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Chapter 901	Excavations
Chapter 903	Streets, Sidewalks, Curbs and Driveways
Chapter 905	Trees

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**CHAPTER 901: EXCAVATIONS**

Section

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**§ 901.01 SCOPE OF CONDITIONS AND SPECIFICATIONS.**

The conditions contained in this chapter shall apply to any individual, firm, utility or governmental subdivision which finds it necessary to excavate within any dedicated street, alley or right of way within the municipality. The specifications contained herein shall apply to any and all excavations made within the street lines or right-of-way lines of any dedicated street or alley within the municipality regardless of the fact that a pavement does or does not exist. The conditions contained in this chapter shall apply to all sewer excavations regardless of the fact that the excavation is within public right of way or private property. ('70 Code, § 901.01) (Ord. 6883, passed 7-10-61)

**§ 901.02 EXCEPTIONS FOR PERSONS WITH CONTRACT OR FRANCHISE.**

Any person who has entered into a contract with, or obtained a franchise from, the municipality, fully covering methods of making excavations and openings in streets, alleys, boulevards or public places and the replacing of the same, need only obtain a permit from the City Engineer to make such excavation or opening. No permit fee shall be charged when application is made for such permission, nor shall a deposit be demanded or an annual bond required upon the granting of such application and the issuance of permission therefor. ('70 Code, § 901.02)

**§ 901.03 PERMIT REQUIRED; FEE.**

(A) No person shall dig into or make any opening or excavation in any sidewalk, lawn or roadway of any street, alley, boulevard or public place or ground in the municipality for any purpose without first obtaining a written permit to do so from the City Engineer. A permit will also be required on private property for sewer excavations. The City Engineer may deny the issuance of a permit, for a period of six months, to any person who

has violated any paragraph, portion or part of Chs. 901, 903 and 911.

(B) The fee schedule for the permit required in division (A) of this section can be obtained in the City Engineer's Office.

(C) Any person desiring to obtain a permit under this section shall be required to notify the Ohio Utilities Protection Service (OUPS). ('70 Code, § 901.03) (Ord. 67-1, passed 1-9-67; Am. Ord. 1982-10, passed 1-25-82) Penalty, see § 901.99

**§ 901.04 INSPECTION FEE.**

Any person upon obtaining a permit to make an opening in any dedicated street, alley, other property owned by the municipality, or private property shall pay a fee for the inspection of such opening by properly authorized employees of the municipality. The inspection fee schedule can be obtained in the City's Engineer's Office. ('70 Code, § 901.04) (Ord. 1982-10, passed 1-25-82)

**§ 901.05 TIME OF PAYMENT OF INSPECTION FEE.**

The inspection fee shall be paid at the time of obtaining the permit and before making the opening unless satisfactory arrangements are made by any person with the City Engineer for a monthly billing for such opening. ('70 Code, § 901.05) (Ord. 6367, passed 6-23-58)

**§ 901.06 APPLICATION; LIABILITY INSURANCE AND CASH DEPOSIT OR BOND REQUIRED.**

Any person desiring to obtain a permit as required by § 901.03 shall make application therefor to the City Engineer, giving whatever information City Engineer may require. Such person shall be required to file a certificate of liability insurance for personal injury, together with a certificate of liability insurance for property damage with the City Engineer. A schedule of liability insurance limits can be obtained in the City Engineer's Office. A cash deposit shall accompany each application, or in lieu thereof the applicant may file with the City Engineer an approved bond covering any number of applications that may be made during the year while such bond is in force. The cash deposit and the bond shall be so conditioned that the applicant shall restore the surface of the street, alley, boulevard or public place to its original condition to the satisfaction of the City Engineer, and upon the failure of the applicant to do so, the City Engineer shall make such restorations and may defray the expenses thereof from the cash deposit or the bond. The cash deposit and bond fee requirements can be obtained in the City Engineer's Office. ('70 Code, § 901.06)

**§ 901.07 NOTICE REQUIRED FOR PERMIT EXCEPTIONS.**

Any person who is not subject to obtaining a permit for an opening shall furnish to the City Engineer a notice of any openings to be made by such person. ('70 Code, § 901.08) (Ord. 6367, passed 6-23-58)

**§ 901.08 REPLACEMENT OF PERMANENT PAVEMENT; DEPOSIT AND CHARGES.**

(A) All persons, firms or utilities not having franchises with the municipality shall place a deposit with the City Engineer to secure the cost for the replacement of the permanent pavement by the permittee. In the event that the permanent pavement is not replaced to the satisfaction of the City Engineer, the municipality shall replace the permanent pavement. The cost of replacement shall be deducted from the amount deposited with the City Engineer.

(B) In the event the cost of replacing the permanent pavement exceeds the deposit herein required, the City Engineer is hereby authorized to bill the contractor or other permittee for such additional costs and to collect the same, for the municipality, as other debts are collected. Deposit and charge schedules can be obtained in the City Engineer's Office. ('70 Code, § 901.10) (Ord. 1982-10, passed 125-82)

### **§ 901.09 EQUIPMENT REQUIREMENTS.**

Any equipment used for making excavations covered by this chapter shall be mounted on pneumatic tires, rubber covered tracks or street pads. Equipment having steel lugs or steel tracks shall not be loaded, unloaded or operated in any fashion on the improved portion of the street, alley or right of way. ('70 Code, § 901.11) (Ord. 6883, passed 7-10-61)

### **§ 901.10 CONSTRUCTION WARNING DEVICES.**

Barricades conforming to the Ohio Manual of Uniform Traffic Control Devices shall be placed completely around all excavations. Warning lights shall be placed at all corners of the barricades and at intervals not to exceed ten feet on centers. In all respects, all construction warning devices (barricades, drums, signs, warning lights, cones, and the like) shall conform to the requirements of the Ohio Manual of Uniform Traffic Control Devices. ('70 Code, § 901.12) (Ord. 6883, passed 7-10-61)

***Cross-reference:***

*Barricades and warning lights, see § 660.09*

### **§ 901.11 NOTIFICATION; INSPECTION TIMES.**

Any person, firm or utility holding a permit to excavate shall, before starting the excavation, notify the Division of Engineering when and where the excavation is to be started. The Division of Engineering shall inspect:

- (A) The site prior to excavation;
- (B) When the excavation is completed;
- (C) At the time the backfill material is placed;
- (D) At the time the temporary pavement is placed; and
- (E) At the time the permanent pavement is replaced. ('70 Code, § 901.13) (Ord. 6883, passed 7-10-61)

### **§ 901.12 METHODS OF EXCAVATING.**

All excavation shall be made as small as practical for the prosecution of the work. When excavating in a concrete pavement, the pavement shall be sawed to a depth of three inches, 12 inches away from the exterior limits of the excavation on all sides. The pavement shall then be broken out neatly along the sawed lines. When excavating in pavements having a blacktop surface, the surface and the base shall be neatly and vertically trimmed 12 inches away from the exterior limits of the excavation on all sides. When excavating in brick pavements, the brick and the base shall be neatly removed to a distance of 12 inches away from the exterior limits of the excavation on all sides. Excavations shall be shored or cribbed in conformance with current state laws. Should surface water or water from another source saturate the earth adjacent to the excavation, the saturated earth shall be excavated until firm and stable earth is encountered. ('70 Code, § 901.14) (Ord. 6883, passed 7-10-61)

### **§ 901.13 METHODS OF BACKFILLING.**

(A) Under pavements or improved alleys. Backfill for excavations under pavements or improved alleys shall be a granular material known as crusher run stone, grits, bank-run gravel or another granular material approved by the Division of Engineering. The granular material shall be tamped in six-inch layers and moistened with water to the extent that proper compaction is attained. Hand tamps, when used, shall weigh not less than 20 pounds and have a head area of not less than 36 square inches. No tamp shall weigh less than 12 ounces for each square inch of head area. Mechanical tamps and air driven tools may be used for compacting square inch of head

area. Mechanical tamps and air driven tools may be used for compacting backfill. The granular backfill shall terminate one inch from the top of the existing pavement. A temporary surface of 1½ inches of cold mix asphalt or hot mix asphaltic concrete shall be placed on the granular backfill. The temporary surface shall be checked and maintained for a period of 90 days. No temporary surface shall be placed in unimproved alleys; a three-inch mound of granular material shall be placed instead.

(B) Under sidewalks and driveway approach slabs. Backfilling of excavations under sidewalks and drives shall be excavated exactly as for that under pavements, except that the granular backfill shall be terminated at the subgrade of the sidewalk or drive and No. 6 Aggregate shall be evenly spread to the finished grade of the sidewalk or drive area and shall be checked and maintained for a period of 90 days. (Ord. 65-121, passed 12-13-65)

(C) Under areas between the pavement and the sidewalk. Excavations between the sidewalk and the pavement shall be backfilled with select earth, tamped in six-inch layers and terminated in a neat mound six inches above the surrounding surface. Should the excavation undermine the existing pavement, or the backfilling of the excavation impair the strength of the adjacent pavement or sidewalk, granular backfill shall be placed in six-inch compacted layers to a depth of 18 inches below the existing surface. The remainder of the backfill shall then be select earth placed as described above. The agency making the excavation shall be responsible for replacing all pavement, existing or new, damaged by careless excavation or improper backfilling. (Ord. 6883, passed 7-10-61)

(D) Areas where pavement will be constructed within 24 months. Excavations in areas where pavement will be constructed within 24 months shall be backfilled with granular backfill which shall be placed in six-inch compacted layers to a depth of 15 inches below the existing surface. The remainder of the backfill shall then be select earth placed as described in division (C) of this section. The City Engineer shall, from time to time, advise franchised public utility companies of the areas wherein new pavement is to be constructed. (70 Code, § 901.15) (Ord. 6917, passed 10-9-61)

#### **§ 901.14 METHODS OF PAVEMENT REPLACEMENT.**

Permanent pavement shall be replaced in the following manner:

(A) *Brick pavements and blacktop streets.* If, after 90 days, the City Engineer or his/her authorized representative is convinced that further settlement of the backfill will not occur, the temporary surface shall be removed and the granular backfill excavated to a depth of ten inches. The remaining granular backfill surface shall be leveled, tamped and moistened. An additional two feet of existing pavement and/or existing base shall be removed to a depth of ten inches in order to provide a shelf, two feet in width, on all sides of the excavation. Seven inches of concrete base, meeting current State of Ohio Department of Transportation Specifications, Item 305, shall be placed on the prepared granular backfill and shelf. After the concrete has cured for a period of three days, it shall be given a tack coat of tar RT-7 or asphalt MC-800 in the amount of 1/10th gallon per square yard. Three inches of asphaltic concrete surface shall then be compacted on the concrete base to a density of 4,000 pounds per cubic yard (two separate one and one-half inch layers). Asphaltic concrete surface material shall meet the requirements of current State of Ohio Department of Transportation Specifications, Item 404, and shall be placed at a temperature of not less than 225°F. Traffic shall be restricted from the repaved area for a period of five days beginning with the day that the concrete base is placed.

(B) *Blacktop alleys and driveways.* Blacktop alleys and driveways with an aggregate stone base in residential areas or where approved by the City Engineer or his/her authorized representative shall be replaced in the following manner: If, after 90 days, the City Engineer or his/her authorized representative is convinced that further settlement of the backfill will not occur, the temporary surface shall be removed and the granular backfill excavated to a depth of 12 inches. The remaining backfill shall be leveled, tamped and moistened. An additional two feet of existing pavement and/or existing base shall be removed to a depth of two feet in order to provide a shelf two feet in width on all sides of the excavation. Ten inches of aggregate base, placed and compacted in two 5-inch layers, meeting the current State of Ohio Department of Transportation Specifications, Item 304, shall be

placed on the prepared backfill. The aggregate base shall be given a prime coat of bituminous material MC-30, meeting the current State of Ohio Department of Transportation Specifications, Item 408. The prime coat shall be applied at the rate of 3/10 of a gallon per square yard. Two inches of asphaltic concrete surface shall then be compacted on the aggregate base to a density of 4,000 pounds per cubic yard. Asphaltic concrete surface material shall meet the requirements of the current State of Ohio Department of Transportation Specifications, Item 404, and shall be placed at a temperature of not less than 225°F. Traffic shall not be permitted on the compacted asphaltic concrete surface until it has cooled sufficiently to prevent glazing.

(C) *Concrete pavements.* If, after 90 days, the City Engineer or his/her authorized representative is convinced that further settlement of the backfill will not occur, the temporary surface shall be removed, leveled, tamped and moistened. An additional two feet of existing pavement and/or existing base shall be removed to a depth of seven inches in order to provide a shelf, two feet in width, on all sides of the excavation. Seven inches of portland cement concrete pavement, meeting current State of Ohio Department of Transportation Specifications, Item 452, shall be placed on the prepared granular backfill and shelf.

(D) *Flexible pavements.* After a period of 90 days, settlement or resurfacing failures shall be corrected to the satisfaction of the City Engineer or his/her authorized representative.

(E) *Sidewalks and driveway approach slabs.* If, after 90 days, the City Engineer or his/her authorized representative is convinced that further settlement of the backfill will not occur, the temporary surface of No. 6 Aggregate shall be excavated to a depth that will permit a four-inch concrete sidewalk to be placed in all areas except at driveways. At driveways, the excavation will be to such depth that a six-inch concrete sidewalk can be placed. Portland cement concrete sidewalks shall be replaced in accordance with current State of Ohio Department of Transportation Specifications, Item 608.

(F) *Waiver of waiting period.* If particular circumstances render the above specified 90-day waiting period impractical, or if it is in the best interest of public safety, the City Engineer may, by written notice, order particular sections of pavement replaced without regard to the waiting period. (70 Code, § 901.16) (Ord. 1977-117, passed 11-28-77)

#### **§ 901.15 PERMIT TIME LIMITATION; REFUND OR EXTENSION.**

Unless work is commenced within six months of the issuance of an excavation permit, the permit shall become void. The Mayor may, in cases of undue hardship or extreme circumstances, authorize the refund of permit and inspection fees and deposits required by this chapter or the granting of a time extension. (70 Code, § 901.17) (Ord. 7085, passed 10-8-62)

#### **§ 901.99 PENALTY.**

Whoever violates any of the provisions of this chapter shall be fined not more than \$500. Any such violation shall constitute a separate offense on each successive day continued. (70 Code, § 901.99) (Ord. 7085, passed 10-8-62)

#### ***Cross-reference:***

*Division of Engineering, see Ch. 141*  
*Streets, sidewalks, curbs and driveways, see Ch. 903*  
*City Engineer's right of entry, see § 911.03*

#### ***Statutory reference:***

*Openings by the municipality, see R.C. § 723.02*  
*Excavation liability, see R.C. § 723.49*  
*Changing established grade, see R.C. § 727.07*  
*Compulsory service connection, see R.C. § 729.06*  
*Digging, excavating and piling earth on streets, see R.C. § 5589.10*

## CHAPTER 903: STREETS, SIDEWALKS, CURBS AND DRIVEWAYS

### Section

- 903.01 Construction and installation; permit required; fee
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- 903.07 Cutting curbs and constructing driveways
- 903.08 Vacation of streets and alleys
- 903.09 Development improvements
- 903.99 Penalty

#### **§ 903.01 CONSTRUCTION AND INSTALLATION; PERMIT REQUIRED; FEE.**

No person shall install or construct any street pavement, sidewalk, curb, gutter or driveway, or cut out, take up or otherwise disturb any of the stated items on any street, alley or public place, without first obtaining a permit therefor. The fee for such permit shall be as shown on the fee schedule available in the City Engineer's Office. ('70 Code, § 903.01) (Ord. 1982-10, passed 1-25-82) Penalty, see § 903.99

#### **§ 903.02 PREVENTION OF UNNECESSARY CUTTING.**

No new street shall be constructed within the municipality nor shall any street be accepted for dedication by the municipality unless the installation of the necessary utility services to serve the neighborhood being developed can, in the opinion of the City Engineer, be installed without cutting the pavement of such street. ('70 Code, § 903.02) (Ord. 4358, passed 3-28-60) Penalty, see § 903.99

#### **§ 903.03 SERVICE CONNECTIONS PRIOR TO PAVING.**

The Clerk of Council is authorized and directed to, immediately after the passage of any resolution declaring it necessary to pave any street within the municipality, notify the water company, gas company and abutting property owners of such action by Council and to authorize and direct the concerned parties to install water, gas and sewer taps, together with all other necessary connections to the curb line. Such work shall be accomplished and perfected before any street in the municipality shall be paved. ('70 Code, § 903.03)

#### **§ 903.04 NEW STREET PAVEMENTS.**

(A) All street pavements constructed in the municipality shall conform to one of the following minimum specifications:

- (1) A seven-inch thick portland cement concrete pavement;
- (2) A ten-inch thick crushed stone aggregate base surfaced with two 1-1/2-inch thick courses of asphalt concrete;
- (3) A six-inch thick bituminous aggregate base surfaced with 1-1/2-inch thick course of asphalt concrete.

(B) Installation shall be in accordance with plans and specifications on file in the office of the City Engineer and shall be subject to the supervision and inspection of the City Engineer. ('70 Code, § 903.04) (Ord. 1973-45, passed 3-12-73)

**§ 903.05 NEW SIDEWALKS.**

(A) All sidewalks within the municipality, newly built or reconstructed, shall be of portland cement concrete only.

(B) The thickness and grade of portland cement concrete material and installation of such sidewalks shall be approved by the City Engineer. ('70 Code, § 903.05) (Ord. 6371, passed 6-23-58)

**§ 903.06 NEW CURBS AND GUTTERS.**

All curbs and gutters constructed in the municipality shall be of portland cement concrete. The top of the curb section shall be six inches above the flow line of the gutter. Installation shall be in accordance with plans and specifications on file in the office of the City Engineer and shall be subject to the supervision and inspection of the City Engineer. ('70 Code, § 903.06) (Ord. 1973-45, passed 3-12-73)

**§ 903.07 CUTTING CURBS AND CONSTRUCTING DRIVEWAYS.**

Any curbing cut out, taken up or otherwise disturbed, or any driveway or curb constructed, as herein provided, shall be done in accordance with plans and specifications approved by the City Engineer and on file in the City Engineer's office. However, any driveway constructed, whether the street has a curb and gutter or not, shall be constructed of at least an eight-inch stone base and a two-inch blacktop surface or shall be constructed of concrete with a minimum slab thickness of six inches. Unless specifically ordered otherwise by the City Engineer, any person causing a driveway entrance to be installed from a pavement having no curb and gutter shall install a culvert with a minimum diameter of ten inches under the drive in such a manner as to allow for the free flow of water along the edge of the street. ('70 Code, § 903.07) (Ord. 65-122, passed 12-13-65)

**§ 903.08 VACATION OF STREETS AND ALLEYS.**

(A) The Clerk of Council, on application to vacate any street or alley or part thereof, shall notify all abutting property owners by mailing to them a copy of such petition by certified mail. Proof of such notice shall be filed with the Clerk of Council.

(B) The cost of erecting special barricades, in the amount of \$75 shall be assessed to and paid by the petitioner to the Safety/Service Director in all alley vacations where the erection of such barricades is required. ('70 Code, § 903.08) (Ord. 68-26, passed 2-26-68; Am. Ord. 1984-108, passed 12-10-84; Am. Ord. 1990-68, passed 6-25-90)

**§ 903.09 DEVELOPMENT IMPROVEMENTS.**

(A) All future development of streets not covered by the subdivision regulations of the municipality shall include the construction of curbs, sidewalks, sanitary sewers and proper storm drainage.

(B) All such development shall be approved by the City Engineer. ('70 Code, § 903.09) (Ord. 1972-7, passed 1-24-72)



**§ 903.99 PENALTY.**

Whoever violates any of the provisions of this chapter shall be fined not more than \$500. Any such violation shall constitute a separate offense on each successive day continued. ('70 Code, § 903.99) (Ord. 7085, passed 10-8-62)

***Cross-reference:***

*Division of Engineering, see Ch. 141*

*Barricades and warning lights, see §§ 660.09 and 901.12*

*Sidewalk obstructions, see § 660.10*

*Excavations; permits, see Ch. 901*

## CHAPTER 905: TREES

### Section

- 905.01 Planting trees in the street lawn
- 905.02 Trimming of trees, plants, shrubbery
- 905.03 Notice by Safety/Service Director
- 905.04 Removal of trees, plants or shrubbery by municipality
- 905.05 Assessment of costs by municipality
- 905.99 Penalty

#### **§ 905.01 PLANTING TREES IN THE STREET LAWN.**

No person shall plant any tree or shrub within the tree lawn, street lawn or that area located between the sidewalk and the curb line on any street without first obtaining a written permit to do so from the City Engineer and paying the fee as required as set forth upon the fee schedule maintained within the City Engineer's Office. ('70 Code, § 905.01) (Ord. 7228, passed 10-14-63; Am. Ord. 2001-154, passed 12-26-2001) Penalty, see § 905.99

#### **§ 905.02 TRIMMING OF TREES, PLANTS, SHRUBBERY.**

The owner or occupant of every lot or parcel of land within the municipality upon which a tree, plant or shrubbery stands:

(A) Shall trim or cause to be trimmed such tree, plant or shrubbery so that a clear height of seven feet between the lowest branches of the same and the sidewalk is maintained.

(B) Shall trim or remove, as the case may require, every dead, decayed or broken tree, plant or shrubbery, or part thereof, so that the same shall not fall to the street or sidewalk; and

(C) Shall cut down and remove any tree, plant or shrubbery, or any part thereof, as may be necessary to provide a clear and unobstructed view of traffic from all directions at any street intersection, or to abate any nuisance necessary to protect life, limb or property of persons, drivers of any vehicles or pedestrians. ('70 Code, § 905.02) (Ord. 68-105, passed 7-22-68) Penalty, see § 905.99

#### **§ 905.03 NOTICE BY SAFETY/SERVICE DIRECTOR.**

The Safety/Service Director shall prepare and cause a written notice to be served upon the owner, lessee, agent, tenant or other person or persons having charge of land or lands that trees, plants or shrubbery are growing upon such land or lands and that such trees, plants or shrubbery must be trimmed or removed within five days after the date of such notice in accordance with § 905.02. ('70 Code, § 905.03) (Ord. 68-105, passed 7-22-68)

#### **§ 905.04 REMOVAL OF TREES, PLANTS OR SHRUBBERY BY MUNICIPALITY.**

In the event the owner or occupant does not trim or remove any tree, plant or shrubbery, or any part thereof, in accordance with this chapter, the Safety/Service Director is authorized to have enforced the provisions of this chapter and to cause to be trimmed or removed such tree, plant, shrubbery or part thereof. ('70 Code, § 905.04) (Ord. 68-105, passed 7-22-68)

#### **§ 905.05 ASSESSMENT OF COSTS BY MUNICIPALITY.**

Whenever any tree, plant, shrubbery or part thereof is growing upon private property contiguous to a street, sidewalk or public place, and is trimmed or removed by the municipality, the municipality shall give five days notice, after the work is done, by regular mail, to the owner of such lot or parcel of land, at his/her last known address, to pay the cost of such trimming or removal of trees, plants, shrubbery or parts thereof, which notice

shall be accompanied by a statement of the amount of cost incurred. In the event the same is not paid within 30 days after the mailing of such notice, then such amount shall be certified to the County Auditor for collection the same as other taxes and assessments are collected. ('70 Code, § 905.05) (Ord. 68-105, passed 7-22-68)

**§ 905.99 PENALTY.**

Whoever violates any of the provisions of this chapter shall be fined not more than \$50. Any such violation shall constitute a separate offense on each successive day continued. ('70 Code, § 905.99) (Ord. 7085, passed 10-8-62; Am. Ord. 2001-154, passed 12-26-2001)

***Cross-reference:***

*Injuring vines, bushes, trees or crops, see § 642.06*

***Statutory reference:***

*Power to regulate shade trees and shrubbery, see R.C. § 715.20*

*Assessments for tree planting or maintenance, see R.C. § 727.011*

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### CHAPTER 911: SEWER REGULATIONS

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***GENERAL PROVISIONS***

**§ 911.01 DEFINITIONS.**

Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:

***BIOCHEMICAL OXYGEN DEMAND (BOD).*** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20°C., expressed in milligrams per liter.

***BUILDING DRAIN.*** That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it up and to the building service sewer, beginning five feet (1.5 meters) outside the inner face of the building wall.

***BUILDING SERVICE SEWER*** or ***SERVICE LINE.*** That part of the horizontal piping extending from the building drain to the public sewer or other place of disposal; also called house sewer.

***CATEGORICAL PRETREATMENT STANDARDS.*** National pretreatment standards specifying quantities or concentrations of pollution which; may be discharged or introduced into the municipal wastewater treatment works by specific industrial dischargers.

***CHEMICAL OXYGEN DEMAND (COD).*** The quantity of oxygen utilized in the chemical oxidation of organic matter under standard laboratory procedures expressed in milligrams per liter.

***COMBINED SEWER.*** A sewer intended to receive both wastewater and storm or surface water.

**COMPATIBLE POLLUTANT.** BOD, suspended solids, pH, and fecal coliform bacteria, plus additional pollutants identified in the National Pollutant Discharge Elimination System (NPDES) permit if the publicly owned treatment works was designed to treat such pollutants, and in fact does remove such pollutants to a substantial degree. Examples of such additional pollutants may include:

- (1) COD;
- (2) Total organic carbon;
- (3) Phosphorus and phosphorus compounds;
- (4) Nitrogen and nitrogen compounds; and
- (5) Fats, oils, and greases of animal or vegetable origin except as prohibited under § 911.42.

**COMPOSITE SAMPLE.** A sample consisting of several affluent portions collected during a specific time period and combined to make a representative sample.

**DRY INDUSTRIAL USER.** Flow comprised of other than process waste, such as sanitary or noncontact cooling water.

**ENGINEER.** The City Engineer or his/her authorized deputy, agent, or representative.

**FEDERAL ACT.** The Clean Water Act, 33 U.S.C. 1251 et seq, as amended, Public Law 92-500, and any amendments thereto, as well as any guidelines, limitations, and standards promulgated by the U.S. Environmental Protection Agency (U.S. EPA) pursuant to the Act.

**FLOATABLE OIL.** Oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility.

**GARBAGE.** The animal and vegetable waste resulting from the handling, preparation, cooking and serving of food.

**GROUND GARBAGE.** The residue from the preparation, cooking, and dispensing of food that has been shredded to such a degree that all particles will be carried freely in suspension under the flow conditions normally prevailing in public sewers with no particle greater than ½ inch in any dimension.

**INCOMPATIBLE POLLUTANT.** Any pollutant which is not a **COMPATIBLE POLLUTANT** as defined in this section.

**INDIRECT DISCHARGE.** The discharge or the introduction of nondomestic pollutants from a source regulated under the Clean Water Act into the municipal sewage disposal works.

**INDUSTRIAL WASTES.** The wastewater from industrial processes, trade, or business as distinct from domestic or sanitary wastes.

**INTERFERENCE.** A discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

- (1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
- (2) 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.

**LATERAL SEWER.** A sewer that discharges into a branch or other sewer and has no other common sewer, except building service sewers, tributary to it.

**MAY** is permissive; **SHALL** is mandatory.

**MG/L.** Milligram per liter.

**NATURAL OUTLET.** Any outlet, including storm sewers and combined sewer overflows in a watercourse, pond, ditch, lake, or other body of surface or groundwater.

**NEW SOURCE.** 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. Further, interpretation of this definition may be found in Title 40 CFR part 403.3(k), or 53 FR 40610.

**NONSIGNIFICANT INDUSTRIAL USER.** A facility that discharges a process waste into the sanitary sewer and/or has the potential to discharge pollutants in quantity to adversely affect the POTW.

**NORMAL STRENGTH SEWAGE or WASTES.** For the purpose of determining surcharge, means sewage having an average daily suspended solids concentration of not more than 300 milligrams per liter, an average daily BOD<sub>5</sub> or TOC concentration of not more than 300 milligrams per liter, an average daily PO<sub>4</sub> concentration of not more than 25.0 milligrams per liter, an average daily NH<sub>3</sub> as N of not more than 15.0 milligrams per liter, or an average daily COD concentration of not more than 350 milligrams per liter.

**NPDES PERMIT.** The National Pollutant Discharge Elimination System permit.

**PASS THROUGH.** A discharge which exits the POTW into waters of the United States in quantities or concentrations which alone or in conjunction with a discharge or discharges from other sources is a cause of a violation of any requirement of the municipality's NPDES Permit, including an increase in the magnitude or duration of a violation.

**PERSONS.** Any individual, firm, company, association, society, or corporation, or group.

**PH.** The reciprocal of the logarithm of the hydrogen concentration. The concentration is the weight of hydrogen in grams per liter of solution.

**POLLUTANT.** Dredged spoil, solid waste, incinerator residue, wastewater, garbage, wastewater sludge, munitions, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

**POTW.** Publicly owned treatment works means any sewage treatment works and the sewers and conveyance appurtenances discharging thereto, owned and operated by the municipality.

**PRETREATMENT.** The reduction of the amount of pollutants, the elimination of pollutants, or the

alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the sewage disposal works.

**PUBLIC SEWER.** A sewer provided by or subject to the jurisdiction of the municipality. It shall also include sewers within or outside the municipal boundaries that serve one or more people and ultimately discharge into the municipal sewer system, even though those sewers may not have been constructed with municipal funds.

**SAFETY/SERVICE DIRECTOR.** The Director of Public Safety/Service of the municipality or his/her duly authorized deputy, agent, or representative.

**SANITARY SEWAGE.** The liquid of water-carried wastes discharged from toilets and other sanitary conveniences.

**SANITARY SEWER.** A sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.

**SERVICE CHARGE.** The basic assessment levied on all users of the public sewer system whose wastes do not exceed in strength the concentration values established as representative of normal sewage.

**SEWAGE.** The water-carried human, animal, and household wastes in a public or private sewer and may include groundwater infiltration, surface drainage, and industrial wastes.

**SEWAGE DISPOSAL WORKS.** All facilities for collecting, pumping, treating, and disposing of sewage and industrial waste and includes sewerage as well as the sewage treatment facilities.

**SEWAGE TREATMENT PLANT.** An assemblage of devices, structures, and equipment for treating sewage and industrial waste.

**SEWER.** A pipe or conduit for conveying sewage or any other waste liquid, including storm, surface and groundwater drainage.

**SEWERAGE.** The system of sewers and appurtenances for the collection, transportation, and pumping of sewage and industrial wastes.

**SIC MANUAL.** The Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented.

**SIGNIFICANT INDUSTRIAL USER.**

(1) All discharges subject to categorical pretreatment standards under Title 40 CFR part 403.6 and 40 CFR Chapter 1, Subchapter N; and

(2) All noncategorical discharges that, in the opinion of the control authority, have a reasonable potential to adversely affect the POTW's operation, or that contribute a process wastestream which makes up 5% or more of the average dry weather capacity of the POTW treatment plant, or that discharge an average of 25,000 gallons per day or more of process wastewater to the POTW. Any noncategorical industrial user that has no potential for adversely affecting the POTW or for violating any pretreatment standard or requirement need not be designated as significant. Final determinations in this exclusion will be made by the POTW in conjunction with the OEPA.

**SLUG.** Any discharge of water or wastewater which in concentration of any given constituent or in quantity



of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation and that adversely affects the collection system and/or performance of the wastewater treatment plant.

***SPECIFICATIONS FOR MATERIALS.*** Standards of specifications identified by the following abbreviations:

ANSI: American standards approved by the American National Standards Institute Inc., 1430 Broadway, New York, New York 10018.

ASTM: Standards and tentative standards published by the American Society for Testing and Materials, P.O. Box 7510, Philadelphia, Pennsylvania 19101.

CS: Commercial standards representing recorded voluntary recommendations of the trade, issued by the United States Department of Commerce and obtainable from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20234.

***STORM DRAIN or STORM SEWER.*** A drain or sewer for conveying water, groundwater, subsurface water, or unpolluted water from any source.

***STORM WATER RUNOFF.*** That portion of the rainfall that is drained into the sewers.

***SURCHARGE.*** The assessment, in addition to the service charge, which is levied on those dischargers whose wastes are greater in strength than the concentration values established as representative of normal sewage.

***SUPERINTENDENT.*** The Superintendent of Water Pollution Control of the municipality or his/her authorized deputy, agent, or representative.

***SUSPENDED SOLIDS.*** Total suspended matter that either floats on the surface of or is in suspension in water, wastewater, or other liquids and that is removable by laboratory filtering as prescribed in Standard Methods for the Examination of Water and Wastewater and referred to as nonfilterable residue.

***TOTAL ORGANIC CARBON (TOC).*** The quantity of organic carbon present as a difference between the total carbon and inorganic carbon as determined by combustion infrared methods expressed in milligrams per liter.

***TOXIC POLLUTANTS.*** Those substances or combinations of substances including disease causing agents which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organisms, either directly from the environment or indirectly by ingestion through food chains, will, on the basis of information available to the director cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions, or physical deformations, in such organisms or their offspring.

***UG/L.*** Micrograms per liter.

***UNPOLLUTED WATER.*** Water of quality equal to or better than the affluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefitted by discharge to the sanitary sewers and wastewater treatment facilities provided.

***UPSET.*** An exceptional incident in which a user unintentionally and temporarily is in a state of noncompliance with the standards set forth in this chapter due to factors beyond the reasonable control of the user and excluding noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation

thereof.

**WASTEWATER.** The spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with any groundwater, surface water, and storm water that may be present.

**WASTEWATER TREATMENT WORKS.** An arrangement of devices and structures for treating wastewater, industrial wastes, and sludge. Sometimes used as synonymous with **WASTE TREATMENT PLANT** or **WASTEWATER TREATMENT PLANT** or **WATER POLLUTION CONTROL PLANT**. (Ord. 1990-29, passed 2-26-90)

**§ 911.02 DIRECTOR'S POWERS AND DUTIES.**

The Safety/Service Director shall manage, conduct, and control the sewerage system and sewage pumping, treatment, and disposal works. When Council has established a schedule of rates or charges of rents for their use, the Director shall ensure the collection of sewer rentals. He/she shall appoint the necessary officers and agents for the purposes of this section. (Ord. 1990-29, passed 2-26-90)

**§ 911.03 CITY ENGINEER'S POWER AND DUTIES; RIGHT OF ENTRY.**

(A) The City Engineer is authorized and directed to adopt and enforce specifications and regulations in accordance with the provisions of this chapter for the purpose of providing control of the installation of sewer connections and the inspection thereof. The City Engineer shall maintain accurate and complete records of all permits issued and inspections made. The City Engineer is authorized to require abandonment and removal of connections to the public sanitary or storm sewers which violate the provisions of this chapter.

(B) The City Engineer and his/her authorized representative are authorized to enter upon any private premises at all reasonable times for the purpose of inspecting storm and sanitary sewer, excavations for the same, and connection to ensure compliance with this chapter and Chapter 901 and any other provisions of this code relating to the same. No person shall refuse the City Engineer or his/her authorized representatives this right of entry. (Ord. 1990-29, passed 2-26-90)

**§911.04 GRIEVANCES AND APPEALS**

(A) Any user aggrieved by a decision of the Water Pollution Control Division and/or the City Engineer may file a written appeal of that decision with the Safety/Service Director. The appeal shall state the basis of the User's complaint and the decision of the Water Pollution Control Division and/or the City Engineer.

(B) The Safety/Service Director shall investigate the complaint and issue a written decision. Such decision shall include:

1. Name, address, and location of the premises of the User;
2. Summary of the User's complaint;
3. Synopsis of the facts presented by the Division of Water Pollution Control and/or the City Engineer.
4. The decision of the safety/Service Director, with accompanying justification.
5. An interpretation/clarification of any applicable policy, regulation or law.

(C) No legal action in the courts of the City, State or Federal government shall be initiated by an User until completion of this administrative remedy. (Ord. 1996-8, passed 1-22-1996)

**SEWER CONNECTIONS**

**§ 911.11 CONNECTIONS LIMITED TO ONE SEWER TAP.**

No person shall attach or connect for drainage purposes more than one house, building, or other structure to any storm or sanitary sewer tap in any sewer of the system of the municipality, provided that any private garage or similar building or structure used as an adjunct to, connected with, and located on the same lot with any house, building, or other structure. Adjunct uses and group development complexes, such as apartments, commercial, and industrial complexes, shall be reviewed and approved individually by the City Engineer. (Ord. 1990-29, passed 2-26-90) Penalty, see § 911.99

**§ 911.12 SANITARY CONNECTION REQUIRED WHERE AVAILABLE.**

No person, either as owner, agent, renter, lessee, or employee shall build, construct, maintain, or use on any lot, land, or premises within the municipality any toilet, closet, or privy the excrement from which is deposited in a vault, excavation, or receptacle, which vault, excavation, or receptacle is not connected with and flushed into a sanitary sewer whenever such lots, lands, or premises are capable of direct connections with any sanitary sewer. (Ord. 1990-29, passed 2-26-90) Penalty, see § 911.99

**§ 911.13 CONNECTION FEES.**

(A) Connection fee for no prior assessment in the municipality. No person shall make or construct any connection or tap with or into any public sanitary, storm water, or other sewer or drain in the municipality for any lot or part of lot or other parcel of land that has not been assessed at the same rate as other property for the cost of such sewer or drain without first paying a connection fee therefore to the Safety/Service Director. The connection fee shall be an amount that when added to prior charges, if any on the property subjects the property to a charge for the use of the sewer or drain at the same rate as other property assessed or charged in some manner for the cost of such sewer or drain, but in no event shall such connection fee be less than that as recorded on the connection fee schedule available in the City Engineer's Office

(1) Each lot or parcel or benefited property connecting either directly or indirectly shall be charged based upon the number of units or parts thereof as determined from the sum of the factors as set forth in Schedule A as follows:

<i>Schedule A</i>	
<i>Type of Use</i>	<i>Factor for Use Benefits</i>
Apartments and Condominiums	
one bedroom	0.625 per unit
two bedroom	0.75 per unit
three bedroom	1.00 per unit
Assembly Halls	0.005 per seat
Churches (small)	0.010 per sanctuary seat
Churches (large w/kitchen)	0.015 per sanctuary seat
Commuter Colleges	0.025 per student
Dance Halls	0.005 per person
Factories (no industrial waste, no shower)	0.0625 per employee
(with showers)	0.0875 per employee
Food Service Operations	
restaurant (not 24 hr.)	0.0875 per seat
24 hr. restaurant	0.1250 per seat
banquet rooms	0.0125 per seat
tavern	0.0875 per seat

curb service	0.1250 per car space
vending machine	0.2500 per seat
Hospitals	0.750 per bed
Institutions	0.250 per person
Laundries (coin-operated)	1.0 per washing machine
Motels	0.250 per unit
Nursing and Rest Homes	0.375 per patient
Office Buildings	0.050 per employee
Residences - Family Unit	1.00 per unit
Retail Sales	0.0625 per employee
Schools - Elementary	0.0375 per student
Highschool and Jr. High	0.050 per student
Service Stations	2.50 per bay 1.25 per additional bay
Shopping Centers	0.0005 per square foot floor space
Swimming Pool w/hot water shower	0.015 per swimmer
Trailer Parks	0.50 per space

(2) For any use the minimum connection charge shall be equivalent to a factor of 1.0.

(3) For any use not shown, the factor for use benefits shall be determined by the City Engineer by the use of accepted engineering practices and taking into account anticipated sewage flow and sewage strength.

(4) Connection Charges shall be \$930.00. The connection charge under this section shall be calculated in accordance with this schedule by multiplying the factor for use benefit by the care for one benefit.(Ord. 2015-08, passed 1-26-2015)

(B) Connection fee for connection outside the municipality. No person shall make any sewer connection, to serve any property not within the municipality, to any sewer under the direct control of the municipality or otherwise discharge sewage, toilet wastewater or other liquids, either directly or indirectly, into the sanitary sewerage system of the municipality without first having obtained a permit therefore from the Safety/Service Director. For each permit so issued, the Director shall charge and collect the sum as recorded on the connection fee schedule available in the City Engineer's Office.

(C) Other charges for connections outside the municipality. Where sanitary sewers have been constructed outside the municipality with the use of municipal funds, a pro-rata charge, established by separate ordinance, shall be charged and collected for each connection prior to issuance of any permit required herein. All such charges shall be separate from and in addition to the connection fee set forth above. (Ord. 1990-29, passed 2-26-90; Am. Ord. 1992-32, passed 5-26-92) Penalty, see § 911.99

**§ 911.14 SANITARY CONNECTION; PERMIT REQUIRED.**

(A) No house sewer or drain shall be constructed to connect with the public sanitary sewer, nor shall any connection be made to a public sanitary sewer within the municipality until a written permit from the City Engineer has been obtained by the people employed to perform the work.

(B) The City Engineer shall review all applications as required by § 911.13 and is hereby granted the authority to grant or deny any application. The City Engineer shall deny any application and refuse to issue the written permit required by this section in the event the existing public sanitary sewer is inadequate or the connection to be made to the public sanitary sewer will cause damage to properties presently tapped into such public sanitary sewer. However, no new permit will be issued when it has been determined by the Superintendent of the wastewater treatment system that there does not exist sufficient capacity in the wastewater treatment system, including collecting, pumping, treating, and disposing of wastes as may be discharged by the applicant of such new permit.

(C) The provisions of Chapter 901 shall be applicable to excavations made for purposes contemplated by this section. (Ord. 1990-29, passed 2-26-90) Penalty, see § 911.99

#### **§ 911.15 SANITARY CONNECTION PERMIT; APPLICATION FEE.**

An application for the permit required by § 911.14 shall be signed by the people employed to perform the work and must describe the property and state the fixtures to be used. The application shall be accompanied by a fee in the amount as shown on the fee schedule available in the City Engineer's Office. (Ord. 1990-29, passed 2-26-90)

#### **§ 911.16 SANITARY SEWER DISCHARGE REQUIREMENTS.**

The written permit required by § 911.14 to construct a building sewer or drain or to make a connection to a public sanitary sewer shall specify the permissible use of such building sewers or drains and such specifications shall be governed by the following requirements:

(A) Sewage, including waste from water closets, lavatories, sinks, bathtubs, showers, laundries, garage, bars, soda fountains, cuspidors, refrigerators, drips, drinking fountains, and other objectionable waste shall be discharged into a sanitary sewer and in no case into a storm sewer.

(B) Industrial waste shall not be discharged into a storm water sewer but may be discharged into a sanitary sewer if the waste is of such character as not to be detrimental to the sewer system or to the sewage treatment works.

(C) Surface water, rain water from roofs, subsoil drains, building foundation drainage, cistern overflow, clear water from condensers, wastewater from water motors and any other clean and unobjectional wastewater shall be discharged into a storm sewer and in no case into a sanitary sewer.

(D) A trap for the interception of grease and oil shall be provided on a connection from a hotel, restaurant, butcher shop, club, or institutional kitchen or a public garage or automobile wash station or any other type of facility determined by the City Engineer. Such trap shall be satisfactory to the City Engineer.

(E) After a building sewer to be connected with a sanitary sewer is laid and before it is covered or used, it shall be inspected and approved by the City Engineer or his/her authorized agent.

(F) In the case of a premises having a connection with the municipality's wastewater facilities via a combined sewer, the sewer shall be regarded as a sanitary sewer and subject to the provisions of this chapter for the discharge of sewage and industrial waste, the exception being the discharge of unpolluted water to a combined sewer, which would be considered a discharge to a storm sewer. (Ord. 1990-29, passed 2-26-90) Penalty, see § 911.99

**§ 911.17 PRIVATE SEWERS PROHIBITED ON MUNICIPAL PROPERTY.**

No private sewer shall be constructed on municipal property. (Ord. 1990-29, passed 2-26-90) Penalty, see § 911.99

**§ 911.18 COMPLIANCE REQUIRED WITH SANITARY REQUIREMENTS.**

The construction of all sanitary sewers within the municipality or connections to the sanitary sewer system of the municipality shall comply with the requirements hereinafter set forth. (Ord. 1990-29, passed 2-26-90) Penalty, see § 911.99

**§ 911.19 SANITARY PIPE MATERIALS.**

All sanitary sewers shall be constructed of sewer pipe meeting the following material specifications:

- (A) Extra strength vitrified sewer pipe as described in ASTM C-700;
- (B) Standard strength vitrified sewer pipe as described in ASTM C-700;
- (C) Reinforced concrete pipe as described in ASTM C-76;
- (D) Asbestos cement nonpressure sewer pipe as described in ASTM C-428;
- (E) Asbestos cement pressure pipe as described in ASTM C-296;
- (F) Polyvinyl chloride (PVC) nonpressure sewer pipe as described in ASTM D-3034 SDR-35;
- (G) Polyvinyl chloride (PVC) pressure pipe as described in ASTM D-2241; and

(H) Acrylonitrile butadiene styrene (ABS) solid wall, as described in ASTM D-2751 and ABS truss pipe as described in ASTM D-2680. (Ord. 1990-29, passed 2-26-90) Penalty, see § 911.99

**§ 911.20 SANITARY JOINTS AND PROCESSES.**

All sanitary sewer pipes shall be joined with what is considered a premium joint. Joints shall conform to ASTM C-425 for vitrified sewer pipe, ASTM C-443 for concrete pipe, ASTM D1869 for asbestos cement pipe, ASTM 3212 for polyvinyl chloride (PVC) pipe and to ASTM D-2680 and ASTM D-2235 for acrylonitrile butadiene styrene (ABS) pipe. The City Engineer shall approve or reject newly developed jointing processes. However, in no case shall the efficiency of any material or process be less than those described in this section. (Ord. 1990-29, passed 2-26-90) Penalty, see § 911.99

**§ 911.21 TESTING OF NEW SANITARY SEWERS.**

All new sanitary sewers shall be constructed in such a watertight manner that they will pass a low pressure air test as outlined in Low Pressure Air Test for Sanitary Sewers (Procedures and Tables), a National Clay Pipe Institute publication. The contractor shall make arrangements for a disinterested third party to perform such low pressure air tests, the cost to be paid for by the contractor. All tests are to be conducted under the observation of the City Engineer. If for some reason an air test is not feasible, the City Engineer may, at his/her discretion, order a different type of test to be performed. (Ord. 1990-29, passed 2-26-90) Penalty, see § 911.99

**§ 911.22 CONCRETE SUPPORT OF WYES.**

All wyes shall be backed up, supported, and completely surrounded with a six-inch jacket of portland cement concrete. The concrete shall be a mixture of gravel, sand, and portland cement in quantities that will

develop a compressive strength of 3,000 pounds per square inch at the age of 30 days. (Ord. 1990-29, passed 2-26-90) Penalty, see § 911.99

### **§ 911.23 RESIDENCE SERVICE LINES.**

All residence service lines shall be a minimum pipe diameter of six inches from the wye to the soil pipe extending from the building. The pipe and joint materials shall be as described in §§ 911.19 and 911.20. The grade of residence services shall be 1/4 inch per foot (2%). (Ord. 1990-29, passed 2-26-90) Penalty, see § 911.99

### **§ 911.24 LATERAL SEWERS.**

Lateral sewers shall have a minimum pipe size of eight inches internal diameter and shall be laid on a grade which will provide a full flow velocity of two feet per second. (Ord. 1990-29, passed 2-26-90) Penalty, see § 911.99

### **§ 911.25 TAPPING METHODS AND FEES.**

(A) For lots that have not previously been assessed a connection fee, should it be determined that a tap must be made into a sanitary sewer to provide an outlet for a residence service line, the permittee shall provide the tap by using an approved rotary tool and an approved saddle sealed in place by a method approved by the City Engineer. Should the service line be of the same size as the sewer being tapped, a section of the sewer shall be removed and a wye branch installed using an approved coupling. For lots that have previously been assessed, but no tap provided, the municipality shall provide the tap and extend the service lateral to the right of way line, using the approved methods as outlined above.

(B) The Safety/Service Director shall charge the owner a tapping fee to pay for the cost incurred by the municipality for providing the sewer tap. The City Engineer and Superintendent of the Division of Water Pollution Control shall review the tapping fee charges on an annual basis to keep the fee representative of actual municipal costs.

(C) In lieu of paying the tapping fee to the municipality, the owner or people employed to perform the work, after showing evidence of approved tapping methods and equipment, may, by approval of the City Engineer, tap the sewer line at his/her own cost. (Ord. 1990-29, passed 2-26-90)

## ***REQUIREMENTS FOR WASTEWATER COLLECTION AND TREATMENT***

### **§ 911.39 GENERAL PROVISIONS FOR §§ 911.40 THROUGH 911.99.**

(A) Sections 911.40 through 911.99 of this chapter sets forth uniform requirements for contributors into the wastewater collection and treatment system for the municipality and enables the municipality to comply with all applicable state and federal laws required by the Clean Water Act of 1977 and the General Pretreatment Regulations, 40 CFR, Part 403.

(B) The objectives of these aforementioned sections of this chapter are:

(1) To prevent the introduction of pollutants into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;

(2) To prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;

(3) To improve the opportunity to recycle and reclaim wastewaters and sludges from the system; and

(4) To provide for equitable distribution of the cost of the municipal wastewater system.

(C) This chapter provides for the regulation of contributors to the municipal wastewater system through the issuance of permits to certain non domestic users and through enforcement of general requirements for other users, authorized monitoring and enforcement activities, requires user reporting, , assumes that existing customer's capacity will not be preempted, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein. (Ord. 1990-29, passed 2-26-90)

**§ 911.40 SUPERINTENDENTS POWER AND DUTIES; RIGHT OF ENTRY.**

The Superintendent and his/her authorized representative are authorized to enter upon any private premises for the purpose of determining if industrial waste is being discharged. This authority will permit the inspection of all areas of the premises, sampling and monitoring of waste and materials and reviewing and copying any necessary records. (Ord. 1990-29, passed 2-26-90)

**§ 911.41 SUBSTANCES PROHIBITED.**

No person shall discharge or cause to be discharged any of the following described waters or wastes into the public sewer system:

(A) Gasoline, benzene, naphtha, fuel oil, or other liquids, solids or gases which may create a fire or explosion hazard in the POTW, including but not limited to, wastestreams with a closed cup flashpoint of less than 140° F. or 60° C. using the test methods specified in 40 CR 261.21;

(B) Waters or wastes having any corrosive property capable of causing damage or hazard to structures, equipment, or personnel of the wastewater works, but in no case having a pH lower than 5.0; or

(C) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers or other interference with the proper operation of the wastewater facilities such as, but not limited to, ashes, bones, cinders, sand, mud, straw, shavings, metal, rags, feathers, tar, plastics, wood, unground garbage, paunch manure, fleshings, entrails, and paper containers, either whole or ground by garbage grinders.

(D) Any substance which may cause the municipal treatment plant's effluent or treatment residues, sludges, or scums to be unsuitable for reclamation and reuse or to interfere with the reclamation process or to cause the municipal treatment plant to be in noncompliance with sludge use or disposal criteria.

(E) Any substances, materials or waters, including petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts which either singly or by interaction with other substances, materials or waters, may be interfering with treatment processes or pass through the treatment processes, that cause the municipality to violate its NPDES permit. (Ord. 1990-29, passed 2-26-90; Am. Ord. 1992-120, passed 11-9-92) Penalty, see § 911.99

**§ 911.42 SUBSTANCES LIMITED.**

(A) The following described substances, materials, waters, or wastes shall be limited in discharge into municipal systems to concentrations or quantities which will not harm either the sewers or the wastewater treatment process or equipment, will not have an adverse effect on the receiving stream or will not otherwise endanger life, limb, or public property or constitute a nuisance.

(B) The discharge of sewage to the municipality's sewerage system must comply with either a wastewater discharge permit or be in compliance with the limitations contained herein. The Superintendent may set limitations lower than the limitations established in the regulations below, if in his/her opinion such more severe limitations are necessary to meet the above objectives.



(C) Wastewater discharge permits shall be issued by the Superintendent in accordance with all National Categorical Pretreatment Standards and the objectives of this chapter. Deliberate dilution with unpolluted water to meet categorical pretreatment standards or the concentrations established in the regulations below shall not be permitted. In forming his/her opinion as to the acceptability, the Superintendent shall give consideration to such facts as the quantity of the subject waste in relation to flows and velocities in the sewers, the materials of construction of the sewers, the wastewater treatment process employed, the capacity of the wastewater treatment plant, the degree of treatability to the waste in the wastewater treatment plant, and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewater discharged into the sanitary sewer which shall be as follows:

(1) Wastewater having a temperature higher than 150° F. (65.6° C.); or which causes the temperature at the sewage treatment plant to exceed 104° F. (40° C.).

(2) Wastewater containing more than 100 milligrams per liter of petroleum oil, nonbiodegradable cutting oils a product of mineral oil original; wastewater containing floatable oils, fat, greases or containing substances which may solidify or become viscous at temperatures between 32° F. (0° C.) and 150° F. (65.6° C.) so as to cause obstruction to the flow in the public sewers;

(3) Any garbage that has not been properly shredded. Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers;

(4) Any waters or wastes containing solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with the wastewater treatment process, constitute a hazard to humans or animals, create a public nuisance or create any hazard in the receiving waters of the wastewater treatment plant, including, but not limited to, arsenic, lead, mercury, chromium, copper, zinc, cadmium, nickel, antimony, selenium, molybdenum, and silver in the wastes as discharged into the public sewer. No user shall discharge wastewater containing the following pollutants exceeding the concentrations listed below unless issued a wastewater discharge permit by the superintendent specifically allowing higher concentrations. These higher concentrations will be conditioned with other requirements and shall not interfere with the general intent of § 911.42.

Arsenic	143	ug/1	Zinc	2000	ug/1
Cadmium	50	ug/1	Antimony	1500	ug/1
Chromium	3200	ug/1	Selenium	80	ug/1
Copper	1800	ug/1	Molybdenum	200	ug/1
Lead	450	ug/1	Silver	1000	ug/1
Mercury	3	ug/1			
Nickel	1800	ug/1			

These maximum concentrations may be changed as necessary by the Superintendent based on new information concerning inhibitory substances or to protect treatment plant processes. Industrial dischargers covered by federal pretreatment requirements shall meet those limitations specified under the effluent guidelines published under Sections 304(b) and 307(b) of the Federal Act or the above concentrations, whichever are more stringent. National Categorical Pretreatment Standards, as promulgated by the U.S. EPA, shall be met by all dischargers of the regulated industrial categories.

The deadline for compliance with categorical standards for existing sources shall be within three years of the date the standard is effective unless a shorter compliance time is specified. Existing sources which become industrial users subsequent to promulgation of an applicable categorical pretreatment standard shall be considered existing industrial users except where such sources meet the definition of a **NEW SOURCE** as defined in § 911.04.24. 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.

(Ord. 2000-135, passed 11-13-2000)

(5) Any waters or wastes containing odor-producing substances exceeding limits which may be established by the Superintendent.

(6) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits in compliance with applicable state or federal regulations.

(7) Quantities of flow, concentrations or both which constitute a *SLUG* as defined in § 911.01.

(8) Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable only to such a degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge into the receiving waters.

(9) Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system, or create a condition deleterious to structures and treatment process.

(10) Any wastewater containing toxic pollutants in sufficient quantity either singly or by interaction, to injure or interfere with any wastewater treatment process, constitutes a hazard to humans or animals, or to exceed the limitations set forth in categorical pretreatment standards.

(11) Wastewater containing an objectionable color not removed in the treatment process, caused by, but not limited to, dye wastes and vegetable tanning solutions. (Ord. 1990-29, passed 2-26-90)

#### **§ 911.43 AUTHORITY FOR CONTROL OF WASTEWATER DISCHARGES.**

(A) If any waters or wastes are discharged or are proposed to be discharged into the public sewers, which contain the substances or possess the characteristics enumerated in §§ 911.41 and 911.42, and which, in the judgment of the Safety/Service Director and Superintendent, may have a deleterious effect upon the wastewater facilities, processes, equipment, or quality standards, or which otherwise create hazard to life or constitute a public nuisance, the Safety/Service Director shall:

(1) Reject the wastes;

(2) Require pretreatment to an acceptable condition for discharge into the public sewers;

(3) Require control over the quantities and rates of discharge;

(4) Require payment to cover the added cost of handling and treatment of the wastes under the provisions of Chapter 912, and/or

(5) Require the discharger to recover all costs incurred by the municipality for monitoring, inspections, and surveillance.

(B) A permit to install is required for new or modified sources of pollution under the provisions of OAC Rule 3745-31. Prior to construction, detail plan approval must be obtained from the Director of the OEPA. Such approval is also required for collection, treatment, and disposal of all other liquid, semi-liquid and sludge wastes. The system must be designed and plans stamped by a registered professional engineer. The Ohio EPA requires that the services of a professional engineer be obtained who is experienced in the preparation of detail plans for the size of system needed, and be familiar with EPA guidelines. (Ord. 1990-29, passed 2-26-90)

#### **§ 911.44 INDUSTRIAL WASTEWATER PRETREATMENT REQUIREMENTS.**

(A) All industrial wastes discharged into the public sewers shall meet the National Pretreatment Standards or best practical control technology currently available for incompatible pollutants as published in Title 40 CFR, Part 403, unless the municipality is committed, in its NPDES permit to a lower level of specific incompatible pollutants, in which case applicable pretreatment standards may be correspondingly changed to lower levels as determined by the Superintendent.

(B) *Mandatory pretreatment.* Pretreatment shall be required by the Safety/Service Director of all industrial wastes that:

- (1) Contain any quantity of substance having characteristics as described in § 911.41; or
- (2) Contain quantities of limited substances as described in § 911.42 in excess of those concentrations permitted.

(C) *Permissive pretreatment.* Pretreatment may be required for all industrial waste discharges of compatible industrial wastes with concentrations exceeding the normal strength limitations when, in the opinion of the Safety/Service Director and Superintendent, it is determined that such wastes cannot be satisfactorily treated without adverse effects to the collection and/or treatment systems. Discharge of wastes exceeding normal strength shall be subject to and require a surcharge to compensate the municipality for all costs associated with the collection, conveyance, treatment, and final disposal of all excess concentrations as provided in Chapter 912.

(D) *Grease and oil interceptors.* For grease, oil, and inorganic material such as sand, grit, and the like, interceptors shall be provided when, in the opinion of the Safety/Service Director, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, as specified in § 911.42, or any flammable wastes, sand, or other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Safety/Service Director and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintenance of these interceptors, the owner shall be responsible for the proper removal and disposal, by appropriate means, of the captured material and shall maintain records of the dates and means of disposal which are subject to review by the Superintendent. Any removal and hauling of the collected materials not performed by the owner's personnel must be performed by currently licensed waste disposal firms.

(E) *Pretreatment facilities.* If the Safety/Service Director requires pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Safety/Service Director and state regulatory agencies and subject to the requirements of all applicable codes, ordinances, and laws.

(F) Plans, specifications, and any other pertinent information prepared by a licensed professional engineer relating to proposed preliminary treatment or processing facilities shall be submitted to the Safety/Service Director prior to the start of construction if the effluent from such facilities is to be discharged into the public sewers. No construction of such facilities shall be commenced until such approval is obtained in writing. (Ord. 1990-29, passed 2-26-90) Penalty, see § 911.99

#### **§ 911.45 NOTIFICATION OF ACCIDENTAL DISCHARGES.**

(A) All industrial users shall notify the POTW immediately of all discharges that could cause problems in the collection system or the POTW, including any slug loadings. Where such information is given orally, a written follow-up report shall be filed by the discharger with the municipality within five days. The report shall specify.

- (1) Description of the upset, the cause thereof, and the upset's impact on a discharger's compliance status.

(2) Duration of noncompliance, including exact dates and times of noncompliance, and if the noncompliance continues, the time by which compliance is reasonably expected to occur.

(3) All steps taken or to be taken to reduce, eliminate, and prevent recurrence of such an upset or other conditions or noncompliance.

(B) A documented and verified bonafide operating upset shall be an affirmative defense to any enforcement action brought by the municipality against a discharger for any noncompliance with this chapter which arises out of violations alleged to have occurred during the period of the upset.

(C) Such notification will not relieve users of liability for any fines provided for in § 911.99 or for any expense, loss, or damage to the sewer system, treatment plant, or treatment process, or for any fines imposed on the agency on account thereof. (Ord. 1990-29, passed 2-26-90) Penalty, see § 911.99

#### **§ 911.46 EMPLOYEES INFORMED OF ACCIDENTAL DISCHARGES REQUIREMENTS.**

In order that employees of users be informed of municipal requirements, users shall make available to their employees copies of this chapter together with such other wastewater information and notices which may be furnished by the municipality from time to time directed toward more effective water pollution control.

#### **§ 911.47 ACCIDENTAL DISCHARGE PREVENTATIVE MEASURES.**

A notice shall be furnished and permanently posted on the user's bulletin board advising employees whom to call in case of an accidental discharge in violation of this chapter. (Ord. 1990-29, passed 2-26-90)

(A) Any direct or indirect connection or entry point for persistent or deleterious wastes to the user's plumbing or drainage system shall be eliminated. Where such action is impractical or unreasonable, the user shall appropriately label such entry points to warn against discharge of such wastes in violation of this chapter.

(B) Detailed plans showing facilities and operative procedures to provide protection from accidental discharges shall be submitted to the municipality for review and approval before construction. Each industrial user shall submit plans to the municipality within six months after adoption of this chapter. No user shall be permitted to introduce pollutants into the municipal system until the municipality has approved the accidental discharge protection procedures. (Ord. 1990-29, passed 2-26-90)

#### **§ 911.48 OPERATION OF PRETREATMENT FACILITIES.**

(A) Where pretreatment or flow-equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his/her expense.

(B) For the purpose of this section **BYPASS** means the intentional diversion of wastestreams from any portion of an industrial user's treatment facility. **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.

(C) An industrial user may allow a 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. The bypasses are not subject to notification requirements.

(D) If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the POTW if possible at least ten days before the date of the bypass. An industrial user shall submit oral notice of an unanticipated bypass within 24 hours from the time the industrial user becomes aware of the bypass. A written submission shall also be provided within five days of the time the industrial user becomes aware of the bypass.

This report shall include the three items listed in § 911.45.

(E) Bypass is prohibited, and the POTW may take enforcement action against an industrial user for a bypass unless;

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

(2) 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 backup equipment should have been installed.

(3) The industrial user submitted notices as required. If these three conditions are met punitive damages will not be sought, but will not relieve users of liability for any expense, loss or damage to the sewer system, treatment plant or process, or for any fines imposed on the POTW on account thereof.

(F) The POTW may approve an anticipated bypass after considering its adverse effects if the three conditions are met. (Ord. 1990-29, passed 2-26-90)

### **§ 911.49 INDUSTRIAL REPORTING REQUIREMENTS.**

(A) *Baseline monitoring requirements.*

(1) Within 180 days after the effective date of a categorical pretreatment standard, or 180 days after the final administrative decision made upon a category determination submission under 40 CFR 403.6(a)(4), whichever is later, a baseline report shall be due. All noncategorical industries shall also submit a baseline report within 180 days of commencement of discharge. New sources and existing sources that become industrial users subsequent to promulgation of categorical standards are required to submit baseline monitoring reports at least 90 days prior to commencement of discharge.

(2) This report shall contain:

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

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

(c) *Description of operations.* The report shall contain a brief description of the nature, average rate of production, and standard industrial classification of the operations performed at the facility. This description should include a schematic process diagram.

(d) *Flow measurement.* The user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams necessary in determining compliance with applicable regulations.

(e) *Measurement of pollutants.* The user shall identify the pretreatment standards applicable to each regulated process. In addition, the user shall submit the results of sampling and analysis identifying the nature and concentration of regulated pollutants. The samples shall be representative of daily operations. A minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organics. For all other pollutants, 24-hour composite samples must be obtained through flow proportioned composite sampling techniques where feasible.

(f) *Certification.* A statement reviewed by an authorized representative of the industrial user and certified to by a qualified professional, indicating whether pretreatment standards are being met on a

consistent basis, and if not whether additional operation and maintenance and/or additional pretreatment is required for the industrial user to meet the pretreatment standards and requirements.

(g) Where additional pretreatment and/or operation and maintenance activities will be required to comply with this chapter, the industry shall provide a declaration of the shortest schedule by which the discharger will provide such additional pretreatment and/or implementation of additional operational and maintenance activities. The schedule shall contain milestone dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the discharge to comply with the requirements of this chapter including, but not limited to dates relating to hiring an engineer, hiring other appropriate personnel, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, and all other acts necessary to achieve compliance with this chapter.

1. Under no circumstances shall the time increment for any single step directed toward compliance exceed nine months.

2. Not later than 14 days following each milestone date in the schedule and the final date for compliance, the industry shall submit a progress report to the Safety/Service Director, including no less than a statement as to whether or not it complied with the increment of progress represented by that milestone date and, if not, the date of which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the industry to return the construction to the approved schedule. In no event shall more than nine months elapse between such progress reports to the Safety/Service Director.

(h) All industrial users are required to promptly notify the POTW in advance of substantial changes in volume or character of discharges, including the listed or characteristic hazardous wastes for which the industrial user has submitted initial notification under 40 CFR 403.12(P).

(i) All industrial users regulated by applicable federal standards shall comply with divisions (B) through (F).

(B) *Report on compliance with categorical pretreatment standard deadline.* Within 90 days following the date for final compliance with applicable categorical pretreatment standards or in the case of a new source following commencement of the introduction of wastewater into the POTW, any industrial user subject to pretreatment standards and requirements shall submit to the Control Authority a report containing the information described in subsections (d) through (f) of this section. For industrial users subject to equivalent mass or concentration limits established by the POTW this report shall contain a reasonable measure of the user's long-term production rate. For all other industrial users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period.

(C) *Periodic report on continued compliance.*

(1) Any discharger subject to a federal pretreatment standard set forth in this chapter, after the compliance date of such pretreatment standard, or, in the case of a new discharger, after commencement of the discharge to the authority, shall submit to the authority during the months of June and December, unless required more frequently by the municipality, a report indicating the nature and concentration, of prohibited or regulated substances in the effluent which are limited by the pretreatment standards hereof. In addition, this report shall include a record of all measured or estimated average and maximum daily flows during the reporting period reported in division (A) of this section. Flows shall be reported on the basis of actual measurement, provided however, where cost or feasibility considerations justify, the municipality may accept reports of average and maximum flows estimated by verifiable techniques. The municipality, for good cause shown considering such factors as local high or low flow rates, holidays, budget cycles, or other extenuating factors may authorize the submission of said reports on months other than those specified.

(2) For industrial users subject to equivalent mass or concentration limits, this report 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, the report shall include the user's actual average production rate for reporting period.

(D) *Signatory requirements for industrial user reports.*

(1) The reports required by § 911.49 shall include the following certification statement. "I have personally examined and am familiar with the information submitted in the attached document, and I hereby certify under penalty of law that this information was obtained in accordance with appropriate requirements. Moreover, based upon my inquiry of those individuals immediately responsible for obtaining the information reported herein, I believe that 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 imprisonment."

(2) The reports required in § 911.49 shall be signed as follows:

(a) By a responsible corporate officer if the industrial user submitting the report is a corporation. For the purpose of this subsection a responsible corporate office means a president, vice-president, secretary, treasurer 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 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 is a partnership or sole proprietorship respectively.

(c) By a duly authorized representative of the individual designated in subsections (a) or (b) above if:

1. The authorization is made in writing by the individual described in subsections (2)(a) or (2)(b);
2. The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates or having overall responsibility for environmental matters for the company; and
3. The written authorization is submitted to the municipality.

(3) If an authorization under subsection (2)(c) of this division 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 this section must be submitted to the municipality prior to or together with any reports to be signed by an authorized representative.

(E) *Monitoring and analysis to demonstrate continued compliance.*

(1) The reports required in § 911.49 shall contain the results of sampling and analysis of the discharge, including flow and the nature and concentration, or production and mass where requested by the municipality. This sampling and analysis may be performed by the municipality in lieu of the industrial user. Where the POTW performs the required sampling and analysis the user will not be required to submit the compliance certification. In addition, where the POTW itself collects all the information required for the reporting including flow data, the industrial user will not be required to submit the report.

(2) If an industrial user monitors any pollutant more often than required, using approved procedures,

the results of his/her monitoring shall be included in the report.

(3) If sampling performed by an industrial user indicates a violation the user shall notify the Control Authority 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 municipality within 30 days after becoming aware of the violation, except the industry is not required to resample if:

(a) The municipality performs sampling that includes analysis for the violated parameters at the industrial user at a frequency of at least once per month, or

(b) The municipality 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.

(F) Information and data furnished to the municipality about nature and frequency of the user's discharge shall be available without restriction unless the user can demonstrate the release of such information would divulge trade secrets or proprietary information. Wastewater constituents and characteristics thereto. Where 40 CFR, Part 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication sampling, and analysis procedures for screening of industrial effluent for priority pollutants, April, 1977, and amendments thereto, or with any other sampling and analytical procedures approved by the administrator of the U.S. EPA. (Ord. 1990-29, passed 2-26-90; Am. Ord. 1992-120, passed 11-9-92) Penalty, see § 911.99

#### **§ 911.50 EXTENSION OF TIME.**

When it can be demonstrated that circumstances exist which would create an unreasonable burden on the person to comply with the time schedule imposed by § 911.49, a request for extension of time may be presented for consideration of the Safety/Service Director. All requests for extension of time shall be submitted in writing stating the reasons for such a request. Under no circumstances shall the extension of time exceed 60 days after approval of the extension by the Safety/Service Director. (Ord. 1990-29, passed 2-26-90)

#### **§ 911.51 WASTEWATER VOLUME DETERMINATION.**

The volume of flow used for computing all user charges and industrial waste surcharges shall be the metered water consumption of the person as shown in the records of water meter readings maintained by the water company servicing the municipality except as provided in this section.

(A) If water metering devices are not available and if the estimated discharge from a premises is less than 10,000 cubic feet per month, then the Safety/Service Director may, based on applicable engineering factors, negotiate an estimated discharge volume to be used for determination of the user charge and/or surcharge. The negotiated discharge volume must be reviewed annually.

(B) If the person discharging industrial wastes into the public sewers procures any part or all of this water from sources other than the water company servicing the municipality, all or part of which is discharged into the public sewer, the person shall install and maintain at his/her expense water meters of a type approved by the Safety/Service Director for the purpose of determining the volume of water obtained from those other sources.

(C) If a person can demonstrate to the satisfaction of the Safety/Service Director with respect to any premises that a portion of the water from any source thereon does not and cannot enter the system, then the person may, at his/her expense, install and maintain separate water meters where necessary so as to measure only that portion of the water used which is discharged into the system.

(D) In the event that it is not practical or possible to measure only that portion of water used which is discharged into the system, then the person shall install a meter device of an acceptable type to measure the waste flow entering the sewer system.



(E) Final determination for the method and manner of flow measurement is the responsibility of the Safety/Service Director. All metering device installations shall be submitted for prior approval to the Safety/Service Director. Following approval and installation, such metering devices may not be removed without consent of the Safety/Service Director. Any metering device for determining the volume of waste discharged into the public sewer shall be installed, owned, and maintained by the person. (Ord. 1990-29, passed 2-26-90)

#### **§ 911.52 MONITORING FACILITIES.**

(A) Each industrial discharger of process water shall provide and operate at the discharger's own expense, a monitoring facility to allow inspection, sampling, and flow measurement of each sewer discharge containing process water to the municipality. Each monitoring facility shall be situated on the discharger's premises, except where such a location would be impractical or cause undue hardship on the discharger, the municipality may permit the facility to be constructed in a public right-of-way providing that the facility is readily accessible.

(B) There shall be ample room in or near such sampling facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the discharger.

(C) All monitoring facilities shall be constructed and maintained in accordance with plans approved by the superintendent of the POTW. (Ord. 1990-29, passed 2-26-90)

#### **§ 911.53 INSPECTION AND SAMPLING.**

(A) Industrial wastes discharged into the public sewers shall be subject to periodic inspection and sampling in order to determine the character and concentration of such wastes. Industrial waste containing substances listed in §§ 911.41 and 911.42 shall be sampled and monitored as often as may be deemed necessary by the Safety/Service Director.

(B) The report shall indicate the nature and concentration of prohibited or regulated substances in the effluent which are limited by the pretreatment standards hereof. In addition, this report shall include a record of all measured or estimated average and maximum daily flows during the reporting period. Flows shall be reported as directed in § 911.51.

(C) The reports shall contain all results of sampling and analysis of the discharge, including the flow and the nature and concentration or production and mass where required by the Safety/Service Director.

(D) Samples shall be collected in such a manner as to be representative of the composition of the wastes. The sampling shall be accomplished by the use of automatic sampling equipment capable of collecting composite samples. Every care shall be exercised in the collection of samples to ensure their preservation in a state comparable to that at the time the sample was taken.

(E) Continuous monitoring and recording of discharge flow and pH values will be required when, in the opinion of the Safety/Service Director, sufficient quantities of acid or caustic materials, which could damage the sewer system, are being used or stored on the premises.

(F) The municipality shall have the right to inspect the monitoring facilities of any discharger in order to determine compliance with the requirements of this chapter. The discharger shall allow an authorized representative of the municipality to enter upon the premises of the discharger at all reasonable hours, for the purposes of inspection, sampling, or records examination. The municipality shall have the right to set up on the discharger's property such devices as are necessary to conduct sampling, inspection, compliance monitoring, and/or metering operations. (Ord. 1990-29, passed 2-26-90)

**§ 911.54 ANALYSES.**

(A) All procedures used in the examination of industrial waste shall be in accordance with techniques established pursuant to section 304(g) of the Clean Water Act and contained in 40 CFR Part 136 and amendments thereto. Where 40 CFR Part 136 does not include sampling or analytical techniques for the pollutants in question, the standard procedure of the industry or a procedure judged satisfactory by the superintendent, shall be used to measure wastewater constituents. Any independent laboratory or discharger performing a test shall furnish the required test data or information on the test methods or equipment used, if requested to do so by the Superintendent.

(B) Determination of the character and concentration of the industrial wastes for the purpose of determining surcharges or compliance shall be performed by the municipality unless otherwise directed by the Safety/Service Director. In such case, the discharger shall have the analyses performed by a qualified laboratory. Cost incurred by the municipality for analyses shall be recovered from the discharger. (Ord. 1990-29, passed 2-26-90)

***ADMINISTRATION AND ENFORCEMENT***

**§ 911.61 SPECIAL AGREEMENT.**

(A) No statement contained in this chapter shall be construed as prohibiting any special agreement or arrangement between the municipality and any person where any industrial waste of unusual strength or character may be admitted to the sewer systems, either before or after pretreatment, provided that there is no impairment of the functioning of the system or the wastewater treatment works by reason of the admission of such wastes and provided that no extra costs are incurred by the municipality without recompense by the person.

(B) No special agreement or arrangement may be entered into which would violate the National Categorical Pretreatment Standards, as promulgated by the U.S. EPA. (Ord. 1990-29, passed 2-26-90)

**§ 911.62 RULES AND REGULATIONS.**

(A) The Safety/Service Director is authorized and directed to make such bylaws and regulations as may be found necessary for the safe, economical and efficient management and protection of the sewer system and sewage treatment plant, for the enforcement of the provisions of this chapter. These regulations shall include the capability to levy administrative fines of not more than \$1,000 per day per violation of applicable provisions of this chapter. Inspection and sampling frequencies will be performed according to the following minimums.

<i>Classification</i>	<i>Inspection</i>	<i>Sampling</i>
Significant	Annually	At least 4/year
Nonsignificant	Once every 2 yrs.	At least 1/year
Dry	Once every 3 yrs.	When or if necessary

(B) Such rules and regulations are subject to and subservient to other provisions of this code and if there is any conflict between any of such rules and regulations and such other provisions, then such other provisions shall prevail. (Ord. 1990-29, passed 2-26-90)

**§ 911.63 REVOCATION OF SERVICE.**

(A) The municipality shall have the authority to revoke treatment services if user violates municipal ordinances, state or federal regulations; fails to factually report constituents and characteristics of wastewater discharge or changes in discharge constituents, or characteristics, or if the municipality is refused reasonable access to user's premises for inspection and monitoring.

(B) If a user does not correct violations in a timely fashion, then the Safety/Service Director may order the user to show cause why the proposed service revocation should not be taken. A written notice will be served to the user by personal service or certified mail specifying the time and place of the hearing to be held regarding the violation, reasons why enforcement actions are to be taken, and direct the user to show why the proposed enforcement action should not be taken. The notice of the hearing shall be served no less than 30 days before the hearing.

(C) The municipality may for good cause shown suspend the wastewater treatment service to a user when it appears to the municipality that an actual or threatened discharge presents or may present an imminent or substantial danger to the health or welfare of persons or to the environment, interferes with the operation of the sewage disposal system, or violates any pretreatment limits imposed by this chapter. Any user notified of the suspension of the municipality's wastewater treatment service shall within a reasonable period of time, as determined by the municipality, cease all discharges. In the event of failure of the user to comply voluntarily with the suspension order within the specified time, the municipality may take temporary measures to physically eliminate the unwanted discharge then commence judicial proceedings to compel compliance with such order. The municipality shall reinstate the wastewater treatment service and terminate judicial proceedings upon proof by the user of the elimination of the noncomplying discharge or conditions creating the threat of imminent or substantial danger as set forth above. (Ord. 1990-29, passed 2-26-90)

#### **§ 911.64 ANNUAL PUBLICATION OF INDUSTRIAL USERS IN SIGNIFICANT NONCOMPLIANCE.**

At least annually, the Safety/Service Director shall publish a list of all industrial users which at any time during the previous 12 months were in significant noncompliance with applicable pretreatment requirements. For the purposes of this section, an industrial user is in "significant noncompliance" if its violations meet one or more of the following criteria:

(A) Chronic violations of wastewater discharge limits, defined here as those in which 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;

(B) Technical review criteria (TRC) violations, defined here as those in which 33% or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC-1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

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

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

(E) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

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

(G) Failure to accurately report noncompliance;

(H) Any other violation or group of violations which the Safety/Service Director determines will or has

adversely affected the operation or implementation of the municipality's pretreatment program. (Ord. 1990-29, passed 2-26-90; Am. Ord. 1992-120, passed 11-9-92)

#### **§ 911.65 RECORDS RETENTION.**

All records which pertain to enforcement or litigation activities shall be retained and preserved by the discharger until all enforcement activities have concluded and periods of appeals have expired. (Ord. 1990-29, passed 2-26-90)

### ***SCAVENGER WASTES***

#### **§ 911.70 SEPTIC TANK AND SCAVENGER WASTE HAULERS.**

(A) All persons or companies wishing to discharge scavenger wastes into the sewerage system must first obtain a waste haulers discharge permit from the Safety/Service Director. Permit applications shall include information on company ownership, identification, and license number of all trucks to be used for delivery of waste to municipal wastewater facilities. It shall also include truck capacity and other information pertinent to discharge to the wastewater facility.

(B) Permit applications shall be signed by a responsible owner or manager of the company applying for permission to discharge. All waste hauling equipment operated by companies with permits shall be registered with the municipality.

(1) The permit provided for in this section shall be issued by the Safety/Service Director to all applicants who comply with the terms and conditions set forth in this section upon the payment of a permit fee as follows:

(2) For each vehicle utilized for the transportation of wastes for disposal into the municipal wastewater facilities: \$5.

(3) The permit issued as provided for in this section shall expire one year after the date of issue.

(4) Noncompliance with any part of this chapter or subsequent regulations shall subject the permit holder to revocation of permit to utilize the services of the municipality's wastewater facility for disposal of scavenger wastes.

(C) The Safety/Service Director may establish such regulations as are deemed necessary to control the discharge of scavenger wastes to the municipality's wastewater facility.

(D) Normal wastes from septic tanks, sewage treatment plants, and the like, may be discharged routinely. Permission to discharge other wastes that are not readily biodegradable or are not known to be compatible to the operation of wastewater treatment plants shall be refused. Special request must be made to the Superintendent prior to discharge of any materials of questionable acceptability. Some specific reasons for refusal of service shall include:

(1) Material deleterious to treatment plant operation or operators, such as oils, greases, gasoline, toxics, volatile solvents, sand, metallic particles or paints.

(2) Materials which would cause unusual expense in handling and treatment, unless prior arrangements have been made for the payment of additional cost of service.

(3) Materials which would inhibit the performance of the treatment plant, such as acids, plating wastes, or toxic materials.

(4) The discharge of scavenger wastes shall be permitted only at locations and during such hours as shall be established by the Superintendent. The discharge of scavenger wastes to the wastewater facilities at any other location is forbidden.

(E) Fees and charges for treatment of normal scavenger wastes shall be based on the costs of providing such services and on the expected overall average characteristics of such discharges. The Superintendent may designate characteristics on which to base charges in special situations, such as discharges from sewage holding tanks, or submission of proof that waste discharges have other than expected overall average concentrations and with provision of positive identification procedures. (Ord. 1990-29, passed 2-26-90)

**§ 911.99 PENALTY.**

(A) Whoever violates any provision of this chapter, other than the nonpayment of charges, or violates any properly promulgated rule, regulation or order authorized by this chapter, is guilty of a misdemeanor of the second degree and shall be fined not more than \$750 or imprisoned not more than 90 days or both. A separate offense shall be deemed committed each day during or on which a violation occurs or continues. (70 Code, § 916.99) (Ord. 1985-3, passed 1-7-85) (Ord. 2015-08, passed 1-26-2015)

(A) The municipality shall have authority (after normal notice to the discharger) to immediately and effectively halt or prevent any discharge of pollutants to the POTW which reasonably appears to present an imminent endangerment to the health or welfare of persons. The municipality shall also have authority (which shall include notice to the affected industrial users and an opportunity to respond) to halt or prevent any discharge to the POTW which presents or may present an endangerment to the environment or which threatens to interfere with operation of the POTW.

(B) The municipality shall be able to seek injunctive relief for noncompliance by industrial users with pretreatment standards and requirements. The municipality shall also have authority to seek or assess civil or criminal penalties in at least the amount of \$1,000 a day for each violation of any provisions of this chapter or any written order issued by the Superintendent or Safety/Service Director.

(C) Whoever violates any of the provisions of this chapter shall become liable to the municipality for any expense, loss, or damage to the wastewater treatment systems occasioned to the municipality and/or any other expense, loss, or damage incurred by the municipality and resulting from such violation.

(D) A discharger who is under enforcement proceedings may request a written interpretation or ruling on the alleged violation of the sewer code. Enforcement proceedings shall be stayed, until a written reply is received by the discharger. Appeal of any final orders may be taken in accordance with the law.

(E) The municipality shall have the authority, upon conviction of any discharger who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this chapter, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter, to seek or assess civil or criminal penalties in at least the amount of \$1,000. (Ord. 1990-29, passed 2-26-90; Am. Ord. 1996-149, passed 12-9-1996) Penalty, see § 911.99

***Cross-reference:***

*Safety/Service Director, see Ch. 133*

*Division of Engineering, see Ch. 141*

*Domestic refuse and rubbish collection, see Ch. 943*

**CHAPTER 911.201: SANITARY SEWER SYSTEM INCENTIVE CREDIT**

Section

911.201	Definitions
911.202	Certification of no prior sanitary sewer connection
911.203	Eligible Parties
911.204	Application Procedures
911.205	Receipt of connection fee reimbursement
911.206	Program Termination

§ 911.201 DEFINITIONS.

As used in this section:

- (1) "Property to be developed" means **any** lot within the City of Marion which had no prior sanitary sewer connection and is being developed by the owner, agent of the owner or owners' designee.
- (2) "Connection fee" means the fee required by 911.13.

§ 911.202 CERTIFICATION OF NO PRIOR SANITARY SEWER CONNECTION.

In order to initiate the granting of a connection fee reimbursement the Service Director or his/her designee shall issue a certification that the subject premises being developed had no prior sanitary sewer connection.

§ 911.203 ELIGIBLE PARTIES

A person is eligible for a sanitary sewer connecting fee reimbursement where the property being developed had no prior sewer connection, has as a part of new development of the property paid the required sanitary sewer connection fee and has completed the development further defined as a residential, retail or commercial facility **occupied or in use** where no prior occupation or use existed.

§ 911.204 APPLICATION PROCEDURES

Prior to occupation or placing in use the property eligible herein a person shall upon the form as provided by the Service Director identify the lot or parcel on which the development will occur after receipt of which the Service Director shall cause the lot or parcel to be examined as to whether or not a prior sanitary sewer connection existed and if not shall approve for reimbursement of the connection fee once the property is developed or in use.

§ 911.205 RECEIPT OF SANITARY SEWER CONNECTION FEE REIMBURSEMENT

The owner shall be provided a certificate of completion of development from the Service Director which shall when presented to Utility Billing shall cause Utility Billing to apply a credit to the properties sanitary sewer charges at the rate 50 % of the charges due for said service until such time as the owner has been provided a 100 % reimbursement for the previously paid sanitary sewer connection fee at which time the credit shall be fully utilized and the program benefits complete. However, if at any time during the Program the property for which the connection serves or the owner becomes delinquent in their sewer(s) or sanitation account for more than 90 days the certificate of eligibility and right to reimbursement shall be canceled and void.

§ 911.206 PROGRAM SUNSET/TERMINATION

The Service Director shall issue no additional certificate of eligibility on or after the 1st day of January, 2016. All previously issued certificates of eligibility shall remain viable and if the subject property development is

completed within 12 months of the issuance of the certificate of eligibility the property shall remain entitled to the benefits provided by the Program. (Ord. 2015-07, passed 1-26-2015)

## CHAPTER 912: SEWER USER CHARGE SYSTEM

### Section

- 912.01 Definitions
- 912.02 Declaration of necessity
- 912.03 System to be operated as public utility
- 912.04 Necessity to levy use charges
- 912.05 Rules and regulations
- 912.06 Uses of Sewer Revenue Fund
- 912.07 Basis for user charge computations
- 912.08 User charge elements and determination.
- 912.09 Extra strength surcharge
- 912.10 User charge and extra strength surcharge rates
- 912.11 Wastewater volume determination
- 912.12 Standard normal sanitary sewage flow, loads and average concentrations for nonmetered water supply
- 912.13 Review of standard normal sanitary sewage and waste load limitations
- 912.14 Portion of metered water not entering sewer system
- 912.15 Adjustments for leaks and disapproval
- 912.16 Water exempt from charges
- 912.17 Annual audit and adjustment of charges required
- 912.18 Payment of charges
- 912.19 Gross amount for delinquency
- 912.20 Nonpayment; municipality's remedy
- 912.21 Separability
- 912.99 Penalty

### § 912.01 DEFINITIONS.

Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows or as defined in § 911.01:

**DEBT SERVICE.** The payment requirements to retire the wastewater treatment works debt through cash generated during the period of time that the debt is outstanding.

**OPERATION and MAINTENANCE COSTS.** All expense of collecting, pumping, treating and disposing of wastewater.

**REPLACEMENT COSTS.** Expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the service life of the treatment works to maintain the capacity and performance for which such works were designed and constructed. Unless specifically excluded, the term **OPERATION** and **MAINTENANCE** shall include replacement.

**SIC MANUAL.** The Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented.

**USERS CHARGE.** The charge to each recipient of waste treatment services within the municipality's service area representing a proportionate share of the costs of operation and maintenance including replacement of all waste treatment service provided.

**USERS CLASS.** The division of users within the municipality's service area by the origin of the sewage discharged and by the similarity of the function of such users. Stated in four general classes, they are:



(1) **COMMERCIAL USER.** The commercial user includes those customers who are service oriented as distinguished from residential and manufacturing. Examples include automotive service businesses, including filling stations and car washes; food handling businesses such as restaurants and grocery stores; hair dressing and barber shops; office buildings, including all professional offices; retail establishments; hotels and motels; laundries and dry cleaning establishments; etc. (Am. Ord. 1996-8, passed 1-22-1996) Identified as Divisions C, F, G, H and portions of I in the SIC Manual.

(2) **INDUSTRIAL USER.** Any user of publicly-owned collection and treatment works who is engaged in manufacturing and who may or may not discharge process wastewater in addition to sanitary wastewater. (Am. Ord. 1996-8, passed 1-22-1996)

(3) **GOVERNMENTAL AND INSTITUTIONAL.** A special class of industrial user who usually contributes primarily segregated domestic wastes or waste from sanitary conveniences. Such users are usually identified in Division J in the SIC Manual, but also include hospitals, sanitariums, prisons, charitable institutions, City, State, Federal offices, churches, schools, etc. (Am. Ord. 1996-8, passed 1-22-96)

(4) **RESIDENTIAL USER.** A single-family or an equivalent residence which discharges only wastes from sanitary conveniences.

**USER, RIGHT-TO-SERVICE.** Any person who, by contractual arrangement and/or by special permit, reserves, uses, purchases and/or sets aside a certain capacity of the wastewater treatment works for current or future use. Examples of such classifications are: one political subdivision agreeing to treat the liquid sanitary waste of another; a land developer reserving a specified number of future tap-ins; and/or any industrial user reserving a specified capacity of the wastewater treatment works.

**SEWER SERVICE CHARGE.** Shall mean an imposed charge upon all users receiving services from the Authority's sewage system in total amount sufficient to pay the cost of the system. Sewer service charges consist of a debt service charge, an operation, maintenance and replacement charge, and surcharges (if applicable). ('70 Code, § 912.01) (Ord. 1977-22, passed 2-28-77; Am. Ord. 1996-8, passed 1-22-1996)

#### **§ 912.02 DECLARATION OF NECESSITY.**

Council hereby declares it necessary to construct, maintain and operate within or without the municipality the necessary sanitary sewers, lift stations, sewage treatment works and appurtenances for the use of the inhabitants of the municipality. ('70 Code, § 912.02) (Ord. 1977-22, passed 2-28-77)

#### **§ 912.03 SYSTEM TO BE OPERATED AS PUBLIC UTILITY.**

The system of sanitary sewers and sewage treatment works shall be operated as a public utility. ('70 Code, § 912.03) (Ord. 1977-22, passed 2-28-77)

#### **§ 912.04 NECESSITY TO LEVY USE CHARGES.**

It is determined and declared to be necessary for the protection of the public safety, health, welfare and convenience to establish and collect use charges from all lots, lands and premises served by or having connections, either directly or indirectly, with the municipal sewerage system. It is further determined and declared to be necessary that the establishment and collection of such use charges must be in compliance with the United States Environmental Protection Agency rules and regulations as published in the Federal Register, August 21, 1973 (38FR22523). ('70 Code, § 912.04) (Ord. 1977-22, passed 2-28-77)

#### **§ 912.05 RULES AND REGULATIONS.**

The Safety/Service Director shall make and enforce such rules and regulations as he/she may deem

necessary for the enforcement of the provisions of this chapter, for the proper determination and collection of the rates and charges herein provided and for the safe, efficient and economical management of the system. Such rules and regulations, when not repugnant to existing ordinances of the municipality or laws of the state, shall have the same force and effect as ordinances of Council. (70 Code, § 912.05) (Ord. 1977-22, passed 2-28-77)

#### **§ 912.06 USES OF SEWER REVENUE FUND.**

The funds received from the collection of the rates and charges provided in § 912.10 shall be deposited regularly with the Treasurer, who shall keep the same in a separate fund designated the Sewer Revenue Fund. The moneys in this Fund shall be used for the cost and expense of the operation, maintenance, repair, replacement and management of the sewerage system and the sewage pumping, treatment and disposal plant. Surplus in the Fund generated by OM&R rates shall be deposited and used in accordance with R.C. § 729.52. When appropriated by Council, the Fund shall be subjected to the order of the Safety/Service Director. The Director shall sign all orders drawn on the Treasurer of the municipality against such Fund. (70 Code, § 912.06) (Ord. 1977-22, passed 2-28-77; Am. Ord. 1996-8, passed 1-22-1996)

#### **§ 912.07 BASIS FOR USER CHARGE COMPUTATIONS.**

At least once each year, the Superintendent of Water Pollution Control, based on the previous year's records of operations, flows, loads, costs and water consumption, shall compute or cause to be computed the following:

(A) The total yearly volume of sewage collected, conveyed and treated. Such total yearly volume of sewage shall consist of the volumes as measured at the sewage treatment plant. Annual volumes shall be expressed as follows:

- (1) Hundreds of cubic feet of flow;
- (2) Hundreds of pounds of BOD.

(a) The quantity of BOD received from normal strength discharge shall be determined by applying the volume of flow as determined in division (B) of this section to the normal strength limitation of 300 mg/l. The quantity determined herein divided by the quantity determined in subsection (A)(2) of this section determines the percentage of normal strength BOD.

(b) The quantity of BOD received from extra strength discharge shall be determined by subtracting the quantity as determined in subsection (A)(2)(a) of this section from the total quantity as determined in subsection (A)(2) of this section.

- (3) Hundreds of pounds of SS.

(a) The quantity of SS received from normal strength discharge shall be determined as provided in subsection (A)(2)(a) of this section using the normal strength limitation of 300 mg/l. The quantity determined herein divided by the quantity determined in subsection (A)(3) of this section determines the percentage of normal strength SS.

(b) The quantity of SS received from extra strength discharge shall be determined similarly to subsection (A)(2)(b) of this section.

- (4) Hundreds of pounds of phosphates.

(a) The quantity of phosphates received from normal strength discharge shall be determined as provided in subsection (A)(2)(a) of this section using the normal strength limitation of 20 mg/l. The quantity determined herein divided by the quantity determined in subsection (A)(4) of this section determines the percentage of normal strength phosphates.

(b) The quantity of phosphates received from extra strength discharge shall be determined similarly to subsection (A)(2)(b) of this section.

(5) Units of any other pollutant for which facilities and/or treatment is provided or which generates expense because of its existence.

(a) Normal strength discharge shall be determined on a similar basis as in subsection (A)(2)(a) of this section. Any quantity determined herein divided by the quantity determined in subsection (A)(4) of this section determines the percentage of normal strength phosphates.

(b) Extra strength discharge shall be determined on a similar basis as in subsection (A)(2)(b) of this section.

(B) The total yearly volume of measured sewage flows. Such total yearly volume shall consist of the sum of all volumes as measured per §§ 912.12 through 912.16. This volume divided by the volume determined in subsection (A)(1) of this section determines the percentage of billable flow.

(C) The estimated yearly volume of unknown sources flow. This estimated yearly volume shall represent the difference of the volumes computed in divisions (A) and (B) of this section. This volume divided by the volume determined in subsection (A)(1) of this section determines the percentage of unaccounted for flow.

(D) The total number of users connected in or otherwise discharging wastewater into the agency's treatment works;

(E) The total number of user charge bills for sewer service issued during the previous year;

(F) The total yearly administrative costs, which shall include, but not necessarily be limited to:

(1) Administrative salary costs (direct plus fringe benefits);

(2) Consulting fees (engineering, legal and financial);

(3) Administrative overhead costs (rent, telephone, utilities, billings, collections, records, and the like);

(4) Miscellaneous costs (supplies, travel and subsistence, tuition reimbursements, mailing, printing, and the like); and

(5) Meter reading.

(G) The total yearly sewer operation and maintenance costs, which shall include, but not necessarily be limited to:

(1) Salary costs (direct plus fringe benefits);

(2) Estimated emergency overtime costs (10% of salary costs);

(3) Administrative overhead cost (same as in division (F)(3) of this section);

(4) Materials, equipment repairs and rentals, supplies, inspection and surveillance devices (gas, oil, pipelines, and the like); and

(5) Miscellaneous costs (same as in division (F)(4) of this section).

(H) The total yearly wastewater treatment operation and maintenance costs, which shall include, but not necessarily be limited to:

- (1) Salary costs (direct plus fringe benefits);
- (2) Estimated emergency overtime costs (5% of salary costs);
- (3) Administrative overhead costs (same as in division (F)(3) of this section;
- (4) Treatment costs (power, materials, equipment repair and rentals, devices, chemicals, supplies, and the like);
- (5) Miscellaneous costs (same as in division (G)(4) of this section).

(6) The costs established in divisions (H)(1) through (H)(5) of this section shall then be categorized as follows:

- (a) Support costs;
- (b) Flow handling costs;
- (c) BOD removal costs;
- (d) SS removal costs;
- (e) Phosphate removal costs;
- (f) Other pollutant handling cost, if any.

(I) The total yearly estimated payment to the sewerage system replacement fund. The sum established herein shall be subdivided in the same manner as in division (G) of this section.

(J) The total yearly estimated payment to the treatment plant's replacement fund. The sum established herein shall be subdivided in the same manner as in division (H) of this section except that no replacement costs shall be assigned to support division (H)(6)(a) of this section.

(K) The total yearly Division of Water Pollution Control expenditures, which shall be represented by the sum of all of the costs and payments computed in divisions (F) through (J) of this section. ('70 Code, § 912.07) (Ord. 1977-22, passed 2-28-77)

#### **§ 912.08 USER CHARGE ELEMENTS AND DETERMINATION.**

The basic user charge for all users connected to and discharging, directly or indirectly, sewage, industrial wastes, water or other liquids into the agency's treatment works shall consist of the following:

- (A) Charge per bill shall be levied to all active users without regard to volume of discharge or usage.
- (B) Charge per connection shall be levied to all active users without regard to volume of discharge or usage.
- (C) Charge per unit of discharge or volumetric usage. Such charge shall include costs of normal strength pollutant removal and shall be levied to all users in relation to the provisions of §§ 912.12 through 912.17.

(D) The values computed annually in accordance with § 912.07 shall form the basis of determining the rates for each user charge element.

(1) The rate for division (A) of this section shall be determined by the amount of cost established in § 912.07(F) divided by the value as determined in § 912.07(E) equals the rate of charge per bill.

(2) The rate of division (B) of this section shall be determined as follows:

(a) Establish the aggregate sum to be recovered by this element by adding the following various sums:

1. 75% of § 912.07(G) times the percentage in § 912.07(C);
2. Section 912.07(H)(6)(a);
3. 75% of § 912.07(H)(6)(b) times the percentage determined in § 912.07(C);
4. The respective sums of § 912.07(I) and (J) as determined by calculations of subsections (2)(a)2. and (2)(a)3. of this division.

(b) The aggregate sum of subsections (2)(a)1. through (2)(a)4. divided by the value of § 912.07(D) equals the annual charge for each connected user. The annual charge is to be divided by six and added to each bimonthly bill or divided by 12 and added to each monthly bill. In the event different billing frequency is used, such sum shall be divided on the basis of frequency and added to each bill.

(3) (a) The rate for division (C) of this section shall be determined by establishing the aggregate sum to be recovered by this element by adding the following various sums:

1. 25% of § 912.07(G) times the percentage determined in § 912.07(C);
2. Section 912.07(G) times the percentage determined in § 912.07(B);
3. 25% of § 912.07(h)(6)(b) times the percentage determined in § 912.07(C);
4. Section 912.07(H)(6)(b) times the percentage determined in § 912.07(B);
5. Section 912.07(h)(6)(c) times the percentage determined in § 912.07(A)(2)(a);
6. Section 912.07(H)(6)(d) times the percentage determined in § 912.07(A)(3)(a);
7. Section § 912.07(H)(6)(e) times the percentage determined in § 912.07(A)(4)(a);
8. If applicable, § 912.07(H)(6)(f) times the respective percentage determined in § 912.07(A)(5)(a);
9. 25% of § 912.07(I) times the percentage determined in § 912.07(C);
10. Section 912.07(I) times the percentage in § 912.07(B);
11. The respective sum of § 912.07(J) as determined by calculations of subsections (3)(a)3. through (3)(a)8. of this division.

(b) The aggregate sum of subsections (3)(a)1. through (3)(a)11. of this division divided by

the value of § 912.07(B) equals the rate of charge per unit of discharge or usage. ('70 Code, § 912.08) (Ord. 1977-22, passed 2-28-77)

**§ 912.09 EXTRA STRENGTH SURCHARGE.**

(B) Where flows and loads are discharged in excess of the limitations established in § 911.01, a surcharge over and above the charges established in § 912.08 shall be levied on all flow and loadings which are in excess of the limitations set forth.

(B) The surcharge rate shall be calculated annually in accordance with the volumes and amounts established in § 912.07 to be effective January 1 of each year.

$$\text{Annual Surcharge} = (Bw) + (Sx) + (Py) + (Oz)$$

Where: B = Hundreds of pounds of BOD discharged annually in excess of 300 mg/l.

w = The amounts established in § 912.07, subsection (H)(6)(c) and related amounts of (j) in aggregate divided by value determined in subsection (A)(2) of § 912.07.

S = Hundreds of pounds of SS discharged annually in excess of 300 mg/l.

x = The amounts established in § 912.07, subsection (H)(6)(d) and related amounts of (j) in aggregate divided by value determined in subsection (A)(3) of § 912.07.

P = Hundreds of pounds of phosphates discharged annually in excess of 20 mg/l.

y = The amounts established in § 912.07, subsection (H)(6)(e) and related amounts of (j) in aggregate divided by value determined in subsection (A)(4) of § 912.07.

O = Hundreds of pounds of other pollutant discharged annually in excess of normal strength limitation.

z = The amounts established in § 912.07, subsection (H)(6)(f) and related amounts of (j) in aggregate divided by value determined in subsection (A)(5) of § 912.07. ('70 Code, § 912.09) (Ord. 1977-22, passed 2-28-77)

**§ 912.10 USER CHARGE AND EXTRA STRENGTH SURCHARGE RATES.**

The rates set forth in this section shall take effect January 1, 1977, and are subject to change from year to year as provided for in this chapter.

All current rates are available for public viewing in the Safety/Service Director's Office, Marion City Hall.

(A) User Charge.

- (1) \$6.19 per monthly bill;
- (2) \$11.42 per bimonthly bill;
- (3) \$1.152 per 100 cubic feet per monthly bill;
- (4) \$1.152 per 100 cubic feet per bimonthly bill;

('70 Code, § 912.10) (Ord. 1977-22, passed 2-28-77; Am. Ord. 1985-6, passed 1-7-85; Am. Ord. 1996-8, passed 1-22-1996; Am. Ord. 1997-27, passed 3-10-1997; Am. Ord. 1998-12, passed 2-9-1998; Am. Ord. 2005-16, passed 02-14-2005; Am. Ord. 2009-45, passed 5-26-2009)

**§ 912.11 WASTEWATER VOLUME DETERMINATION.**

(A) For the purpose of levying user charges to all users, the volume of usage shall be as determined in § 911.51.

(B) In the case of premises having a connection with the municipality's wastewater facilities, or otherwise discharging sanitary sewage, either directly or indirectly, into such sewers, but which are not supplied by metered public water supply, or are supplied by a private water supply, the Safety/Service Director, based on the limitations set forth in § 912.12 and on consideration of similar premises and uses, engineering factors and other relevant matters, may estimate the monthly amount of water to provide adequate water service to the premises for the purpose and period for which nonmetered water is consumed and such estimate shall be the basis for measuring the flow and loads under this regulation. If the owner of such premises or other interested party elects to do so, he/she may install, at his/her own expense, water meters satisfactory to the Safety/Service Director to the extent necessary to measure all such supplies of water and the quantity of water consumed on such premises, such aggregate amount disclosed by such meters to be the basis for measuring the flows and loads under this regulation. ('70 Code, § 912.11) (Ord. 1977-22, passed 2-28-77)

**§ 912.12 STANDARD NORMAL SANITARY SEWAGE FLOW, LOADS AND AVERAGE CONCENTRATIONS FOR NONMETERED WATER SUPPLY.**

(A) Unless otherwise amended, added to and/or deleted from, as provided for hereinafter, the following shall be considered as being a representative amount of sewage flow and waste loads, discharged by one individual during one consecutive 24-hour period, such consecutive 24-hour period to be from midnight to midnight:

Average daily flow	100 gals.
Total BOD	0.17 lbs.
Suspended solids	0.20 lbs.
Total ammonia (NH <sub>3</sub> )	0.01 lbs.
Total phosphates (PO <sub>4</sub> )	0.02 lbs.

(B) Unless otherwise amended, added to and/or deleted from, as provided for hereinafter, the following shall be considered as being a representative concentration of average composition of standard normal sanitary sewage:

pH	5.5 to 9.5
Total BOD	200 mg/l
Suspended solids	240 mg/l
Total ammonia (NH <sub>3</sub> )	15 mg/l
Total phosphates (PO <sub>4</sub> )	25 mg/l

(C) Unless otherwise amended, added to and/or deleted from, as may be provided for hereinafter, four times the individual sewage flows and loads, as defined in division (A) of this section, shall be considered as being a representative amount of sewage flow and waste load, discharged by a single-family unit and/or by a single domestic tap-in. ('70 Code, § 912.12) (Ord. 1977-22, passed 2-28-77)

**§ 912.13 REVIEW OF STANDARD NORMAL SANITARY SEWAGE AND WASTE LOAD LIMITATIONS.**

Once each year, the Safety/Service Director, based on results or tests conducted during the prior year, consideration of similar operations and establishments, engineering factors and other relevant matters, shall review or have reviewed for his/her use the values of flow, loads and average concentrations of sanitary sewage and shall review or have reviewed for his/her use the limitations as established. Based upon such review, considerations, engineering factors and/or relevant matters, the Safety/Service Director may amend, add to and/or delete from § 912.12(A), (B) and (C) any values, parameters, concentrations, flows and loads which, in his/her

judgment, merit such amendment, addition and/or deletion. ('70 Code, § 912.13) (Ord. 1977-22, passed 2-28-77)

**§ 912.14 PORTION OF METERED WATER NOT ENTERING SEWER SYSTEM.**

In the event that the Safety/Service Director is satisfied that a portion of the water from any source consumed upon any premises does not and cannot enter the aforesaid sewers, then in such case the owner or other interested party may, at the owner's or other interested party's expense, install and maintain such separate metering devices as shall demonstrate to the satisfaction of the Safety/Service Director that portion of the water so consumed which is discharged into the aforesaid sewers and such portion shall be the basis for measuring the flows and loads under this regulation. ('70 Code, § 912.14) (Ord. 1977-22, passed 2-28-77)

**§ 912.15 ADJUSTMENTS FOR LEAKS AND DISAPPROVAL.**

The Safety/Service Director is authorized to make such rules and regulations as are required with regard to the application of the sewer service charge, as such rules and regulations pertain to adjustments for leaks or other causes which the Ohio-American Water Company's records indicate constitute sufficient reason for an equitable adjustment and a reduction in the charge in order to avoid unduly penalizing an innocent victim of circumstances over which he/she had no control. A record of all such adjustments shall be maintained and furnished monthly to the municipality and shall not become final until approved by the Director or other authorized municipal official. The municipality's approval of such adjustment list shall be considered as approved in its entirety unless the Director or other duly authorized representative of the municipality notifies the Ohio-American Water Company in writing of its disapproval of any or all of the adjustments made. In the event of such disapproval, the adjustments or corrections already made by the Ohio-American Water Company shall be added back to the customer's account and shall constitute a legal obligation. It shall be the responsibility of the Ohio-American Water Company to notify the customer of such disapproval and the reasons therefor. ('70 Code, § 912.15) (Ord. 1977-22, passed 2-28-77)

**§ 912.16 WATER EXEMPT FROM CHARGES.**

No water supplied by the Ohio-American Water Company systems for extinguishing fires, or for furnishing or supplying water to the fire hydrants, shall be used to determine any sewage charge as set forth in § 912.10. ('70 Code, § 912.16) (Ord. 1977-22, passed 2-28-77; Am. Ord. 1996-8, passed 1-22-1996)

**§ 912.17 ANNUAL AUDIT AND ADJUSTMENT OF CHARGES REQUIRED.**

On or before January 20, 1978, and each year thereafter on or before January 20, the Superintendent of Water Pollution Control shall submit to the Safety/Service Director a recommended system of user charges for approval. If approved, the Director shall submit the sewer use charge schedule to Council, at its first regular meeting in February, for ratification and incorporation into the municipal ordinances. The system shall be in accordance with the following requirements:

(A) The system shall result in the distribution of the costs of operation and maintenance of the treatment works within the Department's jurisdiction to each user class in proportion to such user's contribution to the total wastewater loading of the treatment works. Factors such as strength, volume and delivery flow rate characteristics shall be considered and included as the basis for the user's contribution to ensure a proportional distribution of operation and maintenance (including replacement) costs to each user's class.

(B) The system of charges shall be reviewed annually and revised periodically to reflect actual treatment works operation and maintenance costs. Annually each user of the system will receive notification of a cost breakdown associated with the incremental costs of Operation, Maintenance and Replacement; debt retirement and capital improvements. (Am. Ord. 1996-8, passed 1-22-1996)

(C) The system of charges shall generate sufficient revenue to offset the costs of all treatment works operation and maintenance provided by the Department and such other expenditures that may be authorized.



('70 Code, § 912.17) (Ord. 1977-22, passed 2-28-77)

**§ 912.18 PAYMENT OF CHARGES.**

The sewage charges herein provided shall be payable bimonthly or monthly, provided that the bill shall be paid on a monthly basis only in the event the water bill of such party is so paid. ('70 Code, § 912.18) (Ord. 1977-22, passed 2-28-77)

**§ 912.19 GROSS AMOUNT FOR DELINQUENCY.**

(A) The charges shall constitute the net charges for sewage service if paid within a period of 14 days following the date of billing. If paid after the 14-day period has elapsed, the applicable charges shall be at the gross rate, which shall be 5% greater than the net charges, but in no case shall the additional charge be less than \$.10.

(B) It shall be understood that the U.S. Government postmark shall govern the due date and that when any payments are mailed within the 14-day period or paid at an authorized collection agency within the 14-day period, they shall be considered as paid within the prescribed time limit and exempt from penalty. In the collection of such payments by mail, the U.S. Government postmark on the envelope containing the payment shall be identified and retained for a period of four months after which they will be destroyed and the gross amount of such bill shall not be disputed. ('70 Code, § 912.19) (Ord. 1977-22, passed 2-28-77; Am. Ord. 1988-81, passed 10-10-88)

**§ 912.20 NONPAYMENT; MUNICIPALITY'S REMEDY.**

Each sewer charge established and made pursuant to this chapter is hereby made a lien upon the premises charged therewith, and if the same is not paid within **60** days after it is due and payable it shall be certified to the County Auditor who shall place the same on the tax duplicate. With the interest and penalties allowed by law, it shall be collected as other municipal taxes are collected. ('70 Code, § 912.20) (Ord. 1977-22, passed 2-28-77)(Ord. 2010-108, passed 11-22-2010)

**§ 912.21 SEPARABILITY.**

The invalidity of any section, clause, sentence or provision of this chapter shall not affect the validity of any other part which can be given effect without such invalid part or parts. ('70 Code, § 912.21) (Ord. 1977-22, passed 2-28-77)

**§ 912.99 PENALTY.**

Whoever violates any of the provisions of this chapter, other than nonpayment of charges, or violates any properly promulgated rule, regulation or order authorized by this chapter, is guilty of a misdemeanor of the second degree and shall be fined not more than \$750 or imprisoned not more than 90 days, or both. A separate offense shall be deemed committed each day during or on which a violation occurs or continues. ('70 Code, § 912.99) (Ord. 1977-22, passed 2-28-77)

## CHAPTER 914: SEWER SYSTEM IMPROVEMENT FUND

### Section

- 914.01 Definitions
- 914.02 Declaration of necessity
- 914.03 Sewer System Improvement Fund established
- 914.04 Basis of sewer system improvement charge
- 914.05 Sewer system improvement charge; municipality users
- 914.06 Sewer system improvement charge; outside municipality users
- 914.07 Aggregate charges for sewer use
- 914.08 Wastewater volume determination
- 914.09 Added charge; right-to-service users
- 914.10 Rules and regulations
- 914.11 Payment of charges
- 914.12 Gross amount for delinquency
- 914.13 Nonpayment; municipality's remedy
- 914.14 Separability
- 914.16 Compliance with Certain Conditions Prior to Extension
- 914.99 Penalty

### § 914.01 DEFINITIONS.

Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as defined in §§ 911.01 and 912.01. ('70 Code, § 914.01) (Ord. 1977-22, passed 2-28-77)

### § 914.02 DECLARATION OF NECESSITY.

Council hereby declares it necessary to recover from all users of the sewerage system, whether inside the municipality or without, the sums of money annually required to amortize debts incurred by the municipality to construct and provide improvements to the sewer system. ('70 Code, § 914.02) (Ord. 1977-22, passed 2-28-77)

### § 914.03 SEWER SYSTEM IMPROVEMENT FUND ESTABLISHED.

All moneys collected from charges established herein shall be deposited in a Sewer System Improvement Fund. The moneys in this Fund shall be used for the cost and expense of *DEBT SERVICE* as defined in § 912.01. ('70 Code, § 914.03) (Ord. 1977-22, passed 2-28-77)

### § 914.04 BASIS OF SEWER SYSTEM IMPROVEMENT CHARGE.

Each year in conjunction with the requirements of § 912.07, the City Auditor shall determine the sums of money required to provide for the annual payments of debt service. These sums of money divided by the value determined as required in § 912.07(B) will provide a volumetric rate. This rate shall be in addition to the volumetric rate as set forth in § 912.10(A)(3)/(4) as may be amended from time to time.

The debt service rate, also known as the sewer system improvement charge, shall be computed as follows:

- (A) Total Annual Flow in CCF's
- (B) Total Residential Inside Flow in CCF's
- (C) Total Outside City Flow in CCF's
- (D) Total Inside City Commercial/Industrial Flow in CCF's
- (E) Total Annual Debt Payment Charge
- (F) Debt Charge for Inside City Residential Customers/CCF
- (G) Debt Charge for Inside City Commercial, Industrial Customers/CFF

(H) Debt Charge for Outside City Customers/CCF

(’70 Code, § 914.04) (Ord. 1977-22, passed 2-28-77; Am. Ord. 2003-14, passed 02-10-2003)

**§ 914.05 SEWER SYSTEM IMP ROVEMENT CHARGE; MUNICIPALITY USERS.**

Inside Residential Users

(A) The volumetric rate as determined in Section 914.04 and as may be amended from time to time shall be reduced by the revenue generated by the surcharge in Section 912.10 (A) (3)/(4) to produce the total volumetric rate.

Given that the only debt which may be created on the system must first be approved by the Council and given that the Administration is required by law to collect sufficient charges to pay the system’s debt service charges, the Safety/Service Director shall annually, in February of each year, calculate the necessary debt service (sewer improvement charge) and collect sufficient sums to ensure the system’s. annual debt charge is met. The Director shall post all charges related hereto in his/her Office

Inside City Residential Users – Debt Charge per CCF

$$G - \frac{(C \times \$ .30)}{B} = F$$

(’70 Code, § 914.05) (Ord. 1985-6, passed 1-7-85; Am. Ord. 1994-33, passed 3-28-94; Am. Ord. 2003-14, passed 02-10-2003)

Inside Commercial/Industrial Users

(B) The volumetric rate as determined in Section 914.04 and as may be amended from time to time shall be added to the volumetric rate as determined under Section 912.10 (A)(3)/(4).

Given that the only debt which may be created on the system must first be approved by the Council and given that the Administration is required by law to collect sufficient charges to pay the system’s debt service charges, the Safety/Service Director shall annually, in February of each year, calculate the necessary debt service (sewer improvement charge) and collect sufficient sums to ensure the system’s annual debt charge is met. The Director shall post all charges related hereto in his/her Office. (’70 Code, § 914.05) (Ord. 1985-6, passed 1-7-85; Am. Ord. 1994-33, passed 3-28-94; Am. Ord. 2003-14, passed 02-10-2003)

(2) (A) Inside – Commercial, Industrial – Debt Charge per CCF

$$\frac{E}{A} = G$$

(Ord. 2003-14, passed 02-10-2003)

**§ 914.06 SEWER SYSTEM IMPROVEMENT CHARGE; OUTSIDE MUNICIPALITY USERS.**

The volumetric rate as determined in § 914.04 and as may be amended from time to time shall be increased by .30 per ccf and added to the volumetric rate as determined under § 912.10(A)(3) to produce the total volumetric rate. This additional surcharge shall be applied to inside City residential users. Given that the only debt which may be created on the system must first be approved by Council and given that the Administration is required by law to collect sufficient charges to pay the system’s debt service charges, the Safety/Service Director shall annually, in February of each year, calculate the necessary debt service (sewer improvement charge) and collect sufficient sums to ensure the system’s annual debt charge is met. The Director shall post all charges

related hereto in his/her Office. ('70 Code, § 914.06) (Ord. 1985-6, passed 1-7-85; Am. Ord. 2003-14, passed 02-10-2003)

**§ 914.07 AGGREGATE CHARGES FOR SEWER USE.**

The total charges for sewer use to customers within and/or outside the corporate limits of the municipality shall be the aggregate of the rate determinations in § 912.10(A) and §§ 914.05 and 914.06 as posted in the Safety/Service Director's Office, Marion City Hall. ('70 Code, § 914.07) (Ord. 1977-22, passed 2-28-77; Am. Ord. 1985-6, passed 1-7-85; Am. Ord. 1996-8, passed 1-22-1996)

**§ 914.08 WASTEWATER VOLUME DETERMINATION.**

For the purposes of enforcing this chapter, the provisions and requirements set forth in §§ 912.11 through 912.16 shall apply. ('70 Code, § 914.08) (Ord. 1977-22, passed 2-28-77)

**§ 914.09 ADDED CHARGE; RIGHT-TO-SERVICE USERS.**

When *RIGHT-TO-SERVICE* users, as defined in § 912.01, have entered into agreement with the municipality whereby unused capacity of the treatment works is reserved, there shall be established a right-to-service charge. This charge shall be in addition to the charges set forth in §§ 914.07, 912.07 and 912.10(B), and determined as follows:

Outside City Users – Debt Charge per CCF

$G + \$ .30 = H$

('70 Code, § 914.09) (Ord. 1977-22, passed 2-28-77; Am. Ord. 2003-14, passed 02-10-2003)

**§ 914.10 RULES AND REGULATIONS.**

The Safety/Service Director shall make and enforce such rules and regulations as he/she may deem necessary for the enforcement of the provisions hereof, including periodic adjustment of rates, for the proper determination and collection of the rates and charges herein provided for the economical management of the system. Such rules and regulations, when not repugnant to existing ordinances of the municipality or laws of the state, shall have the same force and effect as ordinances of Council. ('70 Code, § 914.10) (Ord. 1977-22, passed 2-28-77)

**§ 914.11 PAYMENT OF CHARGES.**

The sewage charges herein provided shall be due and payable under the requirements of § 912.18. ('70 Code, § 914.11) (Ord. 1977-22, passed 2-28-77)

**§ 914.12 GROSS AMOUNT FOR DELINQUENCY.**

The sewage charges herein provided, if not paid within a period of 14 days following the date of billing, shall be subject to the provisions of § 912.19. ('70 Code, § 914.12) (Ord. 1977-22, passed 2-28-77)

**§ 914.13 NONPAYMENT; MUNICIPALITY'S REMEDY.**

The nonpayment of charges pursuant to this chapter shall be subject to the provisions of § 912.20. ('70 Code, § 914.13) (Ord. 1977-22, passed 2-28-77)

**§ 914.14 SEPARABILITY.**

The invalidity of any section, clause, sentence or provision of this chapter shall not affect the validity of any other part which can be given effect without such invalid part or parts. ('70 Code, § 914.14) (Ord. 1977-22,

passed 2-28-77)

**§ 914.15 EXTENSION OF SANITARY SEWER.**

No sanitary sewer services shall be extended to any sanitary sewer users outside the corporate limits of the City, except those sanitary sewer users outside the City as of September 30, 1996, or except under the conditions set forth below. Provided, further that any person making a new application for such service to a property to which service has been previously extended outside the corporate boundaries of the City shall comply with all applicable City ordinances, specifically Chapter 911 herein. (Ord. 1996-129, passed 11-12-1996)

**§ 914.16 COMPLIANCE WITH CERTAIN CONDITIONS PRIOR TO EXTENSIONS.**

The City of Marion may extend its Sanitary Sewer Service to land which is outside of the corporate limits of the City but within the City's Sanitary Sewer Service Area provided that before such sanitary sewer services is extended, the owner of such land complies with the following:

(A) The owner complies with Ohio Revised Code 6117.01 and meets the conditions imposed by the County of Marion.

(B) All applicable Zoning and Planning regulations have been complied with.

(C) An agreement to annex the property to the City has been executed. The owner of this property shall exert all efforts to obtain annexation of his or her property including the signing and Filing an annexation petition, when it is legally permissible to do so, pursuant to the requirements and conditions contained in Section C1 and C2 herein. The opinion of the City Law Director shall be binding as to the legal permissibility of said action. The owner of such land must require that a similar agreement is made with subsequent purchases of said property and further to place a covenant in the deed which obligates all subsequent purchasers to annex the land into the City. A copy of said agreement shall be recorded by the owner of the property in the Office of the Marion County Recorder and shall be deemed to be an "equitable obligation that is binding upon all subsequent purchasers."

(1) Property which is, at the time of the extension of sewer service, contiguous to the City Corporation. The owner of the this property shall annex the land into the City of Marion.

(2) Property which is, at the time of the extension of sewer service, non-contiguous to the City Corporation, the owner of this property shall annex the land into the City of Marion within six (6) months of the date that said land becomes contiguous. The City, through its Safety/Service Director, may discontinue sanitary service at the end of this six (6) month period if the property is not annexed. (Ord. 1996-129, passed 11-12-1996; Am. Ord. No. 1997-101, passed 07-28-1997)

**§ 914.99 PENALTY.**

Whoever violates any of the provisions of this chapter, other than nonpayment of charges, or violates any properly promulgated rule, regulation or order authorized by this chapter, is guilty of a misdemeanor of the second degree and shall be fined not more than \$750 or imprisoned not more than 90 days, or both. A separate offense shall be deemed committed each day during or on which a violations occurs or continues. ('70 Code, § 914.99) (Ord. 1977-22, passed 2-28-77)

***Cross-reference:***

*Sewer user charge system, see Ch. 912; Northwest Interceptor Sewer Improvement Fund, see § 916.03*

## CHAPTER 915: STORM WATER DRAINAGE SYSTEM

### Section

#### *General Provisions*

- 915.01 Definitions
- 915.02 Declaration of necessity
- 915.03 Director's powers and Duties
- 915.04 City Engineer's powers and duties
- 915.05 Grievance and Appeals
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#### *Storm Water Drainage Regulations*

- 915.07 Storm connection; permit required
- 915.08 Storm connection permit; application and fee
- 915.09 Storm discharge requirements
- 915.10 Storm pipe materials
- 915.11 Storm laterals and yard drains
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#### *Storm Water Drainage Charges*

- 915.15 Director's powers and duties
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- 915.17 Equivalent Residential Unit (ERU) determination
- 915.18 User charge elements and determination
- 915.19 Payment of charges
- 915.20 Gross amount for delinquency
- 915.21 Nonpayment; Municipality's remedy
- 915.22 Penalty

### § 915.01 DEFINITIONS.

Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:

**COMBINED SEWER.** A sewer intended to receive both wastewater and storm or surface water.

**DEBT SERVICE.** The payment requirements necessary to amortize the debt assumed by the Storm Drainage Utility for the purpose of financing operations, maintenance, and improvements to same.

**ENGINEER.** The City Engineer or his/her authorized deputy, agent, or representative.

**EQUIVALENT RESIDENTIAL UNIT (ERU).** That amount of impervious area attributable to the averaged single-family residential property. Such measurement shall be considered as one (1) ERU, which is to be used to calculate the volume of storm water discharge.

**EQUIVALENT RESIDENTIAL UNIT (ERU) RATE.** That rate as established by Ordinance by the Council of the City of Marion which represents the user fee for one (1) Equivalent Residential Unit. Said rate is to be applied to a property's ERU determination. For example, if a property's contribution to the public

storm water drainage system is calculated as 4 ERU's, then the rate for one ERU is multiplied by 4 and the user fee is charged accordingly.

**IMPERVIOUS AREA.** That area, as determined by the City Engineer, which does not allow for the natural absorption of storm water and attributes to storm water runoff. Examples of impervious areas include, but are not limited to, roofs, driveways, parking areas, walkways and patios.

**LATERAL SEWER.** A sewer that discharges into a branch or other sewer and has no other common sewer, except building service sewers, tributary to it.

**MAY** is permissive; **SHALL** is mandatory.

**NATURAL OUTLET.** Any outlet in a watercourse, pond, ditch, lake, or other body of surface or groundwater.

**OPERATION and MAINTENANCE COSTS.** All expenses associated with the collection, management, and disposal of storm water, including costs related to the maintenance of the storm water drainage system.

**PUBLIC SEWER.** A sewer provided by or subject to the jurisdiction of the municipality. It shall also include sewers within or outside the municipal boundaries that serve one or more people and ultimately discharge into the municipal sewer system, even though those sewers may not have been constructed with municipal funds.

**PUBLIC STORM WATER DRAINAGE SYSTEM.** That system where private and public property storm water runoff is discharged into, then collected and managed by the City of Marion. It includes all public drains, culverts, catch basins, open ditches and waterways, control structures, retention/detention ponds and other public facilities related to the collection and management of storm water runoff located within or without the city corporation limits.

**REPLACEMENT and IMPROVEMENT COSTS.** Expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the service life of the storm drainage utility system to maintain and improve the capacity and performance for which such system was designed and constructed. Unless specifically excluded, the term OPERATION and MAINTENANCE shall include replacement.

**SAFETY/SERVICE DIRECTOR** The Director of Public Safety/Service of the municipality or his/her duly authorized deputy, agent or representative.

**SANITARY SEWER.** A sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.

**SEWER.** A pipe or conduit for conveying sewage or any other waste liquid, including storm, surface and groundwater drainage.

**SIC MANUAL.** The Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented.

**SPECIFICATIONS FOR MATERIALS.** Standards of specifications identified by the following abbreviations: **ANSI:** American standards approved by the American National Standards Institute Inc., 1430 Broadway, New York, New York 10018. **AASHTO:** American Association of State Highway and Transportation Officials, 444 North Capitol St., N.W., Suite 225, Washington, D.C. 20001. **ASTM:**

Standards and tentative standards published by the American Society for Testing and Materials, P. O. Box 7510, Philadelphia, Pennsylvania 19101. CS: Commercial standards representing recorded voluntary recommendations of the trade, issued by the United States Department of Commerce and obtainable from the Superintendent of Documents, Government Printing Office, Washington, D. C. 20234.

***STORM DRAIN OR STORM SEWER.*** A drain or sewer for conveying water, groundwater, subsurface water, or unpolluted water from any source.

***STORM DRAINAGE UTILITY.*** A Storm Drainage Utility is a management system for the installation, maintenance, and operation of a stormwater collection and disposal system financed from revenue derived from user fees.

Stormwater utility user fees are equitably based upon a property's contribution to the drainage system. This is calculated by determining impervious surface area. The Storm Drainage Utility will address stormwater drainage issues within the City of Marion's corporation limits. Likewise, user fees will only be charged to those properties within the City limits.

***STORM DRAINAGE UTILITY USER FEES.*** Those charges levied against a property for said property's contribution to the public storm water drainage system. User fees are to be based upon Equivalent Residential Units (ERU's) and the Rate established for an ERU by Ordinance of Council of the City of Marion.

***STORM WATER RUNOFF.*** That portion of rainfall that is discharged into the public storm water drainage system, including, but not limited to, storm drains, catch basins, and ditches. Storm water which is detained (Detention pond), but eventually discharged into the public storm water drainage system is considered storm water runoff.

***UNPOLLUTED WATER.*** Water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefitted by discharge to the sanitary sewers and wastewater treatment facilities provided.

***USERS CHARGE.*** The charge to each recipient of storm drainage services within the municipality's service area representing a proportionate share of the costs of operation and maintenance including replacement of all storm drainage service provided and improvement to same. An incremental charge for the recovery of debt service may be included.

***USERS CLASS.*** The division of users within the municipality's service area by the origin of storm water discharge and the function of such users. Stated in five general classes, they are:

(1) ***RESIDENTIAL USER.*** Any user, or contributor, to the public storm water drainage system who is a single-family residential unit. The sole purpose of the property is for housing of a single-family residence. Such residence must be billed as a single unit by the Marion Utility Department. Duplex, triplex, and apartment units may be classified as a residential user only if each residential unit is metered and billed separately. Residential users shall also include any property not otherwise classified herein.

(2) ***COMMERCIAL USER*** Any user, or contributor, to tile public storm water drainage system whose primary function is retail, wholesale, service, or other commercial activity. The purpose of said property is for the conduct of business. Multi-family dwellings, metered and billed as one, shall be deemed commercial use.

(3) ***INDUSTRIAL USER.*** Any user, or contributor, to the public storm water drainage system whose primary function is the manufacture, fabrication, or assembly of goods classified as manufacturing by the Marion Zoning Code.



(4) **INSTITUTION or OTHER PUBLIC USER** Any user or contributor, to tile public storm water drainage system whose primary function is public service. Such users may include, but are not limited to; hospitals, prisons, government offices, charitable institutions, and public service operations.

(5) **COMBINED USER.** Any user, or contributor, to the public storm water drainage system whose property serves more than a single function. Examples of such usage may include, but not be limited to; housing units converted to commercial and residential usage, commercial units partially used for residential, or any other combination of uses. Combined users shall be classified as Commercial Users for the purposes of computing user charges.

#### **§ 915.02 DECLARATION OF NECESSITY**

The system of public storm water drainage sewers and appurtenances shall be operated as a public utility. Council has declared it necessary to construct, maintain and operate within or without the municipality the necessary storm water drainage sewers, culverts, catch basins, drains, ditches, streams, retention/detention ponds and appurtenances for the use of the inhabitants of the municipality.

#### **§ 915.03 DIRECTOR'S POWERS AND DUTIES.**

(A) The Safety/Service Director shall manage the utility and make such regulations or rules as may be found necessary for the safe, economical and efficient management and protection of the storm water drainage system, and for the enforcement of the provisions of this chapter.

(B) The Safety/Service Director shall make and enforce such rules as he/she may deem necessary for the enforcement of the provisions of this chapter, for the proper determination and collection of the rates and charges herein provided and for the safe, efficient and economical management of the system.

#### **§ 915.04 CITY ENGINEER'S POWERS AND DUTIES.**

(A) The City Engineer is authorized and directed to adopt and enforce specifications and regulations in accordance with the provisions of this chapter for the purpose of providing control of the installation of storm drainage sewers and appurtenances and the inspection thereof. The City Engineer shall maintain accurate and complete records of all permits issued and inspection made. The City Engineer is authorized to require abandonment and removal of connections to the public storm sewers which violate the provisions of this chapter.

(B) The City Engineer and his/her authorized representative are authorized to enter upon any private premises at all reasonable times for the purpose of inspecting storm sewer, excavations for the same, and connection to ensure compliance with this chapter and any other provisions of this code related to the same. No persons shall refuse the City Engineer or his/her authorized representatives this right of entry.

#### **§ 915.05 GRIEVANCE AND APPEALS**

(A) Any User aggrieved by a decision of the City Engineer may file a written appeal of that decision with the Safety/Service Director. The appeal shall state the basis of the User's complaint and the decision of the City Engineer.

(B) The Safety/Service Director shall investigate the complaint and issue a written decision. Such decision shall include:

1. Name, Address, and Location of the premises of the User;
2. Summary of the User's complaint;
3. Synopsis of the facts presented by the City Engineer.

4. The decisions of the Safety/Service Director with accompanying justification.
5. An interpretation/clarification of any applicable policy, regulation or law.

(C) No legal action in the courts of the City, State or Federal government shall be initiated by any User until completion of this administrative remedy.

#### **§ 915.06 SEPARABILITY**

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

### ***STORM WATER DRAINAGE REGULATIONS***

#### **§ 915.07 STORM CONNECTION; PERMIT REQUIRED.**

(A) No house sewer or drain shall be constructed to connect with a public storm sewer nor shall any connection be made to a public storm sewer within the municipality, or a municipally owned storm sewer outside the municipality, until a written permit from the City Engineer has been obtained.

#### **§ 915.08 STORM CONNECTION PERMIT; APPLICATION AND FEE.**

An application for a permit required by § 915.07 shall describe the property and state the purpose for which the connection is desired. The application shall be accompanied by a fee in the amount as shown on the fee schedule available in the City Engineer's Office.

#### **§ 915.09 STORM DISCHARGE REQUIREMENTS.**

The written permit required by 915.07 to construct a house sewer or drain connecting with a public storm sewer shall specify the permissible use of such house sewer or drain. Such specifications shall be governed by the following requirements:

(A) Storm sewers or drains may be used for the removal of surface water, rain water from roofs, subsoil drainage, building foundation drainage, cistern overflow, clear water from condensers, wastewater from water motors, and any other clean and unobjectable wastewater.

(B) Storm sewers or drains shall not receive sewage, industrial waste, septic tank wastewater, cesspool overflow, privy vault drainage, kitchen waste, or any other liquid waste of objectable character.

(C) After a storm sewer or drain to be connection with a public storm sewer is laid, and before it is covered or used, it shall be inspected and approved by the City Engineer or his/her authorized agent.

#### **§ 915.10 STORM PIPE MATERIALS.**

All storm sewers shall be constructed of sewer pipe meeting the following material specifications:

(A) High density polyethylene pipe with smooth interior as described in AASI-ITO M-294; or

(B) Reinforced concrete pipe as described in ASTM C-7G; or

(C) Residence service lines may be constructed of polyvinyl chloride (PVC) as described in ASTM D-3034 SDR-35.

#### **§ 915.11 STORM LATERALS AND YARD DRAINS.**

Storm sewer laterals shall have minimum barrel diameters of six (6) inches and a minimum grade of 1.0 percent..

**915.12 DOWNSPOUTS EMPTYING ONTO SIDEWALKS.**

No person shall maintain or construct any building downspout or cave trough in such a manner as to empty its contents onto sidewalks.

**§ 915.13 PROHIBITION OF UNPOLLUTED WATER**

No person shall discharge or cause to be discharged any unpolluted storm water, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters into any sanitary sewer.

**§ 915.14 ALLOWABLE DISCHARGE OF UNPOLLUTED WATER.**

Storm water and all other unpolluted drainage shall be discharged into such sewers as are specifically designated as storm drains or into a natural outlet approved by the Safety/Service Director. Unpolluted industrial cooling water or process waters may be discharged on approval by the Safety/Service Director and the Ohio Environmental Protection agency into a storm sewer or natural outlet.

***STORM WATER DRAINAGE CHARGES***

**§ 915.15 DIRECTOR'S POWERS AND DUTIES.**

The Safety/Service Director shall manage, conduct, and control tile storm water drainage system.' City Council shall establish a schedule of rates or charges of rents for the use of said system, the Director shall ensure the collection of said charges. The Safety/Service Director shall designate those agents to ensure compliance. The Safety/Service Director shall assess user fee charges based upon said calculations and shall forward same to the Utility Billing Department for collection.

**§ 915.16 CITY ENGINEER'S POWERS AND DUTIES.**

(A) The City Engineers is hereby empowered to survey property for the purpose of calculating the square footage of impervious area. Said determination of impervious area to be used to calculate storm water drainage use fees based upon the Equivalent Residential Unit (ERU) and ERU Rate.

**§ 915.17 EQUIVALENT RESIDENTIAL UNIT (ERU) DETERMINATION:**

(A) The ERU represents two thousand seven hundred seventy eight (2,778) square feet.

(B) The ERU and debt service shall be reviewed every two (2) years in order to account for changes in the single-family residential market. ERU = 2,778 square feet. (Ord. 2014-78, passed 1-12-2015)

(C) The ERU rate (User Fee) shall be four and 16/100 dollars (\$4.16) per ERU per month and shall be effective May 26, 1997. (Am. Ord. 1997-67, passed 4-28-97)

(1) Qualified Senior Citizens and disabled persons shall receive a fifty percent (50%) discount on all Storm Water Utility Billings in accordance with the qualifying criteria as set forth in Section 943.19. (Ord. 1997-16, passed 02-24-97)

***Given that the only debt which may be created on the system must first be approved by the Council and given that the Administration is required by law to collect sufficient charges to pay the system's debt service charges, the Safety/Service Director shall annually, in February of each year, calculate the necessary debt***

*service (Storm Water Utility improvement charge) and collect sufficient sums to ensure the system's annual debt charge is met. The Director shall post all charges related hereto in his/her Office.* (Ord. 2014-78, passed 1-12-2015)

**§ 915.18 USER CHARGE ELEMENTS AND DETERMINATIONS.**

The volume of storm water discharge used for calculating all user charges shall be based upon the Equivalent Residential Unit.

(A) Single-Family Residential - The volume of storm water discharge shall be determined by a survey of impervious area of such structures representing neighborhoods throughout the city. Impervious areas to be calculated shall include, but not be limited to, roofs, walkways, patios, driveways, and parking areas.

(B) Multi-Family Residential - The volume of storm water discharge shall be determined by applying the ERU to each residential unit where each unit is billed for utilities separately, or where the units are billed jointly, by dividing the total impervious area of the residential property by the ERU to determine the number of ERU's (volume) discharged into the public storm drainage system.

(C) Commercial, Industrial, and Institutional or Other Public User - The total impervious area square footage shall be divided by the Equivalent Residential Unit (ERU) to determine the number of ERU's (volume) discharged into the public storm drainage system.

(D) Vacant Structures - The volume of storm water discharge shall be determined by one of the above methods for all vacant property based upon its most recent use.

(E) Detention ponds, which detain discharge of storm water into the public storm drainage system, shall not reduce the calculation of impervious area.

(F) Retention ponds, which do not discharge into the public storm drainage system, shall cause a reduction in the calculation of impervious area proportionate to that area which drains to said retention pond. This reduction shall be at the sole discretion of the City Engineer.

(G) Property surveys and calculation of impervious areas shall be the responsibility of the City Engineer.

(H) Final determination for the method and manner of storm water discharge volume shall be the responsibility of the City Engineer.

(I) Minimum Charge – the Storm Water Drainage Charges shall not be less than that amount equal to one ERU. This minimum charge applies to all users. (Ord. 1997-66, passed 04-28-1997)

**§ 915.19 PAYMENT OF CHARGES**

The storm water drainage charges herein provided shall be payable bimonthly or monthly, provided that the bill shall be paid on a monthly basis only in the event the water bill of such party is so said.

**§ 915.20 GROSS AMOUNT FOR DELINQUENCY**

(A) The charges shall constitute the net charges for storm water drainage service if paid within a period of 14 days following the date of billing. If paid after the 14-day period has elapsed, the applicable charges shall be at the gross rate, which shall be 5% greater than the net charges, but in no case shall the additional charge be less than \$.10.

(B) It shall be understood that the U.S. Government postmark shall govern the due date and that when

any payments are mailed within the 14-day period or paid at an authorized collection agency within the 14-day period, they shall be considered as paid within the prescribed time limit and exempt from penalty. In the collection of such payments by mail, the U.S. Government postmark on the envelope containing the payment shall be identified and retained for a period of four months after which they will be destroyed and the gross amount of such bill shall I not be disputed.

**§ 915.21 NONPAYMENT; MUNICIPALITY'S REMEDY**

Each storm water drainage charge established and made pursuant to this chapter is hereby made a lien upon the premises charges therewith, and if the same is not paid within 90 days after it is due and payable it shall be certified to the County Auditor who shall place the same on the tax duplicate. With the interest and penalties allowed by law, it shall be collected as other municipal taxes are collected.

**§ 915.22 USES OF STORM WATER DRAINAGE REVENUE**

Revenue received from the collection of the rates and charges provided in 915.18 shall be deposited regularly with the Auditor, who shall keep the same in a separate fund designated the Storm Drainage Revenue Fund. The moneys in this Fund shall be used for the cost and expense of the operation, maintenance, repair, replacement, new construction and management of the public Storm Drainage System. Additionally, moneys from this Fund may be used for debt service related to the borrowing of funds for improvements to file storm water drainage system and for construction elements directly related to same. Surplus in the fund generated by user fees shall be deposited and used in accordance with R.C. 729.52. When appropriated by Council, the Fund shall be subjected to the order of the Safety/Service Director. The Director shall sign all orders drawn on the Treasurer of the municipality against such Fund.

**§ 915.99 PENALTY.**

Whoever violates any of the provisions of this chapter, other than nonpayment of charges or violates any property promulgated rule, regulation or other authorized by this chapter, is guilty of a misdemeanor of the second degree and shall be fined not more than \$750 or imprisoned not more than 90 days, or both. A separate offense shall be deemed committed each day during or on which a violation occurs or continues. (Ord. 1996-149, passed 12-9-96; Ord. 1997-16, passed 02-24-97; Am. Ord. 1997-67, passed 4-28-97)

***Cross-reference:***

*Domestic Refuse and Rubbish Collection, see Ch. 943*

**CHAPTER 915.5: STORM WATER POST CONSTRUCTION WATER QUALITY RUNOFF  
CONTROLS AND REGULATIONS**

Section

***General Provisions***

915.5.1	Purpose and Scope
915.5.2	Definitions
915.5.3	Scope
915.5.4	Post—Construction Water Quality Control Plan
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915.5.8	Application Procedures for Post-Construction Water Quality Plans

**§ 915.5.1 PURPOSE AND SCOPE**

**COMMUNITY:** Throughout this regulation the Community shall mean the *City of Marion*, State of Ohio, and its designated agents and representatives.

**PURPOSE:** The intent of this regulation is to:

1. Allow development while reducing damage to receiving water resources and drainage systems that may be caused by new development or redevelopment activities.
2. Protect and maintain the receiving stream’s physical, chemical, biological characteristics and stream functions.
3. Provide perpetual management of storm water runoff quality and quantity.
4. Establish consistent technically feasible and operationally practical standards to achieve a level of storm water quantity and quality control that will minimize damage to public and private property and degradation of water resources, and will promote and maintain the health, safety, and welfare of the residents of the Community.
5. Control storm water runoff resulting from soil disturbing activities.
6. Preserve, to the maximum extent practicable (MEP), the natural drainage characteristics of the building site.
7. Preserve, to the maximum extent practicable (MEP), natural infiltration and groundwater recharge, and maintain subsurface flow that replenishes water resources, wetlands, and wells.
8. Assure that storm water quality controls are incorporated into site planning and design at the earliest possible stage.
9. Reduce the need for costly treatment and mitigation for the damage to and loss of water resources that are the result of inadequate storm water quality control.
10. Reduce the long-term expense of remedial projects needed to address problems caused by inadequate storm water quality control.

11. Require the incorporation of water quality protection that encourages and promotes habitat preservation into the construction of storm water management practices.
12. Ensure that all storm water quality practices are properly designed, constructed, and maintained.

## § 915.5.2 DEFINITIONS

**MANAGEMENT PRACTICE (BMP):** Any practice or combination of practices that is determined to be the most effective, practicable (including technological, economic, and institutional considerations) means of preventing or reducing the amount of pollution generated by nonpoint sources of pollution to a level compatible with water quality goals. BMPs may include structural practices, conservation practices and operation and maintenance procedures.

**CERTIFIED PROFESSIONAL IN EROSION AND SEDIMENT CONTROL (CSPEC):** A person that has subscribed to the Code of Ethics and have met the requirements established by the CPESC Council of Certified Professional in Erosion and Sediment Control, Inc. to be a Certified Professional in Erosion and Sediment Control.

**DEVELOPMENT AREA:** Any tract, lot or parcel of land, or combination of tracts, lots or parcels of land, which are in ownership, or are contiguous and diverse ownership, where earth disturbing activity is to be performed.

**DITCH:** An excavation, either dug or natural, for the purpose of drainage or irrigation, and having intermittent flow.

**EARTH DISTURBING ACTIVITY:** Any grading, excavating, filling, or other alteration of the earth's surface where natural or man-made ground cover is destroyed.

**EROSION AND SEDIMENT CONTROL:** A written and/or drawn soil erosion and sediment pollution control plan to minimize erosion and prevent off-site sedimentation throughout all earth disturbing activities on a development area.

**GRADING:** Earth disturbing activity such as excavation, stripping, cutting, filling, stockpiling, or any combination thereof.

**INTERMITTENT STREAM:** A natural channel that may have some water in pools but where surface flows are non-existent or interstitial (flowing through sand and gravel in stream beds) for periods of one week or more during typical summer months.

**LARGER COMMON PLAN OF DEVELOPMENT OR SALE:** A contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan.

**OUTFALL:** An area where water flows from a structure such as a conduit, storm sewer, improved channel or drain, and the area immediately beyond the structure which is impacted by the velocity of flow in the structure.

**PERSON:** Any individual, corporation, partnership, joint venture, agency, unincorporated association, municipal corporation, township, county, state agency, the federal government, or any combination thereof.

**PROFESSIONAL ENGINEER:** A person registered in the State of Ohio as a Professional Engineer, with specific education and experience in water resources engineering, acting in strict conformance with the Code of Ethics of the Ohio Board of Registration for Engineers and Surveyors.

**REDEVELOPMENT:** The demolition or removal of existing structures or land uses and construction of new ones.

**RETENTION BASIN:** A storm water management pond that maintains a permanent pool of water. These storm water management ponds include a properly engineered/designed volume dedicated to the temporary storage and slow release of runoff waters.

**RIPARIAN AREA:** Naturally vegetated land adjacent to watercourses which, if appropriately sized, helps to, limit erosion, reduce flood flows, and/or filter and settle out runoff pollutants, or which performs other functions consistent with the purposes of these regulations.

**RIPARIAN SETBACK:** Those lands within the Community which are alongside streams, and which fall within the area that the Community prohibits and restricts changes in land use and the building of structures.

**SEDIMENT BASIN:** A temporary Sediment Pond that releases runoff at a controlled rate. It is designed to slowly release runoff, detaining it long enough to allow most of the sediment to settle out of the water. The outlet structure is usually a designed pipe riser and barrel. The entire structure is removed after construction. Permanent storm water detention structures can be modified to function as temporary Sediment Basins.

**SEDIMENT POLLUTION:** A failure to use management or conservation practices to control wind or water erosion of the soil and to minimize the degradation of water resources by soil sediment in conjunction with land grading, excavating, filling, or other soil-disturbing activities on land used or being developed for commercial, industrial, residential, or other purposes.

**SEDIMENT TRAP:** A temporary sediment-settling pond having a simple spillway outlet structure stabilized with geotextile and rip rap.

**SENSITIVE AREA:** An area or water resource that requires special management because of its susceptibility to sediment pollution or because of its importance to the well-being of the surrounding communities, region, or the state and includes, but is not limited to, the following:

1. Ponds, wetlands or small lakes with less than five acres of surface area;
2. Small streams with gradients less than ten feet per mile with average annual flows of less than 3.5 feet per second containing sand or gravel bottoms.
3. Drainage areas of a locally designated or an Ohio designated Scenic River.
4. Riparian and wetland areas.

**SETTLING POND:** A runoff detention structure, such as a Sediment Basin or Sediment Trap, which detains sediment-laden runoff, allowing sediment to settle out.

**SOIL STABILIZATION:** Vegetative or structural soil cover that controls erosion, and includes permanent and temporary seed, mulch, sod, pavement, etc.

**SOIL SURVEY:** The official soil survey produced by the Natural Resources Conservation Service, USDA in cooperation with the Division of Soil and Water Conservation, ODNR and the local Board of County Commissioners.

**STORM WATER RUNOFF:** Surface water runoff which converges and flows primarily through water conveyance features such as swales, gullies, waterways, channels or storm sewers, and which exceeds the



maximum specified flow rates of filters or perimeter controls intended to control sheet flow.

**WATERCOURSE:** Any natural, perennial, or intermittent channel, stream, river or brook.

**WATER RESOURCES:** All streams, lakes, ponds, wetlands, water courses, waterways, drainage systems, and all other bodies or accumulations of surface water, either natural or artificial, which are situated wholly or partly within, or border upon this state, or are within its jurisdiction, except those private waters which do not combine or affect a junction with natural surface waters.

**WETLAND SETBACK:** Those lands within the Community that fall within the area defined by the criteria set forth in these regulations.

**DISCLAIMER OF LIABILITY:** Neither submission of a plan under the provisions herein, nor compliance with the provisions of these regulations, shall relieve any person or entity from responsibility for damage to any person or property that is otherwise imposed by law.

**CONFLICTS, SERVABILITY, NUISANCES & RESPONSIBILITY:**

1. Where this ordinance imposes a greater restriction upon land than is imposed or required by other Community provisions of law, ordinance, contract or deed, the provisions of this ordinance shall prevail.
2. If a court of competent jurisdiction declares any clause, section, or provision of these regulations invalid or unconstitutional, the validity of the remainder shall not be affected thereby.
3. These regulations shall not be construed as authorizing any person to maintain a private or public nuisance on their property. Compliance with the provisions of this regulation shall not be a defense in any action to abate such nuisance.
4. Failure of the Community to observe or recognize hazardous or unsightly conditions or to recommend corrective measures shall not relieve the owner from the responsibility for the condition or damage resulting there from, and shall not result in the Community, its officers, employees, or agents being responsible for any condition or damage resulting there from.

**§ 915.5.3 SCOPE:** This ordinance applies to development areas having new or relocated projects involving highways, underground cables, pipelines, subdivisions, industrial projects, commercial projects, building activities on farms, redevelopment of urban areas and all other land uses not specifically exempted. This ordinance does not apply to:

1. Land-disturbing activities related to producing agricultural crops or Silviculture operations regulated by the Ohio Agricultural Sediment Pollution Abatement Rules (1501: 15-3-01 to 1501: 15-3-09 of the Ohio Administrative Code) and existing at the time of passage of this regulation.
2. Linear construction projects, (e.g., pipeline or utility line installation), which do not result in the installation of impervious surface and are independent of other construction projects (not part of a larger common plan of development or sale). However, linear construction projects must be designed to minimize the number of stream crossings and the width of disturbance.
3. Transportation projects that are subject to industry specific Ohio EPA Rules are exempt from these rules.
4. It is not the role of the Community to point out each and every part of the rules and how to implement them on the individual job sites. It is the project owner's responsibility to be proactive in meeting the intent, purpose and requirements of these regulations.

**CONSULTATIONS:** In implementing these regulations, the City Engineer or other Community officials may consult with the local county SWCD, state and federal agencies and other technical experts as necessary.

**§ 915.5.4 POST-CONSTRUCTION WATER QUALITY CONTROL PLAN:** In order to control Post-Construction water quality damage and damage to public and private lands, the owner of each development area shall be responsible for developing a Post-Construction Storm Water Management Plan.

1. This plan will contain a description of controls appropriate for each construction operation covered by these regulations, and the operator will implement such controls in a timely manner.

2. The BMPs used to satisfy the conditions of these regulations shall meet the standards and specifications in the current edition of the Ohio *Rain Water and Land Development* manual, ODOT Post-Construction storm water standards, or other manual that is acceptable to the City Engineer or Ohio EPA.

3. The plan must make use of the practices that preserve the existing natural condition to the Maximum Extent Practicable (MEP).

4. To meet the Post-Construction requirements of this regulation, the Post-Construction Water Quality Plan must contain a description of the Post-Construction Best Management Practices (BMPs) that will be installed during construction for the site and the rationale for their selection. The rationale must address the anticipated impacts on the channel and floodplain morphology, hydrology, and water quality.

5. This plan will identify the person or entity responsible for continued maintenance of all vegetative and/or mechanical BMPs for both the construction and Post-Construction phases of the development.

6. Long-term maintenance requirements and schedules of all BMPs for both the construction and Post-Construction phases of the development will be identified.

7. This plan will contain long-term maintenance inspection schedules, including the printed name and contact point of the Post-Construction landowner (e.g., president of the homeowners association, store manager, apartment complex manager, etc.).

8. This plan will identify the person or entity financially responsible for maintaining the permanent inspection and maintenance of permanent storm water conveyance and storage structures and other conversation practices.

9. The method of ensuring that funding will be available to conduct the long-term maintenance and inspections of all permanent storm water, soil erosion and sediment control and water quality practices will be identified.

10. The Post-Construction Plan will also contain the following information depending on the size of the development sites as well as any additional information required by the City Engineer:

A. **Development Sites Smaller than Five Acres:** A development site that will disturb one (1) or more, but less than five (5) acres of land and is not a part of a larger common plan of development or sale which will disturb five or more acres of land shall identify:

(1) Storm Water Issues: A statement as to how the decreased storm water quality that will be caused by the planned development project will be handled.

(2) Description of Measures: A description of the BMPs that will be installed during the construction process to control pollutants in storm water discharges that will occur after construction operations have been completed.

- (3) Upland Areas: Structural measures placed on upland areas to the degree attainable.
- (4) Map: A map of the entire site showing the overall development.
- (5) Riparian and/or Wetland Setback: All riparian and wetland setback areas will be identified on the plans. They will also be marked in the field prior to the start of construction.
- (6) BMPs: Best Management Practices used in the Post-Construction Water Quality Plan may include but are not limited to:
  - (a) Permanent Storm Water Detention ponds that provide extended detention of the water volume.
  - (b) Flow attenuation by use of open vegetated swales and natural depressions.
  - (c) Onsite infiltration of runoff.
  - (d) Natural Channel Design for drainageways.
  - (e) Bioengineering in drainageways.
  - (f) Chemical and biological filters in storm sewer inlets.
  - (g) Low Impact Development Design.
- (7) Technical Basis: The plans will contain a rational statement utilized to select the BMPs used to control pollution and to maintain and protect water quality.

**B. Development Sites 5 Acres or Larger:** A development site that disturbs five (5) or more acres of land or will disturb less than five (5) acres, but is a part of a larger common plan of development or sale, which will disturb five (5) or more acres of land shall identify:

(1) **Storm Water Detention:** The Post-Construction BMP(s) chosen must be able to detain storm water runoff for protection of the stream channels, stream erosion control, and improved water quality.

(2) **Structural BMPs:** Structural (designed) Post-Construction storm water treatment practices shall be incorporated into the permanent drainage system for the site.

(3) **Properly Sized BMPs:** The BMP(s) chosen must be sized to treat the water quality volume (WQ<sub>v</sub>) and ensure compliance with Ohio's Water Quality Standards in OAC Chapter 3745-1. The WQ<sub>v</sub> shall be equivalent to the volume of runoff from a 0.75-inch rainfall and shall be determined by using the most recent addition of the Rainwater and Land Development Manual.

(a) Using the following equation:

1.  $WQ_v = C * P * A / 12$  where WQ<sub>v</sub> = water quality volume in acre-feet C = runoff coefficient appropriate for storms less than 1 inch (see Table 1) P = 0.75 inch precipitation depth A = draining into the BMP in acres.

**Table 1 Runoff Coefficients Based on the Type of Land Use**

Land Use	Runoff Coefficient
Industrial & Commercial	0.8
High Density Residential (>8 dwellings/acre)	0.5
Medium Density Residential (4 to 8 dwellings/acre)	0.4
Low Density Residential (<4 dwellings/acre)	0.3
Open Space and Recreational Areas	0.2

\*coefficients used only for water quality calculations

(8) The owner may request approval from the City Engineer to use alternative structural Post-Construction BMPs if the owner can demonstrate, in a way that is acceptable to the Ohio EPA rules and regulations that the alternative BMPs are

(9) Site Description:

(a) The prior land uses of the site.

(b) The nature and type of construction activity (e.g., low density residential, shopping mall, etc.).

(c) Total area of the site and the area of the site that is expected to be disturbed (i.e., grubbing, clearing, excavating, filling or grading, including of-site borrow, fill or spoil areas and off-site utility installation areas)

(d) Amount of the impervious area and percent imperviousness created by the construction activity.

(e) Name and/or location of the immediate receiving stream or surface water(s) and the first subsequent named receiving water and the major river watersheds in which it is located.

(10) A vicinity sketch locating:

(a) The development area.

(b) The larger common plan of development or sale.

(c) All pertinent surrounding natural features within 200 feet of the development site including, but not limited to:

(d) Water resources such as wetlands, springs, lakes, ponds, rivers and streams (including intermittent streams with a defined bed and bank).

(e) Other sensitive natural resources and areas receiving runoff from the development including conservation easements.

(11) The existing and proposed topography shown in the appropriate contour intervals as determined by the City Engineer (generally one-foot contours are used).

(12) The location and description of existing and proposed drainage patterns and facilities, including any allied drainage facilities beyond the development area and the larger common plan of development or sale.

(13) Existing and proposed watershed boundary lines, direction of flow and watershed acreage.

- (14) The person or entity responsible for continued maintenance of all permanent vegetative and/or mechanical Post-Construction water quality conservation practices (BMPs).
- (15) The location of any existing or planned riparian and/or wetland setback areas on the property.

**EASEMENTS:** Future access to all permanent vegetative and/ or mechanical Post-Construction water quality conservation practices (BMPs) and other areas, as required by the City Engineer, shall be secured by means of easements.

1. The easements shall be recorded in the name of the one of the following; the Community, the responsible party for maintenance and upkeep of BMPs, or, in single-family residential developments, the homeowners association. The City Engineer shall approve the form of all easements.
2. Such easements shall be not less than twenty-five (25) feet in width, in addition to the width of the ditch, channel, or other facility it is to serve. Further, an easement of this type shall be provided on one (1) side of the flood control or storm drainage ditch, channel, or similar-type facility.
3. The easements shall be restricted against the planting within said easement of trees, shrubbery or plantings with woody growth characteristics, and against the construction therein of buildings, accessory buildings, fences, walls or any other obstructions to the free flow of storm water and the movement of inspectors and maintenance equipment and also restricted against the changing of final grade from that described by the grading plan.

**MAINTENANCE:** Any portion of the permanent Post-Construction water quality management systems including on-site and off-site treatment/storage facilities that are constructed by the owner will be continuously maintained into perpetuity.

1. Detail drawings and maintenance plans must be provided for all Post-Construction and Best Management Practices (BMPs).
2. Maintenance plans must ensure that pollutants collect within structural Post-Construction BMP practices is disposed of in accordance with local, state and federal guidelines.
3. Maintenance plans shall be provided by the permittee to both the City Engineer and the Post-Construction operator of the BMP (including homeowner associations) upon completion of construction activities and prior to the City Engineer giving final approval for the completed construction.
4. Single-Family Residential Developments: A Homeowners' Association shall be created and placed in title of the affected lands and shall be continuously responsible for Post-Construction maintenance and inspections into perpetuity unless such maintenance and inspections become officially accepted by the Community.
5. Multi-Family, Commercial and Industrial Developments: The plans will clearly state that the owner of the property shall be continuously responsible for Post-Construction maintenance and inspections into perpetuity unless such maintenance and inspections become officially accepted by the Community.
6. Maintenance Design: Low maintenance requirements are a priority in the design and construction of all facilities. Multi-use facilities incorporating assets such as aesthetics and recreation may be incorporated into the design of the drainage facilities. Inspections and maintenance will be incorporated periodically throughout the year to ensure that the facilities are properly operational.
7. Perpetual Maintenance Inspections: One (1) inspection with a written report will be performed each year. The written report will be given to the City Engineer by May 1<sup>st</sup> of each and every year after the Best

Management Practice (BMP) has been completed.

A. Structures that require a permit from the Ohio Division of Water: A written and stamped report from a professional engineer on the status of all structural BMPs that require a permit from the Ohio Department of Natural Resources (ODNR) Division of Water. This applies to all BMPs that require a permit either at the time of construction or fall under the jurisdiction of ODNR Division of Water at any time after construction is completed.

B. Easements: A written report from an inspector on the status of all storm water management easements for each project shall be submitted to the City Engineer by May 1st of each year into perpetuity. These reports will document if restricted plantings, fences and structures are on the easement and will identify the location of the noted easement restriction violations.

C. Best Management Practices (BMPs) that do not have a high risk for loss of life, bodily injury, or damage to structures or infrastructure related to imminent failure as determined by the City Engineer: A written and stamped report from a professional engineer or landscape architect on the status of permanent soil erosion, sediment control, water quality management systems and the status of the related easements shall be submitted to the City Engineer by May 1<sup>st</sup> of each year into perpetuity.

D. BMPs that have a potential loss of Life: A written and stamped report covering the status of all BMPs that have a potential for loss if life, bodily injury, or damage to structures or infrastructure will be prepared by a professional engineer or other individual possessing a valid state license that authorizes them to design the same type of BMP for construction.

**MINIMUM STANDARDS:** In order to control pollution of water resources, the owner or person responsible for the development area shall use conservation planning and practices to maintain the level of conservation established in the following standards.

1. Standards and Specifications: Post-Construction runoff practices used to satisfy these standards and specifications in the current edition of the Rainwater and Land Development manual, NRCS Field Office Technical Guide for the local county, or the Ohio EPA, whichever is the most stringent.

2. Water Quality Basins:

A. Designed in accordance with the current edition of the Rainwater and Land Development manual.

B. If a Water Quality Basin is needed and cannot be incorporated into an existing or planned Detention or Retention Basin then a separate Water Quality Basin will need to be planned, designed, constructed and maintained into perpetuity.

C. Water quality Basins will not be constructed in any permanent or intermittent stream channel.

D. Flexibility: These standards are general guidelines and shall not limit the right of the City Engineer to impose at any time additional and/or more stringent requirements nor shall the standards limit the right of the City Engineer to waive, in writing, individual requirements.

1) If the City Engineer waives, in writing, individual requirements, the owner will provide the City Engineer with the information and documentation required to assure Ohio EPA that the waived requirement will not degrade water quality.

**ALTERNATIVE ACTIONS:** Where the City Engineer determines that site constraints exist in a manner that compromised the intent of this ordinance to improve the management of storm water runoff as established in this ordinance, practical alternatives may be used to result in an improvement of water quality and/or a

reduction of storm water runoff.

**COMPLIANCE WITH OTHER RULES AND REGULATIONS:**

1. Ohio Dam Safety Laws: The written proof will be provided to the City Engineer before a construction permit will be issued.
2. NPDES Permits: The written proof will be provided to the City Engineer before a construction permit will be issued.
3. Federal and State Wetland Permits: Written proof of compliance with both permit programs will be provided to the City Engineer before a construction permit will be issued.

**915.5.5 VIOLATIONS:** No person shall violate, or cause, or knowingly permit to be violated, any of the provisions of these regulations, or fail to comply with any such provisions or with any lawful requirements of any public authority made pursuant to these regulations, or knowingly use or cause or permit the use of any lands in violation of these regulations or in violation of any permit granted under these regulations.

**915.5.6 PENALTIES:**

1. Whoever violates or fails to comply with any provision of this regulation is guilty of a misdemeanor of the first degree and shall be fined no more than one thousand dollars (1,000.00) or imprisoned for no more than one hundred eighty (180) days, or both, for each offense.
2. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.
3. Upon notice from the City Engineer, or designated representative, that work is being performed contrary to this regulation, such work shall immediately stop. The City Engineer may require that work be stopped upon verbal order pending issuance of the written order.
4. The imposition of any other penalties provided herein shall not preclude the Community, by or through its Law Director and/or any of his or her assistants, from instituting an appropriate action or proceeding in a Court of Proper Jurisdiction to prevent an unlawful development or to restrain, correct or abate a violation, or to require compliance with the provisions of this regulation or other applicable laws, or ordinances, rules or regulations or the orders of the City Engineer.

**915.5.7 CONSTRUCTION AND MAINTENANCE GUARANTEE:**

All permanent storm water, soil erosion, sediment control and water quality practices not specifically waived by the Community shall be constructed prior to the granting of the Final Plat Approval. Upon the request of the owner, the Community may defer the construction or installation of a permanent storm water, soil erosion, sediment control or water quality practice prior to the approval of the final plat where, in the City Engineer's judgment, such proper construction or installation is not immediately necessary for the protection of the public health and safety; and where the prior installation or construction of such improvement would constitute an undue hardship on the owner because in the case of new vegetation or weather conditions, or because in the case of concrete, building construction could cause cracking and excessive wear and tear on new structures. In such event, the Community shall require a Security Bond, Escrow Account, Certified Check or Cash to guarantee that such deferred improvements will be properly constructed or installed within an agreed specified time, but not to exceed six (6) months after the filing of such final plat.

1. The Guarantee: The guarantee of both performance and maintenance will be in the form of a Security Bond, Escrow Account, Verified Check or Cash. The Security Bond, Escrow Account, Verified Check or Cash will be used by the Community to complete any guaranteed construction or removal of improvements or

temporary and permanent soil erosion, sediment control and water quality practices that are not adequately completed, maintained or removed by the owner in a timely manner, as determined by the City Engineer. The Security Bond, Escrow Account, Verified Check or Cash will be in the total amount of both the performance guarantee and the maintenance guarantee. Ohio municipalities and counties may require performance bonds or other guarantees for water management improvement as stated in the ORC Chapter 711.101.

A. Security Bond, Escrow Account, Verified Check or Cash shall be deposited with the Community prior to review by the City Engineer and/or its consultants to cover professional services of the City Engineer, Building Commissioner, Zoning Inspector and/or other experts required by the City Engineer, Community Council, Mayor or Review Boards.

B. No soil disturbing activities shall be permitted until a Security Bond, Escrow Account, Verified Check or Cash has been posted to the satisfaction of the City Engineer sufficient of the Community to perform the obligations otherwise to be performed by the owner or person responsible for the development area as stated in this regulation, and to allow all work to be performed as needed in the event that the owner or person responsible for the development area as stated in this regulation, and to allow all work to be performed as needed in the event that the owner or person responsible for the development area fails to comply with the provisions of this regulation. The Security Bond, Escrow Account, Verified Check or Cash shall be released only after all work required by this regulation has been completed to the satisfaction of the City Engineer and all permit and inspection fees required by these regulations have been paid in full.

C. No project subject to this regulation shall commence without the Soil Erosion and Sediment Control, Storm Water Management, and Water Quality Plans having been approved by the City Engineer.

2. Performance Guarantee: The furnishing of a performance guarantee will be maintained in an amount of not less than 120% of the estimate approved by the City Engineer, of installation of the deferred improvements.

3. Maintenance Guarantee: The maintenance guarantee shall be maintained for a period of not less than two (2) years after final acceptance of the storm water, soil erosion, sediment control, and water quality practices in an amount equal to 20% of the estimate approved by the City Engineer, of the construction and, where necessary, removal of such practices.

4. Time Extension: The City Engineer may extend the time allowed for the installation of the improvements for which the performance guarantee has been provided with the receipt of a written request from the owner.

5. Completion: Upon completion of the construction of improvements or temporary and/or permanent, soil erosion, sediment control, and water quality practices and the removal of the temporary soil erosion, sediment control, and water quality practices for which the performance guarantee has been provided the owner shall notify the City Engineer of this fact.

6. Inspection: The Community will not release the Security Bond, Escrow Account, Verified Check or Cash guarantee until the City Engineer has inspected the site to ensure that the guaranteed item(s) have been completed and/or removed.

7. Release: The Construction Maintenance Guarantee shall not be released by the Community until all temporary soil erosion and sediment control practices that are no longer needed have been removed, properly disposed of and any trapped sediment has been stabilized.

#### **915.5.8 APPLICATION PROCEDURES FOR POST-CONSTRUCTION WATER QUALITY PLANS:**

1. This plan will be combined with the Soil Erosion and Sediment Control, and Storm Water Management plans that have been developed for the site.



2. Plans developed by the site owners and approved by the Community in accordance with this regulation do not relieve the site owner of responsibility for obtaining all other necessary permits and/or approvals from federal, state, county, and local agencies and departments. If requirements vary, the most stringent requirement shall be followed.
3. Plans submitted to the City Engineer for, review and approval shall be accompanied by other required permits and documentation relevant to the project, including but not limited to the U.S. Army Corps of Engineers, Ohio EPA, ODNR Division of Water and Ohio EPA NPDES Permit for Construction Activities.
4. Five (2) sets of the plans and necessary data required by this regulation shall be submitted to the City Engineer as follows:
  - A. Format:
    - 1) Text material will be on 8.5 by 11 inch paper.
    - 2) Drawings will be on paper sized no larger than 24 inch by 36 inches.
  - B. Construction projects:
    - 1) At the preliminary plan approval request the preliminary plans shall show all of the following existing and planned features: streams, water bodies, wetlands, riparian and wetland setback areas permanent BMPs, storm water management detention and retention basins.
    - 2) At the Improvement plan approval request.
  - C. For general clearing projects: Thirty (30) working days prior to any soil-disturbing activities.
  - D. Permits List: A list of all the permits that will be needed from federal, state and local agencies.
  - E. Long-term Maintenance:
    - 1) The requirements and schedules of all permanent vegetative and/or mechanical Post-Construction water quality conservation BMPs.
    - 2) Long-term maintenance inspection schedules for all permanent vegetative and/or mechanical Post-Construction water quality conservation BMPs.
    - 3) The person or entity financially responsible for inspecting and maintaining all permanent vegetative and/or mechanical Post-Construction water quality conservation BMPs.
    - 4) The method of ensuring that funding will be available to conduct the long-term maintenance and inspections of all permanent vegetative and/or mechanical Post-Construction water quality conservation BMPs.
5. The City Engineer shall review the plans, and shall approve or return these with comments and recommendations for revisions. A plan rejected because of deficiencies shall receive a report stating specific problems and the procedures for filing a revised plan.
6. Approved plans shall remain valid for two (2) years from the date of approval. The construction will not be considered completed until the City Engineer has conducted the Post-Construction inspections.
7. No soil-disturbing activity shall begin before all necessary local, county, state and federal permits have been granted to the owner or operator.

8. The Community will do construction inspections until the site is stabilized as determined by the City Engineer. The construction will not be considered completed until the City Engineer has conducted the Post-Construction inspections.

## CHAPTER 915.75: STORM WATER EROSION AND SEDIMENT CONTROLS AND REGULATIONS

### Section

#### *General Provisions*

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#### § 915.75.01 PURPOSE AND SCOPE

(a) The purpose of this regulation is to establish technically feasible and economically reasonable standards to achieve a level of erosion and sediment control that will minimize damage to property and degradation of water resources and wetlands, and will promote and maintain the health and safety of the citizens of the City of Marion;

(b) This regulation applies to all parcels used or being developed, either wholly or partially for new or relocated projects involving, underground cables, or pipelines; subdivisions or larger common plans of development; industrial, commercial, institutional, or residential projects; building activities on farms; redevelopment activities; general clearing; earth-disturbing activities; and all other uses that are not specifically exempted in Section 915.75.01 (d)

(c) This regulation does not apply to activities regulated by, and in compliance with, the Ohio Agricultural Sediment Pollution Abatement Rules.

#### § 915.75.02 DEFINITIONS

For the purpose of this regulation, the following terms shall have the meaning herein indicated:

**BEST MANAGEMENT PRACTICES (BMPs):** Schedule of activities, prohibitions of practices, maintenance procedures, and other management practices (both structural and non-structural) to prevent or reduce the pollution of water resources and wetlands. BMPs also include treatment requirements, operating procedures, and practices to control facility and/or construction site runoff, spillage, or leaks; sludge or waste disposal; or drainage from raw material storage.

**COMMUNITY:** Throughout this regulation, this shall refer to the City of Marion, its designated representatives, boards, or commissions.

**CONSTRUCTION ENTRANCE:** The permitted points of ingress and egress to development areas regulated under this regulation.

**DEVELOPMENT AREA:** A parcel or contiguous parcels owned by one person or persons, or operated as one development unit, and used or being developed for commercial, industrial, residential, institutional, or other construction or alteration that changes runoff characteristics.

**DISTURBED AREA:** An area of land subject to erosion due to the removal of vegetative cover and/or soil disturbing activities.

**DRAINAGE:** (1) The area of land contributing surface water to a specific point. (2) The removal of excess surface water or ground water from land by surface or subsurface drains.

**EROSION AND SEDIMENT CONTROL:** The control of soil, both mineral and organic, to minimize the removal of soil from the land surface and to prevent its transport from a disturbed area by means of wind, water, ice, gravity, or any combination of those forces.

**FINAL STABILIZATION:** All soil disturbing activities at the site have been completed and a uniform perennial vegetative cover with a density of at least 80% coverage for the area has been established or equivalent stabilization measures, such as the use of mulches or geotextiles, have been employed.

**LANDSCAPE ARCHITECT:** A Professional Landscape Architect registered in the State of Ohio.

**LARGER COMMON PLAN OF DEVELOPMENT OR SALE:** A contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan.

**MAXIMUM EXTENT PRACTICABLE:** The level of pollutant reduction that site owners of small municipal separate storm sewer systems regulated under 40 C. F. R. Parts 9, 122, 123, and 124, referred to as NPDES Storm Water Phase II, must meet.

**PARCEL:** Means a tract of land occupied or intended to be occupied by a use, building or group of buildings and their accessory uses and buildings as a unit, together with such open spaces and driveways as are provided and required. A parcel may contain more than one contiguous lot individually identified by a "Permanent Parcel Number" assigned by the Marion County Auditor's Office.

**PERSON:** An individual, corporation, firm, trust, commission, board, public or private partnership, joint venture, agency, unincorporated association, municipal corporation, county or state agency, the federal government, other legal entity, or an agent thereof.

**PROFESSIONAL ENGINEER:** A Professional Engineer registered in the State of Ohio.

**RAINWATER AND LAND DEVELOPMENT:** Ohio's standards for storm water management, land development, and urban stream protection. The most current edition of these standards shall be used with this regulation.

**SETBACK:** A designated transition area around water resources or wetlands that is left in a natural, usually vegetated, state so as to protect the water resources or wetlands from runoff pollution.

**SOIL DISTURBING ACTIVITY:** Clearing, grading, excavating, filling, or other alteration of the earth's surface where natural or human made ground cover is destroyed and that may result in, or contribute to, erosion and sediment pollution.

**SOIL & WATER CONSERVATION DISTRICT:** An entity organized under Chapter 1515 of the Ohio Revised Code referring to either the Soil and Water Conservation District Board or its designated employee(s). Hereafter referred to as Marion County SWCD.

**STABILIZATION:** The use of BMPs, such as seeding and mulching, that reduce or prevent soil erosion by water, wind, ice, gravity, or a combination of those forces.

**STORM WATER POLLUTION PREVENTION PLAN (SWP3):** The written document that sets forth the plans and practices to be used to meet the requirements of this regulation.

**SURFACE WATERS OF THE STATE:** All streams, lakes, reservoirs, marshes, wetlands, or other waterways situated wholly or partly within the boundaries of the state, except those private waters which do not combine or affect a junction with surface water. Waters defined as sewerage systems, treatment works or disposal systems in Section 6111.01 of the Ohio Revised Code are not included.

**UNSTABLE SOILS:** A portion of land that is identified by the City of Marion Engineer as prone to slipping, sloughing, or landslides, or is identified by the U. S. Department of Agriculture Natural Resource Conservation methodology as having low soil strength.

**WATER RESOURCE:** Any public or private body of water including lakes and ponds, as well as any brook, creek, river, or stream having banks, a defined bed, and a definite direction of flow, either continuously or intermittently flowing.

**WETLAND:** Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas (40 CFR 232, as amended).

### **§ 915.75.03 DISCLAIMER OF LIABILITY**

Compliance with the provisions of this regulation shall not relieve any person from the responsibility for damage to any person otherwise imposed by law. The provisions of this regulation are promulgated to promote the health, safety, and welfare of the public and are not designed for the benefit of any individual or for the benefit of any particular parcel of property.

### **§ 915.75.04 CONFLICTS, SEVERABILITY, NUISANCES AND RESPONSIBILITY**

- (a) Where this regulation is in conflict with other provisions of law or ordinance, the most restrictive provisions shall prevail.
- (b) If any clause, section, or provision of this regulation is declared invalid or unconstitutional by a court of competent jurisdiction, the validity of the remainder shall not be affected thereby.
- (c) This regulation shall not be construed as authorizing any person to maintain a private or public nuisance on their property, and compliance with the provisions of this regulation shall not be a defense in any action to abate such a nuisance.
- (d) Failure of the City of Marion to observe or recognize hazardous or unsightly conditions or to recommend corrective measures shall not relieve the site owner from the responsibility for the condition or damage resulting therefrom, and shall not result in the City of Marion its officers, employees, or agents being responsible for any condition or damage resulting therefrom.

### **§ 915.75.05 DEVELOPMENT OF STORM WATER POLLUTION PREVENTION PLANS**

(a) This regulation requires that a Storm Water Pollution Prevention Plan be developed and implemented for all parcels disturbing one (1) acre or more and on which any regulated activity of Section 915.75.01 (c) is proposed.

(b) Activities disturbing less of an acre are not required to submit a Storm Water Pollution Prevention Plan unless required by the City of Marion Engineer. These activities must comply with all other provisions of this regulation.

#### **§ 915.75.06 APPLICATION PROCEDURES**

(a) **SOIL DISTURBING ACTIVITIES SUBMITTING A STORM WATER POLLUTION PREVENTION PLAN:**

The applicant shall submit two (2) sets of the SWP3 and the applicable fees to the City of Marion Engineer as follows:

(1) For subdivisions: After the approval of the preliminary plans and with submittal of the improvement plans

(2) For other construction projects: Before issuance of a zoning permit by the Zoning Inspector and/or right of way permits by the City Engineer.

(3) For general clearing projects: Prior to issuance of a zoning permit by the Zoning Inspector and/or right of way permits by the City Engineer.

(b) The City of Marion shall review the plans submitted under 915.75.06 (a) or (b) for conformance with this regulation and approve, or return for revisions with comments and recommendations for revisions

(c) Soil disturbing activities shall not begin and zoning permits shall not be issued without an approved SWP3.

(d) SWP3 for individual sub lots in a subdivision will not be approved unless the larger common plan of development or sale containing the sub lot is in compliance with this regulation.

(e) Approvals issued in accordance with this regulation shall remain valid for one (1) year from the date of approval.

#### **§ 915.75.07 COMPLIANCE WITH STATE AND FEDERAL REGULATIONS**

Approvals issued in accordance with this regulation do not relieve the applicant of responsibility for obtaining all other necessary permits and/or approvals from the Ohio EPA, the US Army Corps of Engineers, and other federal, state, and/or county agencies. If requirements vary, the most restrictive requirement shall prevail.

#### **§ 915.75.08 STORM WATER POLLUTION PREVENTION PLAN**

(a) In order to control sediment pollution of water resources and wetlands, the applicant shall submit a SWP3 in accordance with the requirements of this regulation.

(b) The SWP3 shall be certified by a professional engineer, a registered surveyor, certified professional erosion and sediment control specialist, or a registered landscape architect.

(c) The SWP3 shall incorporate measures as recommended by the most current edition of Rainwater and Land Development as published by the Ohio Department of Natural Resources and shall include the following information:

- (1) Site description: The SWP3 shall provide:
- A. A description of the nature and type of the construction activity (e.g. residential, shopping mall, highway, etc.).
  - B. Total area of the site and the area of the site that is expected to be disturbed (i. e., grubbing, clearing, excavation, filling or grading, including off-site borrow areas).
  - C. An estimate of the impervious area and percent of imperviousness created by the soil-disturbing activity.
  - D. Existing data describing the soil, and if available, the quality of any known pollutant discharge from the site such as that which may result from previous contamination caused by prior land uses.
  - E. A description of prior land uses at the site.
  - F. An implementation schedule which describes the sequence of major soil-disturbing operations (i. e., grubbing, excavating, grading, utilities and infrastructure installation) and the implementation of erosion and sediment controls to be employed during each operation of the sequence.
  - G. The location and name of the immediate receiving stream or surface water(s) and the first subsequent receiving water(s).
  - H. The aerial (plan view) extent and description of wetlands or other special aquatic sites at or near the site which will be disturbed or which will receive discharges from disturbed areas of the project.
  - I. For subdivided developments where the SWP3 does not call for a centralized sediment control capable of controlling multiple individual lots, a detail drawing of a typical individual lot showing standard individual lot erosion and sediment control practices.
  - J. Location and description of any storm water discharges associated with dedicated asphalt and dedicated concrete plants associated with the development area and the best management practices to address pollutants in these storm water discharges.
  - K. Site map showing:
    - (i) Limits of soil-disturbing activity of the site, including off site spoil and borrow areas.
    - (ii) Soil types should be depicted for all areas of the site, including locations of unstable or highly erodible soils.
    - (iii) Existing and proposed one-foot (1') contours. This must include a delineation of drainage watersheds expected during and after major grading activities as well as the size of each drainage watershed in acres.
    - (iv) Surface water locations including springs, wetlands, streams, lakes, water wells, etc., on or within 200 feet of the site, including the boundaries of wetlands or stream channels and first subsequent named receiving water(s) the applicant intends to fill or relocate for which the applicant is seeking approval from the Army Corps of Engineers and/or Ohio EPA.
    - (v) Existing and planned locations of buildings, roads, parking facilities, and utilities.

- (vi) The location of all erosion and sediment control practices, including the location of areas likely to require temporary stabilization during the course of site development.
- (vii) Sediment ponds, including their sediment settling volume and contributing drainage area.
- (viii) Areas designated for the storage or disposal of solid, sanitary and toxic wastes, including Dumpster areas, areas designated for cement truck washout, and vehicle fueling.
- (ix) The location of designated stoned construction entrances where the vehicles will ingress and egress the construction site.
- (x) The location of any in-stream activities including stream crossings.

(2) A soils engineering report. The City of Marion Engineer may require the SWP3 to include a Soils Engineering Report based upon his/her determination that the conditions of the soils are unknown or unclear to the extent that additional information is required to protect against erosion or other hazards.

**§ 915.75.09 PERFORMANCE STANDARDS**

The SWP3 must contain a description of the controls appropriate for each construction operation and the Applicant must implement such controls. The SWP3 must clearly describe for each major construction activity the appropriate control measures; the general sequence during the construction process under which the measures will be implemented; and the contractor responsible for implementation (e. g., contractor A will clear land and install perimeter controls and contractor B will maintain perimeter controls until final stabilization). The SWP3 shall identify all subcontractors engaged in activities that could impact storm water runoff. The SWP3 shall contain signatures from all of the identified subcontractors indicating that they have been informed and understand their roles and responsibilities in complying with the SWP3.

The controls shall include the following minimum components:

(a) **NON-STRUCTURAL PRESERVATION MEASURES:** The SWP3 must make use of practices that preserve the existing natural condition to the maximum extent practicable. Such practices may include preserving riparian areas, preserving existing vegetation and vegetative buffer strips, phasing of construction operations in order to minimize the amount of disturbed land at any one time, and designation of tree preservation areas or other protective clearing or grubbing practices.

(b) **EROSION CONTROL PRACTICES:** The SWP3 must make use of erosion controls that capable of providing cover over disturbed soils. A description of control practices designed to re-stabilize disturbed areas after grading or construction shall be included in the SWP3. The SWP3 must provide specifications for stabilization of all disturbed areas of the site and provide guidance as to which method of stabilization will be employed for any time of the year. Such practices may include: temporary seeding, permanent seeding, mulching, matting, sod stabilization, vegetative buffer strips, phasing of construction operations, the use of construction entrances, and the use of alternative ground cover.

Erosion control practices must meet the following requirements:

(1) Stabilization. Disturbed areas must be stabilized as specified in The Ohio Department of Transportation Handbook for Sediment and Erosion Control.

(2) Permanent stabilization of conveyance channels. Applicants shall undertake special measures to stabilize channels and outfalls and prevent erosive flows, as defined in the most recent edition of Rainwater and Land Development.



(c) **RUNOFF CONTROL PRACTICES.** The SWP3 shall incorporate measures that control the flow of runoff from disturbed areas so as to prevent erosion. These practices shall divert runoff away from disturbed areas and steep slopes where practicable.

(d) **SEDIMENT CONTROL PRACTICES.** The SWP3 shall include a description of, and detailed drawings for, all structural practices that shall store runoff, allowing sediments to settle and/or divert flows away from exposed soils or otherwise limit runoff from exposed areas. Structural practices shall be used to control erosion and trap sediment from a site remaining disturbed for more than 14 days. All sediment control practices must be capable of ponding runoff in order to be considered functional. Earth diversion dikes or channels alone are not considered a sediment control practice unless used in conjunction with a sediment settling pond.

Sediment control practices must meet the following requirements:

(1) **Timing.** Sediment control structures shall be functional throughout the course of earth disturbing activity. Sediment basins and perimeter sediment barriers shall be implemented prior to grading and within seven (7) days from the start of grubbing. They shall continue to function until the up slope development area is re-stabilized. As construction progresses and the topography is altered, appropriate controls must be constructed or existing controls altered to address the changing drainage patterns.

(2) **Sediment settling ponds.** A sediment settling pond, or equivalent best management practice upon approval from the City of Marion Engineer is required through the guidance of The Ohio Department of Transportation Handbook for Sediment and Erosion Control.

(3) **Silt fence and diversions.** Sheet flow runoff from denuded areas shall be intercepted by silt fence or diversions to protect adjacent properties, water resources, and wetlands from sediment transported via sheet flow. Placement and use shall be in accordance with The Ohio Department of Transportation Handbook of Sediment and Erosion Control. Placing silt fence in parallel does not extend the permissible drainage area to the silt fence.

(4) **Inlet protection.** Erosion and sediment control practices, such as boxed inlet protection, shall be installed to minimize sediment-laden water entering active storm drain systems. All inlets receiving runoff from drainage areas of one or more acres will require a sediment settling pond. Straw or hay bales are not acceptable forms of inlet protection.

(5) **Off-site tracking of sediment and dust control.** Best management practices must be implemented to ensure sediment is not tracked off-site and that dust is controlled. These best management practices must include, but are not limited to, the following:

A. Construction entrances shall be built and shall serve as the only permitted points of ingress and egress to the development area. These entrances shall be built of a stabilized pad of aggregate stone or recycled concrete or cement sized greater than 2" in diameter, placed over a geotextile fabric, and constructed in conformance with specifications in the most recent edition of the Rainwater and Land Development Manual.

B. Streets directly adjacent to construction entrances and receiving traffic from the development area, shall be cleaned daily to remove sediment traced off-site. If applicable, the catch basins on these streets nearest to the construction entrances shall also be cleaned weekly.

Based on site conditions the City of Marion Engineer may require additional best management practices to control off site tracking and dust.

(6) Surface Waters of the State protection. Construction vehicles shall avoid water resources and wetlands. If the applicant is permitted to disturb areas within 50 feet of a water resource or wetland, the following conditions shall be addressed in the SWP3:

A. All BMPs and stream crossings shall be designed as specified in the most recent edition of the Rainwater and Land Development Manual.

B. Structural practices shall be designated and implemented on site to protect water resources or wetlands from the impacts of sediment runoff.

C. No structural sediment controls (e. g., the installation of silt fence or sediment settling pond in-stream) shall be used in a water resource or wetland.

D. Where stream crossings for roads or utilities are necessary and permitted, the project shall be designed such that the number of stream crossings and the width of the disturbance are minimized.

E. Temporary stream crossings shall be constructed if water resources or wetlands will be crossed by construction vehicles during construction.

F. Construction of bridges, culverts, or sediment control structures shall not place soil, debris, or other particulate material into or close to the water resources or wetlands in such a manner that it may slough, slip, or erode.

(7) Modifying controls. If periodic inspections or other information indicates a control has been used inappropriately or incorrectly, the applicant shall replace or modify the control for site conditions.

(e) **NON-SEDIMENT POLLUTANT CONTROLS:** No solid or liquid waste, including building materials, shall be discharged in storm water runoff. The applicant must implement site best management practices to prevent toxic materials, hazardous materials, or other debris from entering water resources or wetlands. These practices shall include but are not limited to the following:

(1) Waste Materials: A covered Dumpster shall be made available for the proper disposal of garbage, plaster, drywall, grout, gypsum, and other waste materials.

(2) Concrete Truck Wash Out: The washing of concrete material into a street, catch basin, or other public facility or natural resource is prohibited. A designated area for concrete washout shall be made available.

(3) Fuel/Liquid Tank Storage: All fuel/liquid tanks and drums shall be stored in a marked storage area. A dike shall be constructed around this storage area with a minimum capacity equal to 110% of the volume of all containers in the storage area.

(4) Toxic or Hazardous Waste Disposal: Any toxic or hazardous waste shall be disposed of properly.

(5) Contaminated Soils Disposal and Runoff: Contaminated soils from redevelopment sites shall be disposed of properly. Runoff from contaminated soils shall not be discharged from the site. Proper permits shall be obtained for development projects on solid waste landfill sites or redevelopment sites.

(f) **COMPLIANCE WITH OTHER REQUIREMENTS.** The SWP3 shall be consistent with applicable State and/or local waste disposal, sanitary sewer, or septic system regulations, including provisions prohibiting waste disposal by open burning, and shall provide for the proper disposal of contaminated soils located within the development area.

(g) **TRENCH AND GROUND WATER CONTROL.** There shall be no sediment-laden or turbid discharges to water resources or wetlands resulting from dewatering activities. If trench or ground water contains sediment, it must pass through a sediment-settling pond or other equally effective sediment control device, prior to being discharged from the construction site. Alternatively, sediment may be removed by settling in place or by dewatering into a sump pit, filter bag or comparable practice. Ground water dewatering which does not contain sediment or other pollutants is not required to be treated prior to discharge. However, care must be taken when discharging ground water to ensure that it does not become pollutant-laden by traversing over disturbed soils or other pollutant sources.

(h) **INTERNAL INSPECTIONS.** All controls on the site shall be inspected at least once every seven (7) calendar days and within 24 hours after any storm event greater than one-half inch of rain per 24 hour period.

The applicant shall assign qualified inspection personnel to conduct these inspections to ensure that the control practices are functional and to evaluate whether the SWP3 is adequate, or whether additional control measures are required. Qualified inspection personnel are individuals with knowledge and experience in the installation and maintenance of sediment and erosion controls.

These inspections shall meet the following requirements:

(1) Disturbed areas and areas used for storage of materials that are exposed to precipitation shall be inspected for evidence of or the potential or, pollutants entering the drainage system.

(2) Erosion and sediment control measures identified in the SWP3 shall be observed to ensure that they are operating correctly. The applicant shall utilize an inspection form provided by the City of Marion or an alternate form acceptable to the City of Marion Engineer. The inspection form shall include:

A. The inspection date.

B. Names, titles and qualifications of personnel making the inspection.

C. Weather information for the period since the last inspection, including a best estimate of the beginning of each storm event, duration of each storm event and approximate amount of rainfall for each storm event in inches, and whether any discharges occurred.

D. Weather information and a description of any discharges occurring at the time of inspection.

E. Locations of:

1. Discharges of sediment or other pollutants from site.

2. BMPs that need to be maintained.

3. BMPs that failed to operate as designed or proved inadequate for a particular location

4. Where additional BMPs are needed that did not exist at the time of the inspection.

F. Corrective action required including any necessary changes to the SWP3 and implementation dates.

(3) Discharge locations shall be inspected to determine whether erosion and sediment control measures are effective in preventing significant impacts to the receiving water resource or wetlands.

(4) Locations where vehicles enter or exit the site shall be inspected for evidence of off-site vehicle tracking.

(5) The applicant shall maintain for three (3) years following final stabilization the results of these inspections, the names and qualifications of personnel making the inspections, the dates of inspections, major observations relating to the implementation of the SWP3, a certification as to whether the facility is in compliance with the SWP3, and information on any incidents of non-compliance determined by these inspections.

(i) **MAINTENANCE.** The SWP3 shall be designed to minimize maintenance requirements. All control practices shall be maintained and repaired as needed to ensure continued performance of their intended function until final stabilization. All sediment control practices must be maintained in a functional condition until all up slope areas they control reach final stabilization. The applicant shall provide a description of maintenance procedures needed to ensure the continued performance of control practices and shall ensure a responsible party and adequate funding to conduct this maintenance, all as determined by the City of Marion Engineer.

When inspections reveal the need for repair, replacement, or installation of erosion and sediment control BMPs, the following procedures shall be followed:

(1) When practices require repair or maintenance. If an internal inspection reveals that a control practice is in need of repair or maintenance, with the exception of a sediment-settling pond, it must be repaired or maintained within three (3) days of the inspection. Sediment settling ponds must be repaired or maintained within ten (10) days.

(2) When practices fail to provide their intended function. If an internal inspection reveals that a control practice fails to perform its intended function as detailed in the SWP3 and that another, more appropriate control practice is required, the SWP3 must be amended and the new control practice must be installed within ten (10) days of the inspection.

(3) When practices depicted on the SWP3 are not installed. If an internal inspection reveals that a control practice has not been implemented in accordance with the schedule, the control practice must be implemented within ten (10) days from the date of the inspection. If the internal inspection reveals that the planned control practice is not needed, the record must contain a statement of explanation as to why the control practice is not needed.

(j) **FINAL STABILIZATION.** Final stabilization shall be determined by the City of Marion Engineer. Once a definable area has achieved final stabilization, the applicant may note this on the SWP3 and no further inspection requirement applies to that portion of the site.

#### **§ 915.75.10 FEES**

The Storm Water Pollution Prevention Plan review, filing, and inspection fee is part of a complete submittal and is required to be submitted to the City of Marion the review process begins. Please consult with the City of Marion Engineer for current fee schedule.

#### **§ 915.75.11 BOND**

(a) If a Storm Water Pollution Prevention Plan is required by this regulation, soil disturbing activities shall not be permitted until a cash bond has been deposited with the City of Marion. The bond amount shall be set by the City Engineer after the review and approval of the SWP3 based on area disturbed, cost of

construction, and/or complexity of the project. The bond will be used for the City of Marion to perform the obligations otherwise to be performed by the owner of the development area as stated in this regulation and to allow all work to be performed as needed in the event that the applicant fails to comply with the provisions of this regulation. The cash bond shall be returned, less City of Marion administrative fees as detailed in the City of Marion Codified Ordinances, after all work required by this regulation has been completed and final stabilization has been reached, all as determined by the City of Marion Engineer.

(b) No project subject to this regulation shall commence without a SWP3 or Abbreviated SWP3 approved by the City of Marion Engineer.

#### **§ 915.75.12 ENFORCEMENT**

(a) All development areas may be subject to external inspections by the City of Marion to ensure compliance with the approved SWP3 or Abbreviated SWP3.

(b) After each external inspection, the City of Marion shall prepare and distribute a status report to the applicant.

(c) If an external inspection determines that operations are being conducted in violation of the approved SWP3 or Abbreviated SWP3, the City of Marion may take action as detailed in Section 915.75.14 of this regulation.

#### **§ 915.75.13 VIOLATIONS**

(a) No person shall violate, or cause, or knowingly permit to be violated, any of the provisions of this regulation, or fail to comply with any of such provisions or with any lawful requirements of any public authority made pursuant to this regulation, or knowingly use or cause or permit the use of any lands in violation of this regulation or in violation of any permit granted under this regulation.

(b) Upon notice, the City Engineer and/or designee (assign authority as consistent with City Chapter) may suspend any active soil disturbing activity for a period not to exceed ninety (90) days, and may require immediate erosion and sediment control measures whenever he or she determines that such activity is not meeting the intent of this regulation. Such notice shall be in writing, shall be given to the applicant, and shall state the conditions under which work may be resumed. In instances, however, where the City Engineer and/or designee finds that immediate action is necessary for public safety or the public interest, he or she may require that work be stopped upon verbal order pending issuance of the written notice.

#### **915.75.14 APPEALS**

Any person aggrieved by any order, requirement, determination, or any other action or inaction by the City of Marion in relation to this regulation may appeal to the court of common pleas. Such an appeal shall be made in conformity with (insert appropriate Ohio Revised Code sections). Written notice of appeal shall be served on the City of Marion.

#### **915.75.99 PENALTY**

(a) Any person, firm, entity or corporation; including but not limited to, the owner of the property, his agents and assigns, occupant, property manager, and any contractor or subcontractor who violates or fails to comply with any provision of this regulation is guilty of a misdemeanor of the third degree and shall be fined no more than five hundred dollars (\$500.00) or imprisoned for no more than sixty (60) days, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(b) The imposition of any other penalties provided herein shall not preclude the City of Marion instituting an appropriate action or proceeding in a Court of proper jurisdiction to prevent an unlawful development, or to restrain, correct, or abate a violation, or to require compliance with the provisions of this regulation or other applicable laws, ordinances, rules, or regulations, or the orders of the City of Marion.(Ord.2011-47, passed 6-13-2011).

## CHAPTER 916: NORTHWEST INTERCEPTOR SANITARY SEWER

*Section 916.01 – 916.20 (REPEALED 2-09-2015, Ord. 2014-79)*

*The Council concurrently herewith and by this its act does assimilate the system previously known as the Northwest Interceptor Sanitary Sewer System with the City's previously existing Sanitary Sewer System, making the same a part thereof with the effective date of this Ordinance and subject to all previously adopted Ordinances, Resolutions, Regulations, Policies and Administrative Directives related to the City's Sanitary Sewer System.*

## CHAPTER 917: SEPTIC TANKS

### Section

- 917.01 Permit required
- 917.02 Application and inspection fee
- 917.03 Records; compliance with law
- 917.04 Charges for emptying cleaning trucks
- 917.99 Penalty

### § 917.01 PERMIT REQUIRED.

(A) No person, either directly or through or by any agent, servant or employee, whether as a contractor, owner or otherwise, shall erect or construct any new septic tank system in the municipality without first obtaining a permit from the Board of Health and without first obtaining the approval of Council.

(B) No person, either directly or through or by any agent, servant or employee, whether as a contractor, owner or otherwise, shall repair or replace any septic tank system in the municipality without first obtaining a permit from the Board of Health. ('70 Code, § 917.01) (Ord. 1978-105, passed 10-23-78) Penalty, see § 917.99

### § 917.02 APPLICATION AND INSPECTION FEE.

(A) Application for the septic tank permit required by § 917.01 shall be made by the owner of the building, structure, addition or improvement upon which the septic tank is proposed to be erected or constructed, to the Board of Health. The application shall contain the following information: a description of the premises, the land or lot number and similar information on which the septic tank is to be located; the name and number and the side of the street where located; the dimensions of the tank; and such other information as may be required. The application shall be signed by the applicant who shall pay the sum of \$10 pursuant to this chapter.

(B) Upon the receipt of such application, a Sanitarian of the Board shall make a percolation test of the proposed sewerage system.

(C) The application and test results shall be considered by the Board before making a recommendation or denial of the permit required by § 917.01(A) or before issuing the permit or denying it as required by § 917.01(B).

(D) Upon completion of the installation and before it is covered, the owner shall notify the Board, which shall make a final inspection. A charge of \$5 shall be made for such final inspection. ('70 Code, § 917.02) (Ord. 1978-105, passed 10-23-78)

### § 917.03 RECORDS; COMPLIANCE WITH LAW.

The Board of Health shall keep a complete record of all applications made, permits issued and fees collected. They shall certify a complete list of the permits issued and moneys collected, once a month, to the Auditor and the same shall be credited to the General Fund of the municipality. Before issuing any permit the Board shall ascertain that each septic tank installation complies with all applicable state statutes, municipal ordinances and resolutions of the Board. ('70 Code, § 917.03) (Ord. 5901, passed 5-9-55)

### § 917.04 CHARGES FOR EMPTYING CLEANING TRUCKS.

Septic tank cleaning trucks may be emptied at the waste water treatment plant at times and places specified by the Director of Public Safety/Service.

The charge for this service shall be as posted by the Director of Public Safety/Service. All funds collected



shall be deposited in the Sewer Revenue Fund. ('70 Code, § 917.04) (Ord. 1975-96, passed 8-11-75; (Am. Ord. 1997-55, passed 5-12-1997)

**§ 917.99 PENALTY.**

Whoever violates any of the provisions of this chapter shall be fined not more than \$50. Any such violation shall constitute a separate offense on each successive day continued. ('70 Code, § 917.99) (Ord. 7085, passed 10-8-62)

## CHAPTER 918: PROFESSIONAL PARK SANITARY SEWER

### Section

918.01	Definitions
918.02	Professional Park Sanitary Sewer Improvement Fund established
918.03	Permit required
918.04	Connection charge
918.05	Subdivision plats
918.06	Other applicable charges
918.99	Penalty

### § 918.01 DEFINITIONS.

As used in this chapter:

***ACRE OF LOTS, TRACTS AND SUBDIVISION PLATS.*** That area owned by the person, corporation, partnership, association or governmental agency requesting the sewer connection as submitted to and verified by the City Engineer.

***PREVIOUSLY ASSESSED AREAS.*** Areas that have paid the assessment fees required for use of the original Professional Park Lift Station; those areas being established by the Marion County Commissioners on October 26, 1961 in a resolution entitled "In the Matter of Declaring the Necessity of and Determining to Proceed with Constructing, Maintaining, and Operating Marion County Sewer District No. 1 Sanitary Sewer Improvement."

***PROFESSIONAL PARK SANITARY SEWER IMPROVEMENTS.*** All sanitary sewers, sanitary force main, and lift station expansion constructed by the municipality and shown on plans prepared by the City Engineer's office dated April 17, 1979, for contract A, and dated February 23, 1979, for contract B, and known as Project 79-1S, which plans are on file in the City Engineer's office.

***SERVICE AREA.*** The additional area capable of being served as a result of the construction of Project 79-1S and benefited thereby consists of the following two areas as shown on the Service Area Map on record in the City Engineer's office:

(1) *Area 1:* Beginning at the southwest corner of lot number 21 on Barks Road; thence north to the northwest corner of lot number 697; thence east to the west right-of-way line of Newton Drive; thence southeast to the south right-of-way line of Grace drive; thence east to the west right-of-way line of State Route 423; thence southeast to the City of Marion corporation line; thence west to the northeast corner of lot number 41; thence south to the southeast corner of said lot number 41; then west to the southwest corner of lot number 21, that being the place of beginning.

(2) *Area 2:* Beginning at a point being the intersection of the west bank of the Qu Qua ditch and the north right-of-way line of Barks Road; thence west to the City of Marion corporation line; thence north to a point being the extension of Fairfax Road and the City of Marion Corporation line; thence east to the west bank of the Qu Qua ditch; thence southwest along the said west bank to the point of beginning.

***THE PROFESSIONAL PARK LIFT STATION TRIBUTARY AREA or TRIBUTARY AREA.*** Shall be the sum of areas described as the ***SERVICE AREA*** and the ***PREVIOUSLY ASSESSED AREA***.

### § 918.02 PROFESSIONAL PARK SANITARY SEWER IMPROVEMENT FUND ESTABLISHED.

All moneys collected from charges established herein shall be deposited in a Professional Park Sanitary Sewer Improvement Fund. The moneys shall be used to retire the debt incurred for the construction of the Professional Park Sewer System Expansion. After retirement of said debt, all charges collected and interest accumulated from investing those charges shall be deposited and used for improving and maintaining all public sewers in the tributary area.

**§ 918.03 PERMIT REQUIRED.**

Except in the case of property owned by the municipality or county, no person, corporation, partnership, association, or governmental agency shall connect any building or other structure, either directly or indirectly to any sewer in the tributary area for the purpose of discharging sanitary sewage or industrial waste without first securing a permit as authorized in § 911.13 (B) and (C) for such purpose from the City Engineer (for property within the municipal corporation) or the City Engineer and County Sanitary Engineer (for property outside the municipal corporation). The municipality and county are not required to secure a permit; however, they shall pay any applicable connection charges as outlined in § 918.04 below.

**§ 918.04 CONNECTION CHARGE.**

(A) The City Engineer shall not issue a permit for the purpose described in § 918.03 until the applicant for such permit has deposited (with the municipality) cash, or check payable to the City of Marion, Ohio a nonrefundable connection charge to be determined in accordance with the following schedule:

<i>Year Beginning January 1</i>	<i>Service Area Charge Per Acre</i>
1987	\$2,000
1988	2,050
1989	2,100
1990	2,150
1991	2,200
1992	2,250
1993	2,300
1994	2,350
1995	2,400
1996	2,450
1997	2,500
1998	2,550
1999	2,600

Connections after the year 1999 shall be charged \$2,600 per acre.

(B) Lots, tracts and subdivision plats that are not within the boundaries of the tributary area shall not be granted a sewer connection without prior approval from the City Engineer after consultation with the County Sanitary Engineer. The City Engineer shall consider available sewer capacity, land location and other pertinent information before granting a connection. Any nontributary lands that are granted a sewer connection shall pay a connection charge equal to 1½ times the rate as established in § 918.04(A).

(C) Lots, tracts and subdivisions located within the previously assessed area shall not pay a connection charge. These lands shall pay only applicable sewer permit fees.

(D) The City Engineer has the right to refuse a connection permit for any sanitary sewer that is tributary to the professional park lift station for certain capacity reasons or deny service for noncompliance with sanitary waste requirements as defined in the Chapter 911 after notification to the county.

(E) In accordance with Section 9(b) of the City-County Agreement for Sewer District #1 dated July 2, 1958, of which the tributary area is a part, the municipality shall provide to the county a yearly accounting of all revenues generated by this chapter.

**§ 918.05 SUBDIVISION PLATS.**

In the case of subdivision plats submitted to the City Engineer for final approval subsequent to the adoption of this chapter, the charges shall be calculated by the City Engineer on the basis of the total number of acres within the subdivision as outlined in § 918.04 above. The charges so computed shall be certified by the City Engineer to the owner of such plat and such charge shall be payable before such plat is finally approved by the City Engineer.

**§ 918.06 OTHER APPLICABLE CHARGES.**

The permit and charges provided for in this chapter shall be in addition to any other permits and charges required by the municipality in this code.

**§ 918.99 PENALTY.**

Whoever violates any of the provisions of this chapter or violates any properly promulgated rule, regulation or order authorized by this chapter, is guilty of a minor misdemeanor and shall be fined **\$150.00** per day for any such violation. A separate offense shall be deemed committed each day during or on which a violation occurs or continues. (Ord. 2010-108, passed 11-22-2010).

## CHAPTER 919: WATER

EDITOR'S NOTE: The municipality has the right to franchise this utility. Ordinance 5429, passed 1-28-52, granted a franchise to the Marion Water Company to furnish water to the municipality and its inhabitants for 25 years with an option to purchase the waterworks at a fair value. Ordinance 1981-22, passed February 23, 1981, extended Ordinance 5429 to the Ohio-American Water Company, successor to the Marion Water Company, until September 1, 1981. There are no sections in Chapter 919. This chapter has been established to provide a place for cross references and any future legislation.

***Cross-reference:***

*Street openings by franchised companies, see § 901.02*

*Replacement of permanent pavement, see § 901.16*

*Service connections prior to paving, see § 903.03*

***Statutory reference:***

*Easement for water supply, see R.C. § 715.34*

*Compulsory service connections, see R.C. §§ 729.06 and 743.23*

*Contract for water supply, see R.C. § 743.24*

*Power to regulate water rates, see R.C. §§ 743.26, 743.28, and 4909.34*

*Public Utilities Commission; fixation of rates, see R.C. Ch. 4909*

*Water companies, see R.C. Ch. 4933*

## CHAPTER 921: ELECTRICITY

EDITOR'S NOTE: The municipality has the right to franchise this utility. At the time of the preparation of this code, the latest ordinance fixing rates for residential and secondary light and power customers was Ordinance 65-46, passed April 12, 1965; the latest ordinance fixing rates for street lighting was Ordinance 66-117, passed August 22, 1966; and the latest ordinance fixing rates for traffic control and warning lights was Ordinance 65-98, passed September 27, 1965. There are no sections in Chapter 921. This chapter has been established to provide a place for cross references and any future legislation.

***Cross-reference:***

*Electrical fences prohibited, see § 660.12*

***Statutory reference:***

*Power to regulate electricity equipment, see R.C. § 715.27*

*Power to regulate electricity rates, see R.C. §§ 743.26, 743.28 and 4909.34*

*Contract for electricity, see R.C. § 743.38*

*Public Utilities Commission; fixation of rates, see R.C. Ch. 4909*

*Electric companies, see R.C. Ch. 4933*

## CHAPTER 923: GAS

EDITOR'S NOTE: The municipality has the right to franchise this utility. At the time of the preparation of this code the latest rate ordinance was Ordinance 67-43, passed March 27, 1967, which fixed rates to be charged by Columbia Gas of Ohio, Inc., for four years. There are no sections in Chapter 923. This chapter has been established to provide a place for cross references and any future legislation.

***Cross-reference:***

*Street openings by franchised companies, see § 901.02*

*Replacement of permanent pavement, see § 901.16*

*Service connections prior to paving, see § 903.03*

***Statutory reference:***

*Power to regulate gas rates, see R.C. §§ 743.26, 743.28 and 4909.34*

*Contract for gas; restrictions, see R.C. § 743.33 and 743.38*

*Compulsory gas connections, see R.C. § 743.37*

*Public Utilities Commission; fixation of rates, see R.C. Ch. 4909*

*Gas companies, see R.C. Ch. 4933*

**TITLE FIVE - Other Public Services**  
Chapter 941 Marion Municipal Airport  
Chapter 943 Domestic Refuse and Rubbish Collection  
Chapter 945 Parks and Swimming Pools

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**CHAPTER 941: MARION MUNICIPAL AIRPORT**

Section

***Airport Regulations***

- 941.01 Authority of Director
- 941.02 Procedure for obtaining leases and options
- 941.03 Terms and conditions of leases
- 941.04 Conditions for granting option for lease
- 941.05 License required; fee
- 941.06 Authority of Director to issue licenses
- 941.07 Fixed base operators
- 941.08 Activities of fixed base operators
- 941.09 Restricted fixed based operators
- 941.10 Fee schedule
- 941.11 Payment of charges and fees; license revocation
- 941.12 License not required for aircraft storage
- 941.13 Insurance requirements
- 941.14 Restaurant and office space
- 941.15 Authority of Board of Airport Commissioners
- 941.16 Director of Aviation
- 941.161 Airport Operations Director
- 941.162 Airport Maintenance Technician
- 941.17 Appeal
- 941.18 Conflict of laws

***Aircraft Parking Policy***

- 941.30 Authorization
- 941.31 Airport ramp and parking diagram
- 941.32 Transient parking
- 941.33 Permanent parking reservations
- 941.34 Tie-down rate schedule
- 941.35 Eligibility and delinquency
- 941.36 Administration and implementation
- 941.37 Fiscal Responsibility
- 941.99 Penalty

***AIRPORT REGULATIONS***

**§ 941.01 AUTHORITY OF DIRECTOR.**

The Service Director is authorized to grant options and lease parcels of ground both improved and unimproved at the Marion Municipal Airport for the construction of hangars or buildings thereon, for the storage of aircraft or shops for the repair and overhaul of aircraft and aircraft engines, or for other purposes associated with or incidental to the operation of an airport, pursuant to the terms and conditions of this chapter. ('70 Code, § 941.01) (Ord. 65-123, passed 12-13-65)(Ord. 2015-50, passed 6-8-2015)



## **§ 941.02 PROCEDURE FOR OBTAINING LEASES AND OPTIONS.**

All leases and options shall be obtained in the following manner:

(A) All applications for a lease or option shall be submitted in writing to the Airport Manager who shall forthwith submit such application to the Board of Airport Commissioners.

(B) The Board of Airport Commissioners, within 30 days after an application is submitted to it, shall either:

(1) Approve such application and forthwith forward such approved application to the Safety/Service Director, or

(2) Disapprove such application and forthwith return such disapproved application to the Airport Manager with its reasons why the application was disapproved.

(C) The Airport Manager after a disapproved application has been returned to him/her by the Board of Airport Commissioners shall forthwith notify the applicant of such disapproval and the reasons why such application was disapproved.

(D) Any applicant whose application has been disapproved may:

(1) Make a new application for a lease or option; or

(2) Appeal to Council for approval of such disapproved application. The appeal shall be made by placing before Council a resolution approving such application. Passage of this resolution by Council shall constitute approval of the application the same as if such approval had been made by the Board of Airport Commissioners and such approved application shall forthwith be submitted to the Safety/Service Director.

(E) The Safety/Service Director, after an approved application is submitted to him/her by the Board of Airport Commissioners or Council, and after he/she is satisfied that all the terms and conditions of this chapter have been complied with, shall enter into a lease or option for and on behalf of the municipality with the approved applicant upon all applicable terms and conditions set out in this chapter. (70 Code, § 941.02) (Ord. 65-123, passed 12-13-65)

## **§ 941.03 TERMS AND CONDITIONS OF LEASES.**

All leases shall contain and be subject to the following terms and conditions where applicable:

(A) *Area leased.* The lease shall state the purpose for which the parcel of land leased is to be used and the parcel of land leased shall be in an area designated to be used for such purpose on the Marion Municipal Airport Master Plan and titled 1981 Airport Master Plan and subsequent revisions thereof which was approved by the Board of Airport Commissioners and filed in the office of the City Engineer. Leased area shall include a perimeter around existing or proposed buildings unless the Airport Master Plan and subsequent revisions prevent establishment of a perimeter. (Ord 1996-51, passed 4-22-1996)

(B) *Term of lease.* The original term of any lease shall not exceed 25 years. An option to renew such lease may be granted in or the original lease. (Ord. 2015-50, passed 6-8-2015)

(C) *Lease payments.* The consideration for the lease shall be the sum of not less than \$.07 per square foot per year for all land leased. (Ord. 2015-50, passed 6-8-2015)

(D) *Buildings.* The lease shall provide as to buildings as follows:

(1) No new building may be constructed and no alteration to any existing physical facilities may be made on any land without the prior written approval of the Board of Airport Commissioners and the City Engineer. The Board of Airport Commissioners and the City Engineer may require that plans, specifications and other information pertinent to the proposed building or alteration be submitted to them prior to granting their approval.

(2) The lessee shall maintain buildings and physical facilities in an orderly and presentable condition at all times.

(3) Where land is leased at the sum of \$.07 per square foot per year by a lessee for a proposed building, such consideration shall start on the day the lease starts. If such proposed building is not completed within one year after the day the lease starts, the lease shall be subject to immediate termination by the municipality. The Service Director shall terminate such lease when recommended to do so by the Board of Airport Commissioners but he/she shall not terminate the lease without prior approval of the Board of Airport Commissioners.

(E) *Assignment.* The lease shall provide that it is not assignable without the prior written approval of the Board of Airport Commissioners. Lease assignment must be approved by the Airport Commission prior to the sale of underground installation or existing permanent improvement facilities which are owned by the Lessee. The request for lease assignment shall be submitted in writing by the lessee to the Airport Manager who shall forthwith submit to the Airport Commission.

(F) *Termination.* The lease shall provide that any violation of the terms and conditions of this chapter shall constitute grounds for immediate termination of the lease at the option of the municipality. The Safety/Service Director shall terminate such lease when recommended to do so by the Board of Airport Commissioners but he/she shall not terminate the lease without prior approval of the Board of Airport Commissioners.

(G) *Approval.* All leases shall be submitted to the Board of Airport Commissioners for their approval and no lease shall be entered into or have any validity whatsoever until it has been approved by the Board of Airport Commissioners. ('70 Code, § 941.03) (Ord. 65-123, passed 12-13-65; Am. Ord. 1991-127, passed 10-28-91) Penalty, see § 941.99

#### **§ 941.04 CONDITIONS FOR GRANTING OPTION FOR LEASE.**

When requested to do so by the Board of Airport Commissioners, the Safety/Service Director shall grant an option to obtain a lease to any person, firm, corporation or other business entity upon the following terms and conditions:

(A) The term shall not exceed one year.

(B) The parcel of land shall not exceed 30,000 square feet.

(C) The option payment shall be \$100 per year for unspecified general airport location, or \$.02 sq. ft. for specified surveyed parcel.

(D) The option shall state that the option holder shall not use such parcel of land for any purpose whatsoever.

(E) The option shall describe the parcel of land to be leased and state the terms and conditions of the lease to be entered into if the option is exercised by such option holder.

(F) All options shall be submitted to the Board of Airport Commissioners for their approval and no lease shall be entered into or have any validity whatsoever until it has been approved by the Board of Airport

Commissioners. ('70 Code, § 941.04) (Ord. 65-123, passed 12-13-65)

**§ 941.05 LICENSE REQUIRED; FEE.**

No person, firm, corporation or other business entity shall carry on any business on the Marion Municipal Airport without first obtaining a license to do so. Such license shall be for a calendar year. The license shall not be considered as a license coupled with a lease and all leases and licenses shall so state. ('70 Code, § 941.05) (Ord. 65-123, passed 12-13-65) (Ord. 2015-50, passed 6-8-2015) Penalty, see § 941.99

**§ 941.06 AUTHORITY OF DIRECTOR TO ISSUE LICENSES.**

The Safety/Service Director is authorized, when recommended to do so by or upon prior approval of the Board of Airport Commissioners, to issue to a person, firm, corporation or other business entity a license for doing business at the Marion Municipal Airport pursuant to the terms and conditions of this chapter. ('70 Code, § 941.06) (Ord. 65-123, passed 12-13-65)

**§ 941.07 FIXED BASE OPERATORS.**

(A) A fixed base operator shall be a person, firm, corporation or other business entity who erects or leases a minimum of 3,000 square feet of a structure and who maintains office facilities upon the Marion Municipal Airport.

(B) The fee for a fixed base operator's license shall be \$300 per year, payable when such license is issued. The fee shall be subject to the provisions of § 941.11(C). ('70 Code, § 941.07) (Ord. 1972-60, passed 4-10-72) (Ord. 2015-50, passed 6-8-2015)

**§ 941.08 ACTIVITIES OF FIXED BASE OPERATORS.**

The fixed base operator's fee payment shall authorize the person, firm, corporation or other business entity so licensed to engage in any or all of the activities described below ordinarily associated with FBO operations:

(A) An air charter service operator who engages in the business of providing air charter, air taxi, aircraft leasing and flight instruction services at the Marion Municipal Airport;

(B) A fuel sales and service operator who engages in the business of selling fuel, oil and related products and services at the Marion Municipal Airport. A gasoline sales and service operator shall have an attendant on duty or on call 24 hours a day.

(C) An aircraft service operator who engages in the business of servicing, maintaining and overhauling aircraft and aircraft engines, component parts, supplies and accessories. An aircraft service operator shall perform all maintenance, repair or overhauling of aircraft or aircraft engines in conformity with local, state and federal laws and regulations. An aircraft service operator shall have an attendant on duty or on call 24 hours per day.

(D) Any other business in which the use of aircraft is essential to the operation of such business and as determined to be in keeping with the stated purposes of the Marion Municipal Airport by the Airport Commission. Appropriate fees applicable to this special operations category shall be determined by the Airport Commission prior to the issuance of such license. ('70 Code, § 941.08) (Ord. 1972-60, passed 4-10-72; Ord. 1996-51, passed 04-22-1996)

**§ 941.09 RESTRICTED FIXED BASED OPERATORS.**

(A) A restricted fixed based operator shall be a nonprofit educational institution that leases a minimum of 150 square feet for use as a business office and classroom upon the Marion Municipal airport.

(B) The fee for a restricted fixed based operator's license shall be \$150 per year, or a prorata portion thereof, as provided by § 941.05, payable when such license is issued. Such fee shall be subject to the provisions of § 941.11(C).

(C) The restricted fixed base operator's fee shall authorize the nonprofit educational institution so licensed to conduct the business of ground school and in-flight instruction as an integral part of the curriculum leading to an associate degree in aviation. Flight instruction for the convenience of bona fide full or part-time students of the institution, other than those enrolled specifically in the aviation curriculum, is permissible. Flight instruction for persons other than described above is not authorized by the restricted fixed based operator's fee. This type of operation shall be subject to the fees stated below.

(D) The restricted fixed base operator is licensed to engage in no activities other than those described in division (C) of this section. ('70 Code, § 941.09) (Ord. 1972-60, passed 4-10-72)

#### **§ 941.10 FEE SCHEDULE.**

The following schedule of fees and royalties shall apply to fixed base operators:

(A) For the first 36 months after the issuance of the original license, one-fourth of one percent of gross receipts. Gross receipts shall not include sales tax and receipts from fuel sales.

(B) For succeeding months, beginning with the thirty-seventh month after issuance of the original license, one-half of one percent of gross receipts. Gross receipts shall not include sales tax and receipts from fuel sales.

(C) For aviation fuel sold or consumed in carrying on the duties of a fixed base operator, charges shall be as follows: A royalty of \$.03 per gallon for FBO fuel tank and \$.05 per gallon for City-owned fuel tank as to all aviation fuel sold or consumed. ('70 Code, § 941.10) (Ord. 1983-71, passed 8-22-83) (Ord. 2015-50, passed 6-8-2015)

#### **§ 941.11 PAYMENT OF CHARGES AND FEES; LICENSE REVOCATION.**

(A) All royalty charges for aviation fuels shall be paid monthly by the tenth day of the month for the preceding month.

(B) All other charges shall be paid quarterly by the tenth day of the month following the quarterly period for the preceding quarter.

(C) All annual license fees actually paid to the municipality pursuant to this chapter shall be credited against any and all charges payable to the municipality pursuant to this chapter. The manner of allocating such credits to such charges shall be determined by the City Auditor.

(D) No fuel tanks shall be installed at the Marion Municipal Airport without the prior approval of the Airport Commission and the City Engineer.

(E) A copy of the Bill of Lading and a copy of the printed meter ticket is to be delivered to the Airport Manager at the time of off loading the transport truck into fuel storage at Marion Municipal Airport.

(F) All FBO and restricted FBO shall be required to file an annual statement by April 1 of the succeeding year and the City Auditor shall determine that all fees due the municipality have been duly remitted.

(G) Any violation of the terms and conditions of this chapter shall constitute grounds for immediate termination of any license at the option of the municipality. The Safety/Service Director shall terminate such license when recommended to do so by the Airport Commission but he/she shall not terminate the license

without prior approval of the Airport Commission. ('70 Code, § 941.11) (Ord. 1972-60, passed 4-10-72) Penalty, see § 941.99

**§ 941.12 LICENSE NOT REQUIRED FOR AIRCRAFT STORAGE.**

Nothing in this chapter shall be construed to require any lessee to obtain any license or pay to the municipality any charges for engaging in the business of aircraft storage. ('70 Code, § 941.12) (Ord. 65-123, passed 12-13-65)

**§ 941.13 INSURANCE REQUIREMENTS.**

Any aircraft based at the Marion Municipal Airport shall be covered by public liability and property damage insurance in the minimum amounts of \$100,000 for each person and \$300,000 for each accident for bodily injury and death liability, and a minimum of \$50,000 for property damage liability. The owner or operator of any aircraft based at the Marion Municipal Airport shall furnish a certificate to the Airport Manager from the underlying insurance carrier showing compliance with this section. ('70 Code, § 941.13) (Ord. 65-123, passed 12-13-65)

**§ 941.14 RESTAURANT AND OFFICE SPACE.**

When requested to do so by the Board of Airport Commissioners, the Safety/Service Director shall lease and rent space in the administration building or land at the Marion Municipal Airport for use as a restaurant, office or for some other purpose on terms and conditions established by the Board of Airport Commissioners. ('70 Code, § 941.14) (Ord. 65-123, passed 12-13-65)

**§ 941.15 AUTHORITY OF BOARD OF AIRPORT COMMISSIONERS.**

The Board of Airport Commissioners is authorized to establish charges for use of municipal property at the Marion Municipal Airport, subject to the approval of Council. The Board of Airport Commissioners is authorized to establish rules and regulations to provide for the efficient and orderly operation of the Marion Municipal Airport in order to provide the best possible service to the public. ('70 Code, § 941.15) (Ord. 65-123, passed 12-13-65)

***Cross-reference:***

*Board of Airport Commissioners, see Ch. 159*

**§ 941.16 DIRECTOR OF AVIATION.**

- (A) There is hereby created the position of Director of Aviation.
- (B) The Director of Aviation shall be selected by the Board of Airport Commissioners and appointed by the Mayor.
- (C) The Director of Aviation shall be removed by the Mayor when recommended to do so by the Board of Airport Commissioners.
- (D) The salary of the Director of Aviation shall be set by Council.
- (E) The Director of Aviation shall be responsible to the Board of Airport Commissioners. He/she shall perform all duties necessary for:
  - (1) The daily operation of the Marion Municipal Airport;
  - (2) The enforcement of the terms and conditions of this chapter;

(3) The enforcement of the rules and regulations of the Board of Airport Commissioners; and

(4) The performance of all other services prescribed by the Board of Airport Commissioners. ('70 Code, § 941.16) (Ord. 65-123, passed 12-13-65; Am. Ord. 1995-145, passed 11-27-95; Ord. 1996-51, passed 4-22-1996)

**§ 941.161 AIRPORT OPERATIONS DIRECTOR.**

(A) There is created the position of Airport Operations Director in the city.

(B) The job description for such position is attached to original Ordinance 1994-31, passed March 28, 1994, and incorporated herein by reference and shall, by reference, become a part of the personnel classification schedule.

(C) The salary for the position of Airport Operations Director shall be determined from time to time by Council. (Ord. 1994-31, passed 3-28-94)

**§ 941.162 AIRPORT MAINTENANCE TECHNICIAN.**

(A) There is created the position of Airport Maintenance Technician in the city.

(B) The job description for such position is attached to original Ordinance 1994-32, passed March 28, 1994, and incorporated herein by reference and shall, by reference, become a part of the personnel classification schedule adopted by Council as fully as if the same were rewritten in such personnel classification schedule.

(C) The salary for the position of Airport Technician shall be determined from time to time by Council. (Ord. 1994-32, passed 3-28-94)

**§ 941.17 APPEAL.**

Any person, firm, corporation or other business entity aggrieved by any decision, ruling, action or failure to act pursuant to this chapter may appeal such decision, ruling, action or failure to act to Council. ('70 Code, § 941.17) (Ord. 65-123, passed 12-13-65)

**§ 941.18 CONFLICT OF LAWS.**

Except for any ordinance or resolution granting special rights to any person, firm, corporation or other entity which by necessary implication cannot be repealed herein, all ordinances and resolutions or parts thereof which are inconsistent or in conflict with this chapter or any section of this chapter are hereby repealed.

('70 Code, § 941.18) (Ord. 65-123, passed 12-13-65)

***AIRCRAFT PARKING POLICY***

**§ 941.30 AUTHORIZATION.**

The aircraft parking policy for the Marion Municipal Airport is authorized by the provisions of §§ 941.01 through 941.18 of this chapter and Ordinance 65-123, passed 12-13-65 and as amended. Specific rules and regulations shall be established by the Airport Commission. Parking charges shall be established by the Airport Commission subject to the approval of the Council. (Ord. 1970-177, passed 10-12-70; Am. Ord. 1983-70, passed 8-22-83; Ord. 1996-51, passed 4-22-1996; Am. Ord. 2003-81, passed 08-25-2003)

**§ 941.31 AIRPORT RAMP AND PARKING DIAGRAM.**

The Airport Manager shall prepare and maintain a ramp and parking tie-down master plan for the municipal

airport. All tie-down areas shall be assigned an identification number. The Airport Manager shall maintain an up to date roster of the parking assignments by aircraft registration number and owner. (Ord. 1970-177, passed 10-12-70; Am. Ord. 1983-70, passed 8-22-83)

**§ 941.32 TRANSIENT PARKING.**

Tie-down areas, the number and location of which shall be determined by the Airport Manager, shall be reserved for the exclusive use of transient aircraft. Tie-downs so designated for transient rental will not be available to local aircraft. A tie-down fee of \$4 per night for a remain-over night flight shall be charged to all transient aircraft using the municipal airport. This charge of \$4 per night shall be charged up to a sum not to exceed \$20 per month, commencing on the date of arrival and ending on the date of departure. There is no charge arriving and departing the same day. (Ord. 1970-177, passed 10-12-70; Am. Ord. 1983-70, passed 8-22-83) (Ord. 2015-50, passed 6-8-2015)

**§ 941.33 PERMANENT PARKING RESERVATIONS.**

Permanent tie-down reservations shall be made available to municipality based aircraft through the Airport Manager's office. These tie-downs will be the more favorably located in regard to taxi-ways, airport facilities, and best overall year round conditions. A rental fee in accord with the rate schedule in § 941.34, payable in advance, shall be charged for reserved tie-down facilities in this category. The airport administration will not be responsible for grounds maintenance in the immediate area of the tie-down site. As a convenience to aircraft owners, the airport administration will provide mowing service on request at the rate of \$2 per mowing when the aircraft has been moved from the tie-down site. (Ord. 1970-177, passed 10-12-70; Am. Ord. 1983-70, passed 8-22-83)

**§ 941.34 TIE-DOWN RATE SCHEDULE.**

<b>Blacktop Area</b>	<b><i>Amount Per Month</i></b> <b><i>(Payable in Advance)</i></b>
Single engine .....	20
Twin engine.....	30

(Ord. 1970-177, passed 10-12-70; Am. Ord. 1983-70, passed 8-22-83) (Ord. 2015-50, passed 6-8-2015)

**§ 941.35 ELIGIBILITY AND DELINQUENCY.**

(A) To be eligible to base aircraft at the municipal airport, the aircraft owner must supply evidence of liability and property damage insurance in keeping with the minimum airport standards. The aircraft owner must keep the tie-down rental paid in advance, and keep the area at the tie-down site presentable at all times.

(B) Failure to comply with any of the above shall result in the aircraft owner being requested to appear before the Airport Commission to show cause. Falling in arrears a maximum of three months in the tie-down fee or failure to qualify on the other standards of eligibility listed above shall result in a request to the aircraft owner to comply or remove their aircraft permanently from the airport. (Ord. 1970-177, passed 10-12-70; Am. Ord. 1983-70, passed 8-22-83)

**§ 941.36 ADMINISTRATION AND IMPLEMENTATION.**

It shall be the responsibility of the Airport Manager to implement and administer the policies stated in this subchapter. Should he/she encounter uncooperative users of the airport facilities, he/she shall notify the Airport Commission of the specific difficulties. The Airport Commission shall assist in resolving the problem, recommending legal counsel if required. (Ord. 1970-177, passed 10-12-70; Am. Ord. 1983-70, passed 8-22-83)

**§ 941.37 FISCAL RESPONSIBILITY.**

The Airport Manager shall be responsible for all receipts of funds from rental of the tie-down facilities. Funds shall be transferred weekly to the City Auditor who shall maintain such receipts in an airport fund. Disbursements from this fund for airport improvements may be authorized by the Airport Commission subject to the approval of the Safety/Service Director and the City Auditor. (Ord. 1970-177, passed 10-12-70; Am. Ord. 1983-70, passed 8-22-83)

**§ 941.99 PENALTY.**

Whoever violates any of the provisions of this chapter shall be subject to the penalty provided in § 101.99. ('70 Code, § 941.99) (Ord. 65-123, passed 12-13-65)

***Statutory reference:***

*Airport traffic; zoning, see R.C. Ch. 4563*



## CHAPTER 943: DOMESTIC REFUSE AND RUBBISH COLLECTION

EDITOR'S NOTE: Ordinance 1978-76, passed July 11, 1978, authorized the municipality to join and participate in the Marion County Garbage and Refuse Disposal District No. 1 created by the Board of County Commissioners.

### Section

- 943.01 Definitions
- 943.02 Rules and regulations
- 943.03 Municipality sole and exclusive collector of domestic refuse customer and/or household
- 943.04 Regular pickups
- 943.05 Special pickups
- 943.06 Container requirements; location
- 943.07 Use by other persons prohibited
- 943.08 Unlawful disposal of domestic refuse, rubbish or waste material
- 943.09 Burning of rubbish, waste material and domestic refuse
- 943.10 Disposal restricted to municipality's designated disposal facility
- 943.11 Ownership of domestic refuse, rubbish and waste material
- 943.12 Incinerators and food disposal systems
- 943.13 License required; issuance; fees; conditions; revocation
- 943.14 Resident subscriber charges
- 943.15 Late and delinquent payments
- 943.16 Commercial establishment subscriber charges
- 943.17 Reserved
- 943.18 Disposition of funds; records and accounting
- 943.19 Exemption of senior citizens and disabled persons from payment of charges
- 943.99 Penalty

### § 943.01 DEFINITIONS.

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

**BIOHAZARDOUS WASTE.** Any solid waste or liquid waste which may present a threat of infection to humans. The term includes, but is not limited to, non-liquid human tissue and body parts; laboratory and veterinary waste which contain human disease-causing agents; used disposal sharps, human blood, and human blood products and body fluids; and other materials which in the opinion of the Department of Health represent a significant risk of infection to persons outside the generating facility.

**BIOLOGICAL WASTE.** Solid waste that causes or has the capability of causing disease or infection and includes, but is not limited to, biohazardous waste, diseased or dead animals, and other wastes capable of transmitting pathogens to humans or animals.

**BULK YARD TRASH.** Large cuttings of vegetative and wood matter which are part of normal yard maintenance which cannot be cut for placement in a container, bag or bundle due to the material exceeding the weight and size restriction for regular yard trash. Bulk yard trash shall be of a type as to be readily handled by the mechanical equipment of the city and shall not exceed five feet in length. Bulk yard trash does not include any form of matter or debris resulting from tree removal, land clearing, land development, building demolition, home improvement, or waste generated by tree surgeons, landscapers or lawn maintenance services.

**CITY.** The area within the corporate boundaries of the City of Marion, Ohio.

**COLLECTOR.** The municipality and each and all of its duly authorized agents and/or employees

connected with the collection and disposal of domestic refuse, rubbish or waste materials.

**COMMERCIAL ESTABLISHMENT.** Every natural person, association of persons, partnership or corporation, engaged in any type of business or other activity, whether public or private, charitable or noncharitable, profit or nonprofit, occupying any premises in the municipality creating domestic refuse, rubbish or waste material and, where the context requires it, designates and includes the owner, manager or other person having responsibility for the operation of such business or activity, but does not include a resident.

**CONTAINER.** A rigid receptacle with handles constructed of vermin and water proof material with a securable top or lid or a 3-ply plastic bag with a securable top.

**CURBSIDE.** The designated physical location for the placement of refuse accumulations and containers intended for residential service collection and disposal. This designated location shall be as near as possible but no more than six feet from the traveled streets or alley. The intention of a curbside designation is to allow collection by the collection personnel in a rapid manner with walking or reaching minimized.

**DESIGNATED DISPOSAL FACILITY.** A disposal, processing, recovery, recycling or transfer facility meeting all applicable local, state and federal licensing and permitting regulations and an approved facility as designated by the DKMM Solid Waste District.

**DOMESTIC PREMISES or HOUSEHOLD.** Any person, firm or corporation for which there is domestic refuse, rubbish or waste material collection service. Household includes owners, tenants and occupants of all premises upon which domestic refuse is created.

**DOMESTIC REFUSE.** Both rubbish and garbage or a combination or mixture of rubbish and garbage, including paper, glass, metal and other discarded matter, excluding recyclable materials.

**DWELLING UNIT.** Any type of structure or building unit intended for or capable of being utilized for residential living other than a hotel or motel unit. A dwelling unit will include structures or buildings with no more than two households.

**GARBAGE.** All kitchen and table food waste and animal or vegetative waste that is attendant with or results from the storage, preparation, cooking, or handling of food materials; any bottles, cans, or other containers, excluding recyclable containers, utilized in normal household use, which due to their ability to retain water, may serve as a breeding place for mosquitoes and other insects.

**GARDEN AND YARD TRASH.** Vegetative matter resulting from yard and landscaping maintenance and shall include materials such as tree and shrub trimmings, or small tree branches which shall not exceed five feet in length and six inches in diameter. Such trash shall be bundled or placed in containers which are susceptible to normal loading and collection as other residential solid waste. No bundle or filled container shall exceed 50 pounds in weight. Waste generated by tree surgeons, landscapers or lawn maintenance services is not garden and yard waste.

**HAZARDOUS WASTE.** Any solid waste, even though it may be part of a delivered load of waste, which:

(1) Is required to be accompanied by a written manifest or shipping document describing the waste as "Hazardous Waste" pursuant to any state or federal law.

(2) Contains polychlorinated biphenyls or any other substance the storage, treatment or disposal of which is subject to regulation under the Toxic Substance Control Act.

(3) Contains a "reportable quantity" of one or more "Hazardous Substances" as defined in the Comprehensive Environmental Response, Compensation and Liability Act.

**HOUSEHOLD TRASH.** Accumulations of paper, magazines, packaging, containers, sweeping and all other accumulations of a nature other than garbage or garden and yard trash, which are usual to housekeeping and to the operation of residences. Household trash shall include, but not be limited to, all small appliances, small furniture, yard toys, and building material waste for the residential do-it-yourself projects. Special waste, biological waste and waste generated by building contractors or subcontractors is not household trash.

**INCINERATOR.** A structure or apparatus within which domestic refuse, rubbish and waste material can be consumed by combustion.

**INFECTIOUS WASTE.** Those wastes which might cause disease or might reasonably be suspected of harboring pathogenic organisms. Included are wastes resulting from the operation of medical clinics, hospitals, and other facilities producing wastes which might consist of, but not limited to, diseased human and animal parts, contaminated bandages, pathological specimens, hypodermic needles, contaminated clothing, and surgical gloves.

**LANDFILL.** Any solid waste land disposal area or waste-to-energy facility for which a permit, other than a general permit, is required by Ohio Administrative Code § 3745-27, that receives solid waste for disposal in or upon land other than a land-spreading site, injection well, or a surface impoundment.

**MECHANICAL CONTAINER.** Includes any detachable metal container designed or intended to be mechanically dumped into a loader/packer type of garbage truck.

**PERSON.** Every natural person, association of persons, partnership or corporation.

**PREMISES.** Land or buildings or both, or parts of either or both, whether occupied by a resident or a commercial establishment.

**RECYCLABLE MATERIALS.** Newspapers, extra materials (including insets), aluminum, plastic containers, glass bottles and jars, corrugated cardboard, brown paper bags, mixed paper, tin and ferrous cans, household dry-cell batteries (no wet-cell batteries), and other solid waste materials added upon agreement when such materials have been either diverted from the remaining solid waste stream or removed prior to their entry into the remaining solid waste stream.

**RECYCLING.** Any process by which solid waste, or materials which otherwise become solid wastes, are collected, separated, or processed and reused or returned to use in the form of raw materials or products.

**RESIDENT.** The head of a family or one maintaining his/her separate living room or residential quarters on premises and includes owners, tenants and occupants of all residential premises upon which domestic refuse, rubbish or waste material is accumulated.

**RUBBISH.** Waste material other than garbage, which is usually attendant to domestic households or housekeeping, and to the operation of stores, offices and other business places. This shall include, but is not limited to, paper, magazines, packaging, containers, rags, excelsior and other packing material, bottles and cans, excluding recyclable materials. Biological waste or biohazardous waste is not rubbish.

**SERVICES.** An implied contract exists where by conduct each party acts as if an express agreement had been reached. An implied contract exists when the municipality offers sanitation or recycling services to a domestic residence or household fails to prove to the satisfaction of the Safety/Service Director that they are disposing of their domestic refuse and rubbish in some other lawful manner. (Am. Ord. 1997-40, passed 4-14-1997)

**SOLID WASTE.** Includes refuse, yard trash, clean debris, white goods, special waste, ashes, sludge, or other discarded material, including solid liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations.

**SPECIAL WASTE.** Solid wastes that can require special handling and management, which are not accepted at a landfill or other disposal facility or which are accepted at a landfill or other disposal facility at higher rates than is charge for refuse, including, but not limited to, asbestos, white goods, whole tires, used oil, mattresses, furniture, and lead-acid batteries.

**SERVICE AREA.** Territorial limit of the municipality.

**SUBSCRIBER.** Any owner, tenant or occupant listed on city records as the party billed by the city for the services provided to a residential unit by the contract.

**VEGETATIVE MATTER.** Any plant material.

**WASTE MATERIAL.** Includes recognizable industrial by-products, dead trees, tree limbs, trunks or stumps, accumulations of bricks, concrete, plaster, wood, metal spouting, sand, gravel, earth, stones or other refuse from construction, remodeling or repairing of buildings, appliances and worn out furniture and other disposable items and materials that are not domestic refuse or rubbish.

**WHITE GOODS.** Includes discarded washers, dryers, refrigerators, ranges, water heaters, freezers, small air conditioning units, and other similar domestic large appliances.

**WORDS.** Words in the singular shall include the plural.

**YARD TRASH.** Vegetative matter resulting from landscaping maintenance (other than wastes generated by tree surgeons, landscapers or lawn maintenance services), including accumulation of lawn, grass, shrubbery cuttings or clippings and dry leaf raking, small tree branched (which shall not exceed five feet in length and six inches in diameter), bushes or shrubs, green leaf cuttings, fruits, or other matter usually created as refuse in the care of lawns and yards, except large-branched, trees, or bulky or non-containerized material not susceptible to normal loading and collection in loader/packer type sanitation equipment used for regular collections from domestic households. ('70 Code, § 943.01) (Ord. 1970-14, passed 2-9-70; Am. Ord. 1971-33, passed 3-22-71; Am. Ord. 1985-93, passed 12-9-85; Am. Ord. 1990-83, passed 10-8-90; Am. Ord. 1995-116, passed 11-13-95)

## **§ 943.02 RULES AND REGULATIONS.**

(A) The Safety/Service Director is authorized and directed to make such rules, regulations and changes with reference to the handling, collection and disposal of domestic refuse, rubbish, household trash and other solid waste as may be necessary, proper or convenient to facilitate their collection and disposal. Such rules and regulations shall detail the services provided and prescribe the size, type and location of containers.

(B) All domestic premises or households should be liable for implied services provided by the municipality. Unless otherwise notified, the municipality will bill the property owner for services provided. ('70 Code, § 943.02) (Ord. 1985-93, passed 12-9-85; Am. Ord. 1995116, passed 11-13-95)

## **§ 943.03 MUNICIPALITY SOLE AND EXCLUSIVE COLLECTOR OF RESIDENTIAL DOMESTIC REFUSE; EXEMPTIONS FOR COMMERCIAL COLLECTIONS; LICENSING.**

No person other than the municipality or its agents or employees (i.e. the collector) shall collect, transport or haul over or through any alley or street, or dispose of, any domestic refuse within the municipality except as follows:

(A) Commercial establishments or public institutions that have qualified for an exception by installing on their premises the stationary hydraulic refuse compactor with a ram face size of at least 29 inches by 53 inches and a rated capacity of at least 1.9 cubic yards. The Safety/Service Director shall give prior written approval to use such equipment provided such equipment conforms to specifications on file with the office of the Safety/Service Director and open to public inspection. Commercial establishments or public institutions that install approved equipment may then contract with a private hauler provided the private hauler has suitable equipment to haul compacted domestic refuse over or through any alley or street and is licensed in accordance with § 943.13 of this chapter. Equipment must be completely enclosed and leakproof and must have the prior written approval of the Safety/Service Director.

(B) Any commercial establishment or public institution which has an existing contract with a private hauler duly licensed and qualified under § 943.13 of this chapter.

(C) Any commercial establishment or public institution, presently receiving removal and disposal services from the municipality may, at its option, upon 30 days notice to the municipality elect to qualify for private hauling under the provisions of this section and § 943.13.

(D) All commercial establishments or public institutions shall be required to apply for a waiver of the requirements of this chapter. The application shall be made to the Safety/Service Director. ('70 Code, § 943.03) (Ord. 1973-175, passed 12-10-73; Am. Ord. 1985-93, passed 12-9-85; Am. Ord. 1991-109, passed 9-9-91; Am. Ord. 1995-116, passed 11-13-95) Penalty, see § 943.99

#### **§ 943.04 REGULAR PICKUPS.**

(A) The Safety/Service Director shall provide for the collection of domestic refuse, rubbish and household trash from all dwelling units within the service area whose waste materials are not collected by mechanical container. Collections shall be on a regularly scheduled basis as established by the Safety/Service Director.

(B) The Safety/Service Director shall provide for the collection of all newspapers, glass bottles and jars, aluminum, plastic containers, tin and ferrous cans, corrugated cardboard, and brown paper bags set out for the purpose of recycling from all dwelling units within the service area whose waste materials are not collected by mechanical container. Collection shall be on a regularly scheduled basis as established by the Safety/Service Director. As it becomes appropriate or beneficial, the Safety/Service Director may add or delete items from the list.

(C) The Safety/Service Director shall provide for the collection of bulk yard trash and yard trash as defined in § 934.01, from all dwelling units within the service area whose waste materials are not collected by mechanical container. Collection shall be on a regularly scheduled basis as established by the Safety/Service Director.

(D) No owner, tenant or occupant of any dwelling shall allow domestic refuse, rubbish or household trash to accumulate in or on the occupied premises for a period of time in excess of two consecutive collection dates. ('70 Code, § 943.04) (Ord. 1970-14, passed 2-9-70; Am. Ord. 1985-93, passed 12-9-85; Am. Ord. 1995-116, passed 11-13-95)

#### **§ 943.05 SPECIAL PICKUPS.**

(A) The Safety/Service Director is authorized, upon request of any person, to determine the conditions under which the municipality will collect and dispose of special waste, infectious waste, hazardous waste, biohazardous waste, and biological waste and to fix the charges to be made therefor, taking into consideration the availability of equipment, personnel, disposal facilities and the cost to the municipality of such service.

(B) The Safety/Service Director is authorized, upon request of a collector or any other person, to determine the necessity of a special waste collection, to determine the conditions under which the municipality will make

special waste collections and to fix the charges to be made therefor, taking into consideration the availability of equipment, personnel, disposal facilities and the cost to the municipality of such services.

(C) The Safety/Service Director is authorized to order special waste, infectious waste, hazardous waste, biohazardous waste or biological waste collections when it is necessary for the proper and convenient handling and collection of domestic refuse and rubbish. ('70 Code, § 943.05) (Ord. 1970-14, passed 2-9-70; Am. Ord. 1985-93, passed 12-9-85; Am. Ord. 1995-116, passed 11-13-95)

#### **§ 943.06 CONTAINER REQUIREMENTS; LOCATION.**

(A) It shall be the duty of each resident or commercial establishment to maintain a suitable container or containers to hold all the domestic refuse and rubbish accumulated during the period between collections and pending removal by the collector. All domestic refuse and rubbish accumulated upon a resident's premises or a commercial establishment's premises must be placed in such containers.

(B) Containers shall be constructed of water and vermin proof material and shall have a capacity between 20 and 32 gallons.

(C) Articles which cannot be conveniently placed in containers shall be crushed and/or bundled in lengths not to exceed five feet and not to exceed 50 pounds in weight and shall be placed at the same collection point as the domestic refuse and rubbish containers for the premises.

(D) All containers shall be located curbside as prescribed in the rules and regulations of the Safety/Service Director. ('70 Code, § 943.06) (Ord. 1970-14, passed 2-9-70; Ord. 1985-93, passed 12-9-85; Am. Ord. 1995-116, passed 11-13-95) Penalty, see § 943.99

#### **§ 943.07 USE BY OTHER PERSONS PROHIBITED.**

(A) No person using the services set out in this chapter shall permit the use of his/her domestic refuse or rubbish containers by any other person to this service.

(B) No person shall use the services provided by the collector without paying the lawful charges therefor. ('70 Code, § 943.07) (Ord. 1970-14, passed 2-9-70; Am. Ord. 1985-93, passed 12-9-85; Am. Ord. 1995-116, passed 11-13-95) Penalty, see § 943.99

#### **§ 943.08 UNLAWFUL DISPOSAL OF DOMESTIC REFUSE, RUBBISH OR WASTE MATERIAL.**

(A) No person shall keep, place or deposit domestic refuse on any grounds or premises whatsoever except in the manner designated in § 943.06.

(B) No person shall throw or deposit any domestic refuse, rubbish or waste material, or cause the same to be thrown or deposited, in any street, way, lane, river, stream, ditch or other public place, or upon any vacant lot, or where rats, mice, dogs, cats, birds, fowl or other living things can feed thereon.

(C) No person shall remove any domestic refuse from any premises of a resident or commercial establishment except the collector. ('70 Code, § 943.08) (Ord. 1970-14, passed 2-9-70; Am. Ord. 1985-93, passed 12-9-85; Am. Ord. 1995-116, passed 11-13-95) Penalty, see § 943.99

#### ***Cross-reference:***

*Littering and deposit of garbage and waste material, see § 660.03*

*Noxious accumulations; polluting, see § 660.04*

#### **§ 943.09 BURNING OF RUBBISH, WASTE MATERIAL AND DOMESTIC REFUSE.**

(A) No person shall burn domestic refuse, rubbish or waste material within the territorial limits of the municipality.

(B) Nothing in this section shall prohibit burning in an approved incinerator as set forth in § 943.12.

(C) Nothing in this section shall prohibit a proper fire for domestic purposes or recreation if the fire is properly attended.

(D) Upon application, the City Fire Inspector may issue temporary permission for burning, contrary to this section. ('70 Code, § 943.09) (Ord. 1971-33, passed 3-22-71; Ord. 1985-93, passed 12-9-85; Am. Ord. 1995-116, passed 11-13-95) Penalty, see § 943.99

***Cross-reference:***

*Open burning, see § 660.08*

**§ 943.10 DISPOSAL RESTRICTED TO MUNICIPALITY'S DESIGNATED DISPOSAL FACILITY.**

In accordance with the rules and regulations adopted by the Safety/Service Director under § 943.02, no person shall dispose of, bury or dump within the municipality any domestic refuse, rubbish or waste material accumulated within or without the municipality. All domestic refuse, rubbish and waste material shall be conveyed to the areas' designated solid waste handling and disposal facilities. ('70 Code, § 943.10) (Ord. 1985-93, passed 12-9-85; Am. Ord. 1990-83, passed 10-8-90; Am. Ord. 1995-116, passed 11-13-95) Penalty, see § 943.99

**§ 943.11 OWNERSHIP OF DOMESTIC REFUSE, RUBBISH, RECYCLABLES AND WASTE MATERIAL.**

All domestic refuse, rubbish, recyclables and waste material collected or in the process of being collected are no longer the property of the resident and no person shall be allowed to separate, collect, carry off or dispose of the same except under the authority of the Safety/Service Director. ('70 Code, § 943.11) (Ord. 1970-14, passed 2-9-70; Ord. 1985-93, passed 12-9-85; Am. Ord. 1990-124, passed 12-10-90; Am. Ord. 1995-116, passed 11-13-95) Penalty, see § 943.99

**§ 943.12 INCINERATORS AND FOOD DISPOSAL SYSTEMS.**

(A) *Incinerator requirements.* An incinerator shall:

(1) Be of a type approved by, and be installed in accordance with the regulations promulgated by, the City Fire Prevention Bureau. Such regulations shall be prepared in accordance with the standards of the National Building Code and the Standards of the National Fire Protection Association or the American Insurance Association, as the same apply to incinerators. If activated electrically, an incinerator shall bear evidence of approval of Underwriters' Laboratories, Inc.

(2) Operate so as to consume completely wet or dry domestic refuse, waste material and rubbish by burning it to ash without causing noisome, offensive or noxious odors, vapors, gases or smoke and without the discharge or emission into the atmosphere of sparks, ash or the powdered residue of the substance which has been burned.

(B) *Mechanical food disposal systems.* This chapter is not intended to control, prohibit or regulate in any manner the use of mechanical food disposal systems and the sections of this chapter shall not be construed or interpreted to prevent the use of a mechanical food disposal system. ('70 Code, § 943.12) (Ord. 1971-33, passed 3-22-71; Am. Ord. 1985-93, passed 12-9-85; Am. Ord. 1995-116, passed 11-13-95) Penalty, see § 943.99

**§ 943.13 LICENSE REQUIRED; ISSUANCE; FEES; CONDITIONS; REVOCATION.**

(A) *License required.* No person shall remove or haul any rubbish or waste material over or through any of the streets or alleys of the municipality without first obtaining a license from the Safety/Service Director to do so. This section shall not apply to the following:

(1) Any governmental agency;

(2) Any person, personally or by an employee, hauling, transporting and disposing of rubbish and waste material produced on the premises of such person, provided, however, that any person using an employee for such hauling, transporting and disposal from the employer's premises shall first obtain from the Safety/Service Director an exemption from the requirements of this section. The application shall certify that the employee is, in law, an employee, taking into account, among others, the fact that his/her wages are subject to the withholding provisions of the Internal Revenue Code of the United States and Chapter 193 of this code, and that he/she is within the provisions of the Workmen's Compensation Law of the state and the Social Security Law of the United States, plus other factors which indicate an employee rather than independent contractor relationship. In addition, such employer shall provide his/her employee a truck either owned by the employer or leased by the employer from someone other than the employee; and

(3) Any person who hauls rubbish, produced as an incidental result of his/her occupation, from the premises of one with whom he/she has contracted to provide his/her occupational services. However, any truck used for hauling rubbish or waste material shall have an enclosed body or shall be equipped with sideboards and tarpaulins to prevent the spilling of materials therefrom.

(B) *License; issuance; fees; conditions; revocation.*

(1) The Safety/Service Director shall issue a license to any person desiring to engage in the removal and handling of rubbish and waste material for hire within the municipality.

(2) The fee for such license shall be \$24 per year payable in advance. Such license shall not be issued for a longer period than 12 months beginning January 1 of each year and shall expire December 31 next following the date of issue. Licenses issued subsequent to January 1 shall be prorated as follows: April 1 - \$18; July 1 - \$12; October 1 - \$6.

(3) The license shall be prominently displayed on the vehicle.

(4) A separate license shall be required for each truck owned by the licensee.

(5) Any truck to be used by such licensee for hauling rubbish or waste material shall have an enclosed body or shall be equipped with sideboards and tarpaulins to prevent the spilling of materials therefrom.

(6) The Safety/Service Director may revoke the license of any licensee after hearing for good cause shown and shall revoke after hearing the license of any licensee who violates any section of this chapter or any rule or regulation of the City Board of Health. ('70 Code, § 943.13) (Ord. 1973-175, passed 12-10-73; Am. Ord. 1995-116, passed 11-13-95) Penalty, see § 943.99

#### **§ 943.14 RESIDENT SUBSCRIBER CHARGES.**

To provide necessary funds for equipment, personnel and other expenses in connection with the collection and disposal of residential domestic refuse and rubbish in the municipality, the necessary charges for the same shall be as directed by the rules and regulations adopted by the City Safety/Service Director. ('70 Code, § 943.14) (Ord. 1984-82, passed 10-22-84; Am. Ord. 1987-83, passed 10-12-87; Am. Ord. 1990-83, passed 10-8-90; Am. Ord. 1995-116, passed 11-13-95)

#### **§ 943.15 LATE AND DELINQUENT PAYMENTS.**



(A) The charges herein shall constitute the net charges for sanitation service if paid within a period of 14 days next following the date of billing. If paid after the 14-day period has elapsed, the applicable charges shall be at the gross rate, which shall be \$3 greater than the net charge.

(B) It shall be understood that the U.S. Government postmark shall govern the due date and that when any payments are mailed within the 14-day period or paid at an authorized collection agency within the 14-day period, they shall be considered as paid within the prescribed time limit and exempt from penalty. In the collection of such payments by mail, the U.S. Government postmark on the envelope containing the payment shall be identified and retained for a period of four months after which it will be destroyed and the gross amount of such bill shall not be disputed.

(C) Any charges for sanitation service that remain unpaid for 60 days, shall be delinquent and may be assigned for collection. ('70 Code, § 943.15) (Ord. 1985-4, passed 1-7-85; Am. Ord. 1988-81, passed 10-10-88; Am. Ord. 1995-116, passed 11-13-95)

#### **§ 943.16 COMMERCIAL ESTABLISHMENT SUBSCRIBER CHARGES.**

Service charges to commercial establishments for the collection and disposal of domestic refuse, rubbish and waste materials by the collector shall be determined, charged and collected by the Safety/Service Director and in no instance shall the rate be in an amount less than the actual cost of collection and disposal. ('70 Code, § 943.16) (Ord. 1970-14, passed 2-9-70; Am. Ord. 1985-93, passed 12-9-85; Am. Ord. 1995-116, passed 11-13-95)

#### **§ 943.17 [RESERVED].**

#### **§ 943.18 DISPOSITION OF FUNDS; RECORDS AND ACCOUNTING.**

(A) All moneys received by the collector in any manner for the collection disposal of domestic refuse, rubbish or waste material shall be deposited in the Sanitation Fund and applied to the retirement and interest on notes or bonds issued for the purchase of equipment or for the acquisition or construction of any permanent improvements to be rendered for or in connection with the collection and disposal of domestic refuse, rubbish or waste material or to the expenses of conduct and operation of the Division of Sanitation.

(B) The Safety/Service Director shall maintain and keep such records, accounts and other supporting data to provide for a cost accounting system that separates the cost of the collection of domestic refuse, rubbish and waste material from the cost of the disposal of domestic refuse, rubbish and waste material. ('70 Code, § 943.18) (Ord. 1970-14, passed 2-9-70; Am. Ord. 1985-83, passed 12-9-85; Am. Ord. 1995-116, passed 11-13-95)

#### **§ 943.19 EXEMPTION OF SENIOR CITIZENS AND DISABLED PERSONS FROM PAYMENT OF CHARGES.**

(A) Citizens of the municipality meeting the following qualifications shall be charged a reduced rate of 50% of the resident subscriber charges as provided for in 943.14. (Ord. 2017-43, passed 8-14-2017)

(B) The subscriber shall meet either the following age and retirement criteria or the following disability criteria:

(1) *Age and retirement criteria.* The subscriber shall be 62 years of age or more and shall be a retired individual receiving public welfare assistance or disability benefits, or shall be receiving a retirement income from social security, public employee's retirement system, military retirement, railroad retirement, privately endowed retirement system or from another similar retirement system. The gross income of a household shall not exceed \$19,500 plus the Federal Income Tax Dependency Deduction for the prior filing year, in addition, the subscriber shall be entitled to additional Federal Income Tax Dependency Deductions, the amount being those

dependency deductions from the prior filing year, for a spouse or lineal descendants who reside in his home and qualifies under (B)(1), (B)(2) or (B)(3) herein.

(2) *Disability criteria.* The subscriber may be of any age provided such subscriber is rendered unemployable due to and as a direct result of a permanent physical or mental disability. The gross income of a household shall not exceed \$19,500 plus the Federal Income Tax Dependency Deduction for the prior filing year, in addition, the subscriber shall be entitled to additional Federal Income Tax Dependency Deductions, the amount being those dependency deductions from the prior filing year, for a spouse or lineal descendants who reside in his home and qualifies under (B)(1), (B)(2) or (B)(3) herein.

(3) *Dependant lineal descendant.* Any lineal descendant of the subscriber, of any age, who qualifies as a dependant upon the subscriber's Federal Income Tax Filing and was claimed as a dependant for the prior tax filing year.

(4) Beginning with March 1, 2001 and each year on the same date thereafter, the base maximum gross household income amounts set forth in subsections 1 and 2 herein shall be adjusted utilizing the consumer price index for all items in urban areas, commonly referred to as the CPI-U, from the previous calendar year. (Ord. 2000-52, passed 5-8-2000)

(C) The subscriber shall reside at the location of the exemption applied for but need not own the residence. The applicant shall not be entitled to the exemption if he or she is residing with a subscriber who is not entitled to the exemption as defined herein.

(D) Subscribers desiring the reduced rate provided for in 943.19 (A) for the sanitation charge shall apply for same at the office of the Sanitation Division. Subscribers shall make application and shall reapply annually by displaying proof of identity and age or disability and by signing an application in the form of an affidavit, swearing to the factual existence of the minimum qualifications as set forth in this section. The affidavit shall be in the presence of a notary public. Subscribers making application for the reduced rate shall make their application at the time of their subscription. Annual applications for subscribers shall be filed not later than December 1 of each year. (Ord. 2017-43, passed 8-22-2017)

(E) The Safety/Service Director, after hearing, shall be the final authority for any disputed application.

(F) Effective January 2, 1991, the special rates for senior citizens and disabled persons shall be in effect. ('70 Code, § 943.19) (Ord. 1984-82, passed 10-22-84; Am. Ord. 1987-83, passed 10-12-87; Am. Ord. 1990-125, passed 10-10-90; Am. Ord. 1995-116, passed 11-13-95)

**§ 943.99 PENALTY.**

Whoever violates any of the provisions of this chapter or any rule or regulation of the Safety/Service Director made pursuant to this chapter shall be guilty of a misdemeanor of the third degree and shall be fined not more than \$100 or imprisoned not more than 60 days or both. Any such violation shall constitute a separate offense on each successive day continued. ('70 Code, § 943.99) (Ord. 1970-14, passed 2-9-70; Am. Ord. 1991-23, passed 2-25-91; Am. Ord. 1992-6, passed 1-27-92; Am. Ord. 1995-116, passed 11-13-95)

## CHAPTER 945: PARKS AND SWIMMING POOLS

### Section

- 945.01 Closing hours of municipal parks
- 945.02 Lincoln Park Swimming Pool rates

### § 945.01 CLOSING HOURS OF MUNICIPAL PARKS.

The Board of Park Commissioners is authorized and directed to close all municipal parks to all visitors from midnight to 6:00 a.m., except with the permission of such Board, and to erect signs showing that the parks are so closed. ('70 Code, § 945.01) (Ord. 1971-90, passed 5-24-71)

### § 945.02 LINCOLN PARK SWIMMING POOL RATES.

(A) The Marion Recreation Board is authorized to establish reasonable fees for use of all facilities including but not limited to pools, gymnasiums, and other structures. The fee schedules shall be advertised by the Board and posted at each facility where said change is required.

(B) The Marion Recreation Board shall be authorized to establish reasonable rates and procedures for implementing the above fee schedule. ('70 Code, § 945.02) (Ord. 1982-65, passed 5-14-82; Am. Ord. 1989-35, passed 3-27-89; Am. Ord. 1994-45, passed 5-11-94)

***Cross-reference:***

*Board of Park Commissioners, see Ch. 157*

*Recreation Board, see Ch. 163*

***Statutory reference:***

*Land appropriation for parks, see R.C. §§ 715.21 and 719.01*

*Power to regulate fences, see R.C. § 715.27*

*Parks and playgrounds, see R.C. Ch. 755*