the chair.
(Ord. No. 9942, § 1, 8-31-93)

Sec. 31-364. Meetings; quorum.

(a) The board shall hold regular quarterly meetings and such special meetings as the board may find necessary. (Ord. No. 11496, §5, 12-02-03)

(b) Five (5) members of the board shall constitute a quorum, but a lesser number may adjourn a meeting from day to day. Any substantive action of the board shall require five (5) votes, but a majority of the quorum may decide any procedural matter.
(Ord. No. 9942, § 1, 8-31-93; (Ord. No. 11496, §5, 12-02-03)

Sec. 31-365. Hearing procedure; judicial review.

(a) *When to be held*. The storm water regulations board shall schedule an adjudicatory hearing to resolve disputed questions of fact and law whenever provided by any provision of this article.

(b) *Record of hearing*. At any such hearing, all testimony presented shall be under oath or upon solemn affirmation in lieu of oath. The board shall make a record of such hearing, but the same need not be a verbatim record. Any party coming before the board shall have the right to have such hearing recorded stenographically, but in such event the record need not be transcribed unless any party seeks judicial review of the order or action of the board by common law writ of certiorari, and in such event the parties seeking such judicial review shall pay for the transcription and provide the board with the original of the transcript so that it may be certified to the court.

(c) *Subpoenas*. The chairman may issue subpoenas requiring attendance and testimony of witnesses or the production of evidence, or both. A request for issuance of a subpoena shall be made by lodging with the chairman at least ten (10) days prior to the scheduled hearing date a written request for a subpoena setting forth the name and address of the party to be subpoenaed and identifying any evidence to be produced. Upon endorsement of a subpoena by the chairman, the same shall be delivered to the chief of police for service by any police officer of the city, if the witness resides within the city. If the witness does not reside in the city, the chairman shall issue a written request that the witness attend the hearing.

(d) *Depositions*. Upon agreement of all parties, the testimony of any person may be taken by deposition or written interrogatories. Unless otherwise agreed, the deposition shall be taken in a manner consistent with Rules 26 through 33 of the Tennessee Rules of Civil Procedure, with the chairman to rule on such matters as would require a ruling by the court under such rules.

(e) *Hearing procedure*. The party at such hearing bearing the affirmative burden of proof shall first call his witnesses, to be followed by witnesses called by other parties, to be followed by any witnesses which the board may desire to call. Rebuttal witnesses shall be called in the same order. The chairman shall rule on any evidentiary questions arising during such hearing and shall make such other rulings as may be necessary or advisable to facilitate an orderly hearing subject to approval of the board. The board, the Manager, or his representative, and all parties shall have the right to examine any witness. The board shall not be bound by or limited to rules of evidence applicable to legal proceedings.

(f) *Appeal to board of manager's order*. Any person aggrieved by any order or determination of the Manager may appeal said order or determination to the board and have such order or determination reviewed by the board under the provisions of this section. A written notice of appeal shall be filed with the Manager and with the chairman, and such notice shall set forth with particularity the action or inaction the Manager complained of and the relief sought by the person filing said appeal. A special meeting of the board may be called by the chairman upon the filing of such appeal, and the board may in its discretion suspend the operation of the order or determination of the Manager appeals from until such time as the board has acted upon the appeal.

(g) *Absence of chairman*. The vice-chairman or the chairman pro tem shall possess all the authority delegated to the chairman by this section when acting in his absence or in his stead.

(h) *Review of board's decision*. Any person aggrieved by any final order of determination of the board hereunder shall have judicial review by common law writ of certiorari.
(Ord. No. 9942, § 1, 8-31-93)