

CODIFIED ORDINANCES OF LANCASTER

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CHAPTER 901

**Management, Administration, and Control Ordinance
 Governing the Use of the Public Rights-of-Way**

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CROSS REFERENCES

Power to establish and care for streets - see Ohio R.C. 715.19, 717.01, 723.01
Openings by the City - see Ohio R.C. 723.02
Surface treatment - see Ohio R.C. 723.23, 723.31
Excavation liability - see Ohio R. C . 723.49 et seq.
Compulsory service connections - see Ohio R. C. 729.06, 743.23, 743.37
Digging, excavating and piling earth on streets - see Ohio R. C. 5589.10
Littering by contractors - see GEN. OFF. 553.05
Subdivision improvements - see P. & Z. Ch. 1109
Permit to obstruct with building materials - see BLDG. 1311.02 et seq.

901.01 FINDINGS AND PURPOSE.

(a) The City of Lancaster, Ohio (the “City”) is concerned with the use of all Rights-of-Way in the City as such Rights-of-Way are valuable and limited resources.

(b) Changes in the public utilities and communications industries have increased the demand and need for access to Rights-of-Way and placement of facilities and structures therein.

(c) It is necessary to comprehensively plan and manage access to, and structures and facilities in, the Rights-of-Way and provide innovative and economic solutions to efficiently and economically utilize limited Rights-of-Way capacity.

(d) The City has authority under the laws and Constitution of the State of Ohio, including, but not limited to Article XVIII Section 3 and Section 4 to regulate the public and private entities which use the Right-of-Way.
(Ord. 13-19. Passed 9-9-19.)

901.02 SCOPE.

The provisions of this chapter shall apply to all users of the Rights-of-Way as provided herein. (Ord. 13-19. Passed 9-9-19.)

901.03 DEFINITIONS.

(a) For the purposes of this chapter, the following terms, words, phrases, and their derivations shall have the meanings set forth herein. When not inconsistent with the context, words in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The words “shall” and “will” are mandatory and “may” is permissive. Words not defined shall be given their common and ordinary meaning. References hereafter to "sections" are, unless otherwise specified, references to sections in this chapter. Defined terms remain defined terms whether or not capitalized.

- (1) “AFFILIATE.” Each Person who falls into one or more of the following categories: (i) each Person having, directly or indirectly, a controlling interest in a Provider, (ii) each Person in which a Provider has, directly or indirectly a controlling interest, (iii) each officer, director, general partner, limited partner or shareholder holding an interest of fifteen percent (15%) or more, joint venturer or joint venture partner, of a Provider, and (iv) each Person, directly or indirectly, controlling, controlled by, or under common control with the Provider; provided that Affiliate shall in no event mean any limited partner or shareholder holding an interest of less than fifteen percent (15%) of such Provider, or any creditor of such Provider solely by virtue of its status as a creditor and which is not otherwise an Affiliate by reason of owning a controlling interest in, being owned by, or being under common ownership, common management, or common control with, such Provider.
- (2) “ANTENNA.” Communications equipment that transmits or receives radio frequency signals in the provision of wireless service.
- (3) “APPLICANT.” Any Person who seeks to obtain a Certificate of Registration and/or a Permit.
- (4) “APPLICATION.” The process by which an Applicant submits a request to obtain Certificate of Registration and/or a Permit.
- (5) “APPLICATION FEE.” The fee paid to the City for application for a Certificate of Registration pursuant to Section 901.05(a).
- (6) “BANKRUPTCY CODE.” The United States Bankruptcy Code of 1978, as amended including regulations promulgated by Title 11 of the United States Code.
- (7) “BEST EFFORT(S).” The best reasonable efforts under the circumstances, taking into consideration, among other appropriate matters, all applicable laws, regulations, safety, engineering and operational codes, available technology, human resources, and cost.
- (8) “CABLE FRANCHISE.” Has the same meaning as “franchise” in the Cable Communications Policy Act of 1984, 98 Stat. 2779, 47 U.S.C. 522.
- (9) “CABLE OPERATOR.” Has the same meaning as in the Cable Communications Policy Act of 1984, 98 Stat. 2779, 47 U.S.C. 522.
- (10) “CABLE SERVICE.” Has the same meaning as in the Cable Communications Policy Act of 1984, 98 Stat. 2779, 47 U.S.C. 522.
- (11) “CERTIFICATE OF REGISTRATION.” The document issued to each Provider and its unique System to occupy the Rights-of-Way within the City that outlines the terms of that occupancy of the Rights-of-Way.
- (12) “CITY.” The City of Lancaster, Ohio.
- (13) “CITY ENGINEER.” The duly appointed City Engineer of the City of Lancaster.
- (14) “CODE (or C.O).” The Codified Ordinances of the City of Lancaster, Ohio.
- (15) “CO-LOCATION.” To install, mount, maintain, modify, operate, or replace Wireless Facilities on a Wireless Support Structure.

- (16) “CONSTRUCT.” Shall mean, but not be limited to, digging, boring, tunneling, trenching, excavating, obstructing, installing wires, installing conduit, installing pipes, installing transmission lines, installing poles, installing signs or installing Facilities, other than landscaping, ornamental plantings in, on, above, within, over, below, under or through any part of the Rights-of-Way. “Construct” shall also include the act of opening and/or cutting into the surface of any paved, unimproved, or improved surface that is any part of the right-of-way.
- (17) “CONSTRUCTION.” Shall mean, but not be limited to, the act or process of digging, boring, tunneling, trenching, excavating, obstructing, installing wires, installing conduit, installing pipes, installing transmission lines, installing poles, installing signs or installing Facilities, other than landscaping, ornamental plantings in, on, above, within, over, below, under or through any part of the Rights-of-Way. “Construction” shall also include the act of opening and/or cutting into the surface of any paved, unimproved or improved surface that is part of the right-of-way.
- (18) “CONSTRUCTION BOND.” A bond posted to ensure proper and complete Construction and/or repair of a Facility and the affected Rights-of-Way pursuant to a Permit.
- (19) “CONSTRUCTION AND MAJOR MAINTENANCE PLAN.” A written plan including maps of the expected location, design, other related equipment and Facilities of a Provider that describes in full the Construction intended to be accomplished by the Provider in the Rights-of-Way over the next calendar year.
- (20) “CONSTRUCTION PERMIT.” The Permit specified in Section 901.18 et seq. which must be obtained before a Person may Construct in, locate in, occupy, maintain, move or remove Facilities from, in or on a Rights-of-Way.
- (21) “COUNTY.” Fairfield County, Ohio. County specifically excludes any and all contractors, agents or other Persons acting on behalf of said County.
- (22) “DECORATIVE POLE.” A pole, arch, or structure other than a street light pole placed in the public way specifically designed and placed for aesthetic purposes and on which no appurtenances or attachments have been placed except for the following (i) electric lighting; (ii) specifically designed informational or directional signage; or (iii) temporary holiday or special event attachments.
- (23) “DESIGN GUIDELINES.” Detailed guidelines and specifications promulgated by the City in accordance with O.R.C.. Chapter 4939 for the design and installation of Small Cell Facilities and Wireless Support Structures in the Right-of-Way.
- (24) “EMERGENCY.” A condition that poses a clear and immediate danger to life or health, or of a significant loss of property.
- (25) “FACILITY(IES).” Any tangible thing located in, on, under, or above, any Rights-of-Way within the City, and includes Wireless Facilities and Wireless Support Structures; but shall not include boulevard plantings, ornamental plantings or gardens planted or maintained in the Rights-of-Way between a Person’s property and the street edge of pavement.

- (26) “FCC.” The Federal Communications Commission, or any successor thereto.
- (27) “FERC.” The Federal Energy Regulatory Commission as created and amended in accordance with the Federal Power Act, 16 U.S.C. 792, or its statutory successor.
- (28) “FULL.” Right-of-Way that is unable to accommodate any additional Facilities as determined by the City Engineer in accordance with the principles of public health, safety and welfare, following a reasonable analysis taking into consideration all applicable Law; commonly accepted industry standards; and routine engineering practices.
- (29) “HEIGHT.” The distance measured from the pre-existing grade level to the highest point on the structure, including the Small Cell Facility, even if said highest point is an Antenna or lightning protection device.
- (30) “HISTORIC DISTRICT.” A building, property, or site, or group of buildings, properties, or sites that are either of the following:
- A. Listed in the national register for historic places or formally determined eligible for listing by the keeper of the national register, the individual who has been delegated the authority by the federal agency to list properties and determine their eligibility for the national register, in accordance with Section VI.D.1.a.i-v of the nationwide programmatic agreement codified at 47 C.F.R. part 1, Appendix C.
- B. A registered historic district as defined in O.R.C. Section 149.311.
- (31) “INSPECTOR.” Any Person authorized by the City Engineer to carry out inspections related to the provisions of this chapter.
- (32) “LAW.” Any local, state and/or federal legislative, judicial or administrative order, certificate, decision, statute, constitution, ordinance, resolution, regulation, rule, tariff or other requirement in effect either at the time of execution of this Chapter or at any time during the location of, and/or while a Provider’s Facilities are located in the public Rights of Way.
- (33) “LAW DIRECTOR.” The duly elected law director of the City of Lancaster, Ohio or his/ her designee.
- (34) “MICRO WIRELESS PERMIT.” A Permit, which must be obtained before a Person can Construct, modify, collocate, or replace a Small Cell Facility or Wireless Support Structure, as set forth in Section 901.10, in or on the Rights-of-Way.
- (35) “MINOR MAINTENANCE PERMIT.” A Permit, which must be obtained before a Person can perform minor maintenance, as set forth in Section 901.18, in or on the Rights-of- Way.
- (36) “MUNICIPAL ARBORIST.” The duly appointed municipal arborist of the City of Lancaster, Ohio who shall be, pursuant to Section 939.03, the Superintendent of the Parks Department.
- (37) “OHIO MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES (OMUTCD).” The uniform system of traffic control devices promulgated by the Ohio Department of Transportation pursuant to O.R.C. Section 4511.09.

- (38) “OPERATOR.” A Wireless Service Provider, Cable Operator, or a Video Service Provider that operates a Small Cell Facility and provides Wireless Service. For purposes of this chapter, “Operator” includes a Wireless Service provider, Cable Operator, or a Video Service Provider that provides information services as defined in the “Telecommunications Act of 1996,” 110 Stat. 59, 47 U.S.C. 153(20), as services that are fixed in nature or use unlicensed spectrum.
- (39) “O.R.C.” The Revised Code of the State of Ohio.
- (40) “OHIO UTILITY PROTECTION SERVICE.” The utility protection service as defined in O.R.C. Section 153.64 and/or Section 3781.26 or a statutory successor thereto.
- (41) “OPEN VIDEO SERVICE.” Any video programming Services provided to any Person through the use of Rights-of-Way, which Person is certified by the FCC to operate an Open Video System pursuant to Section 651 et seq. of the Telecommunications Act of 1996 (codified at 47 U.S.C. Title VI, Part V), regardless of the facilities used.
- (42) “PERMIT.” A Construction Permit, Micro Wireless Permit, or a Minor Maintenance Permit as the context requires.
- (43) “PERMIT COST.” All direct, incidental and indirect costs actually incurred or realized by the City for Permit issuance, Permit oversight and pavement degradation resulting from Construction activity.
- (44) “PERMIT FEE.” Money paid to the City for a Permit.
- (45) “PERMITTEE.” Any Person to whom a Permit has been granted by the City and not revoked.
- (46) “PERSON.” Any natural person or corporate entity, business association or other business entity including, but not limited to, a firm, a partnership, a joint venture, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity.
- (47) “PROVIDER.” A Person who owns or operates a System and has a valid Certificate of Registration. The City, County, Small Cell Facility operators, and Cable Operators operating pursuant to a valid Cable Franchise, or Video Service Provider operating pursuant to a valid Video Service Authorization shall also be considered Providers.
- (48) “PUBLIC UTILITY (or UTILITY).” Any company described in Section 4905.03 of the O.R.C., except in divisions (B) and (I) of that Section, which company is also a “Public Utility” as defined in O.R.C. Section 4905.02 and regulated by the PUCO; and includes any electric supplier as defined in O.R.C. Section 4933.81.
- (49) “PUCO.” The Public Utilities Commission of Ohio as defined in O.R.C. Section 4901.02.
- (50) “REGISTRATION MAINTENANCE FEE.” The money paid to the City to maintain a Certificate of Registration and compensate the City for actual costs incurred by the City in the management, administration and control of the Rights-of-Way of the City, and which are not reasonably recoverable by the City through construction permit fees or other approved recovery mechanisms.

- (51) “REMOVAL BOND.” A bond posted to ensure the availability of sufficient funds to remove a Provider’s Facilities upon abandonment or disuse, or discontinuance of a Provider’s use or occupation of the Rights-of-Way.
- (52) “RESTORATION.” The process and the resultant effects by which a Rights-of-Way is returned to a condition as good as or better than its condition immediately prior to the Construction. “Restoration” shall occur in accordance with the Rules and Regulations as may be enacted and amended from time to time by the City.
- (53) “RIGHT(S) OF WAY.” The surface of, and the space within, through on, across, above or below, the paved or unpaved portion of any public street, public road, public highway, public freeway, public lane, public path, public alley, public court, public sidewalk, public boulevard, public parkway, public drive, public easement, and any other land dedicated or otherwise designated for a compatible public use, which, on or after July 2, 2002, is owned or controlled by the City. “Right-of-Way” excludes a private easement.
- (54) “RIGHT(S) OF WAY COST.” All direct, incidental and indirect costs borne by the City for the management and administration of the Rights-of-Way and this chapter.
- (55) “RULES AND REGULATIONS.” Any rules or regulations adopted by the City Engineer pursuant to Section 901.08(e) of this chapter.
- (56) “SERVICE(S).” The offering of any service or utility for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, or alternatively, the provision (for a fee or otherwise) of any service or utility between two or more points for a proprietary purpose to a class of users other than the general public that in the opinion of the City Engineer constitutes a service.
- (57) “SERVICE-SAFETY DIRECTOR.” The duly appointed Service-Safety Director of the City of Lancaster, Ohio or his/ her designee.
- (58) “SMALL CELL FACILITY.” A wireless facility that meets both of the following requirements:
- A. Each antenna is located inside an enclosure of not more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an enclosure of not more than six cubic feet in volume.
 - B. All other wireless equipment associated with the facility is cumulatively not more than twenty-eight cubic feet in volume. The calculation of equipment volume shall not include electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.
- (59) “STATE.” The State of Ohio.
- (60) “SUPERINTENDENT OF THE PARKS DEPARTMENT.” The duly appointed Superintendent of the Parks Department of the City of Lancaster, Ohio.

- (61) “SUPPLEMENTARY APPLICATION.” Any application made to Construct on or in more of the Rights-of-Way than previously allowed, to extend a Permit that had already been issued, or to otherwise modify or amend the specifics of a Permit Application.
- (62) “SYSTEM.” Any System of conduit, cables, ducts, pipes, wires, lines, towers, antennas, wave guides, fiber optics, microwave, laser beams and any associated converters, equipment or Facilities or Utilities designed and constructed for the purpose of producing, receiving, amplifying, delivering or distributing Services within the City. A System shall specifically include, but not necessarily be limited to: electric distribution and/or transmission systems, natural or artificial gas distribution and/or transmission systems, water distribution systems, storm sewer systems, sanitary sewer systems, cable television systems, video service networks, telecommunications systems (whether voice, video, data, or other), fiber optic systems, and wireless communications systems.
- (63) “SYSTEM REPRESENTATIVE.” The specifically identified agent/employee of a Provider who is authorized to direct field activities of that Provider and serve as official notice agent for System-related information. Any such System Representative shall be required to be available at all times to receive notice of and immediately direct response to System related emergencies or situations.
- (64) “TRENCHLESS TECHNOLOGY.” Shall mean, but not be limited to, the use of directional boring, horizontal drilling, micro-tunneling and other techniques in the Construction of underground portions of Facilities which result in the least amount of disruption and damage to Rights-of-Way as possible.
- (65) “UNDERGROUND FACILITIES.” All lines, cables, conduits, pipes, posts, tanks, vaults and any other Facilities which are located wholly or partially underneath Rights-of-Way.
- (66) “UNUSED FACILITY(IES).” Facilities located in the Rights-of-Way which have remained unused for twelve (12) months and for which the Provider is unable to provide the City with a credible plan detailing the procedure by which the Provider intends to begin actively using such Facilities within the next twelve (12) months, or that the Provider has a potential purchaser or user of the Facilities who will be actively using the Facilities within the next twelve (12) months, or that the availability of such Facilities is required by the Provider to adequately and efficiently operate its System.
- (67) “UTILITY CORRIDOR(S).” Those specific areas of the Rights-of-Way designated as such by the City Engineer pursuant to this chapter.
- (68) “VIDEO SERVICE.” Means the same as “video service” as defined in O.R.C. Section 1332.21(J).
- (69) “VIDEO SERVICE AUTHORIZATION (VSA).” A “video service authorization” as issued to a Video Service Provider by the Director of the Ohio Department of Commerce in accordance with O.R.C. Section 1332.24(A)(1).
- (70) “VIDEO SERVICE NETWORK.” Means the same as “video service network” in O.R.C. Section 1332.21(L).

- (71) **“VIDEO SERVICE PROVIDER (VSP).”** Means the same as “video service provider” in O.R.C. Section 1332.21(M).
- (72) **“WIRELESS FACILITY.”** An antenna, accessory equipment, distributed antenna system, small cell facility, micro wireless facility, or other device or equipment used to provide Wireless Service, including such devices and equipment as provided for in O.R.C. Chapter 4939.
- (73) **“WIRELESS SERVICE.”** Any services using licensed or unlicensed wireless spectrum, whether at a fixed location or mobile, provided to the public using Wireless Facilities.
- (74) **“WIRELESS SUPPORT STRUCTURE.”** A pole, such as a monopole, either guyed or self-supporting, street light pole, traffic signal pole, a fifteen-foot or taller sign pole, or utility pole capable of supporting Small Cell Facilities. As used in this chapter, “Wireless Support Structure” excludes all of the following:
- A. A utility pole or other facility owned or operated by a municipal electric utility;
 - B. A utility pole or other facility used to supply traction power to public transit systems including railways, trams, streetcars, and trolleybuses. (Ord. 13-19. Passed 9-9-19.)

901.04 RIGHTS-OF-WAY ADMINISTRATION.

(a) **Administration.** The City Engineer shall be the principal City official responsible for the administration of this chapter, except as otherwise provided herein. The City Engineer may delegate any or all of the duties hereunder to any appropriate designee.

(b) **Rights-of-Way Occupancy.** Each Person who occupies, uses or seeks to occupy or use the Rights-of- Way to operate a System located in the Rights-of-Way, or who has, or seeks to have, a System located in any Rights-of-Way, shall apply for and obtain a Certificate of Registration pursuant to this chapter. Any Person owning, operating or maintaining a System in the Rights-of-Way without a Certificate of Registration, including Persons operating under a permit, license or franchise issued by the City prior to the effective date of this chapter shall apply for and obtain a Certificate of Registration from the City within ninety (90) days of the effective date of this chapter, unless exempted by Section 901.04(d). The ninety (90) day requirement will be extended if, due to an inability on the City’s behalf, all Persons obtaining or wishing to obtain a Certificate of Registration are not accommodated within the ninety (90) day period. The application for a Certificate of Registration will consist of providing the information set forth in Section 901.05(b) and as reasonably required by the City.

(c) **No Construction Without a Certificate of Registration.** Following the effective date of this chapter, no Person shall Construct or perform any work on or in, or use any System or any part thereof located on or in any Rights-of-Way without first obtaining a Certificate of Registration. Whoever violates this section is guilty of a misdemeanor of the first (1st) degree as provided for in Section 901.99.

(d) **Exceptions.**

- (1) The following entities are not obligated to obtain a Certificate of Registration: the City and resellers of Services that do not own any System or Facilities in the Rights-of-Way.

- (2) The following entities are required to participate in the Certificate of Registration process, but shall be exempt from the financial obligations of the Application Fee required by Section 901.05(a) and the Registration Maintenance Fee required by Section 901.07(a): a county; Cable Operators for the purpose of providing only Cable Service and operating pursuant to a valid Cable Franchise; a Video Service Provider for the purpose of providing only video service and operating pursuant to a valid video service authorization issued in accordance with O.R.C. Section 1332.24; and any entity which possesses an existing and valid non-terminable, non-amendable or non-revocable written privilege or authority previously granted by the City for the use or occupancy of the Right-of-Way, whereby such exemption shall be limited to a specific term and limited conditions or obligations as previously granted. In addition, cable operators shall be exempt from any requirement of the certificate of registration process that is in direct conflict with the requirements of, and/or specifically exempted by, a valid current and valid cable franchise with the city.

(e) Systems in Place Without a Certificate of Registration. Any system or part of a system found in Rights-of-Way for which a Certificate of Registration has not been obtained or is not otherwise exempted under Section 901.04(d) shall be deemed to be a nuisance and an unauthorized use of the Rights-of-Way. The City may exercise any remedies or rights it has at law or in equity, including, but not limited to abating the nuisance; taking possession of the facilities and/or noncomplying portion of such system; and/or prosecuting the violator.

(f) Future Uses. Subject to applicable law, in allowing Providers and Permittees to place Facilities in the Rights-of-Way, the City shall not be liable for any damages caused thereby to any Provider's Facilities that are already in place or that shall be placed in the Rights-of-Way. No Provider is entitled to rely on the provisions of this chapter as creating a special duty to any Provider.

(g) Discontinuance of Operations. Abandoned and Unused Facilities.

- (1) A Provider who has discontinued or is discontinuing its operations of any System in the City shall:
- A. Provide information satisfactory to the City that the Provider's obligations for its System in the Rights-of-Way under this Section and any other Sections in the Code have been lawfully assumed by another Applicant and/or Provider through written notification to the City Engineer; or
 - B. Submit a written proposal to re-use its Facilities in a manner that promotes the City's goals of providing innovative solutions to efficiently and economically utilize limited Rights-of-Way capacity. Such proposal must be approved or denied by the City Engineer. A denial by the City Engineer shall be done in writing and describe the reasons for such a denial. The denial may be appealed by the Provider to the Service-Safety Director. The decision of the Service-Safety Director shall be final; or

- C. Submit a written proposal for abandonment of Facilities indicating why good engineering practice would support this type of solution. The City Engineer must approve or deny said proposal. A denial by the City Engineer shall be done in writing and describe the reasons for such a denial. The denial may be appealed by the Provider to the Service-Safety Director. The decision of the Service-Safety Director shall be final; or
 - D. Completely remove all specifically identified portion(s) of its System in a manner acceptable to the City within a reasonable amount of time if the City believes that there exists a reasonable justification for such removal; or
 - E. Submit to the City within a reasonable amount of time and in accordance with O.R.C. Section 4905.20 and Section 4905.21, a proposal for transferring ownership of its Facilities to the City. If a Provider proceeds under this clause, the City may, at its option where lawful:
 - 1. Purchase the Facilities; or
 - 2. Unless a valid Removal Bond has already been posted pursuant to Section 901.20, require the Provider to post a bond in an amount sufficient to reimburse the City for reasonably anticipated costs to be incurred in removing the Facilities.
- (2) Facilities of a Provider who fail to comply with this section and which remain Unused Facilities shall be deemed to be abandoned. Abandoned Facilities are deemed to be a nuisance. The City may exercise any remedies or rights it has at law or in equity, including, but not limited to:
- A. Abating the nuisance;
 - B. Taking possession of the Facilities and restoring them to a useable condition subject to a finding of the PUCO pursuant to the requirements of O.R.C. Section 4905.20 and Section 4905.21; or
 - C. Requiring removal of the Facilities by the Provider or by the Provider's surety.
- (3) If the City requires a Provider to remove Unused Facilities in any Rights-of-Way, the City shall use reasonable efforts to insure that this removal occur in conjunction with other scheduled excavations of the Rights-of-Way. If the City abates the nuisance it may take all action necessary to recover its costs and to abate said nuisance, including but not limited to, those methods set forth in O.R.C. Section 715.261.

(h) Nature of Issuance. A Certificate of Registration shall not convey equitable or legal title in the Rights-of-Way. A Certificate of Registration is only the nonexclusive, limited right to occupy Rights-of-Way in the City, for the limited purposes and for the limited period stated in the Certificate of Registration and in accordance with this chapter. The rights to occupy the Right-of-Way may not be subdivided or subleased; provided, however, that two (2) or more Providers may locate Facilities in the same area of the Rights-of-Way so long as each such Provider complies with the provisions of this chapter. Such Providers may file a joint application for a Construction Permit. A Certificate of Registration does not excuse a Provider from obtaining appropriate access or pole attachment agreements before locating its Facilities on Facilities of others, including the City's Facilities. A Certificate of Registration does not

prevent a Provider from leasing space in or on the Provider's System, so long as the sharing of Facilities does not cause a violation of law, including the provisions of this chapter. A Certificate of Registration does not excuse a Provider from complying with any provisions of the Code or other applicable law.

(i) **Other Approvals, Permits, and Agreements.** In addition to a Certificate of Registration, Providers shall obtain any and all regulatory approvals, permits, authorizations, or licenses necessary for the offering or provision of such Services from the appropriate federal, state and local authorities and upon the City's reasonable request, shall provide copies of such documents to the City. Further, a Certificate of Registration issued pursuant to this chapter shall not entitle a Provider to use, alter, convert to, or interfere with, the Facilities, Small Cell Facilities, Wireless Facilities, Wireless Support Structures, easements, poles, conduits, lines, pipelines, wires, fiber, cable or any other real or personal property of any kind whatsoever under the management or control of the City.
(Ord. 13-19. Passed 9-9-19.)

901.05 CERTIFICATE OF REGISTRATION APPLICATIONS.

(a) Certificate of Registration Applications. To obtain a Certificate of Registration to Construct, own, or maintain any System within the City, or to obtain a renewal of a Certificate of Registration issued pursuant to this chapter, an Application must be filed with the City on the form adopted by the City Engineer. For all applications the City shall collect an Application Fee. The Application Fee shall be equal to all the actual and direct costs incurred by the City that are associated with receiving, reviewing, processing and granting (or denying) an Application. At the time of its decision to either grant or deny an Application the City shall calculate and assess all actual and direct costs involved in receiving, reviewing, processing and granting (or denying) the Application and provide a written invoice to the Applicant for the appropriate amount. The City shall require that the Applicant remit all Application Fee amounts invoiced within thirty (30) days of its decision to either grant or deny a Certificate of Registration. Any Applicant who fails to timely remit such invoiced Application Fee amounts shall be subject to the penalties of this chapter, the imposition of any other legal or equitable remedies available to the City and the immediate revocation of any Certificate of Registration having been issued.

(b) Information Required for Application to Obtain a Certificate of Registration.

- (1) The Applicant or Provider shall keep all of the information required in this Section current at all times, provided further that Applicant or Provider shall notify the City of any changes to the information required by this section within thirty (30) days following the date on which the Applicant or Provider has knowledge of such change. The information provided to the City at the time of Application shall include, but not be limited to:
 - A. Each Applicant's name, legal status (i.e. partnership, corporation, etc.), street address, e-mail address, telephone number and facsimile number, if applicable; and
 - B. The name, address, e-mail address, telephone number, and facsimile number, if applicable, of a System Representative. The System Representative shall be available to the City at all times. Current information regarding how to contact the System Representative in an Emergency shall be provided at the time of Application and shall be updated as necessary to assure accurate contact information is available to the City at all times; and

- C. A certificate of insurance where required to be provided to meet the requirements of this section shall:
1. Verify that an insurance company licensed to do business in the State of Ohio has issued an insurance policy to the Applicant;
 2. Verify that the Applicant is insured on an occurrence basis against claims for personal injury, including death, as well as claims for property damage arising out of the:
 - i. Use and occupancy of the Rights-of-Way by the Applicant, its officers, agents, employees and contractors; and
 - ii. Placement and use of Facilities in the Rights-of-Way by the Applicant, its officers, agents, employees and contractors, including, but not limited to, protection against liability arising from any and all operations, damage of underground facilities and collapse of property;
 3. Name the City, its elected officials, officers, employees, agents and volunteers as an additional insured as to whom the comprehensive general liability and completed operation and products liability insurance required herein are in force and applicable and for whom defense will be provided as to all such coverages, as is required within this chapter;
 4. Require that the City be notified thirty (30) days in advance of cancellation of, or coverage changes in, the policy. The liability insurance policies required by this Section shall contain the following endorsement:

“It is hereby understood and agreed that this policy may not be diminished in value, canceled nor the intention not to renew be stated, until thirty (30) days after receipt by the City, by registered mail, return receipt requested, of a written notice addressed to the City Engineer or her/his designee of such intent to cancel, diminish or not to renew.”
 5. Within thirty (30) days after receipt by the City of said notice, and in no event later than five (5) days prior to said cancellation, the Provider (or Applicant) shall obtain and furnish to the City Engineer a certificate of insurance evidencing replacement insurance policies.
 6. Satisfy the requirements for comprehensive liability coverage, automobile liability coverage and umbrella coverage as follows:
 - i. Comprehensive general liability insurance: comprehensive general liability insurance to cover liability, bodily injury, and property damage must be maintained. Coverage must be written on an occurrence basis, with the following minimum limits of liability and provisions, or their equivalent:

- a. Bodily injury:
Each occurrence - One Million Dollars (US \$1,000,000.00)
Annual aggregate- Three Million Dollars (US \$3,000,000.00)
 - b. Property damage:
Each occurrence - One Million Dollars (US \$1,000,000.00)
Annual aggregate - Three Million Dollars (US \$3,000,000.00)
 - c. Personal injury:
Annual aggregate - Three Million Dollars (US \$3,000,000.00)
 - d. Completed operations and products liability shall be maintained for six (6) months after the termination of a Certificate of Registration.
 - e. Property damage liability insurance shall include coverage for the following hazards:
E – Explosion, C – Collapse, U – Underground.
 - ii. Comprehensive auto liability insurance: Comprehensive auto liability insurance to cover owned, hired, and non-owned vehicles must be maintained. Applicant may maintain comprehensive auto liability insurance as part of Applicant's comprehensive general liability insurance, however, said insurance is subject to approval by the City Engineer or his or her designee. Coverage must be written on an occurrence basis, with the following limits of liability and provisions, or their equivalent:
 - a. Bodily injury:
Each occurrence - One Million Dollars (US \$1,000,000.00)
Annual aggregate - Three Million Dollars (US \$3,000,000.00)
 - b. Property damage:
Each occurrence - One Million Dollars (US \$1,000,000.00)
Annual aggregate - Three Million Dollars (US \$3,000,000.00)
- (2) Additional insurance: The City reserves the right to require any other insurance coverage it deems necessary after review of any proposal submitted by Applicant.

- (3) Self-insurance: Those Applicants maintaining a book value in excess of fifty million dollars (US\$50,000,000.00) may submit a statement requesting to self-insure. If approval to self-insure is granted, Applicant shall assure the City that such self-insurance shall provide the City with no less than would have been afforded to the City by a third party insurer providing Applicant with the types and amounts of coverage detailed in this Section. This statement shall include:
 - A. Audited financial statements for the previous year; and
 - B. A description of the Applicant's self-insurance program; and
 - C. A listing of any and all actions against or claims made against Applicant for amounts over one million dollars (US \$1,000,000.00) or proof of available excess umbrella liability coverage to satisfy all total current claim amounts above fifty million dollars (US \$50,000,000.00).
 - D. The City Engineer may modify or waive these requirements if they are not necessary to determine the sufficiency of the self-insurance. The City Engineer may request applicable and pertinent additional information if it is necessary to determine the sufficiency of the self-insurance.
- (4) A copy of Applicant's Construction and Major Maintenance Plan, including Mapping Data, as described in Section 901.06.
- (5) Documentation that Applicant or Provider maintains standard workers' compensation coverage as required by law. Similarly, Provider shall require any subcontractor to provide workers' compensation coverage in amounts required by law for all of the subcontractor's employees.
- (6) If the Person is a corporation or other legal entity, upon specific request of the City, a copy of the certificate of incorporation (or its legal equivalent) as recorded and certified to by the secretary of state (or legal equivalent) in the state or country in which incorporated.
- (7) A copy of the Person's certificate of authority from the PUCO and/or the FCC and/or FERC, if the Person is lawfully required to have or actually does possess such certificate(s) from said commission(s) and any other approvals, permits, or agreements.
- (8) Upon request of the City, a narrative (or if applicable, PUCO/FCC/FERC application information) describing Applicant's proposed activities in the City including, but not limited to, credible information detailing Applicant's financial, managerial, and technical ability to fulfill Applicant's obligations under this chapter and carry on Applicant's proposed activities.
- (9) The City's examination of, or failure to request or demand, any evidence of insurance in accordance with this chapter shall not constitute a waiver of any requirement of this Section and the existence of any insurance shall not limit Applicant's obligations under this chapter.
- (10) Any other information as described or required in this chapter and/or in the Rules and Regulations.

- (c) Criteria for Issuance of a Certificate of Registration.
- (1) In deciding whether to issue a Certificate of Registration, the City shall consider:
 - A. Whether the issuing of the Certificate of Registration will contribute to the health, safety, and welfare of the City and its citizens.
 - B. Whether the issuing of the Certificate of Registration will be consistent with this chapter and the Code.
 - C. Whether Applicant has submitted a complete Application and has secured all certificates and other authorizations required by law in order to Construct and operate a System in the manner proposed by the Applicant.
 - D. Whether the Applicant is delinquent on any taxes or other obligations owed to the City, County or State of Ohio.
 - E. Whether the Applicant has the requisite financial, managerial, and technical ability to fulfill all of its obligations under this chapter and the issuance of a Certificate of Registration.
 - (2) The City may also consider compliance with the Rules and Regulations and/or other applicable Law.
- (d) Grant or Denial of an Application for a Certificate of Registration.
- (1) The City, not later than sixty (60) days after the date of filing by an Applicant of a completed Application, shall grant or deny the Application.
 - (2) If an Application for a Certificate of Registration is denied, the Applicant may request from the City, within thirty (30) days of the notice of denial, the City's reasons for denying the Application.
- (e) Obligations of a Provider Upon Receipt of a Certificate of Registration. In addition to the other requirements set forth herein and in any applicable Rules and Regulations of the City each Provider shall:
- (1) Use its Best Efforts to cooperate with other Providers and users of the Rights-of-Way and the City for the best, most efficient, and least obtrusive use of Rights-of-Way, consistent with safety, and to minimize traffic and other disruptions including street cuts; and
 - (2) When possible, participate in joint planning, Construction and advance notification of Rights-of-Way work, as may be required by the City; and
 - (3) Upon reasonable written notice, and at the direction of the City Engineer, promptly remove or rearrange Facilities as necessary for public safety; and
 - (4) Perform all work, Construction, maintenance or removal of Facilities within the Rights-of-Way in accordance with good engineering, Construction and horticultural and arboricultural practice (if applicable), including any appropriate state building codes, safety codes and law, and use Best Efforts to repair and replace any street, curb or other portion of the Rights-of-Way, or Facilities located therein, to a condition to be determined by the City Engineer to be adequate under current standards and not less than substantially equivalent to its condition prior to such work and to do so in a manner which minimizes any inconvenience to the public, the City and other Providers, all in accordance with all applicable provisions of this chapter, the Code, and any Rules and Regulations that the City may adopt; and

- (5) Construct, install, operate and maintain its Facilities and System in a manner consistent with all applicable laws, ordinances, construction standards and governmental requirements including, but not limited to, the National Electric Safety Code, National Electric Code and applicable FCC, FERC, or other federal, state and/or local Rules and Regulations; and
- (6) Be on notice that removal of trees, or the use of vegetation management programs within the Rights-of-Way of the City requires prior written approval by the Municipal Arborist or his/her designee and compliance with applicable provisions of the Code. Any such activities, unless an Emergency, shall only be performed following the prior written approval of the Municipal Arborist and the City Engineer or their designee's and must be performed in accordance with the then most current standard horticultural and arboricultural practices as promulgated by entities such as the National Arbor Day Foundation, the International Society of Arboriculture, and the Tree Care Industry, all as may be required by the City. Pruning shall at a minimum meet or exceed the requirements of the most current version of the American National Standards Institute ANSI A300 standard. Any additionally required horticultural and arboricultural practices and guidelines shall be described in the Rules and Regulations adopted by the City Engineer pursuant to Section 901.08(e). Emergency removal of trees or the use of vegetation management programs within the Rights-of-Way of the City may be performed in Rights-of- Way as described herein and in accordance with the Rules and Regulations, but the Municipal Arborist and City Engineer shall be provided notice of such Emergency work being performed within two (2) business days of the start of the work. Any non-emergency tree removal or the use of vegetation management programs within the Rights-of-Way that is performed without the Municipal Arborist and City Engineer or their designee's written permission shall subject a Person to the penalties of Section 901.99 and may further require that the tree or vegetation be replaced, at the sole expense of the responsible Person, with a healthy tree or vegetation of like kind and quality; and
- (7) Warrant that all worker facilities, conditions and procedures that are used during Construction, installation, operation and maintenance of the Provider's Facilities within the Rights-of-Way shall comply with all applicable standards of the Federal Occupational Safety and Health Administration; and
- (8) Use its Best Efforts to cooperate with the City in any Emergencies involving the Rights-of-Way; and
- (9) Provider shall, weather permitting, remove all graffiti within 21 calendar days of notice. Provider shall use all reasonable efforts to remove any and all graffiti on any of the Provider's Facilities located within the City Rights-of-Way. Should the Provider fail to do so, the City may take whatever action is necessary to remove the graffiti and invoice the Provider for the cost thereof which costs shall be paid by Provider; and

- (10) Provider shall use all reasonable efforts to field identify its Facilities in the Rights-of-Way whenever the Provider is notified by the City that the City has determined that such identification is reasonably necessary in order for the City to begin planning for the Construction, paving, maintenance, repairing, relocating or in any way altering any street or area in the Rights-of-Way as defined in this chapter. The City shall notify the Providers of the City's date to begin the process at least thirty (30) days prior to the commencement of said activities. In field identifying Facilities:
 - A. Providers shall identify all Facilities that are within the affected Rights-of-Way using customary industry standards and distinct identification; and
 - B. Facilities will be so marked as to identify the Provider responsible for said Facilities; and
 - C. Should any such marking interfere with the Facilities' function, create a safety problem or violate any safety code, alternative methods of marking the Facilities may be approved by the City Engineer; and
 - D. All markings should be clearly readable from the ground and include the Provider's name, logo and identification numbering or tracking information. No advertising will be permitted.
 - (11) A Provider that is replacing an existing utility pole shall be responsible for coordinating with all other Providers to ensure the orderly transfer of all lines or cables to the replacement utility pole, the removal of the existing utility pole, and the Restoration of the Rights-of-Way within thirty (30) days after the replacement utility pole is installed. Upon request, the City Engineer may grant the Provider additional time for good cause.
- (f) Establishment of Utility Corridors.
- (1) The City Engineer may assign specific corridors within the Rights-of-Way, or any particular segment thereof as may be necessary, for each type of Facilities that are, or that the City Engineer expects, may someday be, located within the Rights-of- Way.
 - (2) Any Provider whose Facilities are in the Rights-of-Way and are in a position at variance with Utility Corridors established by the City Engineer shall at the time of the next Construction of the area, excluding normal maintenance activities, move such Facilities to their assigned position within the Rights-of-Way. Existing Underground Facilities located within a designated Utility Corridor shall not be required to relocate into adjacent or alternative portions of the Rights-of-Way unless they are in conflict with an actual or proposed public improvement project. The above requirements may be waived by the City Engineer for good cause shown including, but not limited to, consideration of such factors as: the remaining economic life of the Facilities, public safety, customer service needs, law precluding such Underground Facilities, and hardship to the Provider. If a Provider is denied a requested waiver from the above requirements, the Provider may appeal the denial of the City Engineer to the Service-Safety Director. The decision of the Service-Safety Director shall be final.

- (3) Providers may enter into written agreements to use existing poles and conduits with the owners of same and shall use Best Efforts to install their Facilities within the Rights-of-Way.
 - (4) No Facility placed in any Rights-of-Way shall be placed in such a manner that interferes with travel on such Rights-of-Way.
 - (5) Unless otherwise stated in a Certificate of Registration or Permit, or required by Law, all Facilities within the Rights-of-Way shall be Constructed and located in accordance with the Code, the Rules and Regulations, and with the following provisions:
 - A. Whenever all existing Facilities that have been traditionally located overhead are located underground in a certain area within the City, a Provider who desires to place its Facilities in the same area must also locate its Facilities underground.
 - B. Whenever a Provider is required to locate or re-locate Facilities underground within a certain area of the City, every Provider with Facilities within the same area of the City shall concurrently re-locate their Facilities underground.
 - C. The above requirements may be waived by the City Engineer for good cause shown including, but not limited to, consideration of such factors as: the remaining economic life of the Facilities, public safety, customer service needs, law precluding such undergrounding of facilities, and hardship to the Provider. If a Provider is denied a requested waiver from the above requirements, the Provider may appeal the denial of the City Engineer to the Service-Safety Director.
- (g) Historic Districts.
- (1) The City shall have the authority to prohibit the use or occupation of the Right-of-Way by a Provider if the Right-of-Way for which the Provider seeks use and occupancy lies within a Historic District.
 - (2) As a condition for approval for the Co-location or installation of Small Cell Facilities or Wireless Support Structures in an area of the City designated as a Historic District, the City may do any of the following:
 - A. Require reasonable, technically feasible, and nondiscriminatory design or concealment measures for the Small Cell Facilities and Wireless Support Structures in any Historic District.
 - B. Request that a Provider comply with the design and aesthetic standards of the Historic District or a Residential District, as provided for in the City's Design Guidelines.
 - C. Request that a Provider explore the feasibility of using certain camouflage measures to improve the aesthetics of the Small Cell Facilities and Wireless Support Structures to minimize the impact to the aesthetics in a Historic District.

- (3) This Section may not be construed to limit the City's authority to enforce local codes, administrative rules, Rules and Regulations, Design Guidelines, or regulations adopted by ordinance, which are applicable to a historic area designated by the state or City and historic preservation zoning regulations consistent with the preservation of local zoning authority under 47 U.S.C. Section 332(c)(7), the requirements for facility modifications under 47 U.S.C. Section 1455(a), or the National Historic Preservation Act of 1966 (54 U.S.C. Section 300101 et seq.), and the regulations adopted to implement those laws.
(Ord. 13-19. Passed 9-9-19.)

901.06 REPORTING REQUIREMENTS.

(a) Construction and Major Maintenance Plan. Each Provider shall, at the time of initial Application and using its Best Efforts by January 1 of each following year, file a Construction and Major Maintenance Plan with the City Engineer. Such Construction and Major Maintenance Plan shall be provided for all geographical areas requested by the City Engineer, up to and including the entire geographical area of the City. It shall be submitted using a format(s) mutually agreeable to the Provider and the City and shall contain the information determined by the City Engineer to be necessary to facilitate the coordination and reduction in the frequency of Construction in the Rights-of-Way. The Construction and Major Maintenance Plan shall include, but not be limited to, all currently scheduled and/or anticipated Construction projects for the next calendar year. If none of such Construction projects are scheduled or anticipated for the next calendar year then the Construction and Major Maintenance Plan shall so state. The Provider shall use its Best Efforts in supplying this information and shall update the Construction and Major Maintenance Plan on file with the City Engineer whenever there is a material change in scheduled and/or anticipated Construction projects. In an effort to assist Providers with the completion of their annual Construction and Major Maintenance Plan, the City Engineer, on or before November 1 of each year, will send each Provider's System Representative a descriptive narrative (and any mapping information reasonably available) for all the planned Right-of-Way improvements and/or scheduled maintenance that the City then currently intends to undertake during the next calendar year.

(b) Provider's Provision of Mapping Data.

- (1) With the filing of its Application for a Certificate of Registration, a Provider shall be required to:
- A. Accurately inform the City of the number of miles (rounded up to the nearest mile) of Right-of-Way the Provider's System then currently occupies, and
 - B. Begin submitting to the City all information that currently exists and which can be provided regarding the location of its Facilities in the Right-of-Way in hard copy or in the most advanced format (including, but not limited to, electronic and/or digital format) then currently being used by the Provider that is then currently capable of technologically being read (or readily converted to a readable form) by the City.

- (2) Unless otherwise required by Section 901.16, a Provider shall have up to one (1) year from the date of the Provider's initial filing of an Application for a Certificate of Registration to completely submit all the mapping data for the System owned by the Provider or over which it has control that is located in any Rights-of-Way of the City in the most advanced format (including, but not be limited to electronic and/or digital format) then currently being used by the Provider that is then currently capable of technologically being read (or readily converted to a readable form) by the City.
 - A. The mapping data is only required to be at the "Atlas" level of detail necessary for the City to reasonably determine the location of the Provider's facilities in the Rights-of-Way.
 - B. The Provider shall supply the mapping data on paper if the City Engineer determines that the format currently being used by the Provider is not capable of being read by the City.
- (3) Any time after the issuance of a Certificate of Registration, and upon the reasonable request of the City Engineer, a Provider shall be required to provide to the City any additional location information for any Facilities which it owns or over which it has control that are located in any Rights-of-Way of the City required by the City.
- (4) Unless otherwise required by Law, any and all actual direct, incidental and indirect costs incurred by the City during the process of reviewing, inputting and/or converting a Provider's mapping information to comport with the City's then current standard format (whether electronic or otherwise) shall be directly billed to, and must be timely remitted by, the Provider.
 - A. Failure to pay such mapping costs within sixty (60) days of receipt of an invoice shall subject an Applicant or Provider to revocation of its Certificate of Registration and the penalties of Section 901.99.
- (5) Each Provider that has been issued a Certificate of Registration shall accurately inform the City on or before each subsequent January 1 of the number of miles (rounded up to the nearest mile) of Right-of-Way the Provider's System) then occupied as of the immediately previous December 1.
- (6) The City Engineer may, in the future, adopt additional specifications and further define or modify the mapping data requirements under this section for reasons including, but not limited to, changes in technology or the law regarding public disclosure of a Provider's mapping information.
 - A. When the City modifies and/or amends the mapping data requirements, the City shall use Best Efforts to avoid unreasonably increasing the burden to the Providers that may be associated with satisfying the amended mapping requirements.
 - B. When these mapping requirements are amended, each Provider shall be served with a copy of the new specifications or modifications by regular U.S. Mail to the System Representative identified in each Certificate of Registration and in accordance with Section 901.22(e); however, any failure of any Provider to actually receive such notice shall not in any way affect the validity or enforceability of said specifications or modifications.

(c) Exemption from Disclosure. A Provider shall notify the City if the Provider believes that any specific document or portion of a document being submitted to the City is exempt from the public records disclosure requirements of O.R.C. Section 149.43. The notification shall be in writing and indicate the specific document or portion of a document that the provider believes is exempt from disclosure. The notification shall include the legal basis for the claimed exemption, including the applicable statutory reference and any additional information necessary to make a determination of exemption for each specific document or portion of a document. If a public records request is made for documents submitted by a provider, the City will consider the written notification in making its own independent determination of whether a specific document or a portion of a document is exempt from the disclosure requirements of O.R.C. Section 149.43. To the extent permitted by law, the City will endeavor to use reasonable Best Efforts to notify the Provider of the request prior to making the document available for inspection or copying.
(Ord. 13-19. Passed 9-9-19.)

901.07 COMPENSATION FOR CERTIFICATE OF REGISTRATION.

(a) Compensation. As compensation for the City's costs to administer and implement this chapter, manage, administer and control the Rights-of-Way and maintain each Certificate of Registration issued, every Provider or any Person operating a System or otherwise using and occupying the Rights-of-Way shall pay to the City a Registration Maintenance Fee. The Registration Maintenance Fee shall be determined and assessed to Providers and other Persons operating a System or otherwise using and occupying the Rights-of-Way in accordance with the following process and formula:

- (1) The City by February 28 of each year shall calculate all actual and incurred costs associated with Rights-of-Way management, administration and control for the previous calendar year that the City was not able to reasonably recover through Construction Permit Fees or other recovery mechanisms provided for in this chapter.
- (2) Providers and Applicants, as required in Section 901.06(b), shall accurately inform the City upon application for a Certificate of Registration and on or before each subsequent January 1 of the number of miles (rounded up to the nearest mile) of Right-of-Way the Provider's System then occupied as of the immediately previous December 1.
- (3) The City shall total the entire number of miles of Right-of-Way reported as being used or occupied by all Providers.
- (4) The City shall divide the calculated costs referenced in Section 901.07(a)(1) by the total number of miles of Right-of-Way reported as being used or occupied by all Providers as referenced in Section 901.07(a)(3) to arrive at a per-mile cost number.
- (5) The City shall then multiply each Provider's mileage calculation as referenced in Section 901.07(a)(2) by the per-mile cost calculation referenced in Section 901.07(a)(4). The product shall be a Provider's then current annual Registration Maintenance Fee.
- (6) The City shall perform its annual calculation of Registration Maintenance Fees following receipt of the Provider's required January 1 mileage report. Registration Maintenance Fees shall be invoiced to Providers within sixty (60) days of receipt of the Provider's required January 1 mileage report and shall be due within thirty (30) days of the date of the invoice. All fees shall be invoiced to Providers by March 1 of each calendar year.

- (7) Cable companies operating under non-exclusive Cable Franchises for the purposes of providing Cable Service, Video Services Provider operating under a VSA for the purpose of providing Video Services, and providers of Open Video System services, which compensate the City under other mechanisms in an amount equal to or greater than the Annual Registration Maintenance Fee that would normally be required for their Right-of-Way use in the City, shall have the mileage of the Right-of-Way they use and/or occupy included in the calculations described in Section 901.07, but shall not be required to contribute to the recovery of Rights-of-Way Costs as defined by this chapter with the exception of Permit Costs.
- (8) The City may by administrative action on or about February 28 of each year, in accordance with the results of Section 901.07(a)(4), enact an initial and thereafter a new annual Registration Maintenance Fee (per mile) by appropriately increasing or decreasing the previous year(s) Registration Maintenance Fee (per mile). Revised Registration Maintenance Fees shall be effective upon passage.

(b) Timing. Registration Maintenance Fees shall be paid each calendar year in accordance with Section 901.07(a)(6). Registration Maintenance Fees shall be paid in full for the first year of the registration as a condition of the Certificate of Registration becoming effective. Fees may be prorated from the effective date of the Certificate of Registration to the end of the calendar year if less than one (1) full year.

(c) Taxes and Assessments. To the extent taxes or other assessments are imposed by any taxing authority or community authority on the use of City property as a result of a Provider's use or occupation of the Rights-of-Way, the Provider shall be responsible for payment of such taxes or assessments. Such payments shall be in addition to any other fees payable pursuant to this chapter and shall not be considered an offset to, or in lieu of, the fees and charges listed in this chapter. The Registration Maintenance Fee is not in lieu of any tax, fee, or other assessment except as specifically provided in this chapter, or as required by applicable Law.

(d) Interest on Late Payments. In the event that any Registration Maintenance Fee is not paid to the City by April 1, the Provider shall pay a monthly late charge of one percent (1%) of the unpaid balance for each month or any portion thereof for which payment is not made.

(e) No Accord and Satisfaction. No acceptance by the City of any Registration Maintenance Fee shall be construed as an accord that the amount paid is in fact the correct amount, nor shall such acceptance of such Registration Maintenance Fee payment be construed as a release of any claim the City may have for additional sums payable.
(Ord. 13-19. Passed 9-9-19.)

901.08 OVERSIGHT AND REGULATION.

(a) Reports. Upon reasonable request of the City, a Provider shall provide the City with a list of any and all material communications, public reports, petitions, or other filings, either received from or submitted to any municipal, county, state or federal agency or official (and any response thereto submitted by or received by a provider), and any other information or report reasonably related to a Provider's obligations under this chapter that in any way materially effects the operation of the system or a Provider's representations and warranties set forth herein, but not including tax returns or other filings which are confidential. Upon request, a Provider shall promptly, but in no case later than 30 business days following the request, deliver to the City a complete copy of any item on said list. Upon the request of the City, a Provider shall promptly submit to the City any information or report reasonably related to a Provider's obligations under this chapter, or its business and operations with respect to the System or its operation, in such form and containing such information as the City shall specify. Such information or report shall be accurate and complete and supplied within thirty (30) days of the City's request.

(b) Confidential/ Proprietary Information. All information submitted to the City that is considered confidential information, trade secret and/or proprietary information or information that upon public its disclosure would be highly likely to place critical portions of the Provider's System in real danger of vandalism, sabotage or an act of terrorism, must be clearly marked as such when submitted. The City shall endeavor to exercise all reasonable legal protections so as not to publicly disclose to any third party such information unless required by law. The City shall, following receipt of a request for public disclosure of clearly marked trade secret and/or proprietary information submitted by a Provider, endeavor to use reasonable Best Efforts to timely place the Provider's System Representative on notice that such a request for public disclosure has been made, at which point it will be the Provider's sole and exclusive responsibility to take whatever steps it deems necessary to protect such documents from disclosure.

(c) Provider's Expense. All reports and records required under this chapter shall be furnished at the sole expense of a Provider.

(d) Right of Inspection and Audit. The City's designated representatives shall have the right to inspect, examine, or audit during normal business hours and upon reasonable notice to a Provider under the circumstances, documents, records, or other information that pertain to a Provider's operation of a System within the City that are related to its obligations under this chapter. All such documents shall be made available within the City or in such other place that the City may agree upon in writing in order to facilitate said inspection, examination, or audit.

(e) Rules and Regulations. The City Engineer may propose and adopt (and from time to time amend) the rules and regulations regarding this chapter, Design Guidelines, construction standards and occupancy requirements of the Right-of-Way. Such rules and regulations shall not materially increase the obligation of any provider hereunder, provided however that none of the following shall in any way be considered a material increase in obligation; the adoption of rules and regulations increasing fees; the requiring of the placement of facilities in designated portions of the rights-of-way (underground or otherwise); the overbuilding of facilities; or the requiring of joint-builds. Prior to the adoption or amendment of the Rules and Regulations, the City Engineer shall provide written notice and a copy of the proposed language of such adoption or amendment, via regular U.S. Mail, to each Provider

who holds a then current Certificate of Registration. Each Provider shall then have thirty (30) days following the date of the City's mailing to provide written comment regarding the proposed language to the City Engineer. At least forty-five (45) days, but not more than sixty (60) days following the date of the City's mailing, the City Engineer shall schedule and hold a meeting, to make available a forum at which all then current Providers may address any questions, concerns and make reasonable suggestions regarding the proposed new Rules and Regulations to the City Engineer. The City Engineer shall, following said meeting and the review of the Providers' comments and suggestions, adopt or amend the Rules and Regulations in a manner that best serves the City.

(Ord. 13-19. Passed 9-9-19.)

901.09 REGISTRATION TERM.

The term of each Certificate of Registration granted under this chapter shall be valid from the date of issuance until such time as it is revoked, terminated, has lapsed or is properly amended. (Ord. 13-19. Passed 9-9-19.)

901.10 SMALL CELL FACILITIES AND WIRELESS SUPPORT STRUCTURES.

(a) In accordance with O.R.C. Chapter 4939, this Section establishes terms and conditions for the use of the Right-of-Way by an Operator to Collocate Small Cell Facilities and Construct, maintain, modify, operate, or replace Wireless Support Structures to distribute Wireless Service in the City.

(b) The application procedures, permit fees, and auditing procedures outlined in this Section shall be applicable to applications to establish Wireless Facilities. However, Wireless Facilities that are not Small Cell Facilities or Wireless Support Structures as defined in this chapter are not subject to this Section 901.10.

(c) In accordance with this chapter, and unless otherwise prohibited by Law, each Person who occupies, uses, or seeks to occupy or use the Rights-of-Way to operate a Small Cell Facility or Wireless Support Structure in the Right-of-Way, or who has, or seeks to have, a Small Cell Facility or Wireless Support Structure located in any Right-of-Way, shall apply for and obtain a Certificate of Registration for the System pursuant to this chapter.

(d) All Applications for the Construction or modification of a Small Cell Facility or Wireless Support Structure shall comply with the Construction Permit and Minor Maintenance Permit requirements set forth in this chapter and any other applicable Law.

(e) In addition to the requirements in subsections (c) and (d) of Section 901.10, a Micro Wireless Permit shall be submitted by any Person that seeks to Construct, modify, collocate, or replace a Small Cell Facility or Wireless Support Structure in any Right-of-Way. The City's consent shall not be required for the replacement of a Small Cell Facility and/ or Wireless Support Structure with a Small Cell Facility and/ or Wireless Support Structure, respectively, that is consistent with the City's Design Guidelines and is substantially similar to the existing Small Cell Facility and/ or Wireless Support Structure, or the same size or smaller than the existing Small Cell Facility and/ or Wireless Support Structure and complies with the requirements for Construction Permits as provided in this chapter.

- (1) For processing a Micro Wireless Permit, the City may charge a fee for each Small Cell Facility and/or Wireless Support Structure in accordance with Law and as listed on the Micro Wireless Permit forms.
- (2) The City shall grant or deny a Micro Wireless Permit in accordance with any required timelines under Law.
 - A. If the City fails to approve or deny a Micro Wireless Permit within the required time period, provided that the time period is not otherwise tolled in accordance with the provisions of Section 901.10, the Micro Wireless Permit shall be deemed granted upon the requesting entity notifying the City that the time period for granting or denying the Request of Consent has lapsed.
- (3) Requests for Consent that do not meet the requirements listed on the Application or stated herein or in the City's Design Guidelines shall be deemed incomplete or shall otherwise be denied by the City.
 - A. If a Micro Wireless Permit is deemed incomplete, the City shall provide written notice to the Applicant that clearly and specifically delineates all missing documents or required information.
 1. Once the Applicant submits the documents or information in response to the City's notice of incompleteness, the City shall, within sixty (60) calendar days, grant, deny, or deem the Micro Wireless Permit to be incomplete due to not providing the information identified in the original notice of incompleteness.
 2. For a Micro Wireless Permit that is deemed incomplete for a second or subsequent time, the City shall continue to follow the process in Section 901.10(e)(3)A.1. until such time that a complete Application is received from the Applicant. At such time, the City shall, within sixty (60) calendar days, grant or deny the Micro Wireless Permit.
 - B. If a Micro Wireless Permit is denied, the City shall provide in writing its reasons for denying the request, supported by substantial, competent evidence, and such information at the Applicant may reasonably request to obtain consent.
 1. Except in the case of a public utility subject to the jurisdiction and recognized on the rolls of the public utilities commission or a cable operator possessing a valid franchise awarded pursuant to the "Cable Communications Policy Act of 1984," 98 Stat. 2779, 47 U.S.C.A. 541, the city, for good cause shown, may withhold, deny, or delay its consent to any person based upon the person's failure to possess the financial, technical, and managerial resources necessary to protect the public health, safety, and welfare.
- (4) The City shall permit a Person seeking to construct, modify, collocate, or replace more than one Small Cell Facility or more than one Wireless Support Structure within the Right-of-Way to file a consolidated Application for consent.

- A. No more than thirty (30) Small Cell Facilities or thirty (30) Wireless Support Structures shall be proposed within a single Application to receive a single permit for the Construction, modification, Collocation, or replacement of Small Cell Facilities or Wireless Support Structures in the Right-of-Way.
 - B. A single Application may only address multiple Small Cell Facilities or Wireless Support Structures if they each involve substantially the same type of Small Cell Facility and/or substantially the same type of Wireless Support Structure.
 - C. If an Applicant intends to submit five (5) or more Small Cell Facilities or Wireless Support Structures in a single Application, a pre-application meeting that includes the Applicant and the Service Department may be required by the City in order to help expedite the permitting process. This pre-application meeting may also include a site visit if so requested by the City.
 - D. The City Engineer may separately address Applications for which incomplete information has been received or which are denied.
- (5) If the number of Requests for Consent is likely to result in difficulty processing Applications within the time limits set forth by Law due to the lack of resources of the City, then the City may toll the time limits as follows:
- A. The time period for the City to grant or deny a Micro Wireless Permit may be tolled for up to twenty-one (21) days for the first thirty (30) Requests for Consent for Small Cell Facilities or Wireless Support Structures received by the City above ninety (90) Small Cell Facility or Wireless Support Structure Requests for Consent within any consecutive thirty-day period.
 - B. For every additional thirty (30) Requests for Consent that the City receives above the threshold provided in Section 901.10(e)(5)A., the City may toll the time period to grant or deny its consent for up to fifteen (15) additional days.
 - C. In no instance shall the City toll the time period for any Small Cell Facility or Wireless Support Structure Micro Wireless Permit by more than ninety (90) consecutive days.
 - D. Upon request by the Applicant, the City shall provide written notice of the time limit for a Small Cell Facility or Wireless Support Structure Micro Wireless Permit.

(f) The total annual charge to reimburse the City for Collocation of a Small Cell Facility by an Operator to a Wireless Support Structure owned by the City and located in the Right-of-Way shall be in accordance with Law.

(g) The City's approval term of a Collocation to a Wireless Support Structure shall be for a period of not less than ten (10) years, with a presumption of renewal for successive five-year terms, unless otherwise terminated or not renewed for cause or by mutual agreement between the Operator and the City.

- (1) An Operator may remove its Small Cell Facilities at any time subject to applicable Permit requirements and may stop paying annual charges or fees established by Law.
- (2) In the event that use of a Small Cell Facility or Wireless Support Structure is discontinued, the owner shall submit written notice to the City to discontinue use and the date when the use shall be discontinued. If the Small Cell Facility or Wireless Support Structure is not removed within three hundred sixty-five (365) days of discontinued use, the Small Cell Facility or Wireless Support Structure shall be considered abandoned in accordance with O.R.C. Chapter 4939 and the City may remove the Small Cell Facility or Wireless Support Structure at the owner's expense.

(h) The City Engineer is authorized to establish, implement, and amend, from time to time, Design Guidelines regarding, among other things: (1) the location of any ground-mounted Small Cell Facilities; (2) the location of a Small Cell Facility on a Wireless Support Structure; (3) the appearance and concealment of Small Cell Facilities, including those relating to materials used for arranging, screening, or landscaping; and (4) the design and appearance of a Wireless Support Structure, including any height requirements adopted by the City.

- (1) The City, as opposed to the Construction of a new Wireless Support Structure in the Right-of-Way, shall prefer locating Small Cell Facilities on existing Wireless Support Structures without increasing the height of the Wireless Support Structure by more than five (5) feet, including the Antenna and any associated shroud or concealment material.
- (2) The City shall permit, consistent with Law and for the purpose of providing Wireless Service, Collocation of a Small Cell Facility by an Operator to a Wireless Support Structure owned by the City and located in the Right-of-Way, provided that the Operator comply with the Design Guidelines under Section 901.10(h) and any reasonable terms and conditions for such Collocation that are adopted by the City and consistent with the Design Guidelines and this chapter.
 - A. The City may condition approval of the Collocation on replacement or modification of the Wireless Support Structure at the Operator's cost if the City determines that replacement or modification is necessary for compliance with its construction or safety standards.
 - B. A replacement or modification of the Wireless Support Structure shall conform to the applicable Design Guidelines and the City's applicable specifications for the type of structure being replaced.
 - C. The City may retain ownership of a replacement Wireless Support Structure.
 - D. The City may require removal and relocation of a Small Cell Facility or Wireless Support Structure, at the Permittee's sole expense, in order to accommodate Construction of a public improvement project by the City.
(Ord. 13-19. Passed 9-9-19.)

901.11 INDEMNITY.

(a) Indemnity Generally. All Persons using or occupying the Rights-of-Way shall protect, defend, indemnify and hold harmless the City as set forth above as a condition of their use and occupancy of the Rights-of-Way.

(b) Indemnity Required. Each Certificate of Registration issued pursuant to this chapter shall contain provisions whereby Providers agree to protect, defend, indemnify and hold the City and its agents, officers, elected officials, employees, volunteers, and subcontractors harmless from and against all damages, costs, losses or expenses:

- (1) For the repair, replacement, or restoration of City property, equipment, materials, structures and Facilities which are damaged, destroyed or found to be defective as a result of such Provider's acts or omissions; and
- (2) From and against any and all claims, demands, suits, causes of action, and judgments:
 - A. For damage to or loss of the property of any Person, and/or the death, bodily injury, illness, disease, workers' compensation, loss of services, or loss of income or wages to any Person;
 - B. Arising out of, incident to, concerning or resulting from the act or omissions of such Provider, its agents, employees, and/or subcontractors, in the performance of activities pursuant to such Certificate of Registration, no matter how, or to whom, such loss may occur.
- (3) In any event, all Persons using or occupying the Rights-of-Way agree to defend, indemnify and hold harmless the City as set forth above as a condition of their use and occupancy of the Rights-of-Way, but such requirement to defend, indemnify and hold harmless shall not extend to the negligence of the City or its agents, elected officials, officers, employees, volunteers and subcontractors, to the extent that the existence of such negligence shall be proven to exist.
(Ord. 13-19. Passed 9-9-19.)

901.12 CIVIL FORFEITURES.

In addition to any other penalties set forth in this chapter and the remedy of specific performance, which may be enforced in a court of competent jurisdiction, the City may assess an additional penalty of civil forfeiture for failure to comply with any provision of this chapter. Such penalty shall be a monetary sum, payable to the City, in the amount of five hundred dollars (US \$500.00) per twenty-four (24) hour day of violation and any subsequent portion of a day less than twenty-four (24) hours in length. Prior to assessing said penalty, the City will provide written notice to the Provider detailing the failure to comply with a specific provision of this chapter. Such notice shall also indicate that said penalty shall be assessed in fifteen (15) calendar days subsequent to the date of receipt if compliance is not achieved. If a Provider desires to challenge such penalty, Provider must request a hearing before the Service-Safety Director or the Service-Safety Director's designee within ten (10) days of service of the notice. Such hearing shall be held within thirty (30) days of the Provider's request. If Provider requests such hearing before the Service-Safety Director or the Service-Safety Director's designee, such penalty shall be temporarily suspended. However, if, after the hearing, the Service-Safety Director or the Service-Safety Director's designee determines that Provider failed to comply with the specific provision(s) of this chapter referenced in the notice, such penalty shall be assessed starting with the fifteen (15) calendar days after receipt of the notice referenced in this

section and continuing each day thereafter until compliance is achieved. The determination of the Service-Safety Director or the Service-Safety Director's designee shall be final. The Provider may file an administrative appeal pursuant to O.R.C. Chapter 2506. The penalty shall continue to accrue during the appeal unless the Provider obtains a stay and posts a supersedeas bond pursuant to O.R.C. Section 2505.09 or the Provider comes into full compliance with this chapter. (Ord. 13-19. Passed 9-9-19.)

901.13 TERMINATION OF CERTIFICATE OF REGISTRATION.

(a) Default Notice Provided. The City through its City Engineer shall give written notice of default to a Provider if the City, in its sole discretion, determines that a Provider has:

- (1) Violated any provision or requirement of the issuance or acceptance of a certificate of registration, this chapter or any Law and failed to cure as may be required; or
- (2) Evaded or attempted to evade any provision of the issuance of a Certificate of Registration or the acceptance of it; or
- (3) Practiced any fraud or deceit upon the City; or
- (4) Made a material misrepresentation of fact in the Application for a Certificate of Registration.

(b) Cure Required. If a Provider fails to cure a default within thirty (30) calendar days after such notice is served by the City then the City may exercise any remedies or rights it has at law or in equity to terminate the Certificate of Registration. If the City Engineer decides there is cause or reason to terminate the Certificate of Registration, the following procedure shall be followed:

- (1) City shall serve a Provider with a written notice of the reason or cause for proposed termination of the Certificate of Registration and shall allow a Provider a minimum of ten (10) calendar days to cure.
- (2) If the Provider fails to cure within ten (10) calendar days, the City Engineer may declare the Certificate of Registration terminated.
- (3) The Provider shall have ten (10) calendar days to appeal the termination to the Service-Safety Director. All such appeals shall be in writing. If the Service-Safety Director determines there was not cause or reason to terminate the Certificate of Registration, then the Service-Safety Director shall overturn the decision of the City Engineer. Otherwise, the Service-Safety Director shall affirm the decision of the City Engineer to terminate the Certificate of Registration. The determination of the Service-Safety Director shall be final.
(Ord. 13-19. Passed 9-9-19.)

901.14 UNAUTHORIZED USE OF PUBLIC RIGHTS-OF-WAY.

(a) No Use Without Authorization. No Person shall use the Rights-of-Way to operate a System that has not been authorized by the City in accordance with the terms of this chapter and been issued a Certificate of Registration.

(b) No Use Without Certificate of Registration. No Person shall place or have placed any Facilities in, on, above, within, over, below, under, or through the Rights-of-Way, unless allowed under this chapter or having been issued a Certificate of Registration.

(c) Unauthorized Use a Violation & Distinct and Separate Offense. No Person shall fail to comply with the provisions of this chapter. Each and every unauthorized use shall be deemed to be a violation and a distinct and separate offense. Each and every day any violation of this chapter continues shall constitute a distinct and separate offense.

(d) Penalty Assessed. The violation of any provision of this chapter shall be unlawful and a misdemeanor offense. The penalty for any violation of this chapter shall be as provided in Section 901.99. (Ord. 13-19. Passed 9-9-19.)

901.15 ASSIGNMENT OR TRANSFER OF OWNERSHIP AND RENEWAL.

(a) Assignment or Transfer Approval Required. A Certificate of Registration shall not be assigned or transferred, either in whole or in part, other than to an Affiliate, without the prior written consent of the City, which consent shall not be unreasonably withheld. This includes an assignment or transfer by means of a fundamental corporate change or fundamental partnership change.

(b) Procedure to Request Assignment or Transfer Approval. The parties to the assignment or transfer of a Certificate of Registration shall make a written request to the City for its consent in the form of the certificate of registration application. The city shall reply in writing within sixty (60) days of actual receipt of the request and shall indicate its approval of the request or its determination that a public hearing is necessary. City may conduct a public hearing on the request within thirty (30) days of such determination if it determines that a sale or transfer of the certificate of registration adversely affects the city.

(c) Review by City. The City will review the qualifications (including, but not limited to legal, technical and financial where appropriate) of the proposed assignee or transferee and terms of the existing Certificate of Registration. Within one hundred and twenty (120) days of actual receipt of the request for assignment or transfer, the City shall approve or deny such assignment or transfer request in writing.

(d) Fundamental Corporate Change. For purposes of this section, fundamental corporate change means the sale or transfer of a controlling interest in the stock of a corporation or the sale or transfer of all or a majority of a corporation's assets, merger (including a parent and its subsidiary corporation), consolidation or creation of a subsidiary corporation. For the purposes of this section, "fundamental partnership change means the sale or transfer of all or a majority of a partnership's assets, change of a general partner in a limited partnership, change from a limited to a general partnership, incorporation of a partnership, or change in the control of a partnership.

(e) Certificate of Registration and Assignee/Transferee Replacement Issuance Required. In no event shall a transferee or assignee's use of the right of way be acceptable to the City without a transferee or assignee requesting and being issued a replacement Certificate of Registration.

(f) Excluded Transfers. Notwithstanding anything to the contrary, no such consent or approval shall be required for a transfer or assignment to an Affiliate. However, notice of the transfer or assignment to an Affiliate shall be provided to the City within ninety (90) days of the transfer or assignment. (Ord. 13-19. Passed 9-9-19.)

901.16 CONSTRUCTION PERMITS.

(a) Construction Permit Requirement. Except as otherwise provided in the Code or pursuant to other applicable Law, no Person shall be permitted to Construct in any Rights-of-Way without first having obtained a Construction Permit as set forth below. This requirement shall be in addition to any requirement set forth in the Code.

- (1) A Construction Permit allows the Permittee to Construct in that part of the Rights-of-Way described in such Construction Permit and to obstruct travel over the specified portion of the Rights-of-Way by placing Facilities described therein, to the extent and for the duration specified therein.
- (2) A Construction Permit is valid only for the dates and the area of Rights-of-Way specified in the Construction Permit and, unless otherwise permitted by the City Engineer, shall in no event be valid for more than one hundred eighty (180) days from the construction start date.
- (3) No Permittee may Construct in the Rights-of-Way beyond the date or dates specified in the Construction Permit unless such Permittee:
 - A. Submits a Supplementary Application for another Construction Permit before the expiration of the initial Construction Permit; and
 - B. Is granted a new Construction Permit or extension.
- (4) Original Construction Permits issued pursuant to section shall, when possible, be conspicuously displayed at all times at the indicated work site and shall be available for inspection by inspectors and authorized City personnel. If the original Construction Permit involves work conducted simultaneously at multiple locations, each location shall display a photocopy of the original Construction Permit. If the original Construction Permit is not conspicuously displayed at the indicated work site, then upon request, the original Construction Permit must be produced within twelve (12) hours or the first earliest business hour, whichever is later. For purposes of this section, "business hour" shall mean the hours between 8:00 a.m. and 5:00 p.m. during a business day.

(b) Construction Permit Applications.

- (1) Application for a Construction Permit, unless an Emergency, shall be made to the City Engineer no less than fourteen (14) business days prior to the requested start of Construction.
- (2) All Construction Permit Applications shall contain, and will be considered complete only upon compliance with the requirements of the following provisions:
 - A. Credible evidence that the Applicant has been issued a Certificate of Registration (where required) or credible evidence that the Applicant has written authority to apply for a Construction Permit on behalf of a party that has been issued a Certificate of Registration; and

- B. Submission of a completed Construction Permit Application in the form required by the City Engineer, including, but not limited to, all required attachments, and scaled, dated drawings showing the location and area of the proposed project, number and location of street crossings, and the location of all then-known existing and proposed Facilities of the Applicant or Provider within the proposed project area. All drawings, plans and specifications submitted with the Application shall comply with applicable technical codes, Rules and Regulations, and be certified as to being in such compliance by trained technical personnel acceptable to the City Engineer. The mapping data is required to be at the “Atlas” level of detail necessary for the City to reasonably determine the location of the Provider’s facilities in the Rights-of-Way. The City reserves the right, in circumstances that the City Engineer considers unique, complex or unusual, to request that certain submitted drawings, plans and specifications be accompanied by the certification of a registered licensed professional engineer; and
- C. A City-approved traffic control plan demonstrating the protective measures and devices that will be employed, consistent with applicable Law and the OMUTCD, to prevent injury or damage to Persons or property and to minimize disruptions to efficient pedestrian and vehicular traffic; and
- D. If the Applicant wants to install new Facilities, if requested by the City Engineer, evidence that the Right-of-Way is not Full and evidence that the Applicant has received an appropriate Permit and is adhering to the City’s laws and Rules and Regulations; and
- E. If Applicant is proposing an above ground installation on existing poles within the Rights-of-Way, the Applicant shall provide credible information satisfactory to the City to sufficiently detail and identify:
 - 1. The size and height of the existing poles; and
 - 2. Based on the Facilities currently on the existing poles and, if requested by the City Engineer, the excess capacity currently available on such poles before installation of Applicant’s Facilities; and
 - 3. Based on the Facilities currently on the existing poles and, if requested by the City Engineer, the excess capacity for like or similar Facilities that will exist on such poles after installation of Applicant’s Facilities; and
- F. If the Applicant proposes to install new poles within the Rights-of-Way, the Applicant shall provide:
 - 1. Credible evidence, if requested by the City Engineer satisfactory to the City that there is no excess capacity on existing poles or in existing underground systems; and
 - 2. Credible evidence to the City that it is not financially and/or technically practicable for the Applicant to make an underground installation or locate its facilities on existing poles; and

3. The location, size, height, color, and material of the proposed poles; and
 4. Credible evidence satisfactory to the City that the Applicant will adhere to all the applicable laws concerning the installation of new poles.
- G. If Applicant is proposing an underground installation in existing ducts or conduits within the Rights-of-Way, the Applicant shall provide credible information satisfactory to the City to sufficiently detail and identify:
1. Based on the existing Facilities, the excess capacity for like or similar Facilities currently available in such ducts or conduits before installation of Applicant's Facilities; and
 2. Based on existing Facilities, the excess capacity for like or similar Facilities that will exist in such ducts or conduits after installation of Applicant's Facilities.
- H. If Applicant is proposing an underground installation within new ducts or conduits to be constructed within the Rights-of-Way, the Applicant must provide credible information satisfactory to the City to sufficiently detail and identify:
1. The location, depth, size, and quantity of proposed new ducts or conduits; and
 2. The excess capacity for like or similar equipment that will exist in such ducts or conduits after installation of Applicant's Facilities.
- I. A preliminary Construction schedule and completion date; and
- J. Payment of all money due to the City for:
1. Permit Fees;
 2. Any loss, damage, or expense suffered by the City as a result of Applicant's prior Construction in the Rights-of-Way or any Emergency actions taken by the City;
 3. Any Certificate of Registration issued to the Applicant/Person whose Facilities are being Constructed; and
 4. Any other money due to the City from the Applicant/Person whose Facilities are being Constructed.
- K. When a Construction Permit is requested for purposes of installing additional Systems or any part of a System, the posting of a Construction Bond and Removal Bond, acceptable to the City and subject to this chapter, for the additional Systems or any part of a System is required.
- L. Upon request, the City Engineer may modify or waive the information requirements if they are not necessary in evaluating the Construction Permit application. The City Engineer may request applicable and pertinent additional information if it is necessary in evaluating the Construction Permit Application.

- (c) Issuance of Permit; Conditions.
- (1) If the City determines that the Applicant has satisfied the requirements of this chapter and the Construction Permit process, the City Engineer shall issue a Construction Permit subject to the provisions of Section 901.16(c)(2).
 - (2) The City may impose reasonable conditions upon the issuance of the Construction Permit and the performance of the Permittee thereunder in order to protect the City's investment in the Right-of-Way, protect the public health, safety and welfare, to insure the structural integrity of the Rights-of-Way, to protect the property and safety of other users of the Rights-of-Way, or to minimize the disruption and inconvenience to the traveling public.
- (d) Construction Permit Fees.
- (1) Except as otherwise provided by Law, the City shall collect a Construction Permit Fee equal to the actual and direct cost incurred by the City that is associated with receiving, reviewing, processing and granting (or denying) the Construction Permit and any oversight of the Construction Permit or the Construction work associated therewith. Following completion of the Construction work for which a Construction Permit has been granted (or at the time of the denial of Construction Permit) the City shall calculate and assess all actual and direct costs involved in receiving, reviewing, processing and granting (or denying) the Construction Permit and any oversight of the Construction Permit or Construction Work associated therewith. Quarterly, the City will cause the Director of Finance to issue a written invoice to a Provider that lists and summarizes the costs for each Construction Permit issued to and/or completed by the Provider over the previous ninety (90) days. The Provider shall remit payment to the City for the original quarterly invoice within thirty (30) days after the Director of Finance issues such invoice. Any Applicant who fails to timely remit such invoiced Construction Permit Fee amounts shall be subject to the penalties of this chapter, the imposition of any other legal or equitable remedies available to the City and the immediate revocation of any Certificate of Registration or Construction Permit having been issued.
 - (2) The City may in addition to these direct and actual costs listed in subsection (d)(1) hereof include in the Construction Permit Fee the cost of the value of degradation and reduction in the useful life of the Rights-of-Way that will result from Construction that has taken place therein. "Degradation and the reduction in the useful life" for the purpose of this Section means the accelerated depreciation of the Rights-of-Way caused by Construction in or disturbance of the Rights-of-Way, resulting in the need to reconstruct or repair such Rights-of-Way earlier than would be required if the Construction did not occur.
 - (3) Except as otherwise provided herein, no future Construction Permits shall be issued to an Applicant without payment of all outstanding Construction Permit Fee invoices. The City shall be exempt from payment of Construction Permit Fees. Construction Permit Fees that were paid for a Permit that the City has revoked pursuant to this Chapter are not refundable.

(e) Coordination of Applications. Applicants are encouraged to coordinate the submission of Applications for Construction Permits to work in the Rights-of-Way at the same place and time. Joint applicants shall have the ability to divide amongst themselves, in proportions the parties find appropriate, any applicable construction permit fees.

(f) Exceptions to Permit Requirements.

(1) The following shall be excluded from the requirements Section 901.16:

A. The repairing or improvement of streets or other public places under or by virtue of a contract with the City.

B. The maintenance, planting or removal of trees and shrubs from within the Right-of-Way.

(Ord. 13-19. Passed 9-9-19.)

901.17 CONSTRUCTION, RELOCATION AND RESTORATION.

(a) Utility Engineering Study Required.

(1) Prior to commencement of any initial Construction, extension, or relocation of Facilities in the Rights-of-Way, except for repair, maintenance or replacement with like Facilities or relocations requested or caused by a third party (excluding the City) or another Permittee, a Permittee shall conduct a utility engineering study on the proposed route of Construction expansion or relocation if requested by the City Engineer. Where such Construction and/or relocation is requested or caused by a third party, every Permittee located within the Rights-of-Way at issue or involved with the work shall use all Best Efforts to cooperate and assist any other Permittee or person who is directed by the City to perform the required utility engineering study. A utility engineering study consists of, but is not limited to, completion of the following tasks:

A. Secure all available "as-built" plans, plats and other location data indicating the existence and approximate location of all Facilities along the proposed Construction route.

B. Visibly survey and record the location and dimensions of any Facilities along the proposed Construction route, including, but not limited to, manholes, valve boxes, utility boxes, posts and visible street cut repairs.

C. Determine and record the presence and precise location of all underground facilities the Applicant or Person on whose behalf the Permit was applied for owns or controls in the Rights-of-Way along the proposed System route. Upon request of the City Engineer, a Permittee shall also record and identify the general location of all other Facilities in the Rights-of-Way along the proposed System route. For the purposes of this section, "general location shall mean the alignment of other Facilities in the Rights-of-Way, but shall not necessarily mean the depth of other Facilities in the Rights-of-Way.

D. Plot and incorporate the data obtained from completion of the tasks described in Section 901.17(a)(1)A. - C. on the Construction Permittee's proposed System route maps, Construction plans, plan sheets or computer aided drafting and design (CADD) files, or other data files in a format compatible with that used by the City.

- E. Where the proposed location of Facilities and the location of existing underground facilities appear to conflict on the plans drafted in accordance with Section 901.17(a)(1)D., Permittee has the option of either utilizing non-destructive digging methods, such as vacuum excavation, at the critical points identified to determine as precisely as possible, the horizontal, vertical and spatial position, composition, size and other specifications of the conflicting underground facilities, or re-designing the Construction plans to eliminate the apparent conflict. Unless waived by the City Engineer, a Permittee shall not excavate more than a three (3) feet by three (3) feet square hole in the Rights-of-Way to complete this task.
 - F. Based on all of the data collected upon completion of the tasks described in this section, adjust the proposed System design to avoid the need to relocate other Underground Facilities.
- (2) The City Engineer may modify the scope of the utility engineering study as necessary depending on the proposed Construction plans.

(b) Copy to City. Upon completion of the tasks described in Section 901.17(a), the Construction Permittee shall submit the proposed System route maps and Construction Plans, with the results of the utility engineering study, in the most advanced format (including, but not be limited to electronic and/or digital format) then currently being used by the Provider that is then currently capable of technologically being read (or readily converted to a readable form) by the City. The mapping data is required to be at the “Atlas” level of detail necessary for the City to reasonably determine the location of the Provider’s facilities in the Rights-of- Way. The Provider shall supply the mapping data on paper if the City Engineer determines that the format currently being used by the Provider is not capable of being read by the City.

(c) Qualified Firm. All utility engineering studies conducted pursuant to this section shall be performed by the Permittee if in the discretion of the City Engineer the Construction Permittee is qualified to complete the project itself; alternatively, utility engineering studies shall be performed by a firm specializing in utility engineering that is approved by the City.

(d) Cost of Study. The Permittee shall bear the cost of compliance with Section 901.17(a)-(c).

(e) Construction Schedule. Unless otherwise provided for in this Chapter or in the Rules and Regulations, or unless the City Engineer waives any of the requirements of this section due to unique or unusual circumstances, a Permittee shall be required to submit a written Construction schedule to the City fourteen (14) business days before commencing any work in or about the Rights-of-Way, and shall further notify the City not less than two (2) business days in advance of any excavation in the Rights-of-Way. This section shall apply to all situations with the exception of circumstances under Section 901.19 (Minor Maintenance) and Section 901.20(d) (Emergency Situations).

(f) Location of Facilities.

- (1) The placement of new Facilities and replacement of old Facilities, either above ground or underground, shall be completed in conformity with applicable Law and the City's Rules and Regulations.
- (2) The City shall have the power to prohibit or limit the placement of new or additional Facilities within the Rights-of-Way if the Right-of-Way is full. In making such decisions, the City shall strive to the extent possible to accommodate all existing and potential users of the Rights-of-Way, but shall be guided primarily by considerations of the public health, safety and welfare, the condition of the Rights-of-Way, the time of year with respect to essential Utilities, the protection of existing Facilities in the Rights-of-Way, future City and County plans for public improvements, development projects which have been determined to be in the public interest and nondiscriminatory and competitively neutral treatment among Providers.

(g) Least Disruptive Technology. All Construction or maintenance of Facilities shall be accomplished in the manner resulting in the least amount of damage and disruption of the Rights-of-Way. Specifically, the City requires every Permittee when performing underground Construction to utilize Trenchless Technology, including, but not limited to, horizontal drilling, directional boring, and micro-tunneling. Should a Permittee believe that Trenchless Technology is technically and/or technologically infeasible and not economically reasonable for the underground Construction or maintenance being requested, the Permittee may request a determination by the City Engineer that methods other than Trenchless Technology be allowed. A Permittee may perform underground Construction or maintenance in the Rights-of-Way without using Trenchless Technology only following receipt of specific written approval by the City Engineer or his/her designee granting authority to perform, with any additional terms or conditions the City Engineer or his/her designee determine necessary, the non-Trenchless Technology work being requested. In addition, all cable, wire or fiber optic cable installed in the subsurface Rights-of-Way pursuant to this chapter may be required to be installed in conduit, and if so required, no cable, wire or fiber optic cable may be installed pursuant to this chapter using "direct bury" techniques.

(h) Special Exceptions.

- (1) The City may grant a special exception to the requirements of Sections 901.17(f) and 901.17(g) if a Permittee, upon application, demonstrates with written evidence that: the exception will not create any threat to the City's investment or in the Rights-of-Way, the public health, safety or welfare; and
 - A. Permittee demonstrates that the increased economic burden and the potential adverse impact on the Permittee's Construction schedule resulting from the strict enforcement of the requirement actually or effectively inhibits the ability of the Permittee to provide Services in the City; or
 - B. The Permittee demonstrates that the requirement unreasonably discriminates against the Permittee in favor of another Person; or
 - C. The requirements requested by the City herein create an unreasonable economic burden for the Permittee that outweighs any potential benefit to the City.

- (i) Relocation of Facilities.
- (1) A Provider shall as promptly as reasonably possible and at its own expense, permanently remove and relocate its Facilities in the Rights-of-Way whenever the City finds it necessary to request such removal and relocation. In instances where the City requests removal and/or relocation, the City may waive all applicable Construction Permit Fees. Upon removal and/or relocation, the Provider shall restore the Rights-of-Way to the same or better condition it was in prior to said removal or relocation. If existing poles are required to be removed and/or relocated, then the existing poles will be replaced with poles of the same size, substantially similar size, or smaller. In accordance with Law, the City Engineer may request relocation and/or removal in order to prevent unreasonable interference by the Provider's Facilities with:
- A. A public improvement undertaken or approved by the City.
 - B. The City's investment in the Rights-of-Way.
 - C. When the public health, safety, and welfare requires it, or when necessary to prevent interference with the safety and convenience of ordinary travel over the Rights-of-Way.
 - D. The sale, conveyance, vacation, or narrowing of all or any part of a Right-of-Way.
- (2) Notwithstanding the foregoing, a Provider who has Facilities in the Rights-of-Way subject to a vacation or narrowing that is not required for the purposes of the City, shall have a permanent easement in such vacated portion or excess portion in conformity with O.R.C. Section 723.041.
- (3) If, in the reasonable judgment of the City, a Provider fails to commence removal and/or relocation of its Facilities, as designated by the City, within thirty (30) days after the City's removal order, or if a Provider fails to substantially complete such removal, including all associated repair of the Rights-of-Way of the City, within twelve (12) months thereafter, then, to the extent consistent with applicable law, the City shall have the right to:
- A. Declare that all rights, title and interest to the Facilities belong to the City with all rights of ownership, including, but not limited to, the right to connect and use the Facilities or to effect a transfer of all right, title and interest in the Facilities to another Person for operation; or
 - B. Authorize removal of the Facilities installed by the Provider in, on, over, or under the Rights-of-Way of the City at Provider's cost and expense, by another Person; however, the City shall have no liability for any damage caused by such action and the Provider shall be liable to the City for all reasonable costs incurred by the City in such action; and
 - C. To the extent consistent with applicable Law, any portion of the Provider's Facilities in, on, over, or under the Rights-of-Way of the City designated by the City for removal and not timely removed by the Provider shall belong to and become the property of the City without payment to the Provider, and the Provider shall execute and deliver such documents, as the City shall request, in form and substance acceptable to the City, to evidence such ownership by the City.

(j) Pre-Excavation Facilities Location.

- (1) Before the start date of any Rights-of-Way excavation, each Provider who has Facilities located in the area to be excavated shall, to the best of its ability, mark the horizontal and approximate vertical placement of all its Facilities.
- (2) All Providers shall notify and work closely with the excavation contractor in an effort to establish the exact location of its Facilities and the best procedure for excavation.

(k) Rights-of-Way Restoration.

- (1) Unless otherwise agreed to by the City, the work to be done under the Permit and the Restoration of the Rights-of-Way as required herein, weather permitting, must be completed within the dates specified in the Permit. In addition to its own work, the Permittee must restore the general area of the work, and the surrounding areas, including trench backfill, paving and its foundations in accordance with the Code and City Rules and Regulations. If a Permittee is unable to timely complete the Restoration of Rights-of-Way due to unreasonable inclement weather conditions, the Permittee shall notify the City of the inability to complete the Restoration of the Rights-of-Way within the time specified in the Permit. As soon as weather conditions make it possible to do so, Permittee shall complete the Restoration and notify the City of said completion.
- (2) In approving an Application for a Construction Permit, the City may choose either to have the Permittee restore the Rights-of-Way or alternatively to restore the Rights-of-Way at the Permittee's cost, if the Permittee has in the past not abided by requirements of this Chapter.
- (3) If the city allows a permittee to restore the rights-of-way, the permittee may at the time of Application for a be required to post a Construction Bond in an amount determined by the City to be sufficient to cover the cost of restoring the Rights-of-Way to its approximate pre-excavation condition. If, twelve (12) months after completion of the Restoration of the Rights-of-Way, the City determines that the Rights-of-Way have been properly restored, the surety on the Construction Bond shall be released. The City may, in its sole discretion, waive the requirement of posting a Construction Bond upon demonstration of good cause shown.
- (4) The Permittee shall perform the work according to the standards and with the materials specified by the City. The City shall have the authority to prescribe the manner and extent of the Restoration, and may do so in written procedures of general application or on a case-by-case basis. The City in exercising this authority shall be guided by the following standards and considerations: the number, size, depth and duration of the excavations, disruptions or damage to the Rights-of-Way; the traffic volume carried by the Rights-of-Way; the character of the neighborhood surrounding the Rights-of-Way; the preexcavation condition of the Rights-of-Way; the remaining life-expectancy of the Rights-of-Way affected by the excavation; whether the relative cost of the method of Restoration to the Permittee is in reasonable balance with the prevention of an accelerated depreciation of the Rights-of-Way that would otherwise

result from the excavation, disturbance or damage to the Rights-of-Way; and the likelihood that the particular method of Restoration would be effective in slowing the depreciation of the Rights-of-Way that would otherwise take place. Methods of Restoration may include, but are not limited to, patching the affected area, replacement of the Rights-of-Way base at the affected area, and in the most severe cases, milling, overlay and/or street reconstruction of the entire area of the Rights-of-Way affected by the work.

- (5) By restoring the Rights-of-Way itself, the Permittee guarantees its work and shall maintain it for twelve (12) months following its completion. During this twelve (12) month period, it shall, upon notification from the City Engineer, correct all Restoration work to the extent necessary using the method required by the City Engineer. Weather permitting, said work shall be completed within five (5) calendar days of the receipt of the notice from the City Engineer, unless otherwise extended by the City Engineer.
 - (6) If the Permittee fails to restore the Rights-of-Way in the manner and to the condition required by the City, or fails to satisfactorily and timely complete all repairs required by the City, or Permittee has previously failed to restore a Right-of-Way in a satisfactory manner, the City, at its option, may do such work. In that event, the permittee shall pay to the City, within thirty (30) days of invoicing, the balance of the Restoration cost of restoring the Rights-of-Way and any other costs incurred by the City. Upon failure to pay, the City may call upon any bond or letter of credit posted by Permittee and/or pursue any and all legal and equitable remedies.
 - (7) If the work to be done under the Permit is being done at the same location and the same period of time as work by the City and/or another Permittee(s), then the City Engineer may reasonably apportion the Restoration responsibility among the City, Providers and/or other Persons subject to bond deposit and payment requirements as set forth above.
- (1) Damage to Other Facilities.
- (1) In the case of an Emergency, and if possible after reasonable efforts to contact the Provider seeking a timely response, when the City performs work in the Rights-of-Way and finds it necessary, as may be allowed by Law, to maintain, support, or move a Provider's Facilities to protect those Facilities, the costs associated therewith will be billed to that Provider and shall be paid within thirty (30) days from the date of billing. Upon failure to pay, the City may call upon any bond or letter of credit posted by the Permittee and pursue any and all legal or equitable remedies.
 - (2) Each Provider shall be responsible for the cost of repairing any damage caused by its Facilities, either directly or indirectly, to the Facilities of another Provider.

- (3) Each Provider shall be responsible for the cost of repairing any City owned Facilities in the Rights-of-Way that the Provider or its Facilities damage.
- (m) Rights-of-Way Vacation.
(1) If the City sells or otherwise transfers a Right-of-Way that contains the Facilities of a Provider, such sale or transfer shall be subject to any existing easements of record and any easements required pursuant to O.R.C. Section 723.041.
- (n) Installation Requirements. The excavation, backfilling, Restoration, and all other work performed in the Rights-of-Way shall be performed in conformance with all applicable laws, City Rules and Regulations, and other standards as may be promulgated by the City Engineer.
- (o) Inspection. When the Construction under any Permit hereunder is completed, the Permittee shall notify the City Engineer.
(1) The Permittee shall make the Construction site available to the Inspector and to all others as authorized by law for inspection at all reasonable times during the execution and upon completion of the Construction.
(2) At the time of inspection, the Inspector may order the immediate cessation of any work that poses a serious threat to the life, health, safety or well-being of the public, violates any law or that violates the term and conditions of the Permit and/or this chapter. The failure of the City to inspect the work does not alleviate the responsibility of the Permittee to complete the work in accordance with the approved Permit and the requirements of this chapter.
(3) The Inspector may issue an order to the Permittee for any work that does not conform to the Permit and/or applicable standards, conditions or codes. The order shall state that failure to correct the violation will be cause for revocation of the Permit. The order may be served on the Permittee as provided in Section 901.22(e). An order may be appealed to the City Engineer. The decision of the City Engineer may be appealed to the Safety-Service Director whose decision shall be final. If not appealed, within ten (10) days after issuance of the order, the Provider shall present proof to the City Engineer that the violation has been corrected. If such proof has not been presented within the required time, the City Engineer may revoke the Permit and take all other action permitted by law.
- (p) Other Obligations.
(1) Obtaining a Construction Permit does not relieve Permittee of its duty to obtain all other necessary Permits, licenses, and authority and to pay all fees required by any other Law.
(2) Permittee shall comply with all requirements of all laws, including the OUPS.
(3) Permittee shall perform all work in conformance with all applicable laws and standards, and is responsible for all work done in the Rights-of-Way pursuant to its Permit, regardless of who performs the work.

- (4) No Rights-of-Way obstruction or excavation may be performed when seasonally prohibited or when conditions are unreasonable for such work, except in the case of an Emergency as outlined in Section 901.19(d).
- (5) Permittee shall not obstruct a Right-of-Way so as to interfere with the natural free and clear passage of water through the gutters or other waterways. The City Engineer may waive this requirement if it is technically or economically unreasonable in the circumstances.
- (6) Private vehicles, other than necessary Construction vehicles, may not be parked within or adjacent to a Permit area. The loading or unloading of trucks adjacent to a Permit area is prohibited unless specifically authorized by the Permit.

(q) Undergrounding Required. Any owner of property abutting a street or alley where Service Facilities are now located underground and where the Service connection is at the property line, shall install or cause others to install underground any Service delivery infrastructure from the property line to the buildings or other structures on such property to which such Service is supplied. Where not otherwise required to be placed underground by this chapter, a Provider shall locate Facilities underground at the request of an adjacent property owner, provided that such placement of Facilities underground is consistent with the Provider's normal construction and operating standards and that the additional costs of such undergrounding over the normal aerial or above ground placement costs of identical Facilities are borne directly by the property owner making the request. A Provider, under any circumstance shall, upon the reasonable request of the City, always use Best Efforts to place Facilities underground. Where technically possible and not economically unreasonable or unsafe (based upon the technology employed and Facilities installed), all Facilities to be installed by a Provider under the Right-of-Way shall be installed in conduit.
(Ord. 13-19. Passed 9-9-19.)

901.18 MINOR MAINTENANCE PERMIT.

(a) Right-of-Way Minor Maintenance Permit Requirement. No Person shall perform minor maintenance of Facilities in the Rights-of-Way without first having obtained a Right-of-Way Minor Maintenance Permit as set forth in this chapter. Minor Maintenance means: (i) the routine repair or replacement of Facilities with like Facilities not involving Construction and not requiring traffic control for more than two (2) hours at any one location; or (ii) the routine repair or replacement of Facilities with like Facilities not involving Construction and taking place on thoroughfares and arterials between the hours of 9:00 A.M. and 3:00 P.M.; or (iii) the routine repair or replacement of Facilities with like Facilities not involving construction on all Rights-of-Ways, other than thoroughfares and arterials, that does not impede traffic and is for a period of less than eight (8) contiguous hours; or (iv) Construction other than on thoroughfares and arterials that takes less than eight (8) contiguous hours to complete, does not impede traffic and does not involve a pavement cut; or (v) minor and/or non-material vegetation management/tree pruning.. The City Engineer may adopt Rules and Regulations pursuant to Section 901.08(e) that clarify the definition of minor maintenance and/or provide a process for a Provider to determine whether particular activity constitutes minor maintenance.

- (1) A Right-of-Way Minor Maintenance Permit allows the Permittee to perform all minor maintenance in any part of the Rights-of-Way as required.

- (2) A Right-of-Way Minor Maintenance Permit is valid from the date of issuance until revoked by the City Engineer.
- (3) A Right-of-Way Minor Maintenance Permit must be displayed or upon request produced.
- (4) A Right-of-Way Minor Maintenance Permit by itself shall under no circumstances provide a Permittee with the ability to cut pavement or excavate without seeking additional authority from the City Engineer.

(b) Minor Maintenance Permit Applications. Applications for a Right-of-Way Minor Maintenance Permit shall be made to the City Engineer. In addition to any information required by the City Engineer, all Right-of-Way Minor Maintenance Permit Applications shall contain, and will only be considered complete upon compliance with the following provisions:

- (1) Confirmation that the Applicant has obtained a valid Certificate of Registration or proof that the Applicant has written authority to apply for a Right-of-Way Minor Maintenance Permit on behalf of a party that has been issued a valid Certificate of Registration.
- (2) Submission of a completed Right-of-Way Minor Maintenance Permit Application in the form required by the City Engineer.
- (3) A statement that the Applicant will employ protective measures and devices that, consistent with the OMUTCD, will prevent injury or damage to Persons or property and minimize disruptions to the efficient movement of pedestrian and vehicular traffic.

(c) Issuance of Minor Maintenance Permits; Conditions.

- (1) If the City Engineer determines that the Applicant has satisfied the requirements of this Chapter and the Right-of-Way Minor Maintenance Permit process, the City Engineer shall issue a Minor Maintenance Permit subject to the provisions of this chapter.
- (2) The City may impose reasonable conditions, in addition to Rules and Regulations enacted by the City Engineer, upon the issuance of the Minor Maintenance Permit and the performance of the Permittee thereunder in order to protect the public health, safety and welfare, to insure the structural integrity of the Rights-of-Way, to protect the property and safety of other users of the Rights-of-Way, and to minimize the disruption and inconvenience to the traveling public.

(d) Minor Maintenance Permit Fees. The City Engineer shall not charge a fee for the issuance of the Minor Maintenance Permit but may revoke the Minor Maintenance Permit as any other permit may be revoked under this chapter.

(Ord. 13-19. Passed 9-9-19.)

901.19 ENFORCEMENT OF PERMIT OBLIGATION.

(a) Mandatory Denial of Permit. Except in the case of an Emergency, no Permit will be granted:

- (1) To any Person who has not yet made an Application or who is occupying any Right-of-Way without a valid Certificate of Registration; or
- (2) To any Person who has outstanding debt owed to the City unless payment in full has been placed in an escrow account approved by the City Director of Finance and the Law Director; or

- (3) To any Person as to whom there exists grounds for the revocation of a Permit; or
 - (4) If, in the discretion of the City Engineer, the issuance of a Permit for the particular date and/or time would cause a conflict or interfere with an exhibition, celebration, festival, or any other event. The City Engineer, in exercising this discretion, shall be guided by the safety and convenience of ordinary travel of the public over the Rights-of-Way, and by considerations relating to the public health, safety and welfare.
- (b) Permissive Denial of Permit.
- (1) The City Engineer may deny a Permit in order to protect the public health, safety and welfare, to prevent interference with the safety and convenience of ordinary travel over the Rights-of-Way, or when necessary to protect the Rights-of-Way and its users. In exercising his/her discretion, the City Engineer may consider factors, including but not limited to:
 - A. The extent to which Rights-of-Way space where the Permit is sought is available; and/or
 - B. The competing demands for the particular space in the Rights-of-Way; and/or
 - C. The availability of other locations in the Rights-of-Way or in other Rights-of-Way for the proposed Facilities; and/or
 - D. The applicability of this chapter or other regulations of the Rights-of-Way that affect location of Facilities in the Rights-of-Way; and/or
 - E. The degree of compliance of the Provider with the terms and conditions of its Certificate of Registration, this chapter, and other applicable ordinances and regulations; and/or
 - F. The degree of disruption to surrounding communities and businesses that will result from the use of that part of the Rights-of-Way; and/or
 - G. The condition and age of the Rights-of-Way, and whether and when it is scheduled for total or partial re-construction; and/or
 - H. The balancing of the costs of disruption to the public and damage to the Rights-of-Way, against the benefits to that part of the public served by the expansion into additional parts of the Rights-of-Way; and/or
 - I. Whether such Applicant or its agent has failed within the past three (3) years to comply, or is presently not in full compliance with, the requirements of this chapter, or, if applicable, any other law.
 - (2) Under no circumstances will open cutting take place on any street except where:
 - A. An Emergency situation requires that an open cut is necessary; and/or
 - B. Vital services to resident(s) or business(es) are needed or have been cut off and there is no reasonable alternative (such as jacking or boring) in supplying or restoring such services; and/or
 - C. The City Engineer determines it is in the best interests of the City that such an open cut take place.

- (c) Discretionary Issuance of Permit.
- (1) Notwithstanding the provisions of Sections 901.19(a)(1) and 901.19(a)(2), the City Engineer may issue a Permit in any case in which the Permit is necessary:
 - A. To prevent substantial economic hardship to a customer of the Permit Applicant, if established by credible evidence satisfactory to the City; or
 - B. To allow such customer to materially improve its Service; or
 - C. To allow a new economic development project to be granted a Permit under this section.
 - (2) To be granted a Permit under this section, the Permit Applicant must not have had knowledge of the hardship, the plans for improvement of Service, or the development project when it was required to submit its list of next year projects.
- (d) Work Done Without A Permit in Emergency Situations.
- (1) Each Provider shall, as soon as is practicable, immediately notify the City Engineer of any event regarding its Facilities which it considers to be an Emergency. The Provider may proceed to take whatever actions are necessary in order to respond to the Emergency. Within five (5) business days, unless otherwise extended by the City Engineer, after the occurrence or discovery of the Emergency (whichever is later), the Provider shall apply for the necessary Permits, pay the fees associated therewith or have those fees attributed to its quarterly invoice balance in accordance with Section 901.16(d) and fulfill the rest of the requirements necessary to bring itself into compliance with this chapter for any and all actions taken in response to the Emergency. In the event that the City becomes aware of an Emergency regarding a Provider's Facilities, the City may use Best Efforts to contact the Provider or the System Representative of each Provider affected, or potentially affected, by the Emergency. In any event, the City may take whatever action it deems necessary in order to respond to the Emergency, the cost of which shall be borne by the Provider whose Facilities caused the Emergency.
 - (2) Except in the case of an Emergency, any Provider who Constructs in, on, above, within, over, below or through a Rights-of-Way without a valid Permit must subsequently obtain a Permit, pay double the calculated fee for said Permit, pay double all the other fees required by the Code, reimburse the City for any and all costs it incurs as a result of the non-permitted Construction, deposit with the City the fees necessary to correct any damage to the Rights-of-Way and comply with all of the requirements of this chapter. In addition to the fees, costs, and penalties described and imposed in this section, the City retains any and all other rights, remedies, and/or causes of action available, either in law or equity, with respect to any Provider who constructs without a valid Permit.

- (e) Revocation of Permits.
- (1) Permittees hold Permits issued pursuant to this chapter as a privilege and not as a right. The City reserves its right, as provided herein, to revoke any Permit, without refunding any fees, in the event of a failure of the Permittee to comply with the terms and conditions of any law, ordinance, rule or regulation, or any provision or condition of the Permit, including, but not limited to the following:
 - A. The violation of any provision or condition of the Permit; or
 - B. An evasion or attempt to evade any provision or condition of the Permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the City or its citizens; or
 - C. Any misrepresentation of fact in the Application for a Permit; or
 - D. The failure to maintain the required Construction or Removal Bonds and/or insurance; or
 - E. The failure to obtain and/or maintain, when required, a Certificate of Registration; or
 - F. The failure to complete the Construction in a timely manner; or
 - G. The failure to correct a condition of an order issued.
 - (2) If the City Engineer determines that the Permittee has not complied with a term or condition of any law, ordinance, rule or regulation, or any condition of the Permit, the City Engineer shall serve a written demand upon the Permittee to remedy such violation. The demand shall state that continued violations may be cause for revocation of the Permit. The City Engineer may also, in his/ her discretion, place additional or revised conditions on the Permit.
 - (3) By the close of the next business day following receipt of notification of the violation, Permittee shall contact the City Engineer with a plan, acceptable to the Service Safety, for its correction. Permittee's failure to submit an acceptable plan, or Permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the Permit.
 - (4) If a Permittee commits a second substantial default as outlined above, Permittee's Permit will automatically be revoked and the Permittee will not be allowed further Permits for up to and including one (1) full year from the date that the Permit was revoked, except for Emergency repairs.
 - (5) If a Permit is revoked, the Permittee shall also reimburse the City for the City's reasonable costs, including Restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with such revocation. (Ord. 13-19. Passed 9-9-19.)

901.20 PERFORMANCE SECURITY.

(a) Construction Bond. Prior to the commencement of any Construction, a Construction Permittee, excluding the County, shall deposit with the City Engineer an irrevocable, unconditional letter of credit and/ or surety bond in an amount determined by the City Engineer to be appropriate based upon fair and reasonable criteria. Unless a Construction default, a problem or deficiency involves an Emergency or endangers the safety of the general public, the City Engineer shall serve written notice to the Construction Permittee detailing the Construction default, problem, or deficiency. If the City Engineer determines that correction or repair of the Construction default, problem, or deficiency has not occurred or has not been

substantially initiated within ten (10) calendar days after the date following service and notification and detailing the Construction default, problem or deficiency, then the City may attach the letter of credit or surety bond. Upon attachment, written notice shall be served on the Construction Permittee by the City Engineer.

(b) Removal Bond. Upon issuance of a Certificate of Registration and continuously thereafter, and until 120 days after a Provider's Facilities have been removed from the Rights-of-Way, (unless the City Engineer notifies the provider that a reasonably longer period shall apply), a Provider shall deposit with the City Engineer and maintain an irrevocable, unconditional letter of credit or surety bond in an amount equal to or greater than one hundred thousand dollars (US\$100,000.00). The City Engineer shall make all reasonable efforts to allow provider a period of five calendar days after serving notification in writing to correct or repair any default, problem or deficiency prior to the City Engineer's attachment of the letter of credit or surety bond.

(c) Blanket Bond. In lieu of the construction bond required by Section 901.20(a) and the removal bond required by Section 901.21(b), a Provider may deposit with the City Engineer an irrevocable, unconditional letter of credit and/or surety bond in the amount of five million dollars (US \$5,000,000.00). Unless a Construction default, problem or deficiency involves an Emergency or endangers the safety of the general public, the City Engineer shall make all reasonable effort to allow Permittee a period of five calendar days after sending notification in writing to correct or repair any default, problem or deficiency prior to City Engineer's attachment of the letter of credit or surety bond.

(d) Self-Bonding. In lieu of the construction bond required by Section 901.20(a), the removal bond required by Section 901.21(b), and the blanket bond required by Section 901.20(c), those Providers maintaining a book value in excess of fifty million dollars (U S\$50,000,000.00) may submit a statement to the City Engineer requesting to self-bond. If approval to self-bond is granted, a Provider shall assure the City that such self-bonding shall provide the City with no less protection and security than would have been afforded to the City by a third party surety providing provider with the types and amounts of bonds detailed in the above named sections. This statement shall include:

- (1) Audited financial statements for the previous year; and
- (2) A description of the applicant's self-bonding program;
- (3) Other applicable and pertinent information as reasonably requested by the City Engineer.

(e) Purposes.

- (1) The letter of credit or surety bond required by this section shall serve as security for:
 - A. The faithful performance by the Permittee or Provider of all terms, conditions and obligations of this chapter; and
 - B. Any expenditure, damage, or loss incurred by the City occasioned by the Permittee or Provider's violation of this chapter or its failure to comply with all rules, regulations, orders, Permits and other directives of the City issued pursuant to this chapter; and
 - C. The payment of all compensation due to the City, including Permit Fees; and
 - D. The payment of premiums (if any) for the liability insurance required pursuant to this chapter; and

- E. The removal of Facilities from the Rights-of-Way pursuant to this chapter; and
- F. The payment to the City of any amounts for which the Permittee or Provider is liable that are not paid by its insurance or other surety; and
- G. The payment of any other amounts which become due to the City pursuant to this chapter or Law.

(f) Form. The bond documents required by this section and any replacement bond documents shall contain the following endorsement: "It is hereby understood and agreed that this bond may not be canceled or not renewed by the surety nor the intention to cancel or not to renew be stated by the surety until ninety (90) days after completion of construction of the facilities and, notwithstanding the foregoing, shall in no case be canceled or not renewed by the surety until at least ninety (90) days' written notice to city of surety's intention to cancel or not renew this bond." (Ord. 13-19. Passed 9-9-19.)

901.21 INDEMNIFICATION AND LIABILITY.

(a) City Does Not Accept Liability.

- (1) By reason of the acceptance of an Application, the grant of a Permit or the issuance of a Certificate of Registration, the City does not assume any liability:
- A. For injuries to Persons, damage to property, or loss of Service claims; or
 - B. For claims or penalties of any sort resulting from the installation, presence, maintenance or operation of Facilities.

(b) Indemnification.

- (1) By applying for and being issued a Certificate of Registration with the City a Provider is required, or by accepting a Permit a Permittee is required to defend, indemnify, and hold harmless the City's agents, elected officials, officers, employees, volunteers and subcontractors from all costs, liabilities, claims, and suits for damages of any kind arising out of the Construction, presence, installation, maintenance, repair or operation of its Facilities, or out of any activity undertaken in or near a Right-of-Way, whether any act or omission complained of is authorized, allowed, or prohibited by a Permit. Such requirement to defend, indemnify and hold harmless shall not extend to the negligence of the city or its agents, elected officials, officers, employees, volunteers and subcontractors, to the extent that the existence of such negligence shall be proven to exist. A Provider or Permittee shall not bring, nor cause to be brought, any action, suit or other proceeding claiming damages, or seeking any other relief against the City's agents, elected officials, officers, employees, volunteers, and subcontractors for any claim nor for any award arising out of the presence, installation, maintenance or operation of its Facilities, or any activity undertaken in or near a Right-of-Way, whether the act or omission complained of is authorized, allowed or prohibited by a Permit. This section is not, as to third parties,

a waiver of any defense or immunity otherwise available to the Provider, Permittee or to the City; and the Provider or Permittee, in defending any action on behalf of the City, shall be entitled to assert in any action every defense or immunity that the City could assert in its own behalf. Any and all exercise of the above shall be consistent with, but not limited to, the following:

- A. To the fullest extent permitted by law, all Providers and Permittees shall, at their sole cost and expense, fully indemnify, defend and hold harmless the City, its elected officials, agents, officers, employees, volunteers and subcontractors from and against any and all lawsuits, claims (including without limitation workers' compensation claims against the City or others), causes of actions, actions, liability, and judgments for injury or damages (including, but not limited to, expenses for reasonable legal fees, costs and expenses assumed by the City in connection therewith); and
 1. Persons or property, in any way arising out of or through the acts or omissions of Provider or Permittee, its subcontractors, agents or employees attributable to the occupation by the Provider or Permittee of the Rights-of-Way, to which Provider's or Permittee's negligence shall in any way contribute, and regardless of whether the City's negligence or the negligence of any other party shall have contributed to such claim, cause of action, judgment, injury or damage; and
 2. Arising out of any claim for invasion of the right of privacy, for defamation of person, firm or corporation, or the violation or infringement of any copyright, trademark, trade name, service mark or patent or any other right of any person, firm and corporation by the Provider, but excluding claims arising out of or related to the City's actions; and
 3. Arising out of Provider or Permittee's failure to comply with the provisions of law applicable to Provider or Permittee in its business hereunder.
- (2) The foregoing indemnification is conditioned upon the City:
 - A. Giving Provider or Permittee prompt notice of any claim or the commencement of any action, suit or proceeding for which indemnification is sought; and
 - B. Affording the Provider or Permittee the opportunity to participate in any compromise, settlement, or other resolution or disposition of any claim or proceeding subject to indemnification; and
 - C. Cooperate in the defense of such claim and making available to the Provider or Permittee all pertinent information under the City's control.
- (3) The City shall have the right to employ separate counsel in any such action or proceeding and to participate in the investigation and defense thereof, and the Provider or Permittee shall pay all reasonable fees and expenses of such separate counsel if employed.
(Ord. 13-19. Passed 9-9-19.)

901.22 GENERAL PROVISIONS.

(a) Non-exclusive Remedy. The remedies provided in this chapter are not exclusive or in lieu of other rights and remedies that the City may have at law or in equity. The City is hereby authorized at any time to seek legal and equitable relief for actual or threatened injury to the Rights-of-Way, including but not limited to damages to the Rights-of-Way, whether caused by a violation of any of the provisions of this chapter or other provisions of the Code.

(b) Severability. If any section, subsection, sentence, clause, phrase, or portion of this chapter is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

(c) Revocability. If a regulatory body or a court of competent jurisdiction should determine by a final, non-appealable order that any Permit, right or any portions of this section are illegal or unenforceable, then any such Permit or right granted or deemed to exist hereunder shall be considered as a revocable Permit with a mutual right in either party to terminate without cause upon giving thirty (30) days written notice to the other. The requirements and conditions of such a revocable Permit shall be the same requirements and conditions as set forth in the Permit, right or registration, respectively, except for conditions relating to the term of the Permit and the right of termination. If a Permit or right shall be considered a revocable Permit as provided herein, the Permittee must acknowledge the authority of the City to issue such revocable Permit and the power to revoke it.

(d) Reservation of Regulatory and Police Powers. The City, by the granting of a Permit or by issuing a Certificate of Registration pursuant to this chapter, does not surrender or to any extent lose, waive, impair, or lessen the lawful powers and rights, which it has now or may be hereafter vested in the City under the Constitution and laws of the United States, and State of Ohio to regulate the use of the Rights-of-Way. The Permittee by its acceptance of a Permit, or Provider by applying for and being issued a Certificate of Registration, is deemed to acknowledge that all lawful powers and rights, regulatory power, or police power, or otherwise as now are or the same as may be from time to time vested in or reserved to the City, shall be in full force and effect and subject to the exercise thereof by the City at any time. A Permittee or Provider is deemed to acknowledge that its rights are subject to the regulatory and police powers of the City to adopt and enforce general ordinances necessary to the safety and welfare of the public and is deemed to agree to comply with all applicable general laws and ordinances enacted by the City pursuant to such powers.

(e) Method of Service. Any notice or order of the City Engineer or Service-Safety Director shall be deemed to be properly served if a copy thereof is:

- (1) Delivered personally; or
- (2) Successfully transmitted via facsimile transmission to the last known fax number of the person to be served; or
- (3) Successfully transmitted via electronic mail to the last known e-mail address of the person to be served; or
- (4) Left at the usual place of business of the person to whom it is to be served upon and with someone who is eighteen (18) years of age or older; or

- (5) Sent by certified, pre-posted U.S. Mail to the last known address; or
- (6) If the notice is attempted to be served by certified, pre-posted U.S. Mail and then returned showing that the letter was not delivered, or the certified letter is not returned within fourteen (14) days after the date of mailing, then notice may be sent by regular, pre-posted, first-class U.S. Mail; or
- (7) If the notice is attempted to be served by regular, first class U.S. Mail, postage prepaid, and the letter is then returned showing that the letter was not delivered, or is not returned within fourteen (14) days after the date of mailing, then notice shall be posted in a conspicuous place in or about the structure, building, premises or property affected by such notice.

(f) Requests for Information. In the event that the City receives a request from a third party for the disclosure of information a Provider has clearly marked as “confidential/proprietary information” then the City shall respond in accordance with O.R.C. Chapter 149. However, the City shall endeavor to use reasonable Best Efforts to timely place the Provider’s System Representative on notice that such a request for public disclosure has been made, at which point it will be the Provider’s sole and exclusive responsibility to take whatever steps it deems necessary to protect such documents from disclosure.

(g) Applies to All Providers. This chapter shall apply to all Providers and all Permittees unless expressly exempted.

(h) Police Powers. All Persons’ rights are subject to the police powers of the City to adopt and enforce ordinances necessary to the health, safety and welfare of the public. All persons shall comply with all applicable laws enacted by the City pursuant to its police powers. In particular, unless otherwise required by Law, all persons shall comply with City zoning and other land use requirements pertaining to the placement and specifications of Facilities.

(i) Compliance. No Person shall be relieved of its obligation to comply with any of the provisions of this chapter by reason of any failure of the City to enforce prompt compliance.

(j) Foreclosure and Receivership.

- (1) Upon the filing of any voluntary or involuntary petition under the Bankruptcy Code by or against any Provider and/or Permittee, or any action for foreclosure or other judicial sale of the Provider and/or Permittee Facilities located within the Rights-of- Way, the Provider and/or Permittee shall so notify the City Engineer within fourteen (14) calendar days thereof and the Provider and/or Permittee’s Certificate of Registration or Permit (as applicable) shall be deemed void and of no further force and effect.
- (2) The City shall have the right to revoke, pursuant to the provisions of the code, any Certificate of Registration or Permit granted pursuant to this chapter, subject to any applicable provisions of law, including the Bankruptcy Code, one hundred and twenty (120) days after the appointment of a receiver or trustee to take over and conduct the business of the Provider and/or Permittee, whether in receivership, reorganization, bankruptcy or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of said one hundred and twenty (120) days or unless:

- A. Within one hundred and twenty (120) days after election or appointment, such receiver or trustee shall have fully complied with all the provisions of the relevant Certificate of Registration, any outstanding Permit, this chapter, and remedied all defaults thereunder; and
- B. Said receiver or trustee, within said one hundred and twenty (120) days, shall have executed an agreement, duly approved by a court having jurisdiction over the Facilities, whereby such receiver or trustee assumes and agrees to be bound by each and every provisions of the relevant Certificate of Registration, Permit and this chapter.

(k) Choice of Law and Forum. This chapter and the terms and conditions of any Certificate of Registration or Permit shall be construed and enforced in accordance with the substantive laws of the City, State of Ohio and United States, in that order. As a condition of the grant of any Permit or issuance of any Certificate of Registration all disputes shall be resolved in a court of competent jurisdiction in Fairfield County, Ohio.

(l) Force Majeure. In the event any Person's performance of any of the terms, conditions or obligations required by this chapter is prevented by a cause or event not within such Person's control, such inability to perform shall be deemed excused and no penalties or sanctions shall be imposed as a result thereof. For the purpose of this section, causes or events not within the control of a Person shall include, without limitation, acts of God, strikes, sabotage, riots or civil disturbances, failure or loss of, explosions, acts of public enemies, and natural disasters such as floods, earthquakes, landslides, and fires.

(m) No Warranty. The City makes no representation or warranty regarding its right to authorize the Construction of Facilities on any particular Rights-of-Way. The burden and responsibility for making such determination shall be upon the Person installing Facilities in the Rights-of-Way.

(n) Continuing Obligation and Holdover. In the event a Provider or Permittee continues to operate all or any part of the Facilities after the termination, lapse, or revocation of a Certificate of Registration, such Provider or Permittee shall continue to comply with all applicable provisions of this chapter and other laws throughout the period of such continued operation, provided that any such continued operation shall in no way be construed as a renewal or other extension of the Certificate of Registration, nor as a limitation on the remedies, if any, available to the City as a result of such continued operation after the term, including, but not limited to, damages and restitution. Any conflict between the issuance of a Certificate of Registration or of a Permit and any other present or future lawful exercise of the City's regulatory or police powers shall be resolved in favor of the latter.

(o) Appeals. All appeals provided for by this chapter and any notification to the City required by this chapter shall be in writing and sent via certified U.S. Mail to the City Engineer or City Engineer as specified in this chapter.

(p) City Facilities. As part of City required standards, wherever Rights-of-Way are under Construction, if deemed advisable and practicable by the City Engineer, the City may install all such Facilities deemed necessary to accommodate future Provider needs. Any such installed Facilities shall be City property and may be conveyed to any Person under such terms and conditions as are deemed advisable by the City.

(q) Section Headings. Section headings are for convenience only and shall not be used to interpret any portion of this chapter.
(Ord. 13-19. Passed 9-9-19.)

901.99 PENALTY.

(a) In addition to any other penalties set forth in this chapter and the remedy of specific performance which may be enforced in a court of competent jurisdiction, the following penalties shall apply:

- (1) Whoever violates any provision of this chapter shall be guilty of a Misdemeanor in the First Degree and in addition to any period of incarceration permitted by law, shall be subject to a maximum fine of one thousand dollars (US \$1,000.00) per violation if the violator is an individual, or five thousand dollars (US \$5,000.00) per violation if the violator is an organization as defined in O.R.C. Section 2901.23. For purposes of this section, each day in which this chapter is violated shall constitute a separate violation.
- (2) In addition, for failure to timely comply with a notice by the City Engineer to remove or rearrange Facilities pursuant to Section 901.05(e)(3), an additional civil forfeiture equal to any costs incurred by the City as a result of such failure, including but not limited to any penalties or liquidated damages charged the City by its contractors occasioned thereby, shall be imposed.
(Ord. 13-19. Passed 9-9-19.)

CHAPTER 902
Supplemental Right-of-Way Controls

<p>902.01 Steel roadway plates.</p> <p>902.02 Dumpsters/containers.</p> <p>902.03 Haul routes.</p> <p>902.04 Oversized loads and overweight loads.</p> <p>902.05 Special duty police officers.</p> <p>902.06 Placing injurious material or obstruction in street.</p> <p>902.07 Pavement protection during unloading.</p>	<p>902.08 Littering of streets, alleys or public grounds.</p> <p>902.09 Littering of streets by contractors.</p> <p>902.10 Removal of traffic control devices and/or warning barricades.</p> <p>902.11 Stop work order.</p> <p>902.99 Penalty.</p>
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902.01 STEEL ROADWAY PLATES.

The City requires that all companies, corporations, or individuals placing steel roadway plates in the right-of-way of any street, alley, or public right-of-way notify the Lancaster Department of Transportation upon placement and removal of any plate. The contractor name, employee contact name with a 24-hour emergency telephone number, location and number and size of plates, and the approximate number of days planned for placement shall be submitted by telephone during business hours 7:30 a.m. - 4:00 p.m. Any plates set outside of business hours must be reported to the Lancaster Police Department. All plates over open excavations shall be held in place by the use of four pins or placement of bituminous asphalt continuously on all four edges, and must be marked by signage per the OMUTCD. (Ord. 8-13. Passed 4-8-13; Ord. 13-19. Passed 9-9-19.)

902.02 DUMPSTERS/CONTAINERS.

All dumpsters or containers placed within the public right-of-way must have an a limited occupancy permit. This regulation does not apply to the trash containers placed or approved by the Sanitation Division. Limited Occupancy permits for dumpsters or containers may be issued to the vendor who supplies them or the permittee requesting the use of one. The vendor shall be responsible for providing a dumpster or container in compliance with current City of Lancaster regulations when placed in a roadway. Each dumpster container shall be equipped with reflectorized hi-intensity barricade tape (minimum 8 inches wide, strand orange and silver). A

minimum of two bands each are required for dumpsters or containers less than four feet in height and three bands for dumpsters and containers over four feet in height. Each band shall be spaced evenly around the perimeter of the dumpster or container. In lieu of reflectorized tape, traffic control barrels with reflectorized tape may be used at 4-foot maximum spacing around the entire dumpster. The company's name and a 24-hour telephone number shall be placed on each side so that it is clearly visible. A weatherproof 9" x 12" plastic envelope shall be affixed to the dumpster or container or provide a means of posting the permit. The permittee shall be responsible for the placement of advance warning traffic control devices. The requirement of such shall be evaluated at the time of permit application or when a hazard develops.
(Ord. 8-13. Passed 4-8-13; Ord. 13-19. Passed 9-9-19.)

902.03 HAUL ROUTES.

The permit holder shall at the time of filing a permit to excavate in the Right-of-Way or use the Right-of Way as a haul route shall submit a haul route map/plan for approval. A haul route shall be identified for the delivery or removal of building site materials as well as oversized equipment requiring special transport for a project. All approved maps/plan shall show ingress and egress of the excavation site both loaded and unloaded. The person or contractor that has been issued a permit shall be responsible for any excessive degradation or injury due to activities as described in the permit. Said repairs to the Right-of-Way shall be made in accordance with Section 901.04 and at the expense of the permittee.
(Ord. 8-13. Passed 4-8-13; Ord. 13-19. Passed 9-9-19.)

902.04 OVERSIZED LOADS AND OVERWEIGHT LOADS.

(a) No person, corporation or other entity shall operate a vehicle in excess of the maximum permitted weights established under 5577.04 Revised Code or in excess of the maximum overall dimensions established under 5577.05 Revised Code on any City street without first obtaining a permit to do so from the Service Safety Director or his designee. Application to operate said overweight or said oversized vehicle on City streets shall be made on the forms provided by the Service Safety Director and shall be submitted no less than five business days before the aforesaid travel date is to occur.

These restrictions shall not apply to those vehicles specifically exempted under 5577.05 Revised Code or 4511.04 Revised Code.
(Ord. 8-13. Passed 4-8-13; Ord. 13-19. Passed 9-9-19.)

902.05 SPECIAL DUTY POLICE OFFICERS.

When required by the permit, or if required by the Service-Safety Director or designee, the permittee shall be responsible for hiring and paying for the services of Uniformed Special Duty Police Officers. Applicants shall be contacted prior to permit approval to discuss the necessity of the use of police officers. The City of Lancaster will determine the number of officers required. City of Lancaster officers are to be utilized when available, as their familiarity with local traffic patterns, issues and other City personnel will be beneficial to the project. An officer may be requested by calling the Lancaster City Police.
(Ord. 8-13. Passed 4-8-13; Ord. 13-19. Passed 9-9-19.)

902.06 PLACING INJURIOUS MATERIAL OR OBSTRUCTION IN STREET.

(a) No person shall place or knowingly drop upon any part of a street, highway or alley any tacks, bottles, wire, glass, nails or other articles which may damage or injure any person, vehicle or animal traveling along or upon such street, except such substances that may be placed upon the roadway by proper authority for the repair or construction thereof.

- (b) Any person who drops or permits to be dropped or thrown upon any street any noxious, destructive or injurious material shall immediately remove the same.
- (c) Any person authorized to remove a wrecked or damaged vehicle from a street shall remove any glass or other injurious substance dropped upon the street from such vehicle.
- (d) No person shall place any obstruction in or upon a street without proper authority.
- (1) Except as otherwise provided in this subsection, whoever violates any provision of subsections (a) to (d) is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates any provision of subsections (a) to (d) of this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates any provision of subsections (a) to (d) of this section is guilty of a misdemeanor of the third degree.
 - (2) Whoever violates this section is guilty of a misdemeanor of the first degree. (Ord. 8-13. Passed 4-8-13; Ord. 13-19. Passed 9-9-19.)

902.07 PAVEMENT PROTECTION DURING UNLOADING.

No person shall unload any heavy material in the City by throwing or letting the same fall upon the pavement of any street, sidewalk, or other public way, without first placing some sufficient protection over the pavement.
(Ord. 8-13. Passed 4-8-13; Ord. 13-19. Passed 9-9-19.)

902.08 LITTERING OF STREETS, ALLEYS OR PUBLIC GROUNDS.

No person shall throw, deposit or cause to be thrown or deposited any dirt, paper, sweepings of any store, house or office, ashes, shavings, offal, straw, wood, stones, gravel, earth, yard waste, leaves, manure, refuse matter, rubbish of any kind, and any material of any kind, whatever upon any street, alley or public ground.
(Ord. 8-13. Passed 4-8-13; Ord. 13-19. Passed 9-9-19.)

902.09 LITTERING OF STREETS BY CONTRACTORS.

No person doing excavating or hauling of material of any kind or any person, having a contract for excavating or hauling materials of any kind, shall litter or permit the littering of streets, alleys or sidewalks with dirt, sand, gravel, stones or any kind of material.
(Ord. 8-13. Passed 4-8-13; Ord. 13-19. Passed 9-9-19.)

902.10 REMOVAL OF TRAFFIC CONTROL DEVICES AND OR WARNING BARRICADES.

No unauthorized person shall remove any traffic control devices, barricades or other means placed on the streets or sidewalks and on construction projects, public or private, in the City as a warning or protection for the public, or willfully, carelessly or negligently destroy such devices or barricades.
(Ord. 8-13. Passed 4-8-13; Ord. 13-19. Passed 9-9-19.)

902.11 STOP WORK ORDER.

The City may issue a Stop Work Order under this Chapter for violations of sections within this Chapter in addition to any other penalties. A Stop Work Order shall require person or agency to immediately cease work until the Stop Work Order is terminated in writing by the City. (Ord. 8-13. Passed 4-8-13; Ord. 13-19. Passed 9-9-19.)

902.99 PENALTY.

Any person, firm or corporation, failing to comply with any section thereof, shall be guilty of a misdemeanor of the first degree, and upon conviction thereof, shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned not more than six (6) months, or both. The imposition of the penalties herein described shall not prevent the Director of Law from instituting appropriate action: to prevent an unlawful construction or restrain, correct or abate a violation; or to prevent illegal occupancy of the street; or to stop an illegal act, conduct of business or use of a public street. Each day a violation continues constitutes a new offense. (Ord. 8-13. Passed 4-8-13; Ord. 13-19. Passed 9-9-19.)

CHAPTER 903
Sidewalks

903.01 Sidewalks responsibility of the property owner.	903.06 Duty to keep sidewalks in repair.
903.02 Encumbering streets or sidewalks.	903.07 Notice of violation.
903.03 Sidewalks to be cleaned of ice and snow.	903.08 Right to appeal.
903.04 Riding on sidewalks.	903.09 Enforcement.
903.05 Sidewalks construction specifications.	903.10 Remedies not exclusive.
	903.99 Criminal penalty.

CROSS REFERENCES

Construction or repair at owner's expense - see Ohio R. C. 729.01 et seq.
Notice to construct or repair - see Ohio R. C. 729.03 et seq.

903.01 SIDEWALKS RESPONSIBILITY OF THE PROPERTY OWNER.

(a) The owner of any lot or land abutting upon any street shall be responsible for the maintenance, repair, and if necessary replacement of the sidewalk in front of such lot or land; provided, however, that such owner shall not be responsible for the maintenance, repair or replacement of any existing curb ramp or curb ramp structure required for crossing streets and alleys, including the inclined ramp, detectable warnings, landing area and transition section of sidewalk.

(b) The maintenance, repair or replacement of sidewalk in the public right of way shall require a permit in accordance with Chapter 901.
(Ord. 4-16. Passed 2-22-16; Ord. 13-19. Passed 9-9-19.)

903.02 ENCUMBERING STREETS OR SIDEWALKS.

(a) No person shall encumber any street or sidewalk, nor shall the owner, occupant or person having care or control of any building or lot of land bordering on any street or sidewalk permit the same to be encumbered, either temporarily or permanently so as to cause an obstruction of the travel path measured thirty-six inches (36") wide by eighty inches (80") high.

(b) Any person or entity wishing to use or occupy any portion of the sidewalk within the public right of way for the placement of amenities, including but not limited to artwork, seating or dining, removable railings, flower boxes, movable planters, benches, temporary signage or other barricades must comply with the requirements of Chapter 901.
(Ord. 4-16. Passed 2-22-16; Ord. 13-19. Passed 9-9-19.)

903.03 SIDEWALKS TO BE CLEANED OF ICE AND SNOW.

It shall be the duty of the owner of each and every parcel of real estate in the City abutting upon any sidewalk to keep such sidewalk abutting his or her premises free and clear of snow and ice, and to remove therefrom all snow and ice accumulated thereon within a reasonable time, which will ordinarily not exceed twelve hours after the abatement of any storm from which such snow and ice may have accumulated.

(Ord. 4-16. Passed 2-22-16; Ord. 13-19. Passed 9-9-19.)

903.04 RIDING ON SIDEWALKS.

(a) No person shall ride a bicycle or skateboard upon a sidewalk within a Commercial District.

(b) Whenever a person is riding a bicycle or skateboard upon the sidewalk, such person shall yield the right of way to any pedestrian and shall give an audible signal before attempting to overtake and pass any pedestrian.

(Ord. 4-16. Passed 2-22-16; Ord. 13-19. Passed 9-9-19.)

903.05 SIDEWALK CONSTRUCTION SPECIFICATIONS.

All public and private sidewalks, curbing and handicap ramps shall be designed and constructed in conformance with the standards adopted by the City Engineer, and shall furthermore be in conformance with the guidelines set forth in the Americans with Disabilities Act, 42 U.S.C. 12101 et seq.

(Ord. 4-16. Passed 2-22-16; Ord. 13-19. Passed 9-9-19.)

903.06 DUTY TO KEEP SIDEWALKS IN REPAIR.

(a) No owner of any lot or land abutting upon any street shall refuse, fail or neglect to repair or keep in repair the sidewalk in front of such land or lot. The following criteria shall be used to determine whether a sidewalk is in a state of repair:

- (1) Adjoining sections or parts thereof whose edges differ vertically by more than one-half inch (1/2");
- (2) Adjoining sections with open joints greater than five-eighths of an inch (5/8") in width;
- (3) Sections that are cracked so that pieces are missing or loose;
- (4) Sections sloping away from the street unless so constructed by design;
- (5) Sections with cross slopes exceeding three-fourths of an inch (3/4") vertical per one foot (1') horizontal;
- (6) Sections that cause an abrupt change in the longitudinal grade of the sidewalk;
- (7) Sections with deteriorating surfaces presenting loose aggregate;
- (8) Sections containing structures such as cellar doors, grates, water boxes, meter pits or hatches, which protrude above the sidewalk more than one-half inch (1/2") so that they present a tripping hazard; and
- (9) Sidewalks constructed without the approval of the City.

(b) All bushes, hedges and trees located on private property shall be kept trimmed by the owner or occupant of that property so as to prevent interference with the normal use of the sidewalks abutting that property.

(c) Structures including but not limited to retaining walls, fences, light fixtures, or planters shall be kept in repair by the owner or occupant of that property, so as to prevent injury and allow for the normal and unobstructed use of the sidewalks abutting the property.

(Ord. 4-16. Passed 2-22-16; Ord. 13-19. Passed 9-9-19.)

903.07 NOTICE OF VIOLATION.

The Service-Safety Director or his authorized designee, upon finding that a person has violated any section of this Chapter, may order compliance by written notice of violation as set forth in Section 1303.12. Any notice issued under this section shall allow the property owner a reasonable period of time, and in any event not less than thirty (30) days, in which to abate the violation.

(Ord. 4-16. Passed 2-22-16; Ord. 13-19. Passed 9-9-19.)

903.08 RIGHT TO APPEAL.

Any person effected by a decision of the Service-Safety Director or his authorized designee with respect to this Chapter shall have the right to appeal to the Structural Board of Appeals as set forth in Section 1303.06. Any appeal must be made, in writing, within thirty (30) days following service of the decision, notice or order upon which the appeal is being made.

(Ord. 9-19. Passed 4-22-19; Ord. 13-19. Passed 9-9-19.)

903.09 ENFORCEMENT.

(a) Upon the failure or refusal of a property owner to remedy or abate any violation within the time period set forth in the notice of violation or, in the case of an appeal, within 30 days of the decision of the Board upholding the decision of the Service-Safety Director or his authorized designee, the Service-Safety Director or his authorized designee may institute appropriate proceedings in law or equity to restrain, correct or abate the violation, and may assess the costs of those proceedings to the property owner, including any administrative processing fees.

(b) Whenever charges for correction or abatement remain unpaid for sixty (60) days after a statement of costs has been mailed to the property owner, Council may by resolution certify the charges to the County Auditor to be placed on the tax duplicate, to be collected in the same manner as other taxes and returned to the City. Such charges for correction or abatement expenses shall be a lien on the property from the date of entry upon the tax duplicate.

(Ord. 4-16. Passed 2-22-16; Ord. 13-19. Passed 9-9-19.)

903.10 REMEDIES NOT EXCLUSIVE.

The remedies listed in this Chapter are not exclusive of any other remedies available under any applicable federal, state or local law, and it is within the discretion of the Service-Safety Director or his authorized designee to seek cumulative remedies.

(Ord. 4-16. Passed 2-22-16; Ord. 13-19. Passed 9-9-19.)

903.99 CRIMINAL PENALTY.

(a) Whoever violates any provision of this Chapter is guilty of a misdemeanor of the third degree. Every day the violation continues constitutes a new offense.

(Ord. 4-16. Passed 2-22-16; Ord. 13-19. Passed 9-9-19.)

CHAPTER 905
Curbs and Driveways

905.01	Curb cut or driveway permit required.	905.04	Drive access onto City right of way.
905.02	Permit fee.	905.05	Right to appeal.
905.03	Driveway construction materials.	905.99	Penalty.

CROSS REFERENCES

Restoration after excavation - see S.U. & P.S. 901.04
Curbs in subdivisions - see P. & Z. 1109.02(d)

905.01 CURB CUT OR DRIVEWAY PERMIT REQUIRED.

No person shall construct, remove, cut, widen, change, or eliminate any curb, driveway or access point along any public right of way within the City without first obtaining a curb cut and/or driveway permit and approval from the City Engineering Department or Certified Building Department. Plans/drawings shall be submitted that depict the exact location, size and layout of the curb cut and/or driveway.

(Ord. 19-18. Passed 10-22-18; Ord. 13-19. Passed 9-9-19.)

905.02 PERMIT FEE.

The fee associated with this permit shall be published in the current: "City of Lancaster - Certified Building Department - Condensed Fee/Construction Permit Schedule" as established by the City Administration.

(Ord. 19-18. Passed 10-22-18; Ord. 13-19. Passed 9-9-19.)

905.03 DRIVEWAY CONSTRUCTION MATERIALS.

All curbs, driveways, and sidewalks integrated within the driveway access point shall be constructed in accordance with the current: "City of Lancaster - Standard Construction Drawings". (Ord. 19-18. Passed 10-22-18; Ord. 13-19. Passed 9-9-19.)

905.04 DRIVE ACCESS ONTO CITY RIGHT OF WAY.

At the discretion of the City Engineer, curb cuts and/or driveway access points may need additional review. The City Engineer shall utilize the current "Access Management Guidelines" when reviewing the access point being constructed, changed or removed.

(Ord. 19-18. Passed 10-22-18; Ord. 13-19. Passed 9-9-19.)

905.05 RIGHT TO APPEAL.

If the applicant does not agree with City Engineer's decision on the access permit, the applicant may appeal to the Staff Safety Committee. The appeal should be made within forty-five (45) calendar days from the date of receipt of the City Engineer's decision. Staff Safety Committee will review all appeals that are made at least five (5) working days before their scheduled meeting. Staff Safety Committee will make a recommendation to the City Planning Commission for the final decision.

(Ord. 19-18. Passed 10-22-18; Ord. 13-19. Passed 9-9-19.)

905.99 PENALTY.

Whoever violates any provision of this chapter shall be deemed guilty of a misdemeanor of the first degree. Each day the violation continues shall constitute a separate offense.

(Ord. 19-18. Passed 10-22-18; Ord. 13-19. Passed 9-9-19.)

TITLE THREE - Public Utilities.

- Chap. 910. Potable Water Supply Well Code.
- Chap. 911. Water.
- Chap. 912. Use of Public and Private Sewers.
- Chap. 913. Drainage Generally.
- Chap. 914. Trucked Waste.
- Chap. 915. Sewer Rates.
- Chap. 916. Wastewater Pretreatment.
- Chap. 917. Natural Gas Service.
- Chap. 918. Storm Water Utility Program.
- Chap. 919. Storm Water Sediment and Soil Erosion Protection.
- Chap. 920. Electricity.
- Chap. 921. Utilities Installation in Developments.

CHAPTER 910
Potable Water Supply Well Code

- | | | | |
|---------------|------------------------|---------------|---|
| 910.01 | Title; scope. | 910.04 | Duty or standard; notice; order. |
| 910.02 | Definitions. | 910.99 | Penalty. |
| 910.03 | Water supplies. | | |

910.01 TITLE; SCOPE.

(a) This chapter shall be known and cited as the Lancaster Potable Water Supply Well Code.

(b) This chapter restricts the installation of any new potable water supply well within the incorporated limits of the City, at (i) any location within the “Urban Setting Designation Area” defined in this Chapter and recognized by Resolution 44-03.

(c) This Chapter requires all potable water systems within the Urban Setting Designation Area to connect to the City Municipal Water System. Preexisting wells within the Urban Setting Designation Area may not be used for potable purposes and the installation of any potable use wells is prohibited. (Ord. 47-08. Passed 11-10-08.)

910.02 DEFINITIONS.

(a) “Potable water” means any water that is used for drinking, personal or culinary use.

(b) “City” means property located within the corporation limits of the City of Lancaster.

(c) “Urban Setting Designation Area” means the area of the City within a one-half mile radius of the designated industrial property in the Lancaster East Side Development Corridor. A figure of the area I entitled “Urban Setting Designation ½ Mile Boundary” which is incorporated by reference herein and available from the City as a public record. (Ord. 47-08. Passed 11-10-08.)

910.03 WATER SUPPLIES.

(a) All potable water systems supplied by wells located within the Urban Setting Designation Area are hereby required to connect to the City Municipal Water System and receive from the City a new meter. Any preexisting wells shall either be: abandoned or disconnected from the potable water system. The wells may be used for non-potable purposes, as determined by the Administrative Regulator of the Water Department.

(b) The installation or use of potable use wells in the Urban Setting Designation Area is prohibited. This prohibition does not extend to non-potable use wells that are installed and maintained pursuant to applicable law. (Ord. 47-08. Passed 11-10-08.)

910.04 DUTY OR STANDARD; NOTICE; ORDER.

(a) Any person or entity that installs, constructs, operates, maintains or modifies a potable water supply well within the City of Lancaster and that is connected to the City Municipal Water System shall comply and abide by this Chapter within 120 days of issuance.

(b) Any person or entity that violates or fails to comply with this Chapter or the provisions of this Chapter shall be given written notice of violation or the failure to comply and an order to correct within a specified time period. (Ord. 47-08. Passed 11-10-08.)

910.99 PENALTY.

Any person or entity that installs, constructs, operates, maintains or modifies a potable water supply well within the City of Lancaster or who is connected to the City Municipal Water System and fails or refuses to comply with this Chapter is guilty of a misdemeanor of the first degree. Each and every day the violation or noncompliance is found to exist shall be a separate offense. (Ord. 47-08. Passed 11-10-08.)

CHAPTER 911
Water

EDITOR'S NOTE: Ohio R.C. 743.02 provides that the Director of Public Service may make such bylaws and regulations as he deems necessary for the safe, economical and efficient management and protection of the City water works. Such bylaws and regulations shall have the same validity as ordinances when not repugnant thereto or to the Constitution or laws of the State of Ohio. The Director of Public Service, pursuant to Ohio R.C. 743.03, shall manage, conduct and control the City water works, furnish supplies of water and collect water rents. The Director may assess and collect a water rent of sufficient amount and in such manner as he deems most equitable from all tenements and premises supplied with water, as provided by Ohio R.C. 743.04.

911.01	Free water to parks.	911.06	Service discontinuance and restoration.
911.02	Device to protect system from contaminants due to backflow.	911.07	Capacity charge for water.
911.03	Unlawful connections.	911.07.1	Payment for persons with qualified incomes.
911.04	Surveys and investigations of properties served.	911.07.2	Hearing Board.
911.05	Right of entry.	911.07.3	Validity.
		911.07.4	Penalty.

CROSS REFERENCES

Power to provide and regulate water system - see Ohio R. C. 715.08, 717.01, 743.01

Water pollution - see Ohio R. C. 715.08, 743.24 et seq.

Compulsory water connections - see Ohio R.C. 729.06, 743.23

Rate assessment by Service Director - see Ohio R. C. 743.04

Free use of municipally owned utilities - see Ohio R. C. 743.27

Tampering with water hydrants, pipes or meters; unauthorized connections - see Ohio R. C. 4933.22

Water tap fees outside City - see ADM. 137.04

911.01 FREE WATER TO PARKS.

The Safety-Service Director is authorized and directed to furnish to each and every public park in the City the necessary and sufficient supply of water for all proper and incidental purposes within such parks free of charge. (1939 R.O., 12:09)

911.02 DEVICE TO PROTECT SYSTEM FROM CONTAMINANTS DUE TO BACKFLOW.

(a) If in the judgment of the Superintendent of Water, an approved backflow prevention device is necessary for the safety of the public water system, the Superintendent of Water will give notice to the water consumer to install such an approved device. The water consumer shall, at his own expense, install such an approved device at the location(s) and in a manner approved by the Superintendent of Water and shall have inspections and tests made of such approved devices as required by the Superintendent of Water.

(b) No person, firm or corporation shall establish or permit to be established or maintain or permit to be maintained any connection whereby a private, auxiliary or emergency water supply other than the regular public water supply of Lancaster may enter the supply or distributing system of said municipality, unless such private, auxiliary or emergency water supply shall have been approved by the Superintendent of Water of Lancaster and by the Ohio Environmental Protection Agency.

(c) It shall be the duty of the Superintendent of Water to cause surveys and investigations to be made of industrial and other properties served by the public water supply where actual or potential hazards to the public water supply may exist. Such surveys and investigations shall be made a matter of public record and shall be repeated as often as the Superintendent of Water shall deem necessary.

(d) The Superintendent of Water of Lancaster or his or its duly authorized representative shall have the right to enter at any reasonable time any property served by a connection to the public water supply or distribution system of Lancaster for the purpose of inspecting the piping system or systems thereof. On demand the owner, lessees or occupants of any property so served shall furnish to the Superintendent of Water any information which he may request regarding the piping system or systems or water use on such property. The refusal of such information, when demanded, shall, within the discretion of the Superintendent of Water, be deemed evidence of the presence of improper connections as provided in this section.

(e) The Superintendent of Water of Lancaster is hereby authorized and directed to discontinue, after reasonable notice to the occupant thereof, the water service to any property wherein any connection in violation of the provisions of this ordinance is known to exist, and take such other precautionary measures as he/she may deem necessary to eliminate any danger of contamination of the public water supply distribution mains. Water service to such property shall not be restored until such conditions shall have been eliminated or corrected in compliance with the provisions of this section.

(f) The Superintendent of Water of Lancaster is hereby authorized and directed to adopt rules and regulations for the Division of Water for Backflow Prevention and Cross-Connection Control consistent with the Ohio Administrative Code 3745-95 or its successor. (Ord. 1-99. Passed 1-11-99.)

911.03 UNLAWFUL CONNECTIONS.

No person, firm or corporation shall establish, or permit to be established, or maintain, or permit to be maintained, any connection whereby a private, auxiliary or emergency water supply, other than the regular public water supply of Lancaster, may enter the supply or distributing system of the City, unless such private, auxiliary or emergency water supply and the method of connection and use of such supply shall have been approved by the Superintendent of Water and by the Ohio Environmental Protection Agency.
(Ord. 30-94. Passed 10-10-94.)

911.04 SURVEYS AND INVESTIGATIONS OF PROPERTIES SERVED.

It shall be the duty of the Superintendent of Water to cause surveys and investigations to be made of industrial and other properties served by the public water supply, where actual or potential hazards to the public water supply may exist. Such surveys and investigations shall be made a matter of public record and shall be repeated as often as the Superintendent of Water shall deem necessary. (Ord. 30-94. Passed 10-10-94.)

911.05 RIGHT OF ENTRY.

The Superintendent of Water shall have the right to enter at any reasonable time, any property served by a connection to the public water supply or distributing system of Lancaster for the purpose of inspecting the piping system or systems thereof. On demand, the owner, lessees or occupants of any property so served, shall furnish to the Superintendent of Water any information which he may request, regarding the piping system or systems or water use on such property. The refusal of such information, when demanded, shall, within the discretion of the Superintendent of Water, be deemed evidence of the presence of improper connections, as provided in this chapter.
(Ord. 30-94. Passed 10-10-94.)

911.06 SERVICE DISCONTINUANCE AND RESTORATION.

The Superintendent of Water is hereby authorized and directed to discontinue, after reasonable notice to the occupant thereof, the water service to any property wherein any connection in violation of the provisions of this chapter is known to exist, and to take such other precautionary measures as he may deem necessary to eliminate any danger of contamination of the public water supply distribution mains. Water service to such property shall not be restored until such conditions shall have been eliminated or corrected, in compliance with the provision of chapter. (Ord. 30-94. Passed 10-10-94.)

911.07 CAPACITY CHARGE FOR WATER.

(a) The City Engineer is hereby authorized and directed to collect a water system capacity charge whenever application is made for the issuance of a water tap permit to provide water service to a structure, whenever such property is either inside or outside the corporate limits of the City and as provided elsewhere in the City code.

(b) When City forces do not perform actual installation of the main water line or a service connection, the City Engineer is hereby authorized and directed to collect a water system capacity charge whenever an application is made for the issuance of a sewer permit to provide sanitary sewer service to a structure, whenever such property is or will be tributary, directly or indirectly, to any trunk sewer built by the City, either inside or outside the corporate limits of the City and as provided elsewhere in the City codes.

(c) When City forces do not perform actual installation of the main water line or a service connection, or applicant does not apply for a sewer permit, the City Engineer is hereby authorized to collect a water system capacity charge when an application for a building permit is approved by the City Engineering Department.

(d) The charge shall be determined in accordance with the following:

(1) TABLE I
PROPERTY INSIDE CORPORATE LIMITS
DOMESTIC USE ONLY

<u>Water Meter Size</u>	<u>Capacity Fee</u>
5/8 or 3/4 inch	\$ 3,690
1 inch	6,149
1 1/2 inch	12,299
2 inch	19,678
4 inch	61,493
6 inch	112,986
8 inch	221,375
10 inch	356,660
12 inch	528,840

Fees for meters larger than 12 inch will be determined on an individual basis.
(Ord. 47-04. Passed 8-23-04.)

(2) TABLE 2
PROPERTY INSIDE CORPORATE LIMITS
FIRE PURPOSES ONLY-NO WATER METER

<u>Tap Size</u>	<u>Capacity Fee</u>
1 inch	\$ 778
1 1/2 inch	1,750
2 inch	3,111
4 inch	12,445
6 inch	28,000
8 inch	49,750

Fees for taps larger than 8 inch will be determined on an individual contract basis. If domestic line is used also with fire line, Section (3) is also applicable.

The capacity charge for water, for fire purposes only, may be waived by the Service-Safety Director for existing structures located in a Historic District, listed on the National Register of Historic Places, designated as a Designated Landmark, or within the Downtown Lancaster Special Improvement District when a sprinkler system is added on each floor as an incentive to preserve existing structures from the threat of fire by the addition of fire suppression. The approval of the sprinkler plans and completion of the plans are conditions of the waiver. (Ord. 18-17. Passed 5-8-17.)

(3) PROPERTY INSIDE CORPORATE LIMITS
FIRE LINE WITH DOMESTIC METER

When customer requests a fire line, one large line capable of providing the required fire flow be installed from the distribution system and that the domestic service be tapped off the fire line inside the structure where a meter is installed to record domestic flow for billing purposes. The charges shall be determined in accordance with the following.

Customer to be charged the scheduled meter size for the domestic line found in TABLE 1 plus the fee located in TABLE 2.

TABLE 3

(4) PROPERTY OUTSIDE CORPORATE LIMITS CONNECTING TO AN
EXISTING LINE FOR DOMESTIC USE ONLY

<u>Water Meter Size</u>	<u>Capacity Fee</u>
5/8 or 3/4 inch	\$ 5,535
1 inch	9,224
1 1/2 inch	18,449
2 inch	29,517
4 inch	92,240
6 inch	184,479
8 inch	332,063
10 inch	534,990
12 inch	793,260

Fees for taps larger than 12 inch will be determined on an individual basis.
(Ord. 47-04. Passed 8-23-04.)

TABLE 4

(5) PROPERTY OUTSIDE CORPORATE LIMITS CONNECTING
TO EXISTING LINE FOR FIRE PURPOSE ONLY

<u>Tap Size</u>	<u>Capacity Fee</u>
1 inch	\$ 1,167
1 1/2 inch	2,625
2 inch	4,647
4 inch	18,670
6 inch	42,000
8 inch	74,500

Fees for taps larger than 8 inch will be determined on an individual contract basis. If domestic line is used also with fire line, Section (6) is also applicable.

(6) PROPERTY OUTSIDE CORPORATE LIMITS CONNECTING
TO AN EXISTING LINE FOR FIRE LINE WITH DOMESTIC
METER

When a customer requests a fire line, one large line capable of providing the required fire flows be installed from the distribution system and that the domestic service be tapped off the fire line inside the structure where a meter is installed to record domestic flows for billing purposes. The charges shall be determined in accordance with the following:

Customers to be charged the scheduled meter size for domestic line found in TABLE 3 plus the fee located in TABLE 4.

(e) Credit for Existing Tap. In the event of an existing lot having service and the owner would like to increase the size of the tap/meter, a one time credit would be given. Credit would be determined by subtracting the price of the existing tap/meter from the price of the increased tap/meter. The owner then would be responsible for the difference of the two. This fee would then have to be paid when tap application is filed with the Division of Water.

(f) Property Outside Corporate Limits That Does Not Have An Existing City Maintained Line. The Superintendent of Water along with the City Engineer, Mayor, and or Service Director and Law Director may negotiate with areas outside corporate limits of Lancaster. Negotiated contract must be approved by a simple majority of City Council.
(Ord. 47-04. Passed 8-23-04.)

911.07.1 PAYMENT FOR PERSONS WITH QUALIFIED INCOMES.

(a) People or families with a qualified income as set forth in subsection (b) hereof may elect to pay the water capacity charge and or tapping fee over a five year period.

(b) "Qualified income" or this section means a gross income of the family unit less than twenty thousand dollars (\$20,000.00) in the year application is made to defer such charges and fees. Such application shall be made in affidavit form to the Superintendent of Water whenever application is made for the issuance of a water tap. After certification to Council, such charges and fees shall be certified in ordinance form to the County Auditor to be placed upon tax duplicate and collected in the same manner as other taxes and assessments over such five year period.

(c) All funds received as herein authorized shall be deposited with the City Treasurer and credited to the special fund described in Section 911.07 (b).
(Ord. 47-04. Passed 8-23-04.)

911.07.2 HEARING BOARD.

(a) A Hearing Board shall be appointed by the Mayor as needed for arbitration of differences between the Superintendent of Water and the water users on matters concerning interpretation and execution of the provision of this chapter. The cost of the arbitration will be divided equally between the City and the water user.

(b) One member of the board shall be a registered professional engineer; one member shall be a representative of an industry or manufacturing enterprise; one member shall be a lawyer and one member shall be selected at large for his/her interest in accomplishing the objectives of this chapter. (Ord. 15-99. Passed 3-22-99.)

911.07.3 VALIDITY.

(a) All ordinances or parts of ordinances in conflict herewith are hereby repealed.

(b) The validity of any section, clause, sentence or provision of this chapter shall not affect the validity of any other part of this chapter which can be given effect without such invalid part or parts. (Ord. 15-99. Passed 3-22-99.)

911.07.4 PENALTY.

(a) Whoever violates any provision of this chapter, shall be served by the Service-Safety Director with a written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall within the period of time stated in such notice, permanently cease all violations.

(b) Whoever continues any violation beyond the time limit provided for in subsection (a) hereof shall be guilty of an unclassified misdemeanor with a fine of up to one hundred dollars (\$100.00) for each day a violation continues.

(c) Whoever violates any of the provisions of this chapter shall become liable to the City for any expense, loss or damage occasioned the City by reason of such violation.

(d) The City shall enforce by mandamus, injunction or other legal remedy these rules and regulations, and shall remove any harmful or improper construction or obstruction or shall close any opening or connection made improperly or in violation of these rules and regulations, under authority provided in the code.

(e) The City shall have full power to invoke any authorized legal, equitable or special remedy for the enforcement of this chapter. (Ord. 15-99. Passed 3-22-99.)

CHAPTER 912
Use of Public and Private Sewers

<p>912.01 Definitions.</p> <p>912.02 Use of public sewers required.</p> <p>912.03 Private sewage disposal; permit and fee.</p> <p>912.04 Building sewer installation and connections; tapping fees.</p> <p>912.05 Capacity charge for trunk sanitary sewer benefit.</p> <p>912.06 Waiver of fees for persons with qualified incomes.</p>	<p>912.07 Use of the public sewers regulated.</p> <p>912.08 Damage or destruction of sewage works.</p> <p>912.09 Operating upsets.</p> <p>912.10 Powers and authority of City Engineer and Superintendent.</p> <p>912.11 Hearing Board.</p> <p>912.12 Validity.</p> <p>912.99 Penalty.</p>
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CROSS REFERENCES

Power to regulate water closets and privies - see Ohio R.C. 715.40
 Compulsory sewer connections - see Ohio R.C. 729.06
 Regulations to control house sewers and connections - see Ohio R.C. 729.51
 Untreated sewage - see Ohio R.C. 3701.59
 Sewerage and drainage generally - see S.U. & P.S. Ch. 913
 Sewer rates - see S.U. & P.S. Ch. 915
 Wastewater pretreatment - see S.U. & P.S. Ch. 916

912.01 DEFINITIONS.

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

- (1) "BOD (Biochemical Oxygen Demand)" means the same as defined in Section 915.02 (a)(1). (Ord. 7-86. Passed 2-10-86.)
- (1.5) "CBOD (Carbonaceous Biochemical Oxygen Demand)" means the same as defined in Section 915.02(a)(1.5). (Ord. 27-94. Passed 8-22-94.)
- (2) "Building (or house) drain" means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the buildings and conveys it to a point approximately three feet outside the foundation wall of the building.
- (3) "Building (or house) sewer" means the pipe which is connected to the building (or house) drain at a point approximately three feet outside the foundation wall of the building and which conveys the building's discharge from that point to the public sewer, septic tank or other place of disposal.

- (4) "Chemical Oxygen Demand" (or COD) of sewage, sewage effluent, polluted waters or industrial wastes is a measure of the oxygen equivalent of that portion of the organic matter in a sample that is susceptible to oxidation by a strong chemical oxidant. The laboratory determination shall be made in accordance with procedures set forth in the latest edition of Standard Methods.
- (5) "City" means the City of Lancaster, Ohio.
- (6) "City Engineer" means the City Engineer of the City or his authorized deputy, agent or representative.
- (7) "Combined sewer" means a sewer intended to receive both wastewater and storm or surface water.
- (8) "Compatible pollutant" means biochemical oxygen demand, suspended solids, pH and fecal coliform bacteria, plus pollutants identified in the NPDES permit if the treatment works were designed to treat such pollutants, and in fact, does remove such pollutants to a substantial degree. The term substantial degree is not subject to precise definition, but generally contemplates removals in the order of eighty percent (80%) or greater. Minor incidental removals in the order of ten to thirty percent (10% to 30%) are not considered substantial. Examples of the additional pollutants which may be considered compatible include: A. Chemical oxygen demand; B. Total organic carbon; C. Phosphorus and phosphorus compounds; D. Nitrogen and nitrogen compounds; and E. Fats, oils and greases of animal or vegetable origin (except as prohibited where these materials would interfere with the operation of the treatment works).
- (9) "Debt service costs" means the same as defined in Section 915.02(a)(2).
- (10) "Effluent" means the water, together with any wastes that may be present, flowing out of a drain, sewer, receptacle or outlet.
- (11) "EPA" means the Environmental Protection Agency.
- (12) "Fecal coliform" means any of a number of organisms common to the intestinal tract of humans and animals, whose presence in sanitary sewage is an indicator of pollution.
- (13) "Floatable oil" means oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility.
- (14) "Garbage" means any solid wastes from the preparation, cooking or dispensing of food and from the handling, storage or sale of produce.
- (15) "Hydrogen ion concentration" means the same as defined in subsection (a)(29) hereof.
- (16) "Incompatible pollutant" means any pollutant that is not defined as a compatible pollutant, including nonbiodegradable dissolved solids.
- (17) "Industrial waste" means the same as defined in Sections 915.02(a)(4) and 916.02(a)(25).
- (18) "Infiltration" means the water entering a sewer system including building drains and sewers, from the ground, through such means as, but not limited to, defective pipes, pipe joints, connections or manhole walls. (Infiltration does not include and is distinguished from inflow).
- (19) "Inflow" means the water discharged into a sewer system including building drains and sewers, from such sources as, but not limited to: roof leaders, cellar, yard and area drain, foundation drains, unpolluted cooling water discharges, drains from springs and swampy areas, manhole covers, cross connections from storm sewers, and combined sewers, catch basins, storm water surface run-off, street wash water or drainage. (Inflow does not include, and is distinguished from infiltration.)

- (20) "Infiltration/inflow" means the total quantity of water from both infiltration and inflow without distinguishing the source.
- (21) "Inspector" means the person or persons duly authorized by the City, to inspect and approve the installation of building sewers and their connection to the public sewer system.
- (22) "Major contributor" means the same as defined in Section 916.02(a)(29).
- (23) "NH₃-N" means the same as ammonia nitrogen measured as nitrogen. The laboratory determinations shall be made in accordance with procedures set forth in the latest edition of Standard Methods.
- (24) "Normal domestic sewage" means the same as defined in Section 915.02(a)(7).
- (25) "NPDES permit" means the same as defined in Section 915.02(a)(6).
- (26) "Operation and maintenance cost" means the same as defined in Section 915.02(a)(9).
- (27) "Outlet" means any outlet, natural or constructed, which is the point of final discharge of sewage or of treatment plant effluent into any watercourse, pond, ditch, lake or other body of surface or ground water.
- (28) "Person" means the same as defined in Section 915.02(a)(11).
- (29) "pH" means the logarithm (to the base of ten) of the reciprocal of the hydrogen ion concentration of a solution expressed in gram-atoms per liter of solutions.
- (30) "Pretreatment" means the same as defined in Section 916.02(a)(43).
- (31) "Properly shredded garbage" means the waste from the preparation, cooking and dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.
- (32) "Receiving stream" means the watercourse, stream or body of water receiving the waters finally discharged from the sewage treatment plant.
- (33) "Replacement" means the same as defined in Section 915.02(a)(12).
- (34) "Residential user" means the same as defined in Section 915.02(a)(19)A.
- (35) "Sanitary sewage" means sewage discharged from the sanitary conveniences of dwellings (including apartment houses, hotels and motels), office buildings, factories or institutions and free from storm water, surface water and industrial wastes.
- (36) "Sewage" means the water-carried wastes from residences, business buildings, institutions and industrial establishments singular or in any combination, together with such ground, surface and storm waters as may be present.
- (37) "Sewage treatment plant" means the arrangement of devices, structures and equipment used for treatment and disposing of sewage and sludge.
- (38) "Sewage works" means the organization and all facilities for collecting, transporting, pumping, treating and disposing of sewage and sludge, namely the sewerage system and the sewage treatment plant.
- (39) "Sewer" means a pipe or conduit for carrying sewage or other waste liquids.
- A. "Private sewer" means a sewer which is not owned by a public authority.
- B. "Public sewer" means a sewer in which all owners of abutting property have equal rights and which is controlled by public authority.

- C. "Sanitary sewer" means a sewer which carries sewage and to which storm, surface and ground waters and unpolluted industrial waste waters are not intentionally admitted.
- D. "Storm sewer" means a sewer which carries storm and surface water drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.
- (40) "Sewerage system or sewage system" means the network of sewers and appurtenances used for collecting, transporting and pumping sewage to the sewage treatment plant.
- (41) "Shall" is mandatory; "may" is permissible.
- (42) "Slug" means any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen minutes more than five times the average twenty-four hour concentration or flows during normal operation.
- (43) "Standard Methods" means the laboratory procedures set forth in the latest edition, at the time of analysis, of "Standard Methods for the Examination of Water and Wastewater", prepared and published jointly by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation and "Guidelines Establishing Test Procedures for Analysis of Pollutants", Regulation 40 CFR Part 136, published in the Federal Register on October 16, 1975.
- (44) "Superintendent" means the same as defined in Section 916.02(a)(55).
- (45) "Surcharge" means the same as defined in Section 915.02(a)(3).
- (46) "SS (Suspended Solids)" means the same as defined in Section 915.02(a)(13).
- (47) "Tonal revenue" means that revenue obtained from monthly billing for the use of and service rendered by the sewage works and does not include user capacity charge, permit or inspection fees or other charges.
- (48) "Total solids" means the sum of suspended and dissolved solids.
- (49) "Toxic amount" means concentrations of any pollutant or combination of pollutants, which upon exposure to or assimilation into any organism will cause adverse effects, such as cancer, genetic mutations and physiological manifestations, as defined in standards issued pursuant to Section 307 (a) of PL 92-500.
- (50) "Unpolluted water" means water of a 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 benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.
- (51) "User charge" means the same as defined in Section 915.02(a)(18).
- (52) "User capacity charge" means the connection fee when new customers are connected to the sewer system.
- (53) "Volatile organic matter" means the material in the sewage solids transformed to gases or vapors when heated at 550 degrees Centigrade for fifteen to twenty minutes.
- (54) "Watercourse" means a channel in which a flow of water occurs either continuously or intermittently. (Ord. 7-86. Passed 2-10-86.)

912.02 USE OF PUBLIC SEWERS REQUIRED.

(a) No person shall deposit or permit to be deposited in any unsanitary manner on public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage or other objectionable waste.

(b) No person shall discharge to any natural outlet within the City or in any area under the jurisdiction of the City, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

(c) No person shall place, deposit or permit to be deposited in any unsanitary manner on public or private property within the jurisdiction of the City, any wastewater or other polluted waters except where suitable treatment has been provided in accordance with provisions of this chapter and NPDES permit.

(d) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facilities intended or used for the disposal of sewage.

(e) The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right of way in which there is now located or may in the future be located a public sanitary or combined sewer, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter within ninety days after the date of official notice to do so, provided that such public sewer is within 100 feet of the property line.
(Ord. 7-86. Passed 2-10-86.)

912.03 PRIVATE SEWAGE DISPOSAL, PERMIT AND FEE.

(a) Where a public sanitary or combined sewer is not available under the provisions of Section 912.02(e), the building sewer shall be connected to a private sewage disposal system complying with the provisions of this section.

(b) Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the City Health Department. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by any plans, specifications and other information as deemed necessary by the City Health Department. A permit fee of one hundred dollars (\$100.00) shall be paid to the City at the time application is filed. A layout fee of fifty dollars (\$50.00) shall be paid at the time of inspection.

(c) A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the City Health Department. The Director or his/her designee shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the City Health Department when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within seventy-two hours of the receipt of notice by the City Health Department.

(d) The type, capacities, location, and layout of a private sewage disposal system shall be approved and shall comply with all recommendations of the City Department of Health. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(e) At such time as a public sewer becomes available to a property served by the private sewage disposal system, as provided in Section 912.02(e) hereof, a direct connection from the user side of the septic tank shall be made to the public sewer in compliance with this chapter within ninety days, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be cleaned of sludge, demolished, and filled with clean bank-run gravel or dirt, as approved by the City Health Department.

(f) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City.

(g) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the City, County, or State health office with legal jurisdiction.

(h) Where subdivisions were platted prior to the effective date of all City ordinances prescribing lot size for sewage disposal systems, such subdivisions with lot sizes smaller than those required by present ordinances shall be approved for septic tank and sewage disposal systems under ordinances or rules and regulations of the Health Department, in effect at the time such subdivisions were platted. (Ord. 52-97. Passed 8-11-97.)

**912.04 BUILDING SEWER INSTALLATION AND CONNECTIONS;
TAPPING FEES.**

(a) All persons making a connection to the sanitary sewerage collecting system or altering or changing the use of the land served where there is an existing connection as contemplated hereinafter, shall pay to the City, in addition to the inspection fee, the following fees:

- (1) For single dwelling units for which a sewer permit is needed, the charge shall be twenty-five dollars (\$25.00).
- (2) For multiple family dwelling structures for which a sewer permit is needed, the charge shall be fifty dollars (\$50.00) for the first unit, and ten dollars (\$10.00) for every unit thereafter.
- (3) For any structure intended partially or wholly for commercial purposes, for which a sewer permit is needed, the charge shall be fifty dollars (\$50.00) for the first commercial unit proposed for the structure plus fifty dollars (\$50.00) per unit for each additional unit proposed. Dwelling units in commercial structures (such as apartments over a store) shall be charged as in subsection (a)(2) hereof. Commercial is defined as an establishment whose principal activity is to provide merchandise or services to those who need them. A commercial unit shall consist of a structure or part thereof having 15,000 square feet or less.
- (4) For any structure intended partially or wholly for industrial purposes for which a sewer permit is needed, the charge shall be fifty dollars (\$50.00) for each industrial unit proposed for the structure. Commercial units in industrial structures will be charged as in subsection (a)(3) hereof. Industry is defined as any activity where materials are received, are altered by one or more internal operations and then dispatched in the altered form. An industrial unit shall consist of a structure or part thereof having 40,000 square feet or less.
- (5) All municipal, county, state, and federal activities shall be classed as commercial providing services.
- (6) All churches, schools, hospitals, nursing and rest homes and other service organizations, shall be classed as commercial providing services.
- (7) Regardless of the fees herein before mentioned, it is provided that a charge of one hundred dollars (\$100.00) shall be made for a permit to tap into a trunk or interceptor sewer. All fees herein before mentioned are for main lines.

(b) In all cases, the owner or his agent shall make application on a special permit form furnished by the City. The permit application shall be supplemented by any plans, specification or other information considered pertinent in the judgment of the City Engineer. The City Engineer shall administer the collection of this fee, and he is hereby granted authority as may be necessary to collect the same, including the right to withhold issuance of a permit until plans are approved and until such fee is paid.

(c) All tapping and inspection fees shall be credited to a separate fund called "The Sanitary Sewer Improvement and Extension Fund".

(d) All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner or the person installing the building sewer for such owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such installation.

- (e) (1) A separate and independent sewer lateral shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the sewer lateral from the front building may be extended to the rear building and the whole considered as one sewer lateral. In these cases, the tapping fee appropriate to the building being served shall be paid the same as though the sewer was being connected directly to the main sewer system.
- (2) Old sewer laterals may be used in connection with new buildings only when they are found, on examination and test by the City Engineer, to meet all requirements of this chapter, including the payment of an inspection fee. The charge for the examination and test by the City Engineer shall be fifty dollars (\$50.00) regardless of the result of the inspection.

(f) The size and slope of the building sewer shall be subject to the approval of the Superintendent, but in no event shall the diameter be less than six inches for all uses. The slope of such pipe shall be not less than one percent (1%) or of sufficient slope to maintain a two feet per second velocity in the sewer.

(g) No building sewer shall be laid parallel to or within three feet of any bearing wall, which might thereby be weakened. The depth shall be sufficient to afford protection from frost. The building sewer shall be laid at a uniform grade and in straight alignment in so far as possible. Changes in direction shall be made only with properly curved pipes and fittings.

(h) Whenever possible, the sewer lateral shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by a means approved by the City Engineer and discharged to the sewer lateral. No water operated sewage ejector shall be used.

(i) No person shall make connection of roof downspouts, foundation drains, areaway drains or other sources of surface runoff or ground water to a sewer lateral or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

(j) All connections of sewer laterals to sanitary sewer mains of less than fifteen inches diameter shall be done in the following manner: the complete joint where the connection is to be made shall be removed and replaced with a "Y" for such connections. In pipes fifteen inches and over, an opening may be cut into the pipe and a short hub installed in this opening. This hub shall be protected with either cement mortar or concrete of proper mixture.

(k) The applicant for the lateral sewer permit shall notify the City Engineer when the lateral sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the City Engineer or his representative.

(l) All excavations for lateral sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Street, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner approved by the City Engineer.

(m) The materials for building sewers (laterals) shall be as listed herein. Any reference to any standard shall mean the latest revision of that standard.

(1) Pipe.

- A. Vitrified clay pipe, extra strength meeting the standards of ASTM-C700.
- B. Type PSM Poly (Vinyl Chloride) PVC sewer pipe meeting the standards of ASTM D3034 SDR 35.

(2) Joints.

- A. All joints in vitrified clay pipe shall be made with ASTM C 425 type joints. Joints between clay pipe and pipe of other materials shall be made with approved adapter fittings or prefabricated elastomeric sealing rings or sleeves.
- B. All joints in PVC pipe shall be made with either molded rubber, elastomeric gasketed or rubber-ring type meeting standards of ASTM D3034. Solvent cement joints shall not be permitted.
- C. Repair joints shall be made using rubber transitional couplings with stainless steel adjustable bands at both ends when installing a "Y" branch fitting or making a repair to all sanitary sewer mains and laterals.

(n) All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the City Engineer. Pipe laying and backfill shall be performed in accordance with ASTM specifications except that no backfill shall be placed until the work has been inspected by the City Engineer or his representative.

(o) No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenances thereof or install any building sewer (lateral) without first obtaining a written permit from the City Engineer. Before a permit may be issued for a building sewer in any public street, way or alley, or private property, the person applying for such permit shall have executed unto the City and deposited with the Service Safety Director a corporate surety in the sum of two thousand dollars (\$2,000) conditioned that he shall perform faithfully all work with due care and skill, and in accordance with the laws, rules and regulations established under the authority or any regulation of the City pertaining to plumbing. This bond shall state that the person shall indemnify and save harmless the City and the owner of the premises against all damages, costs,

City expenses, outlays and claims of every nature and kind arising out of unskillfulness or negligence on his part in connection with plumbing or excavating for plumbing as prescribed in this section. Such bond shall remain in force and shall be executed for a period of one year except that on such expiration, it shall remain in force as to all penalties, claims and demand that may have accrued thereunder prior to such expiration. (Ord. 7-86. Passed 2-10-86.)

912.05 CAPACITY CHARGE FOR TRUNK SANITARY SEWER BENEFIT.

(a) The City Engineer is hereby authorized and directed to collect a sanitary sewer system capacity charge whenever application is made for the issuance of a sewer permit to provide sanitary sewer to a structure, whenever such property is or will be tributary, directly or indirectly to any trunk sanitary sewer built by the City, either inside or outside the corporate limits of the City and as provided elsewhere in the City Codes.

(b) The charge shall be determined in accordance with the following:

(1) **PROPERTY INSIDE CORPORATE LIMITS**

TABLE 1

WATER METER SIZE	CAPACITY FEE
5/8 or 3/4 inch	\$2,050.00
1 inch	4,000.00
1 ½ inch	9,700.00
2 inch	16,900.00
4 inch	36,400.00
6 inch	61,200.00
8 inch	137,700.00

Fees for meters larger than 8 inch will be determined on an individual basis.

(2) **PROPERTY OUTSIDE CORPORATE LIMITS**

TABLE 2

WATER METER SIZE	CAPACITY FEE
5/8 or 3/4 inch	\$2,812.50
1 inch	5,512.50
1 ½ inch	13,387.50
2 inch	23,287.50
4 inch	50,175.00
6 inch	84,375.00
8 inch	189,900.00

Fees for meters larger than 8 inch will be determined on an individual basis.

Effective January 1, 2008

(1) **PROPERTY INSIDE CORPORATE LIMITS**

TABLE 1

WATER METER SIZE	CAPACITY FEE
5/8 or 3/4 inch	\$4,844.00
1 inch	9,452.00
1 ½ inch	22,920.00
2 inch	39,933.00
4 inch	86,010.00
6 inch	144,611.00
8 inch	325,374.00

Fees for meters larger than 8 inch will be determined on an individual basis

(2) **PROPERTY OUTSIDE CORPORATE LIMITS**

TABLE 2

WATER METER SIZE	CAPACITY FEE
5/8 or 3/4 inch	\$7,266.00
1 inch	14,178.00
1 ½ inch	34,381.00
2 inch	59,900.00
4 inch	129,016.00
6 inch	216,916.00
8 inch	488,062.00

Fees for meters larger than 8 inch will be determined on an individual basis.

(c) A deduction may be made from the trunk sewer capacity charge herein imposed whenever, and to the extent that, the owner of the property concerned can show that a special assessment has been paid for such or similar trunk sewer benefit, provided that such deduction shall be limited to the amount of such original payment.

(d) Capacity Charge for Trunk Sewer Benefit. An exemption of the capacity charge shall be made where a structure of a classified use is replaced by a structure of a higher use, the capacity charge fee shall be the difference of the lower use fee from the higher use fee. The City Engineer or his agent shall have the final discretion to approve or reject the existing lateral.

(e) The capacity charge due for existing residential structures required to connect to the City's sanitary system by Lancaster Codified Ordinance 912.02 may be paid through the following methods:

- (1) A ten year assessment to the real property tax without interest so long as the payments are received within 30 days of the due date.
- (2) A five year assessment to the real property tax without interest so long as the payments are received within 30 days of the due date.
- (3) Payment in full. (Ord. 50-07. Passed 11-19-07.)

912.06 WAIVER OF FEES FOR PERSONS WITH QUALIFIED INCOMES.

(a) People or families with a qualified income set forth in subsection (b) hereof shall have the sewer capacity charge, tapping, and inspection fees waived.

(b) "Qualified Income" for this section means a gross income of the family unit less than twenty thousand dollars (\$20,000) in the year application is made to have such charges and fees waived. Such application shall be made in affidavit form to the City Engineer whenever application is made for the issuance of a sewer tap application.

(c) All funds received as herein authorized shall be deposited with the Wastewater Revenue Fund. (Ord. 47-04. Passed 8-23-04.)

912.07 USE OF THE PUBLIC SEWERS REGULATED.

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

(b) Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the City Engineer. Industrial cooling water or unpolluted process waters may be discharged, on approval of the City Engineer, to a storm sewer, combined sewer or natural outlet.

(c) No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

- (1) Any gasoline, benzene, naphtha, fuel oil, motor oil or other flammable or explosive liquid, solid or gas;
- (2) Any water or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance or create any hazard in the receiving waters of the water pollution control plant;
- (3) Any water or wastes having a pH less than 5.5 or higher than 9.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works; or
- (4) 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 sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshing, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

(d) No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely in the opinion of the City Engineer or Superintendent, that such wastes can harm either the sewers, sewage treatment process or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the City Engineer or Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the water pollution control plant, degree of treatability of wastes in the water pollution control plant, and other pertinent factors. The substances prohibited include but are not limited to:

- (1) Any liquid or vapor having a temperature higher than 104 degrees Fahrenheit, at the introduction into the public sewer;
- (2) Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of 100mg/l, or containing substances which may solidify or become viscous at temperatures between thirty-two and 150 degrees Fahrenheit;
- (3) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths horse power or greater, shall be subject to the review and approval of the City Engineer;
- (4) Any waters or wastes containing strong acid iron pickling wastes or concentrated plating solutions, whether neutralized or not;

- (5) Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances, in excess of the limits set in Section 916.05 or wastes exerting an excessive chlorine requirement to such degree that any such material received in the composite sewage at the water pollution control plant exceeds the limits established by the Superintendent for such materials;
- (6) Any water or wastes containing phenols or other taste or odor-producing substances in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of the State, Federal or other public agencies of jurisdiction for such discharge to the receiving waters;
- (7) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations;
- (8) Materials which exert or cause:
 - A. Unusual concentrations of inert suspended solids such as but not limited to Fuller's earth, lime slurries and lime residues, or of dissolved solids such as but not limited to sodium chloride and sodium sulfate;
 - B. Excessive discoloration such as but not limited to dye wastes and vegetable tanning solutions;
 - C. Unusual BOD, chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the water pollution control plant; or
 - D. Unusual volume of flow or concentration of wastes constituting "slugs", as defined herein; or
- (9) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such a degree that the water pollution control plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(e) If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in subsection (d) hereof, and which, in the judgment of the City Engineer or Superintendent, may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the City Engineer or Superintendent may:

- (1) Require new industries or industries with significant increase in discharge to submit information on waste-water characteristics and obtain prior approval for discharges, in accordance with Chapter 916;
- (2) Require other methods of disposal; and/or
- (3) Require pretreatment to an acceptable condition for discharge to the public sewers; in accordance with Chapter 916; and/or
- (4) Require control over the quantities, rates and times of discharge; and/or
- (5) Require facilities to prevent accidental discharge of any unacceptable wastes; and
- (6) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of this section or other City ordinances.

If the City Engineer permits the pretreatment or equalization of waste flows, the design and installation of the plans and equipment shall be subject to the review and approval of the City Engineer and Superintendent, and subject to the requirements of all applicable codes, ordinances and laws.

(f) Grease, oil and sand interceptors shall be provided when, in the opinion of the City Engineer or Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, 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 City Engineer and shall be located as to be readily and easily accessible for cleaning and inspection. Provided however, that approval of any such interceptors by the City Engineer or Superintendent shall not relieve any person of the responsibility of complying with the discharge requirements of this section.

(g) Fats, grease, oil and sand interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight.

(h) Where installed, all fats, grease, oil and sand interceptors shall be maintained by the owner, at his expense, in continuously efficient operation at all times.

- (i) (1) The admission into the public sewers, of any waters or wastes having:
- A. A five day BOD greater than 200 mg/l by weight; or
 - B. Containing more than 300 mg/l by weight of suspended solids; or
 - C. Containing any quantity of substances having the characteristics described in Section 912.07(d)(8); or
 - D. Having an average daily flow greater than five percent (5%) of the average daily sewage flow of the water pollution control plant; or
 - E. Having $\text{NH}_3\text{-N}$ (Ammonia Nitrogen) greater than twenty mg/l by weight;
- Shall be subject to the review and approval of the City Engineer or Superintendent.
- (2) Where necessary in the opinion of the Superintendent, the owner shall provide at his expense such preliminary treatment as may be necessary to:
- A. Reduce BOD to 200 mg/l, the suspended solids to 300 mg/l by weight and the ammonia nitrogen to 20 mg/l; or
 - B. Reduce the objectionable characteristics or constituents to within the maximum limits provided in Section 912.07(d)(8); or
 - C. Control the quantities and rates of discharge of such waters or wastes; or
 - D. Be subject to surcharge.

(j) Where preliminary treatment or flow equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

(k) When required by the City Engineer or Superintendent, the owner of any property serviced by a sewer lateral carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the sewer lateral to facilitate observations, sampling and measurement of the wastes. Such manhole, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the City Engineer. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times. See Chapter 916, Municipal Pretreatment.

(l) All measurements, tests and analysis of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of "Standard Methods for Examination of Water and Wastewater", published by the American Public Health Association, and shall be determined at the control manhole provided or upon suitable samples taken at such control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the sewer lateral is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. (The particular analysis involved will determine whether a twenty-four hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analysis are obtained from the twenty-four hour composites of all outfalls, whereas pHs are determined from periodic grab samples.)

(m) No statement contained in this section shall be construed as preventing any special agreement or arrangements between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefor by the industrial concern, and in accordance with Chapter 916. (Ord. 7-86. Passed 2-10-86.)

912.08 DAMAGE OR DESTRUCTION OF SEWAGE WORKS.

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct. (Ord. 7-86. Passed 2-10-86.)

912.09 OPERATING UPSETS.

Any discharger which experiences an upset in operations which places the discharger in a temporary state of noncompliance with this chapter or a wastewater discharge permit issued pursuant hereto shall inform the City thereof within twenty-four hours of first awareness of the commencement of the upset. Where such information is given orally, a written follow-up report thereof shall be filed by the discharger with the City within five days. The report shall specify:

- (a) Description of the upset, the cause thereof and the upset's impact on a discharger's compliance status;
- (b) 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; and
- (c) All steps taken or to be taken to reduce, eliminate and prevent recurrence of such an upset or other conditions of noncompliance.

A documented and verified bonafide operation upset shall be an affirmative defense to any enforcement action brought by the City against a discharger for any noncompliance with this chapter or any wastewater discharge permit issued pursuant hereto which arises out of violations alleged to have occurred during the period of the upset. (Ord. 7-86. Passed 2-10-86.)

912.10 POWERS AND AUTHORITY OF CITY ENGINEER AND SUPERINTENDENT.

(a) The City Engineer, Superintendent or other duly authorized employees of the City bearing proper credentials and identifications shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this chapter. The City Engineer or his representative shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and sources of discharge to the sewers or waterways or facilities for waste treatment.

(b) While performing the necessary work on private properties referred to in subsection (a) hereof, the City Engineer or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the City employees, and the City shall indemnify the company against loss or damage to its property by City employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Section 912.07(k).

(c) The City Engineer and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of but not limited to inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within such easement. All entry and subsequent work, if any on such easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved. (Ord. 7-86. Passed 2-10-86.)

912.11 HEARING BOARD.

(a) A Hearing Board shall be appointed by the Mayor as needed for arbitration of differences between the City Engineer and sewer users on matters concerning interpretation and execution of the provisions of this chapter. The cost of the arbitration will be divided equally between the City and the sewer user.

(b) One member of the Board shall be a registered professional engineer; one member shall be a representative of an industry or manufacturing enterprise; one member shall be a lawyer and one member shall be selected at large for his interest in accomplishing the objectives of this chapter. (Ord. 7-86. Passed 2-10-86.)

912.12 VALIDITY.

(a) All ordinances or parts of ordinances in conflict herewith are hereby repealed.

(b) The validity of any section, clause, sentence or provision of this chapter shall not affect the validity of any other part of this chapter which can be given effect without such invalid part or parts. (Ord. 7-86. Passed 2-10-86.)

912.99 PENALTY.

(a) Whoever violates any provision of this chapter, shall be served by the Service-Safety Director with a written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall within the period of time stated in such notice, permanently cease all violations.

(b) Whoever continues any violation beyond the time limit provided for in subsection (a) hereof shall be fined not more than one hundred dollars (\$100.00) for each violation. Each day in which any such violation continues shall be deemed a separate offense.

(c) Whoever violates any of the provisions of this chapter shall become liable to the City for any expense, loss or damage occasioned the City by reason of such violation.

(d) The City shall enforce by mandamus, injunction or other legal remedy these rules and regulations, and shall remove any harmful or improper construction or obstruction or shall close any opening or connection made improperly or in violation of these rules and regulations, under authority provided in the Code.

(e) The City shall have full power to invoke any authorized legal, equitable or special remedy for the enforcement of this chapter. (Ord. 7-86. Passed 2-10-86.)

**CHAPTER 913
Drainage Generally**

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CROSS REFERENCES

Power to license sewer tappers - see Ohio R.C. 715.27
 Power to regulate water closets and privies - see Ohio R. C. 715.40
 Compulsory sewer connections - see Ohio R. C. 729.06
 Management and control of sewerage system - see Ohio R. C. 729.50
 Regulations to control house sewers and connections - see Ohio R. C. 729.51
 Untreated sewage - see Ohio R. C. 3701.59
 Interference with sewage flow - see Ohio R. C. 4933.24
 Sewer rates - see S.U. & P. S. Ch. 915
 Subdivision improvements - see P. & Z. 1109.02

913.01 PURPOSE.

The purpose of this chapter is to provide for the health, safety, and general welfare of the citizens of Lancaster, Ohio through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this ordinance are:

- (a) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user
- (b) To prohibit Illicit Connections and Discharges to the municipal separate storm sewer system
- (c) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance
(Ord. 5-14. Passed 4-14-14.)

913.02 DEFINITIONS.

For the purposes of this ordinance, the following shall mean:

- (a) Service Safety Director or his authorized designee: employees or designees of the Service-Safety Directory designated to enforce this ordinance.
- (b) Best Management Practices (BMPs): schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.
- (c) Clean Water Act. The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.
- (d) Construction Activity. Activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of 1 acres or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.
- (e) Hazardous Materials. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
- (f) Illegal Discharge. Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section 913.13.d.(l) of this ordinance.
- (g) Illicit Connections. An illicit connection is defined as either of the following:
 - (1) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an Service Safety Director or his authorized designee or,

- (2) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an Service Safety Director or his authorized designee.
- (h) Industrial Activity. Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).
- (i) MS4-Municipal Separate Storm Sewer System-Storm Drainage System
- (j) National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit. means a permit issued by EPA (or by a State under authority delegated pursuant to 33 USC§ 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.
- (k) Non-Storm Water Discharge. Any discharge to the storm drain system that is not composed entirely of storm water.
- (l) Person: means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.
- (m) Pollutant. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.
- (n) Premises. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
- (o) Storm Drainage System. Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.
- (p) Storm Water. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.
- (q) Stormwater Pollution Prevention Plan: A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Stormwater, Stormwater Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.
- (r) Wastewater means any water or other liquid, other than uncontaminated storm water, discharged from a facility.
(Ord. 5-14. Passed 4-14-14.)

913.03 APPLICABILITY.

This chapter shall apply to all water entering the storm drainage system generated on any developed and undeveloped lands unless explicitly exempted by an Service Safety Director or his authorized designee. (Ord. 5-14. Passed 4-14-14.)

913.04 NOT USED.**913.05 RESPONSIBILITY FOR ADMINISTRATION.**

The Service Safety Director shall administer, implement, and enforce the provisions of this chapter. Any powers granted or duties imposed upon the Service Safety Director may be delegated in writing by the Service Safety Director to persons or entities acting in the beneficial interest of or in the employ of the agency. (Ord. 5-14. Passed 4-14-14.)

913.06 SEWER MAP; RESTRICTION ON TAP PERMIT ISSUANCE.

A map of all sanitary and storm sewers and openings numbered shall be provided and kept in the office of the City Engineer. Permits may be issued to tap the sewers at a location approved by the City Engineer. (Ord. 5-14. Passed 4-14-14.)

913.07 SEWER TAP PERMIT AND FEE.

The sewers shall be in the charge of the Safety-Service Safety Director. No person shall tap any sewer without the consent and by the direction of the Director, and without written permit from the City Engineer, who shall keep a record of the same. The applicant shall, before receiving a permit, pay into the City Treasury the applicable tap fee, to be credited to the appropriate fund. (Ord. 5-14. Passed 4-14-14.)

913.08 SEWER CONSTRUCTION OR CONNECTION SPECIFICATIONS.

The written permit to construct a house sewer or to make a connection to a public sewer shall specify the permissible use of such house sewer and connection, and such specifications shall be governed by the requirements of this chapter. (Ord. 5-14. Passed 4-14-14.)

913.09 OBSTRUCTING SEWERS AND UNLAWFUL TAPS PROHIBITED.

No person shall throw any debris in any catch basin, inlet or manhole or tap any of the City sewers by breaking holes in the sewer pipes. (Ord. 5-14. Passed 4-14-14.)

913.10 TAPPING STORMWATER SEWERS.

An inspection shall be performed upon 72 hour notification by the contractor and a record of the location and material used for each location shall be kept on file by the City Engineer's office. (Ord. 5-14. Passed 4-14-14.)

913.11 SEVERABILITY.

The provisions of this chapter are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this chapter. (Ord. 5-14. Passed 4-14-14.)

913.12 ULTIMATE RESPONSIBILITY.

The standards set forth herein and promulgated pursuant to this chapter are minimum standards; therefore this chapter does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants. (Ord. 5-14. Passed 4-14-14.)

913.13 DISCHARGE PROHIBITIONS.

(a) Prohibition of Illegal Discharges to Sanitary Sewer. Surface water, rainwater from roofs, subsoil drainage, building foundations drainage, cistern overflow, clean water from condensers, waste water from water motors and elevators, and any other clean and unobjectionable waste water shall be discharged into street gutters or into a stormwater sewer or combined sewer, but in no case into a sanitary sewer.

(b) Prohibition of Downspouts or Drains Emptying on Sidewalks. No person owning property which abuts or bounds upon a sidewalk shall cause, allow, or permit downspouts, drains or sewers to empty or discharge water or drainage upon any of the sidewalks of the City.

(c) Prohibition of New Sump Pump Connections to Gutter. For all building permits issued after the effective date of this ordinance shall provide for the connection of all sump discharge lines directly to the nearest approved outlet.

(d) Prohibition of Illegal Discharges to Stormwater System. No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

- (1) The following discharges are exempt from discharge prohibitions established by this ordinance: water line flushing or other potable water sources. landscape irrigation or lawn watering. diverted stream flows. rising ground water. ground water infiltration to storm drains. uncontaminated pumped ground water. foundation or footing drains (not including active groundwater dewatering systems). crawl space pumps. air conditioning condensation springs. non-commercial washing of vehicles. natural riparian habitat or wet-land flows. swimming pools (if dechlorinated -typically less than one PPM chlorine). fire fighting activities. and any other water source not containing Pollutants.
- (2) Discharges specified in writing by the Service Safety Director or his authorized designee as being necessary to protect public health and safety.
- (3) Dye testing by government agencies having jurisdiction within the municipality is an allowable discharge, but requires a verbal notification to the Service Safety Director prior to the time of the test.
- (4) The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

(e) Prohibition of Illicit Connections. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection. A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue. (Ord. 5-14. Passed 4-14-14.)

913.14 PROHIBITION OF DISCHARGES TO THE PUBLIC RIGHT-OF-WAY.

No owner of real property in the City shall be permitted to discharge storm water or rain water or other types of clear water discharges upon or adjacent to the public right-of-way in such a manner that the discharge creates or tends to create a safety hazard for pedestrians and vehicular traffic on the public right-of-way whether such hazard is created in the area immediately bound by the owner property or at a distance from the owner's property.

- (a) The Service Safety Director is herewith charged with the responsibility of periodically surveying the city to determine those areas in which rain and other water discharges upon the public right-of-way have in the past and are likely to in the future create ice hazards during the winter season upon the public right-of-way in the City.
- (b) The Service Safety Director is also herewith charged with the responsibility of investigating complaints of discharge upon the public right-of-way causing a safety hazard to pedestrian or vehicular traffic on the public right-of-way and where, in their judgment, such discharge creates a safety hazard, to order the owner of the property causing such discharge, whether that property owner be the one immediately adjacent to the hazard or at a distance therefrom, to eliminate the water causing such hazard in conformity with the following provisions.
- (c) The Service Safety Director in conjunction with the City Engineer shall determine the source of such water creating such ice hazard and determine the most efficient and economical means of elimination of such hazard and issue such orders as are necessary to achievement of such elimination.
- (d) Such orders shall be served upon the property owner and shall provide for the remedial action to be taken within a definite period of time and shall identify with reasonable specificity the means by which such remedial action shall be taken. (Ord. 5-14. Passed 4-14-14.)

913.15 SUSPENSION OF MS4 ACCESS.

(a) Suspension Due to Illicit Discharges in Emergency Situations. The Service Safety Director or his authorized designee may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the Service Safety Director or his authorized designee may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the United States, or to minimize danger to persons.

(b) Suspension Due to the Detection of Illicit Discharge. Any person discharging to the MS4 in violation of this chapter may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The Service Safety Director or his authorized designee will notify a violator of the proposed termination of its MS4 access.

(c) A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the Service Safety Director or his authorized designee. (Ord. 5-14. Passed 4-14-14.)

913.16 INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.

Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the City Engineer prior to the allowing of discharges to the MS4. (Ord. 5-14. Passed 4-14-14.)

913.17 MONITORING OF DISCHARGES.

(a) Applicability. This section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.

(b) Access to Facilities. The Service Safety Director or his authorized designee shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the Service Safety Director or his authorized designee.

- (1) Facility operators shall allow the Service Safety Director or his authorized designee ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.
- (2) The Service Safety Director or his authorized designee shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the Service Safety Director or his authorized designee to conduct monitoring and/or sampling of the facility's storm water discharge.
- (3) The Service Safety Director or his authorized or his designee has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
- (4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Service Safety Director or his authorized designee and shall not be replaced. The costs of clearing such access shall be borne by the operator.

- (5) Unreasonable delays in allowing the Service Safety Director or his authorized designee access to a permitted facility is a violation of a storm water discharge permit and of this ordinance. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the Service Safety Director or his authorized designee reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.
- (6) If the Service Safety Director or his authorized designee has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this chapter or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the Service Safety Director or his authorized designee may seek issuance of a search warrant from any court of competent jurisdiction. (Ord. 5-14. Passed 4-14-14.)

913.18 REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.

The City Engineer will adopt requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit. (Ord. 5-14. Passed 4-14-14.)

913.19 WATERCOURSE PROTECTION.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse. (Ord. 5-14. Passed 4-14-14.)

913.20 NOTIFICATION OF SPILLS.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or water of the U.S. said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Service Safety Director or his authorized designee in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Service Safety Director within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years. (Ord. 5-14. Passed 4-14-14.)

913.21 ENFORCEMENT.

Whenever the Service Safety Director or his authorized designee finds that a person has violated a prohibition or failed to meet a requirement of this chapter, the Service Safety Director or his authorized designee may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- (a) The performance of monitoring, analyses, and reporting;
- (b) The elimination of illicit connections or discharges;
- (c) That violating discharges, practices, or operations shall cease and desist;
- (d) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; and
- (e) Payment of a fine to cover administrative and remediation costs; and
- (f) The implementation of source control or treatment BMPs. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be assessed to the property taxes. (Ord. 5-14. Passed 4-14-14.)

913.22 APPEAL OF NOTICE OF VIOLATION.

(a) Right to Appeal. Any person affected by a decision of the Service Safety Director or his authorized designee or a notice or order issued under this Chapter shall have the right to appeal to the Hearing Board established under Section 918.08, provided that a written application for appeal is filed within twenty days after the day the decision, notice or order was served.

(b) Limitation of Authority. An application for appeal shall be based on a claim that the true intent of the rules legally adopted hereunder have been incorrectly interpreted, the provisions of this code do not apply, or the requirements of this code are adequately satisfied by other means. (Ord. 5-14. Passed 4-14-14.)

913.23 ENFORCEMENT MEASURES AFTER APPEAL.

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within 30 days of the decision of the Board upholding the decision of the Service Safety Director or his authorized designee, then the Service Safety Director or his authorized designee shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

(Ord. 5-14. Passed 4-14-14.)

913.24 COST OF ABATEMENT OF THE VIOLATION.

(a) Within 45 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written appeal of the amount of the assessment within 20 days. If the amount due is not paid within a timely manner as determined by the decision Service Safety Director or his authorized designee or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

(b) Any person violating any of the provisions of this article shall become liable to the city by reason of such violation.

(Ord. 5-14. Passed 4-14-14.)

913.25 INJUNCTIVE RELIEF.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. If a person has violated or continues to violate the provisions of this ordinance, the Service Safety Director or his authorized designee may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

(Ord. 5-14. Passed 4-14-14.)

913.26 NOT USED.**913.27 VIOLATIONS DEEMED A PUBLIC NUISANCE.**

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken. (Ord. 5-14. Passed 4-14-14.)

913.28 RIGHT TO REIMBURSEMENT.

The Service Safety Director or his authorized designee may recover all attorney's fees court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses. (Ord. 5-14. Passed 4-14-14.)

913.29 REMEDIES NOT EXCLUSIVE.

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the Service Safety Director or his authorized designee to seek cumulative remedies.

(Ord. 5-14. Passed 4-14-14.)

913.30 ADOPTION OF CHAPTER.

This chapter shall be in full force and effect immediately after its final passage and adoption. All prior ordinances and parts of ordinances in conflict with this chapter are hereby repealed. (Ord. 5-14. Passed 4-14-14.)

913.99 CRIMINAL PENALTY.

Any person that has violated or continues to violate this chapter shall be liable to criminal prosecution to the fullest extent of the law, and shall be deemed guilty of an unclassified misdemeanor subject to thirty days jail and a maximum fine of one thousand dollars (\$1,000.00). (Ord. 5-14. Passed 4-14-14.)

**CHAPTER 914
Trucked Waste**

914.01	Permits.	914.05	Regulations.
914.02	Trucked waste operator's license.	914.06	Restrictions and prohibitions.
914.03	Revocation.	914.07	Prohibited activities.
914.04	Suspension.	914.08	Enforceability.

914.01 PERMITS.

(a) A trucked waste discharge permit from the Superintendent shall be required for each vehicle which is to be used for delivery of waste materials to the Lancaster Septage Receiving Station. A trucked waste discharge permit may be issued to an applicant who complies with the terms and conditions of this chapter. The Superintendent may deny an applicant a permit where the applicant has falsified or omitted required information, is delinquent in paying sewer use fees and charges, or is a previous violator of waste disposal regulations.

(b) An application for a trucked waste discharge permit shall be submitted to the Superintendent on an approved form, and shall contain the following information:

- (1) Vehicle owner's name, address and phone number;
- (2) Vehicle operator's name, address and phone number (if not same as the owner);
- (3) If the vehicle owner or operator is a corporation or partnership, the names, addresses and phone numbers of all corporate officers or partners;
- (4) Motor vehicle serial number and valid, permanent Ohio vehicle license number;
- (5) Make and year of vehicle and tank capacity;
- (6) A listing of all other governmental licenses and permits issued to the vehicle or for use of the vehicle;
- (7) Color photographs at least three and one-half (3-1/2) inches by five and one-half (5-1/2) inches in size and clearly showing rear and passenger side views of the vehicle;
- (8) Any other information as shall be required by the Superintendent.

(c) An application fee of twenty-five dollars (\$25.00) shall be submitted with each application along with evidence of a five thousand dollar (\$5,000.00) surety bond for each vehicle for which a permit is requested. Application fee shall be submitted by check or money order made payable to "Lancaster City Treasurer."

(d) Any applicant denied a trucked waste discharge permit will be sent written notice of the reason for the denial within thirty (30) days after submission of the application. Any applicant who is denied a trucked waste discharge permit may appeal to the Service-Safety Director in writing within ten (10) days after receipt of the written notice. Failure on the part of an applicant to file a written appeal within the allotted ten (10) day period shall be deemed as acceptance of the denial of permit on the part of the applicant, and they shall not be eligible for further administrative appeal.

(e) A trucked waste discharge permit shall be valid for one (1) year from its date of issuance unless otherwise suspended or revoked.

(f) Trucked waste discharge permits are not transferable to other vehicles, operators, or owners.

(g) Permit Reissuance. The holder of a trucked waste discharge permit shall apply for permit reissuance by submitting a completed permit application on a form approved by the Superintendent minimum of sixty (60) days prior to the expiration of the hauler's existing permit. (Ord. 15-12. Passed 10-29-12.)

914.02 TRUCKED WASTE OPERATOR'S LICENSE.

(a) Any individual wishing to operate any vehicle which is permitted to discharge trucked waste into the Lancaster sewer system shall obtain a trucked waste operator's license from the Superintendent. No individual shall discharge, or assist in discharging, any trucked waste to the sewer system without having a valid trucked waste operator's license. A trucked waste operator's license may be issued to an applicant who complies with the terms and conditions of this chapter. The Superintendent may deny an applicant a license where the applicant has falsified or omitted required information or is delinquent in paying sewer use fees and charges, or is a previous violator of waste disposal regulations.

(b) All individuals requesting a trucked waste operator's license shall submit an application to the Superintendent on an approved form, which shall include the following information:

- (1) Applicant's name, home address and home phone number;
- (2) Present employer (if other than applicant);
- (3) Name and address of all employers for the previous five (5) years;
- (4) A listing of all criminal convictions, including misdemeanors, and Court of Record for same within the previous five (5) years;
- (5) Any and all civil and/or administrative actions taken against the applicant for violation of any waste disposal regulations in the last five (5) years;
- (6) Any other information as shall be required by the Superintendent.

(c) A nonrefundable application fee of ten dollars (\$10.00) shall be submitted with each application. Application fee shall be submitted by check or money order made payable to "Lancaster City Treasurer, Sewer Fund."

(d) Any applicant denied a trucked waste operator's license shall be sent written notice of the reason for the denial within thirty (30) days after submission of the application. Any applicant who denied a trucked waste operator's license may appeal the denial to the Service-Safety Director in writing within ten (10) days after receipt of the written notice. Failure on the part of an applicant to file a written appeal within the allotted ten (10) day period shall be deemed as acceptance of the denial the license on the part of the applicant, and they shall not be eligible for further administrative appeal.

(e) Each trucked waste operator's license shall be valid for two (2) years from its date of issuance unless otherwise suspended or revoked. A licensee must reapply for a new license at least sixty (60) days prior to the expiration of their current license. Applications shall be made on a form approved by the Superintendent.

(f) Any individual changing employers during the term of their trucked waste operator's license must notify the Superintendent, in writing, of the change.
(Ord. 15-12. Passed 10-29-12.)

914.03 REVOCATION.

Noncompliance with any part of this section, or subsequent regulations or orders as issued by the Superintendent, or other sections of this chapter or sections of other applicable City codified ordinance chapters shall subject the licensee and/or permit holder to revocation of the license and/or permit to utilize the services of the City sewer system for the disposal of trucked wastes. The permit and/or license holder shall be provided written notice of any revocation. The permit and/or license holder may appeal the revocation to the Service-Safety Director in writing, within ten (10) days of receipt of the notice of revocation. Failure to appeal revocation within ten (10) days of notification of the revocation shall be deemed agreement upon the part of the licensee or permit holder to the revocation of that license or permit. Reissuance of any license or permit, after revocation, shall be at the discretion of the Superintendent, and may be made subject to such conditions as the Superintendent deems appropriate. (Ord. 15-12. Passed 10-29-12.)

914.04 SUSPENSION.

(a) In lieu of revocation of any license or permit, the Superintendent may, at his discretion, suspend any license or permit for noncompliance with any part of this section, or pursuant regulations or orders, for a period not to exceed sixty (60) days. The permit and/or license holder shall be provided with written notification of the suspension. The permit and/or license holder may appeal the suspension to the Service-Safety Director in writing within ten (10) days of receipt of the notice of the suspension. Failure on the part of the license or permit holder to appeal the suspension within ten (10) days of receipt of the notice of the suspension shall be deemed agreement on the part of the license or permit holder to the conditions of the suspension.

(b) No person shall use any truck under a permit suspension to discharge waste to the Lancaster sewer system during the period of the suspension, even if the truck is sold or leased to another party during the period of the suspension.

(c) No trucked waste operator shall operate any vehicle discharging waste to the Lancaster sewer system while under suspension even if the trucked waste operator changes employer and/or applies for a new trucked waste operator's license.
(Ord. 15-12. Passed 10-29-12.)

914.05 REGULATIONS.

The Superintendent may establish such regulations as he deems necessary to control the discharge of trucked wastes to the Lancaster sewer system. The Superintendent may restrict, or prohibit, the discharge of trucked wastes to the Lancaster sewer system which originate from sources outside the municipal jurisdiction of the City of Lancaster. These regulations may include, but are not limited to:

- (a) Provisions requiring the display of vehicle permit number and tank capacity in gallons;
 - (b) Minimum equipment and maintenance standards for permitted vehicles;
 - (c) Standards and procedures for use of the City's trucked waste discharge facilities;
 - (d) Training requirements for license holders.
- (Ord. 15-12. Passed 10-29-12.)

914.06 RESTRICTIONS AND PROHIBITIONS.

The Superintendent may restrict or prohibit discharge of any trucked waste to the Lancaster sewer system at his discretion. No trucked waste may be discharged to the Lancaster sewer system without the express, written permission of the Superintendent, or his designee, on a manifest form approved by the Superintendent. The discharge of trucked wastes shall be permitted only at location and during such hours, as shall be established by the Superintendent. Discharge of trucked waste to the sewer system at any other location, or at any other time, is a violation of this chapter. No trucked waste shall be discharged to the sewer system which has any of the following components:

- (a) Material not readily biodegradable or not known to be compatible with the treatment processes utilized in the POTW;
 - (b) Material deleterious to treatment plant operations, or plant operators such as oils and grease of a mineral origin, gasoline, toxic materials, flammables, solvents, paint materials, sand, or other materials capable of causing physical damage to the POTW;
 - (c) Materials which would cause unusual expense in handling and/or treatment, unless prior arrangements have been made at the discretion of the Superintendent for payment of additional cost of services;
 - (d) Any material regulated under a Federal Categorical Pretreatment Standard, or any sludges or wastes resulting from treatment of materials under Federal Categorical Pretreatment Standards;
 - (e) Any materials which violate, or could violate any prohibitive or restrictive provisions of Lancaster Codified Ordinances, Chapters 912 and 916, or which violates any federal or state industrial discharge standards, regulations, or laws.
 - (f) No material other than those from household sources origin may be discharged to the City POTW as a trucked waste unless prior approval has been received by the hauler from the Superintendent. Application for such approval, called a "special waste evaluation request", shall be made on a form approved by the Superintendent.
- (Ord. 15-12. Passed 10-29-12.)

914.07 PROHIBITED ACTIVITIES.

No trucked waste hauler shall access the sewer system or POTW for any activity including discharge or withdrawal of material, except at locations and at times as designated by the Superintendent. Any removal of manhole lids, or other access to the sewer system at times and/or places other than those designated by the Superintendent, or without express permission of the Superintendent shall be considered a violation of the conditions of this section, and subject the violator to revocation of his trucked waste discharge permit and/or operator's license, and/or other enforcement activity as indicated in this chapter and in other applicable City Code chapters. (Ord. 15-12. Passed 10-29-12.)

914.08 ENFORCEABILITY.

Any and all conditions in any permit or license issued pursuant to this section are specifically and independently enforceable regardless of whether they are expressly required by or set out in this chapter. (Ord. 15-12. Passed 10-29-12.)

CHAPTER 915
Sewer Rates

915.01	Declaration of necessity.	915.08	Rates to apply to future connections.
915.02	Definitions.	915.09	Use of Sanitary Sewer Fund.
915.03	User classes.	915.10	Periodic review of sewer rates.
915.04	User rates and charges.	915.11	Validity.
915.05	Strength surcharges.	915.12	Effective date.
915.06	Collection and enforcement duties.	915.13	Application of rates.
915.07	Charges a lien.		

CROSS REFERENCES

Sewerage rates - see Ohio R.C. 729.49
 Weekly deposit of sewer rentals collected - see Ohio R.C. 729.52
 Sewerage and drainage generally - see S.U. & P.S. Ch. 913

915.01 DECLARATION OF NECESSITY.

It is determined and declared to be necessary and conducive to the preservation of the public health, safety, welfare and convenience of the City of Lancaster (City) to levy and collect a service charge or rental to be paid to the City by every person whose lots, lands and premises are served by a connection to the City's sanitary sewerage system, intercepting sewers, sewage pumping works and sewage treatment or disposal works, or part thereof. The proceeds of such charges or rentals shall be for the use of the sewerage system and the pumping, treatment and disposal works of the City, to pay the principal and interest on outstanding and future bonds and notes in accordance with the applicable ordinances and to pay the amounts, if any, provided for in an agreement pursuant to Ohio R.C. 6121.13.
 (Ord. 6-86. Passed 2-10-86.)

915.02 DEFINITIONS.

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

- (1) "BOD" (Biochemical Oxygen Demand) of sewage, sewage effluent, polluted waters or industrial wastes means the quantity of dissolved oxygen in milligrams per liter required during stabilization of the decomposable organic matter by aerobic biochemical action under standard laboratory determination which shall be made in accordance with procedures set forth in "Standard Methods".
 (Ord. 6-86. Passed 2-10-86.)

- (1.5) "CBOD (Carbonaceous Biochemical Oxygen Demand)" of sewage, sewage effluent, polluted waters or industrial wastes means the quantity of dissolved oxygen in milligrams per liter, excluding that required for nitrogenous oxygen demand, required during stabilization of the decomposable organic matter by aerobic biochemical action under standard laboratory procedures for five (5) days at twenty (20) degrees Centigrade. The Laboratory determination shall be made in accordance with procedures set forth in the most recent edition of "Standard Methods". (Ord. 27-94. Passed 8-22-94.)
- (2) "Debt service costs" means the average annual principal and interest payments on all outstanding bonds or other comparable long-term capital obligations.
- (3) "Excessive strength surcharges" means an additional charge which is billed to users for treating sewage wastes with an average strength in excess of "normal domestic sewage".
- (4) "Industrial waste" means solid, liquid or gaseous waste resulting from any industrial, manufacturing, trade or business process or from the development, recovery or processing of natural resources.
- (5) "NPDES" means the National Pollutant Discharge Elimination System permit program as administered by the USEPA or the State of Ohio.
- (6) "NPDES permit" means the National Pollutant Discharge Elimination System permit setting forth conditions for the discharge of any pollutant or combination of pollutants to the navigable waters of the United States pursuant to Section 402 of PL 92-500. (Ord. 6-86. Passed 2- 10-86.)
- (7) "Normal domestic sewage" means sewage having an average daily suspended solids concentration of not more than 300 mg/1, and/or an average daily CBOD concentration of not more than 200 mg/1. (Ord. 27-94. Passed 8-22-94.)
- (8) "Operation and maintenance" means those functions that result in expenditures during the useful life of the treatment works for materials, labor, utilities and other items which are necessary for managing and operating the treatment works in a manner for which such works were designed and constructed. The term "operation and maintenance" includes replacement.
- (9) "Operation and maintenance costs" includes all costs, direct and indirect, necessary to provide adequate wastewater collection, transport and treatment on a continuing basis and produce discharges to receiving waters that conform with all related Federal, State and local requirements including replacement costs.
- (10) "Other service charges" means tap charges, connection charges, area charges and other identifiable charges, other than user charges, debt service charges and excessive strength surcharges.
- (11) "Person" means any and all persons, natural or artificial, including any individual, firm, company, municipal or private corporation, partnership, co-partnership, joint stock company, trust, estate, association, society, institution, enterprise, governmental agency, State of Ohio, the United States of America or other legal entity, or their legal representatives, agents or assigns. The masculine gender includes the feminine, and the singular includes the plural where indicated by the context.

- (12) "Replacement costs" means the 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.
- (13) "SS (suspended solids)" means solids which either float on the surface of or are in suspension in water, sewage or other liquid and which are removable by laboratory filtration. Their concentration shall be expressed in milligrams per liter. Quantitative determination shall be made in accordance with procedures set forth in "Standard Methods".
- (14) "Sewage" means water-carried human wastes or a combination of water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface, storm or other waters as may be present.
- (15) "Shall" is mandatory and "may" is permissive.
- (16) "Treatment works" means any devices and systems for the storage, treatment, recycling and reclamation of municipal sewage, domestic sewage or liquid industrial wastes. These include intercepting sewers, outfall sewers, sewage collection systems, pumping, power and other equipment and their appurtenances; extensions improvement, remodeling additions and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment (including land for the storage of treated wastewater in land treatment system before land application); or any other method or system, for preventing, abating, reducing, storing, treating, separating or disposing of municipal waste or industrial waste, including waste in combined storm water and sanitary sewer systems.
- (17) "Useful life" means the estimated period during which a treatment works will be operated.
- (18) "User charge" means that portion of the total wastewater service charge which is levied in a proportional and adequate manner for the cost of operation, maintenance and replacement of the wastewater treatment works.
- (19) "User class" means the division of wastewater treatment customers by source, function, waste characteristics and process or discharge similarities such as residential, commercial, industrial and institutional/ governmental in the user charge system.
 - A. "Residential user" means any contributor to the City's treatment works whose lot, parcel or real estate, or building is used for domestic dwelling purposes only.
 - B. "Commercial user" means any establishment involved in a commercial enterprise, business or service which discharges primarily segregated domestic wastes or wastes from sanitary conveniences.
 - C. "Industrial user" means any industrial or commercial establishment, manufacturing or processing facility that discharges industrial waste to a publicly-owned treatment works.

- D. "Governmental/institutional user" means any establishment used by any Federal, State or local government, any establishment involved in any educational function which discharges primarily segregated domestic wastes or wastes from sanitary conveniences, and any establishment involved in a social, charitable and/or religious function which discharges primarily segregated domestic wastes or wastes from sanitary conveniences.
- (20) "Water meter" means a water volume measuring and recording device furnished and installed on the user's premises by the City at the user's expense. (Ord. 6-86. Passed 2-10-86.)
- (21) "Base rate" means that portion of the sewer rate which is allocated to cover costs which are proportional to the number of customers served such as billing and other administrative costs.
- (22) "Sewer service charge" means that the total charge levied against users of the sewage system for sewer service. The charge shall include operation, maintenance and replacement charges, plus debt service, capital improvements, and extra strength surcharges. (Ord. 7-95. Passed 2-27-95.)

915.03 USER CLASSES.

Every person whose premises are served by the treatment works shall be charged for the services provided. These charges are established for each user class, as defined, in order that the treatment works shall recover, from each user and user class, revenue which is proportional to its use of the treatment works in terms of volume and load. User charges are levied to defray the cost of operation and maintenance (including replacement) of the treatment works and to provide funds to pay debt service costs. User rates shall be uniform within a user class.

- (a) User charges are subject to the rules and regulations adopted by the United States Environmental Protection Agency, published in the Federal Register May 12, 1983, (40 CFR Part 35). Replacement costs, which are recovered through the system of user charges, shall be based upon the expected service life of the sewage works equipment.
- (b) The various classes of users of the treatment works for the purposes of this chapter, shall be as follows:
- Class 1 - Residential
 - Class 2 - Commercial
 - Class 3 - Industrial
 - Class 4 - Governmental/Institutional.
- (Ord. 6-86. Passed 2 -10-86.)

915.04 USER RATES AND CHARGES.

(a) For the use of and the service rendered by the treatment works, rates and charges shall be collected from the owners of each and every lot, parcel of real estate or building that is connected with the City sanitary system or otherwise discharges sanitary sewage, industrial wastes, water or other liquids, either directly or indirectly into the sanitary sewerage system of the City. Such rates and charges include user charges, debt service costs, excessive strength surcharges and other service charges, which rates shall be payable as hereinafter provided and shall be in an amount determinable as follows:

- (1) The sewer rates and charges shall be based on the quantity of water used on or in the property or premises subject to such rates and charges, as the same is measured by the water meter there in use, plus a base charge, except as herein otherwise provided. For the purpose of billing and collecting the charges for sewage service, the water meters shall be read monthly and the users shall be billed each month. The water usage schedule on which the amount of such rates and charges shall be determined shall be as follows:

RESIDENTIAL/COMMERCIAL:

	<u>User Charge</u>	<u>Debt Service</u>	<u>Total</u>
Base Rate	\$6.54	\$10.24	\$16.78
Treatment	\$4.00/100cf	\$1.79/100cf	\$5.79/100cf
<u>Effective January 1, 2015:</u>			
Base Rate	\$6.81	\$10.67	\$17.48
Treatment	\$4.17/100cf	\$1.86/100cf	\$6.03/100cf
<u>Effective January 1, 2016:</u>			
Base Rate	\$7.09	\$11.12	\$18.21
Treatment	\$4.34/100cf	\$1.94/100cf	\$6.28/100cf
<u>Effective January 1, 2017:</u>			
Base Rate	\$7.39	\$11.59	\$18.98
Treatment	\$4.52/100cf	\$2.02/100cf	\$6.54/100cf

- (2) For residential users of the sewage works that are not metered water users or from whom accurate meter readings are not available, the monthly charge shall be as follows:

	<u>User Charge</u>	<u>Debt Service</u>	<u>Total</u>
Base Rate Treatment (Based upon 800 Cf per mo. average Residential usage)	\$6.54	\$10.24	\$16.78
	\$32.00	\$14.32	\$46.32
Total	\$38.54	\$24.56	\$63.10

Effective January 1, 2015:				
	<u>User</u> <u>Charge</u>		<u>Debt</u> <u>Service</u>	<u>Total</u>
Base Rate	\$6.81		\$10.67	\$17.48
Treatment Rate (based upon 800 c.f. per mo. Average residential usage)	\$33.36	\$14.88	\$48.24	
Total	\$40.17	\$25.55	\$65.72	
Effective January 1, 2016:				
	<u>User</u> <u>Charge</u>		<u>Debt</u> <u>Service</u>	<u>Total</u>
Base Rate	\$7.09		\$11.12	\$18.21
Treatment Rate (based upon 800 c.f. per mo. Average residential usage)	\$34.72	\$15.52	50.24	
Total	\$41.81	\$26.64	\$68.45	
Effective January 1, 2017:				
	<u>User</u> <u>Charge</u>		<u>Debt</u> <u>Service</u>	<u>Total</u>
Base Rate	\$7.39		\$11.59	\$18.98
Treatment Rate (based upon 800 c.f. per mo. Average residential usage)	\$36.16	\$16.16	52.32	
Total	\$43.55	\$27.75	\$71.30	

INDUSTRIAL:

<u>Effective January 1, 2015:</u>		
TIER 1	0-100ccf	\$6.03
TIER 2	101-250ccf	\$5.21
TIER 3	251-2500ccf	\$4.04
TIER 4	>2501ccf	\$3.79
Monthly Customer Charge		\$17.48

Effective January 1, 2016:		
TIER 1	0-100ccf	\$6.28
TIER 2	101-250ccf	\$5.42
TIER 3	251-2500ccf	\$4.21
TIER 4	>2501ccf	\$3.95
Monthly Customer Charge		\$18.21

Effective January 1, 2017:		
TIER 1	0-100ccf	\$6.54
TIER 2	101-250ccf	\$5.65
TIER 3	251-2500ccf	\$4.39
TIER 4	>2501ccf	\$4.12
Monthly Customer Charge		\$18.98

- (3) For the service rendered to the City, the City shall be subject to the same rates and charges hereinabove provided or to charges and rates established in harmony therewith. (Ord. 24-14. Passed 12-8-14.)

(b) The quantity of water discharged into the sanitary sewer system and obtained from sources other than the City shall be determined by the City in such a manner as the City shall reasonably elect, and the sewage service shall be billed at the above appropriate rates; further, as is hereinafter provided in this section, the City may make proper allowances in determining the sewage bill for quantities of water shown on the records to be consumed, but which are also shown to the satisfaction of the City that such quantities do not enter the sanitary sewerage system.

- (1) In the event a lot, parcel of real estate or building discharging sanitary sewage, industrial wastes, water or other liquids into the City's sanitary sewerage system, either directly or indirectly, is not a user of water supplied by the City, the water used thereon or therein is not measured by a water meter or is measured by a water meter not acceptable to the City, then the amount of water used shall be otherwise measured or determined by the City. In order to ascertain the rate or charge provided in this chapter the owner or other interested party shall, at his expense, install and maintain meters, weirs, volumetric measuring devices or any adequate and approved method of measurement acceptable to the City for the determination of sewage discharge.
- (2) In the event a lot, parcel of real estate or building discharging sanitary sewage, industrial wastes, water or other liquids into the City sanitary sewerage system, either directly or indirectly, is a user of water supplied by the City, and in addition, is a user of water from another source which is not measured by a water meter or is measured by a water meter not acceptable to the City then the amount of water used shall be otherwise

measured or determined by the City. In order to ascertain the rates or charges, the owner or other interested parties shall, at his expense, install and maintain meters, weirs, volumetric measuring devices or any adequate and approved method of measurement acceptable to the City for the determination of sewage discharge.

- (3) In the event two or more residential lots, parcels of real estate, or buildings discharging sanitary sewage, water or other liquids into the City sanitary sewerage system, either directly or indirectly, are users of water and the quantity of water is measured by a single water meter, then in each such case, for billing purposes, the quantity of water used shall be averaged for each user and the base charge and the flow rates and charges shall apply to each of the number of residential lots, parcels of real estate or buildings served through the single water meter.
- (4) In the event a lot, parcel of real estate or building discharges sanitary sewage, industrial waste, water or other liquids into the City's sanitary sewerage system either directly or indirectly, and uses water in excess of 1000 cubic feet per month, and it can be shown to the satisfaction of the City that a portion of water as measured by the water meter or meters does not and cannot enter the sanitary sewer system, then the owner or other interested party shall, at his own expense, install and maintain meters, weirs, volumetric measuring devices or any adequate and approved method of measurement acceptable to the City for the determination of sewage discharge. (Ord. 6-86. Passed 2-10-86.)
- (5) In order that the residential users discharging sanitary sewage not be penalized for sprinkling lawns, washing cars, watering gardens, etc., during the months May, June, July, August, September and October, the billing for sanitary sewer services for residential users for the months of May, June, July, August, September and October (summer average) of a particular year shall be based upon that user's average monthly water usage billed during the months January, February, March, April, November and December (winter average). Residential sanitary sewer services applicable to the Summer Average shall apply to each lot, parcel of real estate, or building which is occupied and used as a residence. The Summer Average shall not apply to any premises which are partially used for commercial or industrial purposes.
The Winter Average shall be determined by the customer's actual usage using the previous months November thru April. When the average is calculated, the high and low readings will be discarded. If a customer has less than six (6) readings, the number shall be defaulted to a value of eight hundred (800) cubic feet. For billing purposes, a minimum of three (300) hundred cubic feet shall be set and the lesser of the actual/average (default if used) will be charged. (Ord. 18-06. Passed 4-24-06.)

915.05 STRENGTH SURCHARGES.

In order that the rates and charges may be justly and equitably adjusted to the service rendered to users, the City shall base its charges not only on the volume, but also on strength and character of the stronger-than-normal domestic sewage and wastes which it is required to treat and dispose of. The City shall require the user to determine the strength and content of all sewage and wastes discharged, either directly or indirectly into the sanitary sewer system, in such manner and by such method as the City may deem practicable in the light of the conditions and attending circumstances of the case, in order to determine the proper charge. The user shall furnish a central sampling point available to the City at all times.

- (a) Normal sewage domestic waste strength should not exceed a carbonaceous biochemical oxygen demand of 200 milligrams per liter of fluid or suspended solids in excess of 300 milligrams per liter fluid. Additional charges for treating stronger-than-normal domestic waste shall be made on the following basis:
- (1) Rate surcharge based upon CBOD. There shall be an additional charge of twenty-eight dollars and ninety-nine cents (\$28.99) per 100 pounds of carbonaceous biochemical demand for CBOD received in excess of 200 milligrams per liter of fluid. The rate shall increase to thirty dollars and forty-four cents (\$30.44) per 100 pounds on January 1, 2008.
 - (2) Rate surcharge based upon suspended solids. There shall be an additional charge of seventeen dollars and sixty-seven cents (\$17.67) per 100 pounds of suspended solids for suspended solids received in excess of 300 milligrams per liter of fluid. The rate shall increase to eighteen dollars and fifty-five cents (\$18.55) per 100 pounds on January 1, 2008.
(Ord. 50-07. Passed 11-19-07.)
- (b) The determination of suspended solids and five-day biochemical oxygen demand contained in the waste shall be in accordance with the latest copy of "Standard Methods for the Examination of Water and Wastewater", as written by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation, and in conformance with "Methods for Chemical Analysis of Water and Wastes", U.S. EPA-600/4-79-020.
(Ord. 6-86. Passed 2-10-86.)

915.06 COLLECTION AND ENFORCEMENT DUTIES.

The charge or rentals levied pursuant to this chapter shall be collected by the Safety-Service Department, and the Safety-Service Director shall make and enforce such by-laws and regulations as may be deemed necessary for the safe, economical and efficient management and protection of the City sewerage system and the sewage pumping, treatment and disposal works, for the construction and use of the sewers and connections to the sewerage system, and for the regulation, collection, rebating and refunding of such charge or rentals.

The Director is hereby authorized to prohibit dumping of wastes into the City sewage system, which, at his discretion, are deemed harmful to the operation of the sewage treatment works of the City, or to require methods affecting pretreatment of such wastes to comply with the pretreatment standards included in the National Pollution Discharge Elimination System (NPDES) permit issued to the sewage works and Chapter 916.

- (a) The rates and charges for all users shall be prepared and billed monthly.
- (b) The rates and charges may be billed to the tenant or tenants occupying the properties served, unless otherwise requested in writing by the owner, but such billing shall in no way relieve the owner from the liability in the event payment is not made as herein required. The owners of properties served, which are occupied by a tenant or tenants, shall have the right to examine the collection records of the City for the purpose of determining whether bills have been paid by such tenant or tenants, provided that such examination shall be made at the office at which such records are kept and during the hours that such office is open for business.
- (c) Each user shall be notified, on an annual basis, and in conjunction with the regular bill, of the user rate and that portion of the rate which is attributable to wastewater treatment services. (Ord. 6-86. Passed 2-10-86.)
- (d) As is provided by statute, all rates and charges not paid when due are hereby declared to be delinquent and a penalty of five percent (5%) of the amount of the rates or charges due shall be attached thereto. The time at which such rates or charges shall be paid is now fixed at fifteen (15) days after the date of mailing of the bill. (Ord. 64-05. Passed 10-17-05.)

915.07 CHARGES A LIEN.

Each charge or rental levied by or pursuant to this chapter is made a lien upon the corresponding lot, land or premises served by a connection to the sanitary sewerage system of the City, and if the same is not paid within thirty days after it shall become due and payable, it shall be certified to the County Auditor who shall place the same on the tax duplicate of the County with the interest and penalties allowed by law and shall be collected the same as other taxes are collected. (Ord. 6-86. Passed 2-10-86.)

915.08 RATES TO APPLY TO FUTURE CONNECTIONS.

For any lots, lands, buildings or premises from which connection is made with the City sanitary sewerage system or which begins to discharge sewage, industrial waste, water or other liquids into the City sanitary sewerage system, either directly or indirectly, after the effective date of this chapter charges shall be made pursuant to this chapter. (Ord. 6-86. Passed 2-10-86.)

915.09 USE OF SANITARY SEWER FUND.

The funds received from the collection of the charges or rentals authorized by this chapter, shall be deposited with the City Treasurer and shall be accounted for and be known as the Sanitary Sewer Fund and, when appropriated by Council, shall be available for the payment of the cost and expense of the management, maintenance, operation and repair of the City sewerage system and the sewage pumping, treatment and disposal works. Any surplus in the Operation, Maintenance and Replacement (OM & R) segment of the Sanitary Sewer Fund must be used for OM & R purposes and as provided by law. Any surplus in the Capital Improvements or Debt Retirement segment of the Sanitary Sewer Fund may be used for any purpose other than OM & R, and as provided by law. (Ord. 7-95. Passed 2-27-95.)

915.10 PERIODIC REVIEW OF SEWER RATES.

(a) In order that the rates and charges for sewage services may remain fair and equitable and be in proportion to the cost of providing services to the various users or user classes, the City shall cause a study to be made within a reasonable period of time following the first year of operation, after completion of construction. Such study shall include, but not be limited to, an analysis of the costs associated with the treatment of excessive strength effluents from industrial users, volume and delivery flow rate characteristics attributed to the various users or user classes, the financial position of the treatment works and the adequacy of its revenue to provide reasonable funds for the operation and maintenance, replacements, debt service requirements and capital improvements to the treatment works.

(b) Thereafter, on an annual basis, within a reasonable period of time following the normal accounting period, the City shall cause a similar study to be made for the purpose of reviewing the fairness and equity of the rates and charges for sewage services on a continuing basis. Such studies shall be conducted by officials or employees of the City, or by a firm of certified public accountants, or a firm of consulting engineers which firms shall have experience in such studies, or by such combination of officials, employees, certified public accountants or engineers as the City shall determine to be best under the circumstances.

(c) Further, the results of such study shall be used as a basis for any rate adjustments necessary to maintain sufficiency of revenue and/or proportionality between classes. (Ord. 6-86. Passed 2-10-86.)

915.11 VALIDITY.

The invalidity of any section, clause, sentence or provision of this chapter shall not affect the validity of any other part of this chapter which can be given effect without such invalid part or parts. (Ord. 6-86. Passed 2-10-86.)

915.12 EFFECTIVE DATE.

The rates and charges as herein set forth shall become effective on the first full billing period occurring after the effective date of this section. (Ord. 6-86. Passed 2-10-86.)

915.13 APPLICATION OF RATES.

The user charge rates established in this chapter apply to all users of the City treatment works. (Ord. 6-86. Passed 2-10-86.)

CHAPTER 916
Wastewater Pretreatment

916.01	Purpose and policy.	916.12	Revocation of permit.
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CROSS REFERENCES

Use of public and private sewers - see S.U. & P.S. Ch. 912
Sewerage generally - see S.U. & P.S. Ch. 913
Sewer rates - see S.U. & P.S. Ch. 915

916.01 PURPOSE AND POLICY.

(a) This chapter sets forth uniform requirements for dischargers into the wastewater collection and treatment systems of the City of Lancaster, and enables the City to protect public health in conformity with all applicable local, State and Federal laws relating thereto.

(b) The objectives of this chapter are:

- (1) To prevent the introduction of pollutants into the City wastewater system which will interfere with the normal operation of the system or contaminate the resulting municipal sludge;
- (2) To prevent the introduction of pollutants into the City wastewater system which do not receive adequate treatment in the POTW, and which will pass through the system into receiving waters or the atmosphere or otherwise be incompatible with the system;
- (3) To improve the opportunity to recycle and reclaim wastewater and sludge from the system.

(c) This chapter provides for the regulation of discharges into the City wastewater system through the issuance of permits. This chapter does not provide for the recovery of operations, maintenance or replacement costs of the POTW or the costs associated with the construction of collection and treatment systems used by industrial dischargers, in proportion to their use of the POTW which are the subject of separate enactments.

(d) This chapter shall apply to the City of Lancaster and to persons outside the City who are, by contract or agreement with the City, users of the City POTW. Except as otherwise provided herein, the Superintendent of the City POTW shall administer, implement and enforce the provisions of this chapter. (Ord. 16-15. Passed 11-23-15.)

916.02 DEFINITIONS.

(a) Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

- (1) "Act or the Act" means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq.
- (2) "Applicable pretreatment standard" means any pretreatment limit or prohibitive standard, whether Federal and/or local which is contained in this chapter and deemed to be the most restrictive which nondomestic users will be required to comply with.
- (3) "Approval authority" means the Director in an NPDES state with an approved State pretreatment program and the Administrator of the EPA in a non-NPDES state or NPDES state without an approved State pretreatment program.
- (4) "Authorized representative of industrial user" means either:
 - A. A principal executive officer of at least the level of vice-president, if the industrial user is a corporation;
 - B. A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively;
 - C. A duly authorized representative of the individual designated above, if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.
- (5) "Average monthly discharge limitation" means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.
- (6) "Average weekly discharge limitation" means the highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges, measured during a calendar week divided by the number of daily discharges measured during that week.
- (7) "Beneficial uses" mean uses which include, but are not limited to, domestic, municipal, agricultural and industrial use, power generation, recreation, aesthetic enjoyment, navigation, and the preservation and enhancement of fish, wildlife, and other aquatic resources or reserves, and other uses, both tangible or intangible, as specified by State or Federal law.

- (8) "Best Management Practices" or "BMPs" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in rule 3745-3-04 of the Administrative Code. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. The POTW may develop BMPs and such BMPs shall be considered local limits and pretreatment standards for the purpose of this rule.
- (9) "Building sewer" means a sewer conveying wastewater from the premises of a user to the POTW.
- (10) "Categorical pretreatment standards" mean National pretreatment standards specifying quantities or concentrations of pollutants or pollutant properties which may be discharged or introduced into a POTW by specific industrial discharges.
- (11) "City" means the City of Lancaster, Ohio, or the Council of Lancaster, Ohio.
- (12) "Composite sample" means a composite sample should contain a minimum of eight discrete samples taken at equal time intervals over the compositing period or proportional to the flow rate over the compositing period. More than the minimum number of discrete samples shall be required where the wastewater loading is highly variable.
- (13) "Cooling water" means the water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.
- (14) "Control authority" means the approval authority, as defined hereinabove, or the Superintendent if the City has an approved pretreatment program under the provisions of 40 CFR, 403.11.
- (15) "Daily discharge" means the discharge of a pollutant measured during a calendar day or any twenty-four hour period that reasonably represents the calendar for purposes of sampling.
- (16) "Direct discharge" means the discharge of treated or untreated wastewater directly to the waters of the State of Ohio.
- (17) (EDITOR'S NOTE: This subsection was repealed by Ordinance 26-91, passed June 10, 1991.)
- (18) "Easement" means an acquired legal right of the specific use of land owned by others.
- (19) "Environmental Protection Agency or EPA" means the U. S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the administrator or other duly authorized official of such agency.
- (20) "Garbage" means any solid wastes from the preparation, cooking or dispensing of food and from handling, storage or sale of produce.
- (21) "Ground or shredded garbage" means garbage that is shredded to such a degree that all particles are carried freely in suspension under the conditions normally prevailing in the sewerage system, with no particle being greater than one-half inch in dimension.
- (22) "Grab sample" means a sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.
- (23) "Holding tank waste" means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks and vacuum- pump tank trucks.

- (24) "Indirect discharge" means the discharge or the introduction of nondomestic pollutants from any source regulated under Section 307 (b) or (c) of the Act, (33 U.S.C. 1317), into the POTW, including holding tank waste discharged into the system.
- (25) "Industrial user" means any industrial or commercial establishment manufacturing or processing facility that discharges industrial waste to a publicly-owned treatment works.
- (26) "Industrial waste" means solid, liquid or gaseous waste resulting from any industrial, manufacturing, trade or business process or from the development, recovery or processing of natural resources.
- (27) "Industrial waste permit" means a permit to deposit or discharge industrial waste into any sanitary sewer as issued by the POTW.
- (28) "Effluent" means the water, together with any waste that may be present, flowing into a drain, sewer, receptacle or outlet.
- (29) "Interference" means the inhibition or disruption of the POTW treatment processes or operations which contributes to a violation of any requirement of the City's NPDES permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with Section 405 of the Act, (33 U. S. C. 1345) or any criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent State criteria, including those contained in any State sludge management plan prepared pursuant to Title IV of SWDA, applicable to the method of disposal or use employed by the POTW.
- (30) "Maximum daily discharge limitation" means highest allowable daily discharge.
- (31) "May" indicates a discretionary condition.
- (32) "National categorical pretreatment standard or pretreatment standard" means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307 (b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of industrial users.
- (33) "National prohibitive discharge standard or prohibitive discharge standard" means any regulation developed under the authority of Section 307 (b) of the Act and 40 CFR, Section 403.5.
- (34) "New source" means any source, the construction of which is commenced after the publication of proposed regulations prescribing a Section 307 (c) (33 U.S.C. 1317) categorical pretreatment standard which will be applicable to such source, if such standard is thereafter promulgated within 120 days of proposal in the Federal Register. Where the standard is promulgated later than 120 days after proposal, a new source means any source, the construction of which is commenced after the date of promulgation of the standard.
- (35) "Normal sewage" means sewage having an average daily suspended solids concentration of not more than 300 mg/l, and/or an average daily BOD of not more than 200 mg/l.
- (36) "NPDES" means the National Pollutant Discharge Elimination System permit program as administered by the USEPA or the State of Ohio.
- (37) "NPDES permit" means the National Pollutant Discharge Elimination System permit setting forth conditions for the discharge of any pollutant or combination of pollutants to the navigable waters of the United States pursuant to Section 402 of PL 92-500.

- (38) "Other wastes" mean decayed wood, sawdust, shavings, bark, lime, refuse, ashes, garbage, offal, oil, tar, chemicals and all other substances except sewage and industrial wastes.
- (39) "Pass through" means a discharge that exits the POTW into waters of the state in quantities or concentrations that alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).
- (40) "Person" means any and all persons, natural or artificial, including any individual, firm, company, municipal or private corporation, partnership, copartnership, joint stock company, trust, estate, association, society, institution, enterprise, governmental agency, the State of Ohio, the United States of America, or other legal entity, or their legal representatives, agents or assigns. The masculine gender includes the feminine, and the singular includes the plural, where indicated by the context.
- (41) "Pollution" means an alteration of the quality of the waters of the State by waste to a degree which unreasonably affects such waters for beneficial uses or facilities which serve such beneficial uses. The man-made or man induced alteration of the chemical, physical, biological and radiological integrity of water.
- (42) "Pollutant" means any substance discharged into a POTW or its collection system, listed in this chapter and the list of priority pollutants or any substance which upon exposure to or assimilation into any organism will cause adverse effects such as cancer, genetic mutations or physiological manifestations as defined in standards issued pursuant to Section 307 (a) of the Act.
- (43) "Pollutant parameters" include the following:
- A. "Biological Oxygen Demand (BOD)" of sewage, sewage effluent, polluted waters or industrial wastes means the quantity of dissolved oxygen in milligrams per liter required during stabilization of the decomposable organic matter by aerobic biochemical action under standard laboratory procedures for five days at twenty degrees Centigrade. The laboratory determination shall be made in accordance with procedures set forth in Standard Methods.
 - B. "Chemical Oxygen Demand (COD)" of sewage, sewage effluent, polluted waters or industrial wastes means a measure of the oxygen equivalent of that portion of the organic matter in a sample that is susceptible to oxidation by a strong chemical oxidant. The laboratory determination shall be made in accordance with procedures set forth in Standard Methods.
 - C. "Fecal coliform" means any of a number of organisms common to the intestinal tract of man and animals, whose presence in sanitary sewage is an indicator of pollution.
 - D. "Floatable oil" means oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility.
- (44) A. "Grease and oil" means a group of substances including hydrocarbons, fatty acids, soaps, fats, waxes, oils or any other material that is extracted by a solvent from an acidified sample and that is not volatilized during the laboratory test procedures. Greases and oils are defined by the method of their determination in accordance with Standard Methods.

- B. "Grease and oil of animal and vegetable origin" means substances that are of a less readily biodegradable nature such as are discharged by meatpacking, vegetable oil and fat industries, food processors, canneries and restaurants.
 - C. "Grease and oil of mineral origin" means substances that are less readily biodegradable than grease and oil of animal and vegetable origin; and are derived from a petroleum source. Such substances include machinery lubricating oil, gasoline station wastes, petroleum refinery wastes, storage depot wastes.
 - D. "pH" means the logarithm to the base 10 of the reciprocal of the hydrogen ion concentration of a solution expressed in gram atoms per liter of solution.
 - E. "Suspended solids" means solids which either float on the surface of or are in suspension in water, sewage or other liquid and which are removable by laboratory filtration. Their concentration shall be expressed in milligrams per liter. Quantitative determination shall be made in accordance with procedures set forth in Standard Methods.
 - F. "Total solids" means the sum of suspended and dissolved solids.
 - G. "Volatile organic matter" means the material in the sewage solids transformed to gases or vapors when heated at 550 degrees Centigrade for 15 to 20 minutes.
 - H. Any other pollutant parameter deemed appropriate.
- (45) "POTW" means any sewage treatment works and the sewers and conveyance appurtenances discharging thereto, owned and operated by the City.
 - (46) "Pretreatment or treatment" means 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 a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes, or other means except as prohibited by 40 CFR Section 403.6(d).
 - (47) "Pretreatment requirements" mean any substantive or procedural requirement related to pretreatment, other than a National pretreatment standard imposed on an industrial user.
 - (48) "Receiving stream" means the watercourse, stream or body of water receiving the waters finally discharged from the wastewater treatment plant.
 - (49) "Sewage" means water-carried human wastes or a combination of water carried wastes from residence, business, buildings, institutions and industrial establishments, together with such ground, surface, storm or other waters as may be present.
 - (50) "Sewer" means any pipe, conduit, ditch or other device used to collect and transport sewage or storm water from the generating source.
 - (51) " Shall" is mandatory.
 - (52) "Significant Industrial User" means a contributor that:
 - A. Is subject to categorical pretreatment standards under 40 CFR 403.6
 - B. Or applies to the following criteria:
 - i. Discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (process wastewater excludes sanitary, non-contact cooling and boiler blowdown wastewaters);

- ii. Has in its waste a toxic pollutant in toxic amounts as defined in Section 307 of the Federal Act;
 - iii. Has a flow greater than five percent (5%) of the flow carried by the City system receiving the waste;
 - iv. Has in its wastes toxic pollutants as defined pursuant to Section 307 of the Act or State statutes and rules; or
 - v. Is found by the City, State or Federal EPA to have significant impact, either singly or in combination with other contributing industries, on the wastewater treatment system, the quality of sludge, the system's effluent quality or air emissions generated by the system.
- (53) "Sludge" means any solid, semi-solid or liquid waste generated from a Municipal, commercial or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility or any other waste having similar characteristics and effects as defined in standards issued under Section 402, 405 of the Federal Act and in the applicable requirements under Sections 3001, 3004 and 4004 of the Solid Waste Disposal Act PL 94-580.
- (54) "Slugload" or "slug discharge" is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge that has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, local limits or permit conditions. means any substance released in a discharge at a rate and/or concentration which causes interference to a POTW.
- (55) "State" means the State of Ohio.
- (56) "Standard Industrial Classification (SIC)" means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.
- (57) "Standard Methods" mean the laboratory procedures set forth in the latest edition, at the time of analysis, of "Standard Methods for the Examination of Water and Wastewater" prepared and published jointly by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation.
- (58) "Storm water" means any flow occurring during or following any form of natural precipitation and resulting therefrom.
- (59) "Superintendent" means the person designated by the City to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this chapter, or his duly authorized representative.
- (60) "Toxic amount" means concentrations of any pollutant or combination of pollutants which upon exposure to or assimilation into any organism will cause adverse effects such as cancer, genetic mutations and physiological manifestations, as defined in standards issued pursuant to Section 307 (a) of PL 92-599.
- (61) "Toxic pollutant" means those substances referred to in Section 307 (a) of the Act as well as any other known potential substances capable of producing toxic affects.
- (62) "Unpolluted water" means 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 benefited by discharge to sanitary sewers and wastewater treatment facilities provided.

- (63) "Upset" means an exceptional incident in which a discharger 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 discharger, and excluding noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation thereof.
- (64) "User" means any person who contributes, causes or permits the contribution of wastewater into the City's POTW.
- (65) "Wastewater" means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities and institutions, together with any ground water, surface water or storm water that may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.
- (66) "Wastewater constituents and characteristics" mean the individual chemical, physical, bacteriological and radiological parameters, including volume, flow rate and such other parameters that serve to define, classify or measure the contents, quality and strength of wastewater.
- (67) "Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently.
- (68) "Waters of the State" mean all streams, lakes, ponds, marshes, water courses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof. (Ord. 16-15. Passed 11-23-15.)

916.03 ABBREVIATIONS.

The following abbreviations shall have the designated meanings:

BOD	Biochemical Oxygen Demand.
BMP	Best Management Practices.
CFR	Code of Federal Regulations.
COD	Chemical Oxygen Demand.
EPA	Environmental Protection Agency.
l	liter.
mg	milligrams.
mg/l	milligrams per liter.
NPDES	National Pollutant Discharge Elimination System.
POTW	Publicly Owned Treatment Works.
SIC	Standard Industrial Classification.
SWDA	Solid Waste Disposal Act, 42 U.S.C. 6901, et seq.
USC	United States Code.
TSS	total suspended solids.

(Ord. 16-15. Passed 11-23-15.)

916.04 SUBSTANCE DISCHARGE PROHIBITIONS.

No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW. These general prohibitions apply to all users of a POTW whether or not the user is subject to National categorical pretreatment standards or any other National, State or local pretreatment standards or requirements. A user may not contribute the following substances to any public sewer:

- (a) Pollutants which create a fire or explosion hazard in the POTW, including but not limited to, wastestream with a closed cup flashpoint of less than 140° Fahrenheit or 60° Centigrade, using the test method specified in 40 CFR 261.21.
- (b) Solid or viscous substances which may cause obstruction to the flow in a sewer or cause interference or pass through at the wastewater treatment facilities, such as, but not limited to grease, garbage with particles greater than one-half inch in any dimensions, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, tar, asphalt residues, mud, petroleum, oil, nonbiodegradable cutting oil, or products of mineral oil origin or glass grinding or polishing wastes.
- (c) Any wastewater having a pH less than 5.5 or higher than 10.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment or personnel of the system.
- (d) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in this chapter or a categorical pretreatment standard. A toxic pollutant includes but is not limited to any pollutant identified pursuant to Section 307 (a) of the Act.
- (e) Any noxious or malodorous liquids, gases or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.
- (f) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; any criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State criteria applicable to the sludge management method being used.
- (g) Any substance which will cause the POTW to violate its NPDES and/or State disposal system permit or the receiving water quality standards.
- (h) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.
- (i) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds 40° C. (104° F.).
- (j) Any slugload, which means any pollutant, including oxygen demanding pollutants (BOD, etc.), released in a single extraordinary discharge episode of such volume or strength as to cause interference to the POTW.
- (k) Any unpolluted water including, but not limited to noncontact cooling water unless the POTW is designated as a combined sewer.
- (l) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as exceed limits established by the City in compliance with applicable State or Federal regulations.
- (m) Any wastewater which causes a hazard to human life or creates a public nuisance.

- (n) Hauled septic or industrial wastes, except at locations and at times as designated by the Superintendent. Any removal of manhole lids, or other access to the sewer system for the purpose of discharging wastes at times and/or locations other than those designated by the Superintendent, or without the expressed permission of the Superintendent, shall be considered a violation and shall be subject to enforcement action, including fines and penalties allowed under this chapter. (Ord. 16-15. Passed 11-23-15.)

916.05 LIMITATIONS ON WASTEWATER STRENGTH.

(a) Federal Categorical Pretreatment Standards. Upon the promulgation of the Federal categorical pretreatment standards for a particular industrial subcategory, the Federal standard, if more stringent than limitations imposed under this chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter. The Superintendent shall notify all affected users of the applicable reporting requirements under 40 CFR, Section 403.12.

(b) Modification of Federal Standards. Where the City's wastewater treatment system achieves consistent removal of pollutants limited by Federal pretreatment standards, the City may apply to the approval authority for modification of specific limits in the Federal pretreatment standards. "Consistent removal" means reduction in the amount of a pollutant or alteration of the nature of the pollutant by the wastewater treatment system to a less toxic or harmless state in the effluent which is achieved by the system in ninety-five percent (95%) of the samples taken when measured according to the procedures set forth in Section 403.7 (c) (2) of Title 40 of the Code of Federal Regulations, Part 403 "General Pretreatment Regulations for Existing and New Sources of Pollution" promulgated pursuant to the Act. The City may then modify pollutant discharge limits in the Federal pretreatment standards if the requirements contained in 40 CFR, Part 403, Section 403.7, are fulfilled and prior approval from the approval authority is obtained.

(c) State Requirements. State requirements and limitations on discharges to the POTW shall be met by all dischargers which are subject to such standards in any instance in which they are more stringent than Federal requirements and limitations or those in this chapter or any other applicable ordinance.

(d) Right of Revision. The City reserves the right to amend this chapter to provide for more stringent limitations or requirements on discharges to the POTW where deemed necessary to comply with the objectives set forth in Section 916.01.

(e) Dilution. No discharger shall increase the use of potable or process water in any way, nor mix separate waste streams for the purpose of diluting a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the standards set forth in this chapter.

(f) Supplementary Limitations No discharger shall discharge wastewater containing concentrations of the following enumerated materials, exceeding the following values:

MATERIALS	INDUSTRIAL EFFLUENT LIMITATIONS MAX/DAY (mg/l)
Arsenic	0.043
Mercury	0.0002
Silver	0.021
Oil and Grease	100

Any other pollutants of concern shall be controlled in the industrial users control document (permit) based on mass proportioning of these pollutants. Annual review and proportioning shall occur by the City, with written notification to the user. (Ord. 16-15. Passed 11-23-15.)

916.06 ACCIDENTAL DISCHARGES.

(a) Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this chapter. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner's or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the City for review, and shall be approved by the City before construction of the facility. All existing users shall complete such a plan within ninety days of the effective date of this section. No user who commences contribution to the POTW after the effective date of this section shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the City. Review and approval of such plans and operating procedures by the City shall not relieve the user from the responsibility to modify the user's facility as necessary to meet the requirements of this chapter. In the case of an accidental discharge or the occurrence of a slugload, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.

(b) At least once during the term of each significant industrial user's control mechanism or within one year of being identified as a significant industrial user, the City will evaluate the need for a plan, device or structure to control potential slug control discharges.

(c) Written Notice. Within five days following an accidental discharge or the occurrence of a slugload, the user shall submit to the Superintendent a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil or criminal penalties, or other liability which may be imposed by this chapter or other applicable law.

(d) All industrial users shall promptly notify the POTW at least 30 days in advance of any substantial change in the volume or character of pollutants in their discharge. Significant industrial users shall notify the POTW immediately of any changes at its facility affecting the potential for a slug discharge.

(e) Notice of Employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall insure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.
(Ord. 16-15. Passed 11-23-15.)

916.07 FEES.

(a) Cost Purpose. It is the purpose of this chapter to provide for the recovery of costs from users of the City's wastewater disposal system for the implementation of the program established herein. The applicable charges or fees shall be set forth in the City's schedule of charges and fees.

(b) Charges and Fees. The City may adopt charges and fees which may include:

- (1) Fees for reimbursement of costs of setting up and operating the City's pretreatment program;
- (2) Fees for monitoring, inspections and surveillance procedures;
- (3) Fees for reviewing accidental discharge procedures and construction;
- (4) Fees for permit applications;
- (5) Fees for filing appeals;
- (6) Fees for consistent removal by the City of pollutants otherwise subject to Federal pretreatment standards;
- (7) Other fees as the City may deem necessary to carry out the requirements contained herein.

(c) Separate Fees. These fees relate solely to the matters covered by this chapter and are separate from all other fees chargeable by the City.
(Ord. 16-15. Passed 11-23-15.)

916.08 STRENGTH SURCHARGE.

(a) Every person, firm or corporation whose premises are served by a sewer connection which discharges sanitary sewage, industrial wastes, water or other liquids, other than normal sewage, either directly or indirectly into the sewerage system under the jurisdiction of the City, shall be charged and shall pay a sewage surcharge in addition to the sewerage service charge for normal domestic sewage.

(b) The basis of the surcharge shall be determined on the following constituents of the water or wastes that are in excess of "normal sewage":

- (1) Total suspended solids;
- (2) C.B.O.D., five days at 20 degrees Centigrade;

When any or all of the total suspended solids or C.B.O.D. of a water or waste accepted for admission to the City sewage works exceeds the values of these constituents for normal domestic sewage, payment of the treatment surcharge will be computed as the cost of treating the excess quantities of waste based upon the weight in units of 100 pounds.

(c) Strength surcharges are hereby established as follows:

<u>Pollutant Parameters</u>	<u>Cost Per 100 Pounds</u>
Carbonaceous Biochemical Oxygen Demand	\$28.99
Suspended Solids	\$17.67
Effective January 1, 2008	
Carbonaceous Biochemical Oxygen Demand	\$30.44
Suspended Solids	\$18.55

(d) Industrial waste surveillance charge is hereby established at one hundred eighty dollars (\$180.00) each time monitored.

(e) Water Pollution Control Fund. Funds received from the strength surcharge and the industrial waste surveillance charge shall be deposited in the Water Pollution Control Fund.

(f) Charge Adjustment.

(1) Each year on or before July 1, the Superintendent of the Water Pollution Control Department shall submit to the Service-Safety Director a recommended system of strength surcharges, surcharges and industrial waste surveillance charges. If approved, the Director shall submit the schedule of charges at the first regular meeting in October of Council for ratification and incorporation into the City ordinances.

(2) The system shall be in accordance with the following requirements:

Strength Surcharge.

The cost of treating and handling the extra strength constituents of B.O.D. and suspended solids shall be determined and reported in the schedule at a cost per 100 pounds.

Industrial Waste Surveillance Costs.

The cost shall be determined by calculating the actual cost of gathering samples, testing and reporting the results of analysis and distributing the cost proportionately to the appropriate customers.

(Ord. 16-15. Passed 11-23-15.)

916.09 WASTEWATER DISCHARGE PERMITS.

(a) Required. It shall be unlawful to discharge sewage, industrial wastes or other wastes to any sewer within the jurisdiction of the City, and/or to the POTW without a permit issued by the City.

(b) Connecting or Discharging. All industrial dischargers proposing to connect to or discharge sewage, industrial wastes and other wastes to the POTW shall obtain a wastewater discharge permit before connecting to or discharging to the POTW. All existing industrial dischargers connected to or discharging to the POTW shall obtain a wastewater discharge permit within ninety days after the effective date of this section.

(c) Permit Application. Industrial dischargers shall complete and file with the City, a permit application therefor in the form prescribed by the City, accompanied by the appropriate fee. Existing industrial dischargers shall apply for a wastewater discharge permit within thirty days after the effective date of this section, and proposed new dischargers shall apply at least ninety days prior to connecting to the POTW. No discharge permit shall be issued unless the following conditions have been met:

- (1) Disclosure of name, address and location of the discharger including the name of the operator and owners;
- (2) Disclosure of a list of any environmental control permits held by or for the facility;
- (3) Disclosure of North American Industry Classification System Standard Industrial Classification (NAICSSIC) number according to the Standard Industrial Classification Manual, Office of Management and Budget Bureau of the Budget, 20121972, as amended;

- (4) Disclosure of wastewater constituents and characteristics including but not limited to those mentioned in this chapter as determined by bonafide chemical and biological analysis. Sampling and analysis shall be performed in accordance with procedures established by the U. S. EPA pursuant to Section 304 (g) of the Act and contained in 40 CFR, Part 136, as amended. The sample shall be representative of daily operations;
- (5) Disclosure of time and duration of discharge;
- (6) Disclosure of average daily and instantaneous peak wastewater flow rates, in gallons per day, from each regulated process stream and each other stream as necessary to allow use of the combined wastestream formula of 40 CFR 403.6. This includes daily, monthly and seasonal variations, if any. All flows shall be measured unless other verifiable techniques are approved by the City due to cost or nonfeasibility;
- (7) Disclosure of site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, inspection manholes, sampling chambers and appurtenances by size, location and elevation. This includes a schematic process diagram which indicates points of discharge to the POTW from the regulated processes;
- (8) Description of activities, facilities and plant processes on the premises including all materials which are or may be discharged to the sewers or works of the City;
- (9) Disclosure of the nature and concentration of any pollutants or materials prohibited by this chapter in the discharge, together with a statement regarding whether or not compliance is being achieved with this chapter on a consistent basis and if not, whether additional operation and maintenance activities and/or additional pretreatment is required for the discharger to comply with this chapter;
- (10) Where a BMP or a pollution prevention alternative is necessary, the industrial user shall submit documentation as required by the control authority or the applicable standards to determine compliance with the standard;
- (11) Where additional pretreatment and/or operation and maintenance activities will be required to comply with this chapter, the discharger 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 completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:
 - A. 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 discharger 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 a contract for major components, commencing construction, completing construction, and all other acts necessary to achieve compliance with this chapter.
 - B. Under no circumstance shall the City permit a time increment for any single step directed toward compliance which exceeds nine months.

- C. Not later than fourteen days following each milestone date in the schedule and the final date for compliance, the discharger shall submit a progress report to the City, 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 on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the discharger to return the construction to the approved schedule. In no event shall more than nine months elapse between such progress reports to the City.
- (12) Disclosure of each product produced by type, amount, process or processes, and rate of production;
 - (13) Disclosure of the type and amount of raw materials utilized (average and maximum per day);
 - (14) Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;
 - (15) Any other information as may be deemed by the City to be necessary to evaluate the permit application;
 - (16) All permit applications shall include a statement, reviewed and signed by an authorized representative of the industrial user (as specified in paragraph (17) below), certifying whether categorical pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance or additional pretreatment or both, is required by the industrial user to meet the categorical pretreatment standards and requirements.
 - (17) All permit applications for new or modified permits shall be signed by a principal executive officer of the discharger, and a licensed professional engineer and all renewal applications for existing permits shall be signed by a principal executive officer of the discharger.

(d) The City will evaluate the complete application and data furnished by the discharger and may require additional information. Within thirty days after full evaluation and acceptance of the data furnished, the City shall issue a wastewater discharge permit subject to terms and conditions provided herein.

(e) Permit Modification. The City reserves the right to amend any wastewater discharge permit issued hereunder in order to assure compliance by the City with applicable laws and regulations. Within nine months of the promulgation of a National categorical pretreatment standard, the wastewater discharge permit of each discharger subject to such standards shall be revised to require compliance with such standards within the time frame prescribed by such standards. All National categorical pretreatment standards adopted after adoption of this section shall be adopted by the City as part of this chapter. Where a discharger, subject to a National categorical pretreatment standard, has not previously submitted an application for a wastewater discharge permit as required by Section 916.09, the discharger shall apply for a wastewater discharge permit from the City within 180 days after the promulgation of the applicable National categorical pretreatment standard by the U. S. EPA. In addition, any discharger with an existing wastewater discharge permit shall submit to the City within 180 days after the promulgation of an applicable National categorical pretreatment standard, the information required by Section 916.09(c)(8) and (9). The discharger shall be informed of any proposed changes in his permit at least thirty days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(f) Permit Conditions. Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by the City. Permits shall contain the following:

- (1) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;
- (2) Limits on the average and maximum wastewater constituents and characteristics;
- (3) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;
- (4) Requirements for installation and maintenance of inspection and sampling facilities;
- (5) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;
- (6) Compliance schedules;
- (7) Requirements for submission of technical reports or discharge reports, per subsection (d) hereof;
- (8) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the City, and affording City access thereto;
- (9) Requirements for notification of the City of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;
- (10) Requirements for notification of slug discharges as per Section 916.06(a);
- (11) Other conditions as deemed appropriate by the City to ensure compliance with this chapter.

(g) Permit Duration. All wastewater discharge permits shall be issued and shall be in force until the discharger ceases operation, subject to amendment or revocation at any time as provided in this chapter. Under extraordinary circumstances, a permit may be issued for a stated period or may be stated to expire on a specific date. In the event that a permit is issued for a stated period or with a specific expiration date the discharger shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the City during the term of the permit as limitations or requirements as identified in Sections 916.04 and 916.05 are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least thirty days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

- (1) Permits will be evaluated and reissued by the City at least once every five years.

(h) Permit Transfer. Wastewater discharge permits are issued to a specific discharger for a specific operation at a specific location. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new discharger, different premises, or a new or changed operation without the approval of the City. Any succeeding owner or discharger shall also comply with the terms and conditions of the existing permit. A wastewater discharge permit shall not be transferred to a new location.

(Ord. 16-15. Passed 11-23-15.)

916.10 REPORTING REQUIREMENTS FOR DISCHARGER.

(a) Compliance Data Report. Within ninety days following the date for final compliance by the discharger with applicable pretreatment standards set forth in this chapter or ninety days following commencement of the introduction of wastewater into the POTW by a new discharger, any discharger subject to this chapter shall submit to the City a report indicating the nature and concentration of all prohibited or regulated substances contained in its discharge, and the average and maximum daily flow in gallons. Industrial users with applicable pretreatment standards that require compliance with a BMP or a pollution prevention alternative shall submit documentation to determine compliance. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional operation and maintenance (O & M) and/or pretreatment is necessary to bring the discharger into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the discharger, and certified by a professional engineer licensed to practice in Ohio.

(b) Periodic Compliance Report.

- (1) Any discharger subject to a pretreatment standard, or at the discretion of the Superintendent, shall submit to the City on or before each June 30 and December 31, unless required more frequently by the City, 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, it shall include a record of all measured or estimated average and maximum daily flows during the reporting period reported in subsection (a) hereof. Flows shall be reported on the basis of actual measurement, provided however, where cost or feasibility considerations justify, the City may accept reports of average and maximum flows estimated by verifiable techniques.
- (2) Reports of dischargers 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 City. The frequency of monitoring by the discharger shall be as prescribed in the applicable pretreatment standard or wastewater discharge permit issued hereunder.
- (3) All analysis shall be performed in accordance with 40 CFR, Part 136 and amendments thereto. Grab samples shall be used for pH, hexavalent chromium, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants, twenty-four-hour composite samples shall be obtained through flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the control authority. Where time-proportional composite sampling or grab sampling is authorized by the control authority, the samples shall be representative of the discharge and the decision to allow the alternative sampling shall be documented in the industrial user file for that facility or facilities.
 - A. Using protocols (including appropriate preservation) specified in 40 CFR 136 and appropriate USEPA guidance, multiple grab samples collected during a twenty-four-hour period may be composited prior to the analysis as follows: for hexavalent chromium, cyanide, total phenols, and sulfides the samples may be composited in the laboratory or field; for volatile organics and oil and grease the samples may be composited in the laboratory.

- B. Where 40 CFR, Part 136 does not include a sampling or analytical technique for the pollutant in question, the 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.

(c) Monitoring Facilities.

- (1) Each discharger shall provide and operate at the discharger's own expense, a monitoring facility to allow inspections, sampling and flow measurement of each sewer discharge to the City. 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 City may concur with the facility being constructed in the public street or sidewalk area providing that the facility is located so that it will not be obstructed by landscaping or parked vehicles.
- (2) The POTW may require an industrial user to install flow monitoring facilities, instruments, and recording devices to enable accurate measurement of flows as determined to be necessary.
- (3) All sewers shall have an inspection and sampling manhole or structure with an opening of no less than twenty-four inches diameter and an internal diameter of no less than forty-eight inches containing flow measuring, recording and sampling equipment as required by the City to assure compliance with this chapter.
- (4) 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.
- (5) All monitoring facilities shall be constructed and maintained in accordance with all applicable local construction standards and specifications. Construction shall be completed within 120 days of receipt of permit by discharger.
- (6) If sampling performed by an industrial user indicates a violation, the user shall notify the control authority within twenty-four 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 control authority within thirty days after becoming aware of the violation. Where the control authority has performed the sampling and analysis in lieu of the industrial user, the control authority shall perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform the repeat analysis.

(d) Inspection and Sampling. The City may inspect the monitoring facilities of any discharger to determine compliance with the requirements of this chapter. The discharger shall allow the City or its representatives, upon presentation of credentials of identification, to enter upon the premises of the discharger at all reasonable hours, for the purposes of inspection, sampling or records examination. The City 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. Where a discharger has security measures in force which would

require proper identification and clearance before entry into their premises, the discharger shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the City, approval authority and EPA will be permitted to enter, without delay for the purposes of performing their specific responsibilities.

(e) Confidential Information.

- (1) Information and data furnished to the City with respect to the nature and frequency of discharge shall be available to the public or other governmental agency without restriction unless the discharger specifically requests and is able to demonstrate to the satisfaction of the City that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets or proprietary information of the discharger.
- (2) When requested by a discharger furnishing a report, the portions of a report which may disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this chapter, the National Pollutant Discharge Elimination System (NPDES) permit, State disposal system permit and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the State or any State agency in judicial review or enforcement proceedings involving the discharger furnishing the report. Wastewater constituents and characteristics shall not be recognized as confidential information.
- (3) Information accepted by the City as confidential, shall not be transmitted to any governmental agency or to the general public by the City unless a ten-day notification is given to the discharger.

(f) Signatory Requirements. All reports under this section shall include the certification statement as set forth in 40 CFR 403.6 (a)(2)(ii) and shall be signed by:

- (1) A president, secretary, treasurer or vice president of a corporation;
- (2) The manager of one or more manufacturing, production, or operation facilities, provided the manager:
 - A. Is authorized to make management decisions that govern the operation of the regulated facility, including have the explicit or implicit duty of making major capital investment recommendations, and of initiating and directing other comprehensive measures, to assure long-term environmental compliance with environmental laws and regulations;
 - B. Can ensure that the necessary systems are established or that the necessary actions are taken to gather complete and accurate information for control mechanism requirements; and
 - C. Is assigned or delegated the authority to sign documents in accordance with corporate procedures.
- (3) A general partner or proprietor if the industrial user is a partnership or sole proprietorship, respectively; or
- (4) A duly authorized representative of the above, if the authorization is previously made in writing to the Superintendent.

(g) Notification of Changes in Discharge. All industrial users shall notify the City in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes for which the industrial user has submitted initial notification under 40 CFR 403.12(P).

(h) Notification of Hazardous Waste. The Industrial User shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities in writing of any discharge into the POTW of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the Industrial User discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the Industrial User: An identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve months. All notifications must take place within 180 days of the effective date of this rule. Industrial users who commence discharging after the effective date of this rule shall provide the notification no later than 180 days after the discharge of the listed or characteristic hazardous waste. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under 40 CFR 403.12 (j). The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements of 40 CFR 403.12 (b), (d), and (e).

- (1) Dischargers are exempt from the requirements of paragraph (p)(1) of this section during a calendar month in which they discharge no more than fifteen kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the Industrial User discharges more than such quantities of any hazardous waste do not require additional notification.
- (2) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the Industrial User must notify the POTW, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.
- (3) In the case of any notification made under paragraph (p) of this section, the Industrial User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
(Ord. 16-15. Passed 11-23-15.)

916.11 EMERGENCY SUSPENSION OF SERVICE AND DISCHARGE PERMITS.

The City may for good cause shown suspend the wastewater treatment service to a discharger when it appears to the City that an actual or threatened discharge presents or threatens an imminent or substantial danger to the health or welfare of persons, a substantial danger to the environment, interferes with the operation of the POTW, or violates any pretreatment limits imposed by this chapter or any wastewater discharge permit issued pursuant to this chapter. Any discharger notified of the suspension of the City's wastewater treatment service and/or the dischargers wastewater discharge permit, shall within a reasonable period of time, as determined by the City, cease all discharges. In the event of failure of the discharger to

comply voluntarily with the suspension order within the specified time, the City shall take such steps as deemed necessary including immediate severance of the sewer connection and shall commence judicial proceedings immediately thereafter to compel the discharger's compliance with such order. The City shall reinstate the wastewater discharge permit and/or the wastewater treatment service and terminate judicial proceedings pending proof by the discharger of the elimination of the noncomplying discharge or conditions creating the threat of imminent or substantial danger as set forth above. A detailed written statement submitted by the discharger describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the City within fifteen days of the occurrence. (Ord. 16-15. Passed 11-23-15.)

916.12 REVOCATION OF PERMIT.

The City may revoke the permit of any discharger which fails to:

- (a) Factually report the wastewater constituents and characteristics of its discharge;
- (b) Report significant changes in operations or wastewater constituents or characteristics;
- (c) Refuses reasonable access to the discharger's premises by representatives of the City for the purpose of inspection or monitoring; or
- (d) Violates the conditions of its permit or this chapter, or any final judicial order entered with respect thereto. (Ord. 16-15. Passed 11-23-15.)

916.13 NOTIFICATION OF VIOLATION; ADMINISTRATIVE ADJUSTMENT.

Whenever the City finds that any discharger has engaged in conduct which justifies revocation of a wastewater discharge permit, pursuant to Section 916.12, the City shall serve or cause to be served upon such discharger, a written notice either personally or by certified or registered mail, return receipt requested, stating the nature of the alleged violation. Within thirty days of the date of receipt of the notice, the discharger shall respond personally or in writing to the City, advising of its position with respect to the allegations. Thereafter, the parties shall meet to ascertain the veracity of the allegations and where necessary, establish a plan for the satisfactory correction thereof. (Ord. 16-15. Passed 11-23-15.)

916.14 SHOW CAUSE HEARING.

Where the violation specified in Section 916.12 is not corrected by timely compliance by means of administrative adjustment, the City may order any discharger which causes or allows conduct prohibited by Section 916.12, to show cause before the City or its duly authorized representative, why the proposed permit revocation action should not be taken. A written notice shall be served on the discharger by personal service, certified or registered mail, return receipt requested, specifying the time and place of a hearing to be held by the City or its designee regarding the violation, the reasons why the enforcement action is to be taken, the proposed enforcement action, and directing the discharger to show cause before the City or its designee why the proposed enforcement action should not be taken. The notice of the hearing shall be served no less than ten days before the hearing. Service may be made on any agent, officer or authorized representative of a discharger. The proceedings at the hearing shall be considered by the City which shall then enter appropriate orders with respect to the alleged improper activities of the discharger. Appeal of such orders may be taken by the discharger in accordance with applicable local or State law. (Ord. 16-15. Passed 11-23-15.)

916.15 JUDICIAL PROCEEDINGS.

Following the entry of any order by the City with respect to the conduct of a discharger contrary to the provisions of Section 916.12, the City Law Director may, following the authorization of such action by Council, commence an action for appropriate legal and/or equitable relief in the appropriate local court. (Ord. 16-15. Passed 11-23-15.)

916.16 ENFORCEMENT ACTIONS; ANNUAL PUBLICATION.

At least annually, the Superintendent shall publish a list of all industrial users which, at any time during the previous twelve months, were in significant noncompliance with applicable pretreatment requirements. For the purposes of this provision, a nonsignificant industrial user is in significant noncompliance if its violations meet part (c), (d), or (h) of this rule. A significant industrial user is in significant noncompliance if its violations meet one or more of the following criteria:

- (a) Chronic violations of wastewater discharge limits at any permitted monitoring point, defined here as those in which sixty-six percent (66%) or more of all the measurements taken during a six month period exceed, by any magnitude, the daily maximum limit or the , average limit, or instantaneous limit for the same pollutant parameter;
 - (b) Technical review criteria (TRC) violation at any permitted monitoring point, defined here as those in which thirty- three percent (33%) or more of all 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, or the instantaneous limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants, except pH);
 - (c) Any other violations of a pretreatment effluent limit (daily maximum or longer term average) that the Superintendent 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 ninety days after the scheduled 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 thirty days after the due date, required reports, such as baseline monitoring reports, ninety-day compliance reports, periodic self-monitoring reports and reports on compliance with compliance schedules;
 - (g) Failure to accurately report noncompliance; and
 - (h) Any other violation (including a violation of BMPs), or group of violations, which the Superintendent determines will or has adversely affected the operation or implementation of the City's pretreatment program.
- (Ord. 16-15. Passed 11-23-15.)

916.17 RIGHT OF APPEAL.

Any discharger or any interested party shall have the right to request in writing an interpretation or ruling by the City on any matter covered by this chapter and shall be entitled to a prompt written reply. In the event that such inquiry is by a discharger or deals with matters of performance or compliance with this chapter or deals with a wastewater discharge permit issued pursuant thereto for which enforcement activity relating to an alleged violation is the subject, receipt of a discharger's request shall stay all enforcement proceedings pending receipt of the aforesaid written reply. Appeal of any final judicial order entered pursuant to this chapter may be taken in accordance with local and State law.

(Ord. 16-15. Passed 11-23-15.)

916.18 OPERATING UPSETS.

(a) Any discharger which experiences an upset in operations which places the discharger in a temporary state of noncompliance with this chapter or a wastewater discharge permit issued pursuant hereto shall inform the City thereof within twenty-four hours of first awareness of the commencement of the upset. Where such information is given orally, a written follow-up report thereof shall be filed by the discharger with the City 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 of noncompliance.

(b) A documented and verified bonafide operation upset shall be an affirmative defense to any enforcement action brought by the City against a discharger for any noncompliance with this chapter or any wastewater discharge permit issued pursuant thereto which arises out of violations alleged to have occurred during the period of the upset. (Ord. 16-15. Passed 11-23-15.)

916.19 RECORDS RETENTION.

All dischargers subject to this chapter shall retain and preserve for no less than three years, any records, books, documents, memoranda, reports, correspondence and any and all summaries thereof, relating to monitoring, sampling and chemical analyses made by or in behalf of a discharger in connection with its discharge. All records which pertain to matters which are the subject of administrative adjustment or any other enforcement or litigation activities brought by the City pursuant hereto shall be retained and preserved by the discharger until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired. (Ord. 16-15. Passed 11-23-15.)

916.20 SEVERABILITY AND CONFLICT.

(a) If any provision, paragraph, word or section of this chapter is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words and sections shall not be affected and shall continue in full force and effect.

(b) All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this chapter are hereby repealed to the extent of such inconsistency or conflict. (Ord. 16-15. Passed 11-23-15.)

916.21 SPECIAL AGREEMENTS.

No statement in this chapter shall be construed as preventing any special agreement or arrangement between the Water Pollution Control Department and any person, with the approval of the Mayor and/or Service-Safety Director, whereby a waste of unusual strength or characteristic may be accepted by the P.O.T.W. Under no circumstances however, will any special agreement supersede compliance with State or federal pretreatment requirements. (Ord. 16-15. Passed 11-23-15.)

916.99 PENALTY.

(a) Violation and Punishment. Any discharger violating an order of the City or failing to comply with any provision of this chapter, and the regulations or rules of the City, or orders of any court of competent jurisdiction, or permits issued hereunder, shall be fined not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) or imprisoned for not more than six months, or both. Each day in which any violation continues shall be deemed a separate offense.

(b) Recovery of Costs Incurred by City. Any discharger violating any of the provisions of this chapter, or who discharges or causes a discharge producing a deposit or obstruction, or causes damage to or impairs the City's wastewater disposal system shall be liable to the City for any expense, loss or damage caused by such violation or discharge. The City shall bill the discharge, for the costs incurred by the City for any cleaning, repair or replacement work caused by the violation or discharge. Refusal to pay the assessed costs shall constitute a violation of this chapter enforceable under the provisions of Section 916.12.

(c) Falsifying Information. Any person 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, shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months or both.

(d) Civil Penalties.

(1) Any industrial user who has violated or continues to violate any provision of this chapter, or any order or permit issued hereunder, shall be liable for a civil penalty of up to one thousand dollars (\$1,000) per day, per violation, for as long as the violation(s) continue, plus any cost of damages incurred by the POTW. In addition to the above penalties and costs of damage, the City may recover reasonable attorney's fees, court costs and other expenses associated with the enforcement activities, including sampling and monitoring expenses.

(e) Administrative Fines. Notwithstanding any other section of this chapter, any user who is found to have violated any provision of this chapter, or any order or permit issued hereunder, shall be liable to the Superintendent for an administrative fine in an amount not to exceed one thousand dollars (\$1,000) per day. Each day of which noncompliance shall occur or continue, shall be deemed a separate and distinct violation.

Industrial users desiring to dispute such fines shall file a request for the Superintendent to reconsider the fine within ten days of being notified of the fine. Where the Superintendent believes a request has merit, he shall convene a hearing on the matter within fifteen days of receiving the request from the industrial user. Any administrative fine shall be assessed in the form of an invoice, payable to the Water Pollution Control Fund.

(Ord. 16-15. Passed 11-23-15.)

CHAPTER 917
Natural Gas Service

917.01	Definitions.	917.09	Service fees.
917.02	Units of gas measurement.	917.10	Terms and conditions of service.
917.03	Residential service- Schedule “RS”.	917.11	Gas cost recovery charge.
917.04	Commercial service - Schedule “CS”.	917.12	Rules and regulations.
917.05	Industrial service - Schedule “IS”.	917.13	Special contracts.
917.06	Outside city service - Schedule “OCS”.	917.14	Service for premises outside corporate limits.
917.07	Supply without permit.	917.15	Rate Stabilization Fund adjustment.
917.08	Transportation service.	917.16	Operating cost adjustment.
		917.17	Supply curtailment in emergencies.

CROSS REFERENCES

Power to furnish light, power and heat - see Ohio R. C. 715.06, 717.01
Purchase of gas - see Ohio R. C. 715.07
Compulsory gas connections - see Ohio R. C. 743.37
Gas tap fees outside City - see ADM. 137.04
Unvented gas heater - see GEN. OFF. 521.02
Subdivision improvements - see P. & Z. Ch. 1109
Gas piping and appliances - see BLDG. Ch. 1323

917.01 DEFINITIONS.

For purposes of this chapter, the following terms are defined as follows:

- (a) “Btu” means British thermal unit.
- (b) “Ccf” means 100 standard cubic feet of gas. A standard cubic foot of gas is the quantity of gas which would occupy a volume of one cubic foot when such gas is at a temperature of sixty degrees Fahrenheit and at a pressure of 14.73 psia.
- (c) “Cfh” means cubic feet per hour.
- (d) “City” means the City of Lancaster, Ohio.
- (e) “Decatherm” means 1,000,000 Btu or ten therms.
- (f) “Gas” means natural gas, including associated liquefiable hydrocarbons, which is produced from gas wells. “Gas” also includes oil well gas which is produced in association with crude oil and synthetic or substitute natural gas.
- (g) “Main” or “gas main” means the City’s gas lines which can be tapped with customers’ service lines or service connections.

- (h) "Person" means the State of Ohio, any political subdivision, public or private corporation, individual, partnership or other legal entity.
- (i) "Psia" means pounds per square inch absolute.
- (j) "Service line connection" or "tap" consists of the connection at the main, necessary pipe and appurtenances to extend to the property line or the curb cock location, curb cock and curb box. The service line connection shall be made by the City or its representative, at the customer's expense as described in 917.09. The service line connection shall remain the property of the City.
- (k) "Customer service line" consists of the pipe from the outlet of the curb cock to the meter connection. The customer service line shall be installed and maintained by the customer. The City of Lancaster - Gas Department shall provide one meter (and regulator where required) per service line at the City's expense.
- (l) "Therm" means 100,000 Btu.
- (m) "Transmission and distribution system" means gas facilities owned and under contract by the City which are interconnected with interstate pipelines which transport gas to the City and are used to deliver gas to the customer.
- (n) "Unaccounted for gas" means the volume of gas retained by the City to offset the amount of gas which enters the City's transmission and distribution system for such customers but cannot be accounted for through such customers' meter reading.
- (o) "Unit of gas" means the designation of Btu, Ccf, decatherm or therm by which natural gas and related services are sold for billing purposes.
- (p) "Volume of gas" means the number of units of gas expressed in Btus, Ccf, decatherms or therms. (Ord. 62-98. Passed 12-14-98.)

917.02 UNIT OF GAS MEASUREMENT.

The general unit of gas measurement shall be a volume measured in increments of Ccf approximately one therm. The Service-Safety Director is hereby authorized to approve, in his discretion, alternative units of measurement in the case of special contracts permitted under Section 917.13 of this chapter. (Ord. 62-98. Passed 12-14-98.)

917.03 RESIDENTIAL SERVICE - SCHEDULE "RS".

(a) Schedule "RS" is applicable for service supplied to what is ordinarily designated and recognized as individual, single, or multi-family, residential or home use, including apartments, mobile homes and other individual single or multi-family noncommercial dwelling quarters or units and nonresidential uses within the City where the City's mains are adjacent to the premises to be served, provided that customers outside the City corporation limits shall not be eligible for this rate.

(b) Residential Service Charges. The monthly charge for Residential Service - Schedule "RS" shall be the sum of the charges set forth below:

- (1) Customer service charge:
\$6.00 per meter per month
- (2) Volumetric charge:
\$.200 per Ccf per month
- (3) Gas cost recovery charge:
The gas cost recovery charge shall be determined in accordance with Section 917.11

- (4) Operating cost adjustment:
The operating cost adjustment shall be determined in accordance with Section 917.16
- (5) Rate stabilization cost adjustment:
The operating cost adjustment shall be determined in accordance with Section 917.15. (Ord. 67-04. Passed 12-6-04.)

917.04 COMMERCIAL SERVICE - SCHEDULE "CS".

(a) Schedule "CS" is applicable for service supplied to what is ordinarily designated and recognized as commercial facilities including, but not limited to, restaurants, retail stores, grocery stores, lodging facilities, educational institutions, and office complexes where the City's mains are adjacent to the premises to be served.

(b) Commercial Service Charges. The monthly charge for Commercial Service Schedule "CS" shall be the sum of the charges set forth below:

- (1) Customer service charge:
\$10.00 per meter per month.
- (2) Volumetric charge:
\$.190 per Ccf per month
- (3) Gas cost recovery charge:
The gas cost recovery charge shall be determined in accordance with Section 917.11.
- (4) Operating cost adjustment.
The operating cost adjustment shall be determined in accordance with Section 917.16.
- (5) Rate Stabilization cost adjustment.
The operating cost adjustment shall be determined in accordance with Section 917.15. (Ord. 67-04. Passed 12-6-04.)

917.05 INDUSTRIAL SERVICE - SCHEDULE "IS".

(a) Schedule "IS" is applicable for service supplied to what is ordinarily designated and recognized as manufacturing, assembly, or process facilities where the City's mains are adjacent to the premises to be served.

(b) Industrial Service Charges. The monthly charge for Industrial Service Schedule "IS" shall be the sum of the charges set forth below:

- (1) Customer service charge:
\$25.00 per meter per month
- (2) Volumetric charge:
\$.15 per Ccf per month
- (3) Gas cost recovery charge:
The gas cost recovery charge shall be determined in accordance with Section 917.11
- (4) Operating cost adjustment:
The operating cost adjustment shall be determined in accordance with Section 917.16.
- (5) Rate stabilization cost adjustment:
The operating cost adjustment shall be determined in accordance with Section 917.15. (Ord. 67-04. Passed 12-6-04.)

917.06 OUTSIDE CITY SERVICE - SCHEDULE "OCS".

(a) Schedule "OCS" is applicable for service supplied to what is ordinarily designated and recognized as individual, single, or multi-family, residential or home use, including apartments, mobile homes and other individual single or multi-family noncommercial dwelling quarters or units and nonresidential uses where the City's mains are adjacent to the premises to be served, provided that customers are located outside the City.

(b) Outside City Charges. The monthly charge for Outside - Service Schedule "OCS" shall be the sum of the charges set forth below:

- (1) Customer service charge:
\$6.50 per meter per month
- (2) Volumetric charge:
\$.220 per Ccf per month
- (3) Gas cost recovery charge:
The gas cost recovery charge shall be determined in accordance with Section 917.11.
- (4) Operating cost adjustment:
The operating cost adjustment shall be determined in accordance with Section 917.16.
- (5) Rate stabilization cost adjustment:
The operating cost adjustment shall be determined in accordance with Section 917.15. (Ord. 62-98. Passed 12-14-98.)

917.07 SUPPLY WITHOUT PERMIT.

The City shall not be required to supply gas to any person, firm or corporation, unless a conforming application for service, "gas tap application," has been submitted to the City and the application is approved by the City. (Ord. 62-98. Passed 12-14-98.)

917.08 TRANSPORTATION SERVICE.

The City of Lancaster recognizes that a smaller number of industrial customers located within the corporation limits of the City of Lancaster are currently not purchasing their natural gas supplies through the City of Lancaster's Gas Department. The customers currently served by the City of Lancaster's Gas Department along with future residential, commercial and industrial development within the City of Lancaster's corporation limits shall obtain their natural gas supply from the City's Gas Department. The City of Lancaster solicits bids for natural gas supply and related services; comments and recommendations are welcome, however, no rights exist for individual proposals to be incorporated. (Ord. 62-98. Passed 12-14-98.)

917.09 SERVICE FEES.

In addition to the charges imposed by this chapter, the following service fees are hereby established:

- (a) Gas Tap Fee. A gas tap fee shall be charged, in addition to the above mentioned charges, to each customer requesting a gas tap permit based on the size of the service line used to make the gas tap as follows:

	<u>Gas Tap Fee</u>
Inside the City corporation limits	\$400.00
Outside the City corporation limits	\$525.00

Note: An additional \$75.00 charge will be assessed should the customer desire an emergency shut-off valve.

- (b) Equity Connection Fees. At its discretion and expense, the City may, from time to time, construct additional mains and service facilities in public rights of way or easements. When an improvement or addition to a utility system made by the City at its expense makes service possible in a new location where such service did not previously exist, or improves already existing service, but such improvement or addition is not made for the purpose of benefitting the utility system as a whole, such as by improving the reliability, longevity, capacity or interconnective network of the utility system, such addition or improvement shall be known as a "local main extension". When an improvement or addition to a utility system made by the City at its expense is made for the purpose of benefitting the utility system as a whole, such as by improving the reliability, longevity, capacity or interconnective network of the utility system, but such improvement or additional can also safely be tapped to make service possible in a new location where such service did not previously exist, or improve already existing service, such an addition or improvement shall be known as a "feeder main extension". When a connection or tap is made to the City's gas system in a public right of way or easement by an abutting owner or developer for the purpose of providing new service, and where the owner of the lot or parcel to receive such new service has not previously paid an equitable share of the City's cost of extending the main into which the connection or tap is made, the owner of the abutting lot shall pay the City an equity connection fee in order to assist in the recovery of the City's cost of extending the main into which the abutting owner has connected or will connect. The equity connection fee shall be determined as follows:
- (1) Local main extension: Where a tap or connection is made to what has previously been constructed as a local main extension, a uniform fee of fifteen dollars (\$15.00) per lineal foot of frontage of the lot or parcel abutting the gas main shall be paid to the City. In the event such lot or parcel of real estate abuts a street, alley, right of way or easement in which such gas main is located on more than one side, the frontage used shall be the shortest lot line distance that such lot or parcel of real estate has abutting the street, alley, right of way or easement in which the connecting main is located; and in the event such abutting lot parcel of real estate is not rectangular, the frontage used shall be the number or lineal feet produced by averaging the front line and the rear lot line, or one-half of the front lot line if the lot or parcel forms a triangle.
 - (2) Feeder main extension: Where a tap or connection is made to a feeder main extension or residential or commercial building, which existed at the time the feeder main project was approved, along the abutting right of way or easement, shall be permitted to connect to such feeder main for an equity connection fee of twenty dollars (\$20.00) per lineal foot for the lesser of either the actual footage of the lot or parcel of real estate or 100 feet of frontage along such abutting right of way or easement. All subsequent attachments are subject to the local main extension fees for actual frontage.
- The equity connection fee shall be paid in full to the City before a gas tap is authorized and the connection is made.

- (c) Involuntary Disconnection: Reconnection Fee. In the event gas service to customer under Schedule “RS,” Schedule “CS,” Schedule “IS,” or Schedule “OCS” is involuntarily discontinued for any reason other than the City's inability to serve, the City shall be under no obligation to restore service at that location until the City first receives payment of a reconnection fee which is equal to the sum of the monthly customer service charge for each of the months between the time the service was discontinued and the time service is restored up to a maximum of twelve monthly customer charges, any remaining payments due for service provided prior to the discontinuation of service, and the service turn-on fee as set forth in this section.
- (d) Voluntary Disconnection: Reconnection Fee. In the event gas service to customers under Schedule “RS”, Schedule “CS,” Schedule “IS,” or Schedule “OCS” is voluntarily discontinued for any reason, the City shall be under no obligation to restore service at that location until the City first receives payment of a reconnection fee which is equal to the sum of the monthly customer service charge for each of the months between the time the service was discontinued and the time service is restored up to a maximum of twelve monthly customer charges, any remaining payments due for service provided prior to the discontinuation of service, and thirty-five dollars (\$35.00).
- (e) Service Turn-on Fee. A service turn-on fee of fifteen dollars (\$15.00) shall be charged to each new customer under Schedule “RS,” Schedule “CS,” Schedule “IS,” or Schedule “OCS” and included in the initial service bill. This fee shall also be charged to customers requesting reconnection subsequent to an involuntary disconnection as set forth in this section.
- (f) Miscellaneous Fees. The following fees shall be charged to Schedule “RS,” Schedule “CS,” Schedule “IS,” or Schedule “OCS” customers for the following services performed, or arranged to be performed, by the Gas Department:

<u>Service</u>	<u>Miscellaneous Fee</u>
Special meter reading and/or Special appointment at request of customer	\$15.00 Inside City \$25.00 Outside City
After Hours Calls	Actual costs of labor and materials multiplied by 1.3
(Regular hours are 7:30 A.M. - 4P.M., Monday-Friday, excluding holidays)	
Gas meter testing	Actual cost of labor and materials multiplied by 1.3
Remote gas meter installation	Actual cost of labor and materials multiplied by 1.3

(Ord. 62-98. Passed 12-14-98.)

917.10 TERMS AND CONDITIONS OF SERVICE.

(a) Payment, Penalty and Disconnection. Payment for all rates and other applicable charges shall be made in accordance with the terms specified on the bill or bill insert. In the event any utility account becomes delinquent, penalties shall be assessed against all delinquent amounts and utility service shall be subject to disconnection in accordance with Section 917.09 of this chapter.

(b) Returned Check Charge. In addition to adding late payment charges as appropriate, the City shall charge and collect a fee of fifteen dollars (\$15.00) to cover the cost of handling a check which a customer tenders in payment of an account and which is returned by the bank because it cannot be paid as ordered.

(c) Customer Obligation. The customer is responsible for the customer's side of the point of delivery, generally considered to be the outlet side of the curb cock, for the service supplied or taken, as well as for the installation of gas equipment and appliances used in connection therewith. The customer shall not attach or use any appliance or equipment which is unsafe or may result in the injection of air, water or other foreign matter into the gas lines so as to interfere, in any manner, with service to other customers.

(d) No Person Shall Sell to Another. No person shall supply or sell gas for use in any location other than that specified in the application for service as the location where service is to be received.

(e) Right to Shut Off Gas. The City shall have the right to discontinue gas service to a customer or a premises under the following conditions:

- (1) For refusing access to any employee of the City who has provided identification to the customer and stated the reasonable purpose for desiring such access;
- (2) For failure to furnish or maintain the required security deposit according to the requirements of the Utilities Collection Office;
- (3) For violation of any Rules and Regulations of the City; or
- (4) If any bill is not paid in total within thirty days after the payment date specified on the bill.

The City shall have the right to discontinue service and the right to disconnect and remove from the premises of any customer the meter and any other property belonging to the City for theft of gas, non-use of gas, nonpayment of bills for gas when bills are due, fraudulent representation or practice, tampering with the gas utility meter or piping in order to affect billing or metering, or whenever deemed necessary by the City for safety reasons.

(f) Volume of Gas Delivered by Meter; Meter Tests. Volumes of gas delivered shall be determined on the basis of the meter registration and bills shall reflect the units of gas so registered. Any mistake in reading the meter registration shall not affect the liability for gas delivered as determined by a correct subsequent reading of the registration. When the meter is not read, the City may estimate the volume of gas delivered and render a bill for such volume. A meter registering between three percent (3%) fast and three percent (3%) slow shall be deemed for all purposes to be registering correctly. A meter registering incorrectly shall be replaced by the City at its expense. Periodically, the City may test meters, using standard industry practices, to determine accuracy of meter registration. If the customer requests a meter test and if the meter is found to be registering correctly, as defined above, the date of the test shall be stamped on the meter and the customer shall pay the applicable gas meter testing fees.

(g) Customer Service Line. The customer shall own and maintain the customer service line. The City shall have the right to prescribe the size, location and termination points of the customer's service line and the meter connection. The City shall have no obligation to install, maintain or repair such customer service line.

(h) Meter and Regulation Facilities. When changes in building or arrangements therein render the meter inaccessible or exposed to hazards, the City shall, at the customer's expense, arrange for the relocation at a site acceptable to the City of the meter and regulation facilities, together with any portion of the customer's service line necessary to accomplish such relocation. The customer shall not permit anyone who is not an authorized agent of the City to connect or disconnect the City's meters, regulators or any portions of the service line. The meter and regulation facilities are not part of the customer service line and shall remain the property of the City.

(i) Internal Piping and Gas-Burning Equipment and Appliances. The customer shall own and maintain, in an operable and safe order, the internal piping from the outlet of the meter to all gas-burning equipment and appliances. The customer shall own and maintain all gasburning equipment and appliances.

(j) Standards for Customer's Property. The customer's service line, house lines, fittings, valve connections and appliance venting shall be installed with materials and workmanship which meet all applicable safety standards and shall be subject to inspection or test by the City. The City shall have no obligation to establish service until after such inspection and test demonstrates compliance with such requirements with respect to the facilities in place at the time of the test. The first inspection or test at any premises, including service lines and house lines, shall be without charge. In the case of leakage, error, patent defect or other unsatisfactory or unsafe condition resulting in the disapproval of the line(s) by the City, the necessary correction shall be made at the customer's expense and the facilities shall then be inspected and tested again by the City. If the customer's service line, house lines, fittings, valve connections and gas-burning appliances or equipment on the customer's property are damaged, defective or in such condition as to constitute a hazard, the City, upon notice to the customer of such defect or condition, may discontinue gas service until such defect or hazardous condition has been rectified by the customer in compliance with the reasonable requirements of the City. The customer shall notify the City promptly of additions, changes, alterations, remodeling or reconstruction affecting the gas movement on the customer's property.
(Ord. 62-98. Passed 12-14-98.)

917.11 GAS COST RECOVERY CHARGE.

(a) The City shall recover, through the gas cost recovery charge, the gas cost component of the total retail rate.

(b) The formula for calculating the gas cost recovery (GCR) shall include all commodity expenses and purchases, all transportation expenses and revenues, all unaccounted for gas expenses, all expenses associated with municipal facility service, and all special contract expenses. The portion of the revenue from special contract customers which exceeds the volumetric charges and the operations cost adjustment shall be included in the GCR calculation.

(c) The gas cost recovery charge calculation shall be applicable to all Schedule "RS," Schedule "CS," Schedule "IS," and Schedule "OCS" bills.

(d) The City may, at the option of the Service Safety Director, adjust the gas cost recovery charge quarterly or whenever changes in gas acquisition and delivery costs, sales level or system operating characteristics cause, or may be reasonably anticipated to cause, an increase or decrease in the gas cost component. (Ord. 62-98. Passed 12-14-98.)

917.12 RULES AND REGULATIONS.

All customers shall comply with the Rules and Regulations of the City of Lancaster and the City of Lancaster Gas Department as have been or may be promulgated as the same may be amended from time to time. In addition, customers shall comply with all then current Federal and State of Ohio rules and regulations. (Ord. 62-98. Passed 12-14-98.)

917.13 SPECIAL CONTRACTS.

The Service-Safety Director is hereby authorized to enter into special contracts with industrial and large commercial customers, with annual load factors above sixty percent (60%), for the sale of special supplies of gas; for specified periods, and under mutually agreed rates, terms and conditions; and to return the cost of service of such supplies to the City, including the cost of procurement, purchase, transportation, delivery and accounting via the GCR mechanism as described above. (Ord. 62-98. Passed 12-14-98.)

917.14 SERVICE FOR PREMISES OUTSIDE CORPORATE LIMITS.

Nothing in this chapter is intended to confer any right to service for premises outside the corporate limits of the City. (Ord. 62-98. Passed 12-14-98.)

917.15 RATE STABILIZATION FUND ADJUSTMENT.

Should a Rate Stabilization Fund be required by any indenture entered into pursuant to the sale of City gas system revenue bonds or mortgage revenue bonds, the rates established for Schedule "RS" as set forth in Section 917.03, Schedule "CS" as set forth in Section 917.04, Schedule "IS" as set forth in Section 917.05, and Schedule "OCS" as set forth in Section 917.06 as they now provide and as they may hereafter be amended shall be increased in any fiscal year by the percentage certified by the Service-Safety Director to the Utilities Collection Office and the Mayor to be necessary to cause there to be appropriated to the credit of the Gas Rate Stabilization Fund in such fiscal year the amount required by the indenture to be credited with respect to such fiscal year, such increase to take effect commencing the month after such certification. (Ord. 62-98. Passed 12-14-98.)

917.16 OPERATING COST ADJUSTMENT.

Should the billing and collection, labor, equipment, material, or tax cost to the City's Gas Department increase relative to the annual amount of such cost per Ccf as existed during the year 1997, the volumetric and customer charges contained in Schedule "RS" as set forth in Section 917.03, Schedule "CS" as set forth in Section 917.04, Schedule "IS" as set forth in Section 917.05, and Schedule "OCS" as set forth in Section 917.06 shall be increased by a percentage surcharge sufficient to permit recovery of such increased costs provided that the Service-Safety Director and the Mayor certify to the Utilities Collection Office that such action is reasonably necessary and specify the percentage surcharge that shall apply to such charges. (Ord. 62-98. Passed 12-14-98.)

917.17 SUPPLY CURTAILMENT IN EMERGENCIES.

For the purpose of avoiding injury to any person, property or the financial interest in the City, the Service-Safety Director is hereby authorized to curtail any portion, up to one hundred percent of the industrial, public authority and commercial total connected gas load to the extent required to avoid such injury in the discretion of the Service-Safety Director. Any person that does not comply with a curtailment order shall be subject to service termination. In addition to service curtailment, the Service-Safety Director may direct special contract customers to increase the amount of gas delivered to the City's system to avoid injury to any person, property or the financial interest of the City provided the City tenders reasonable compensation for such actions. (Ord. 62-98. Passed 12-14-98.)

CHAPTER 918
Storm Water Utility Program

918.01	Declaration of necessity.	918.10	Rates to apply to future connections.
918.02	Definitions.	918.11	Use of Stormwater Fund.
918.03	User classes.	918.12	Periodic review of stormwater rates.
918.04	User rates and charges.	918.13	Adjustments.
918.05	Stormwater only accounts.	918.14	Validity.
918.06	Collection and enforcement duties.	918.15	Effective date.
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CROSS REFERENCES

Storm water sediment and soil erosion protection - see S.U. & P.S. Ch. 919

918.01 DECLARATION OF NECESSITY.

It is determined and declared to be necessary and inducive to the preservation of the public health, safety, welfare and convenience of the City of Lancaster (City) to levy and collect a service charge or rental to be paid to the City by every person whose lots, lands and premises are tributary, directly or indirectly to the stormwater system of the City, or part thereof. The proceeds of such charges or rentals shall be for the use of the stormwater system of the City, to pay the principal and interest on outstanding and future bonds and notes in accordance with the applicable ordinances and to pay the amounts, if any, provided for in an agreement pursuant to Ohio R.C. 6121.

(Ord. 23-03. Passed 6-23-03.)

918.02 DEFINITIONS.

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

- (1) "Adjustment" means a modification in a non-single family stormwater user fee for certain activities that impact stormwater runoff or impacts the City's costs of providing stormwater management.

- (2) "Agricultural Property" means land designated by the Fairfield County Auditor as a Commercial Agricultural Use Valuation for tax reduction purposes.
- (3) "Apartment/Condominium Property" means a non-single family lot or parcel on which is situated three or more dwelling units.
- (4) "Approved plans" means plans approved according to permits and plan review which will govern all stormwater improvements, required or not, made within the City or changes or alterations to existing stormwater facilities.
- (5) "Best Management Practices (BMP)" means those practices recognized by the Ohio Department of Natural Resources and Ohio Environmental Protection Agency which provide the best available and reasonable physical, structural, managerial, or behavioral activity to reduce or eliminate pollutant loads and/or concentrations leaving the site.
- (6) "Brownfield" means typically a former industrial or commercial site that is considered to be contaminated to varying extents, and certified as such by the Ohio Environmental Protection Agency.
- (7) "Buffer" means a designated area adjacent to or part of a stream or wetland that is an integral part of the stream or wetland ecosystem. The critical function of riparian buffers including shading, input of organic debris and coarse sediments, stabilization of banks, overflow during high water events and for maintenance of wildlife habitat.
- (8) "Credits" means an on-going reduction in a customer's stormwater user charge given for certain qualifying activities that either reduce the impact of increased stormwater runoff or reduce the City's costs of providing stormwater management.
- (9) "Debt service costs" means the average annual principal and interest payments on all outstanding bonds or other comparable long-term capital obligations.
- (10) "Duplex Property" means a lot or parcel of real estate on which is situated a building containing two (2) single-family dwelling units.
- (11) "Equivalent Residential Unit (ERU)" means a value, equivalent to 2,600 square feet of measured impervious area and is equal to the average amount of impervious area of single-family properties within the City of Lancaster.
- (12) "Facilities" means various stormwater and drainage works that may include inlets, pipes, pumping stations, conduits, manholes, energy dissipation structures, channels, outlets, retention/detention basins, and other structural components.
- (13) "Impervious area" means areas that have been paved and/or covered with buildings and materials, which include, but are not limited to, concrete, asphalt, rooftop, blacktop and gravel.
- (14) "Non-single family property" means all property not encompassed by the definition of Single-Family Property or Duplex Property.
- (15) "NPDES" means the National Pollutant Discharge Elimination System permit program as administered by the USEPA or the State of Ohio.

- (16) "NPDES permit" means the National Pollutant Discharge Elimination System permit setting forth conditions for the discharge of any pollutant or combination of pollutants to the navigable waters of the United States pursuant to Section 402 of PL 92-500.
- (17) "Operation and maintenance" means those functions that result in expenditures during the useful life of the treatment works for materials, labor, utilities and other items which are necessary for managing and operating the stormwater system in a manner for which such works were designed and constructed. The term "operation and maintenance" includes replacement.
- (18) "Operation and maintenance costs" include all costs, direct and indirect, necessary to provide adequate stormwater management on a continuing basis and to produce discharges to receiving waters that conform with all related Federal, State and local requirements including replacement costs.
- (19) "Other service charges" means tap charges, connection charges, area charges and other identifiable charges, other than user charges, and debt service charges.
- (20) "Owner" means any and all persons, natural or artificial, including any individual, firm, company, municipal or private corporation, partnership, co-partnership, joint stock company, trust, estate, association, society, institution, enterprise, governmental agency, State of Ohio, the United States of America or other legal entity, or their legal representatives, agents or assigns. The masculine gender includes the feminine, and the singular includes the plural where indicated by context.
- (21) "Private stormwater facilities" mean various stormwater and drainage works not under the control and/or ownership of the City, County, State and/or Federal government which may include inlets, conduits, pipes, pumping stations, manholes, structures, channels, outlets, retention or detention basins, other structural components and equipment designed to transport, move or regulate stormwater.
- (22) "Public stormwater facilities" mean various stormwater and drainage works under the control and/or ownership of the City, County, State, or Federal government which may include inlets, conduits, pipes, pumping stations, manholes, structures, channels, outlets, retention or detention basins, other structural components and equipment designed to transport, move or regulate stormwater.
- (23) "Public stormwater open channel" means all open channels, which convey in part or in whole, stormwater and 1) are owned, operated, or maintained by the City or 2) a stormwater open channel which has a permanent drainage/stormwater easement owned by the City and drains an area which includes City owned property or right-of-way. A public stormwater open channel does not include roadside ditches, which convey only immediate right-of-way drainage.
- (24) "Replacement costs" means the 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.

- (25) "Shall" is mandatory and "may" is permissive.
- (26) "Single-Family Property" means all single-family residential properties located within the City of Lancaster regardless of the size of the building lot or the square footage of the buildings.
- (27) "Square footage of impervious area" means, for the purpose of assigning an appropriate number of ERUs to a parcel or real property, the square footage of all impervious area using the outside boundary dimensions of the impervious area to include the total enclosed square footage, without regard for topographic features of the enclosed surface.
- (28) "Stormwater" means stormwater runoff, snowmelt runoff, and surface runoff and drainage.
- (29) "Storm sewer" means a sewer, which carries stormwater, surface runoff, street wash waters, and drainage, but which excludes sanitary sewage and industrial wastes, other than unpolluted cooling water.
- (30) "Stormwater service charge" means a charge assessed to users of the City's stormwater system.
- (31) "Stormwater system" means all man-made facilities, structures, and natural watercourses owned by the City of Lancaster, used for collection and conducting stormwater to, through, and from drainage areas to the points of final outlet including, but not limited to, any and all of the following: conduits and appurtenant features, canals, creeks, catch basins, ditches, streams, gulches, gullies, flumes, culverts, siphons, streets, curbs, gutters, dams, floodwalls, levels, and pumping stations.
(Ord. 23-03. Passed 6-23-03.)

918.03 USER CLASSES.

A stormwater service charge shall be assessed to each and every lot and parcel of land within the City, and the owner thereof that contains impervious area. This charge is necessary to pay for the repair, replacement, planning, improvement, operation and maintenance of the existing and future City stormwater system. This charge is not related to the water and/or sanitary sewer service and does not rely on occupancy of the premises to be in effect. Service charges are levied to defray the cost of operation and maintenance (including replacement) of the stormwater system and to provide funds to pay debt service costs. User classes shall be assigned as follows:

- (a) Single Family Property
 - (b) Duplex Property
 - (c) Agricultural Property
 - (d) Non-Single Family Property
- (Ord. 23-03. Passed 6-23-03.)

918.04 USER RATES AND CHARGES.

(a) For the use of and the service rendered by the stormwater system, rates and charges shall be collected from the owner of each and every lot, parcel of real estate or building that is situated within the corporate limits of the City of Lancaster, that is tributary, directly or indirectly to the stormwater system of the City. Such rates and charges include user charges, debt service costs and other service charges which rates shall be payable as hereinafter provided and shall be in an amount determinable as follows:

- (1) The stormwater rates and charges shall be based upon the quantity of impervious area situated thereon.

- (2) All properties having impervious area within the City of Lancaster will be assigned an Equivalent Residential Unit (ERU) or a whole multiple thereof, with all properties having impervious area receiving at least one (1) ERU.
 - (3) Single-Family properties. All Single-Family properties will be assigned one (1) ERU. A flat rate will apply to all Single-Family properties.
 - (4) Duplex property shall be assigned an ERU of one (1) ERU per residential unit for a total of two (2) ERU's to represent their status as two single family units.
 - (5) Agricultural property, determined by the Fairfield County Auditor's office and designated, as a Commercial Agricultural Use Valuation designation for tax purposes shall be considered Non-Single Family property.
 - (6) Non-Single Family properties. Non-Single Family properties will be assigned an ERU whole multiple based upon the properties' individual measured impervious area (in square feet) divided by 2,600 square feet (1 ERU). This division will be calculated to the first decimal place and rounded to the nearest whole ERU according to mathematical convention.
 - (7) For the service rendered to the City for any City property excluding roadways and stormwater systems, the City shall be subject to the same rates and charges hereinabove provided. (Ord. 23-03. Passed 6-23-03.)
- (b) The charge as prescribed in the rate schedule is as follows.
- (1) \$4.64 per month per Equivalent Residential Unit (ERU) based on twelve (12) months per year.
 - (2) Beginning with the first billing period in January 2009, \$5.00 per ERU.
 - (3) Beginning with the first billing period in January 2010, \$5.50 per ERU.
 - (4) Beginning with the first billing period in January 2011, \$6.25 per ERU.
 - (5) Beginning with the first billing period in January 2012, \$7.00 per ERU.
 - (6) Beginning with the first billing period in January 2013, \$7.64 per ERU. (Ord. 49-08. Passed 11-10-08.)

918.05 STORMWATER ONLY ACCOUNTS.

Stormwater only accounts are properties that do not contain water, municipal gas, sanitation and/or sanitary sewer services but do contain impervious area. New and additional stormwater only accounts will be determined by the City Engineer. (Ord. 23-03. Passed 6-23-03.)

918.06 COLLECTION AND ENFORCEMENT DUTIES.

The charge or rentals levied pursuant to this chapter shall be collected by the Safety-Service Department, and the Safety-Service Director shall make and enforce such bylaws and regulations as may be deemed necessary for the safe, economical and efficient management and protection of the City stormwater system, for the construction and use of the stormwater system, and for the regulation, collection, rebating and refunding of such charge.

The Director is hereby authorized to prohibit dumping of wastes into the City stormwater system, which at his discretion, are deemed harmful to the operation of the stormwater system or to the waters of the state.

- (a) The rates and charges for all users shall be prepared and billed monthly.
- (b) The rates and charges shall be billed to the owner of the property unless otherwise requested in writing by the owner, but such change of billing shall in no way relieve the owner from the liability in the event payment is not made as herein required. The owner of properties served, which are occupied by a tenant

or tenants, shall have the right to examine the collection records of the City for the purpose of determining whether bills have been paid by such tenant or tenants, provided that such examination shall be made at the office at which such records are kept and during the hours that such office is open for business.

(Ord. 23-03. Passed 6-23-03.)

- (c) As is provided by statute, all rates and charges not paid when due are hereby declared to be delinquent and a penalty of five percent (5%) of the amount of the rates or charges due shall be attached thereto. The time at which such rates or charges shall be paid is now fixed at fifteen (15) days after the date of mailing of the bill. (Ord. 65-05. Passed 10-17-05.)

918.07 CHARGES A LIEN.

Each stormwater service charge rendered under or pursuant to this chapter is made a lien upon the corresponding lot, parcel of land, building or premises that are a tributary directly or indirectly to the stormwater system of the City, and, if the same is not paid within thirty days after it shall become due and payable, it shall be certified to the County Auditor who shall place the same on the tax duplicate of the County with the interest and penalties allowed by law and shall be collected the same as other taxes are collected.

(Ord. 23-03. Passed 6-23-03.)

918.08 RIGHT OF APPEAL.

(a) A property owner may challenge the ERU multiple assigned his property by filing an appeal with the City Engineer for adjustment thereof, stating in writing the grounds for the appeal. The City Engineer shall cause appropriate investigation thereof and report the findings to the appellant. The City Engineer shall consider the appeal and determine whether an adjustment of the ERU multiple for any such lot or parcel is necessary, and adjust such ERU multiple if appropriate.

(b) A Hearing Board shall be appointed by the Mayor as needed for arbitration of differences between the City Engineer and stormwater users concerning interpretation and execution of the provisions of this chapter. The cost of the arbitration will be divided equally between the City and the sewer user.

(c) One member of the Board shall be a registered professional engineer; one member shall be a representative of an industry or manufacturing enterprise; one member shall be a lawyer and one member shall be selected at large for his interest in accomplishing the objectives of this chapter.

(Ord. 23-03. Passed 6-23-03.)

918.09 LIMITS AND CORRECTIONS TO BILLING.

(a) If the City has undercharged a customer because of a billing error, the City may only bill the customer for the portion of the unbilled stormwater services used in the one (1) year period immediately prior to the date the City remedies the billing error.

(b) If the City determines, however, that a customer has been overcharged because of a billing error, the City will adjust the customer's account back, for a period not to exceed one (1) year, from the date the City remedies the billing error.

(c) If the City has attempted to verify a discrepancy in billing under section (a) and the customer has not responded within ninety (90) days to requests by the City to reconcile the discrepancy, the City will bill the customer for the unbilled stormwater services used in the four (4) year period immediately prior to the date the City remedies the billing error.

(d) This Section does not apply to circumstances where an act or omission or an act by the property's agent results in no calculation or an inaccurate calculation of stormwater service charges. In these cases, the property owner shall be responsible for all unpaid service charges. (Ord. 23-03. Passed 6-23-03.)

918.10 RATES TO APPLY TO FUTURE CONNECTIONS.

For any lots, lands, buildings or premises within the corporate limits of the City which in the future increases the impervious area and is tributary to the City stormwater system, either directly or indirectly, after the effective date of this chapter charges shall be made pursuant to this chapter. (Ord. 23-03. Passed 6-23-03.)

918.11 USE OF STORMWATER FUND.

The funds received from the collection of the stormwater charges authorized by this chapter, shall be deposited with the City Treasurer and shall be accounted for and be known as the Stormwater Fund and, when appropriated by Council, shall be available for the payment of the cost and expense of the management, maintenance, operation and repair of the City stormwater system. (Ord. 23-03. Passed 6-23-03.)

918.12 PERIODIC REVIEW OF STORMWATER RATES.

(a) In order that the rates and charges for sewage services may remain fair and equitable and be in proportion to the cost of providing services to the various users or user classes, the City shall cause a study to be made within a reasonable period of time following the fourth year of operation. Such study shall include, but not be limited to, an analysis of the costs required level of service, impervious area calculations attributed to the various user classes, the financial position of the stormwater system and the adequacy of its revenue to provide reasonable funds for the operation and maintenance, replacements, debt service requirements and capital improvements to the system.

(b) Thereafter, on an annual basis, within a reasonable period of time following the normal accounting period, the City shall cause a similar study to be made for the purpose of reviewing the fairness and equity of the rates and charges for stormwater services on a continuing basis. Such studies shall be conducted by officials or employees of the City, or by a firm of certified public accountants, or a firm of consulting engineers which shall have experience in such studies, or by such combination of officials, employees, accountants or engineers as the City shall determine to be best under the circumstances.

(c) Further, the results of such study shall be used as a basis for any rate adjustments necessary to maintain sufficiency of revenue and/or proportionality between classes. (Ord. 23-03. Passed 6-23-03.)

918.13 ADJUSTMENTS.

Credit or adjustments can be made to non-single family service charges for qualified property owners performing activities that reduce the impact of stormwater runoff to the stormwater system as follows:

(a) Education Credits.

(1) General Policies.

A. This program is available to all schools as defined in the zoning code, public or private that offer a compulsory education curriculum for grades K through 12 or part thereof.

- B. Credits will be issued on a building complex by building complex basis.
 - C. Where a site is jointly used by a school and another use (e.g. church) the stormwater fee will be prorated based on usage and the credit will be issued to the school portion of the fee.
 - D. In no case will the total credit amount be more than the cap identified in Section 918.13(1).
- (2) Credits available. Stormwater education credits of up to 50% of the stormwater bill may be granted for approved programs providing public awareness and education on stormwater issues as follows
- A. Stormwater Educational Curriculum (e.g. Project WET and Project Aquatic WILD) integrated into standard curriculum for 15% of the students in the school;
 - B. Stormwater Educational Activities (e.g. essay contest, poster contest) with participation of 15% of the students;
 - C. Public Service Activities (e.g. Adopt a Road, Adopt a Stream, Hocking River cleanup, or inlet stenciling) involving 5% of the students or utilizing student recruited adults. Where adults are recruited, they shall be credited with 3 equivalent students per each adult participant;
 - D. In Kind Services (e.g. web site development, brochure development, public service announcements, videos or other program related work) as approved by the Service Safety Director;
 - E. A combination of the above items for an equivalent student participation of 15% or as approved by the Service Safety Director.
- (3) Basic Procedures.
- A. In order to receive educational credits, the school will need to submit an application including an education plan. The application will be due by October 1, of each year. The plan shall be reviewed and approved by the Service Safety Director. Once approved, the credit shall be placed on the appropriate stormwater bill.
 - B. Upon completion of the educational plan or no later than October 1 of each year, the school shall submit an annual report indicating compliance with the approved plan. The annual report shall be broken down by the types of activities and indicate the number of participants. If the school did not substantially comply with the plan, the report will include an explanation of the failure and any needed corrective action. Other reporting requirements may be required as part of the plan approval and shall be included in the annual report.
 - C. The annual report will be reviewed by the City Engineer. If upon review, the school did not substantially comply with the approved plan, the City may:
 - 1. Require additional activities as a corrective action
 - 2. Reduce the education credit to a level comparable with the compliance

3. Revoke the education credit and require repayment in accordance with 918.09
 4. Refuse approval of any new education plan.
- (b) Retention/Detention Credit.
- (1) General Policies.
 - A. This program is available to all non-single family properties or part thereof.
 - B. Credits will be issued on a property by property basis for only the portion of the property tributary to the retention/detention facility.
 - C. When a facility is jointly used by several non-single family properties under a joint use agreement, including deed restriction, the credit shall be prorated among the properties as a percentage of the tributary area.
 - D. In no case will the total credit amount be more than the cap identified in Section 918.13(1).
 - (2) Credits available. Retention/Detention credits may be granted for approved facilities that reduce the quantity of stormwater and/or improve the water quality of stormwater as follows:
 - A. A 10% credit may be given for a retention/detention facility required by City standards, that is functioning as designed.
 - B. An additional credit of up to 10% may be given for facilities that provide additional detention/retention that benefits upstream or downstream properties without a joint use agreement or provide additional detention/retention for water quality purposes. This additional credit will be calculated as one tenth of a percent for each one percent increase in detention/retention over the volume required by City Standards.
 - C. An additional credit of up to 10% for demonstration projects of Best Management Practices determined and approved by the City Engineer designed to meet specific site situations.
 - (3) Basic Procedures.
 - A. In order to receive detention/retention credits, the non-single family property owner will need to submit an application, including application fee, right of entry easement, if applicable, and any required engineering plans and calculations stamped by a registered professional engineer.
If approved the credit shall be placed on the appropriate stormwater bill.
 - B. The City Engineer or his designee shall inspect the detention/retention facility prior to approving the credit and periodically after the credit is issued to insure compliance with the approved plans.
 - C. If inspections find that the facility has been altered or is not maintained to provide the approved detention/retention, the City may
 1. Required corrective action
 2. Reduce the credit to a level comparable with the detention/retention provided
 3. Revoke the credit and require repayment in accordance with 918.09.

- (c) Preservation of the 100 Year Special Flood Hazard Area.
- (1) General Policies.
- A. This program is available to all non-single family properties or part thereof.
 - B. Credits will be issued on a property by property basis.
 - C. In no case will the total credit amount be more than the cap identified in Section 918.13(1).
- (2) Credits available. Preservation credits may be granted to properties located all or in part in the Special Flood Hazard area regulated under Chapter 1331. Preservation credits may be granted to preserve the flood hazard area resulting in the reduction of flood damage, improvements in water quality and reduction of water quantity as follows
- A. A 20% credit may be given for preserving 100% of the special flood hazard area (excluding the floodway) as pervious areas and without altering the existing ground elevations.
 - B. A credit of up to 10% may be given for preserving portions of the special flood hazard area (excluding the floodway) as buffer and without altering the existing ground elevations. This additional credit will be calculated as one tenth of a percent for each one percent of special flood area (excluding the floodway) preserved as buffer and without altering the existing ground elevations.
 - C. A credit of up to 20% for projects to replace special flood hazard area (excluding the floodway) by construction of flood storage basins or other Best Management Practices determined and approved by the City Engineer designed to meet specific site situations.
- (3) Basic Procedures.
- A. In order to receive preservation credits, the non-single family property owner will need to submit an application, including application fee, right of entry easement, if applicable, and any required engineering plans and calculations stamped by a registered professional engineer. If approved the credit shall be placed on the appropriate stormwater bill.
 - B. The City Engineer or his designee shall inspect the property prior to approving the credit and periodically after the credit is issued to insure compliance with the approved preservation.
 - C. If inspections find that the preservation area has been altered, the City may
 - 1. Required corrective action
 - 2. Reduce the credit to a level comparable with the detention/retention provided
 - 3. Revoke the credit and require repayment in accordance with Section 918.09.
- (d) Maintenance Credit.
- (1) General Policies.
- A. This program is available to all non-single family properties or part thereof.

- B. Credits will be issued on a property by property basis.
 - C. In no case will the total credit amount be more than the cap identified in Section 918.13(1).
- (2) Credits available. Maintenance credits may be granted to properties which maintain public stormwater open channels or to property owners who participate in an approved Adopt-A-Road or other sanctioned City clean up program. Maintenance credits may be granted to reduce operation and maintenance costs to the City as follows
- A. A credit of up to 30% may be given for maintaining public stormwater open channels. The credit will be calculated as one half percent per lineal foot of channel maintained.
 - B. A credit of up to 10% may be given for participation in an approved Adopt-A-Road program. The credit will be based on a signed contract to provide litter collection on a one mile section of roadway on a schedule to be approved by the Service Safety Director. The minimum term of the contract shall be three clean ups per year for a three year period.
 - C. A credit of up to 10% may be given for participation in a sanctioned City clean up program. The credit will be calculated as 1% for each 5 participants in the cleanup program. The credit shall be granted for a period of no more one year from the sanctioned program.
- (3) Basic Procedures.
- A. In order to receive Maintenance credits, the non-single family property owner will need to submit an application, including application fee, right of entry easement, if applicable, maintenance plan and any required engineering plans and calculations stamped by a registered professional engineer. If approved the credit shall be placed on the appropriate stormwater bill.
 - B. The City Engineer or his designee shall inspect the property to determine if the proposed maintenance will reduce operation and maintenance costs to the City. If the proposal is approved for maintenance credit, the City Engineer shall periodically inspect the property to insure compliance with the approved maintenance plan.
 - C. In order to receive credit for participation in an approved Adopt-A-Road Program, the non-single family property owner will need to submit an application including application fee, and a request for roadway designation. Only roadways designated by the Superintendent of Streets shall be approved for adoption and cleanup work must be completed in accordance with a schedule approved by the Service Safety Director.
 - D. In order to receive credit for participation in a sanctioned cleanup program, the non-single family property owner will need to submit an application including application fee and tentative list of participants. Participants must register at the event and identify themselves as credit program participants. A single participant may be credited only to one stormwater account.

- E. If periodic inspections find that the property owner is not following the approved maintenance plan, the City may
 - 1. Require corrective action
 - 2. Reduce the credit to a level comparable with the detention/retention provided
 - 3. Revoke the credit and require repayment in accordance with Section 918.09.
 - F. If a participant in an Adopt A Road program fails to comply with the conditions of the contract, the City may
 - 1. Require corrective action on a schedule determined by the Service Safety Director
 - 2. Reduce the credit to a level comparable with the contract completion
 - 3. Revoke the credit and require repayment in accordance with Section 918.09.
- (e) Brownfield Reuse.
- (1) General Policies.
 - A. This program is available to all non-single family properties or part thereof.
 - B. Credits will be issued on a property by property basis.
 - C. In no case will the total credit amount be more than the cap identified in Section 918.13(1).
 - (2) Credits available. Brownfield Reuse credits may be granted to properties receiving Brownfield Cleanup funds under ORC 122. Brownfield Reuse credits may be granted to improve water quality from stormwater discharges as follows
 - A. A 10% credit may be given for a period of five years following activation of the project.
 - (3) Basic Procedures.
 - A. In order to receive Brownfield Reuse credits, the non-single family property owner will need to submit an application, including application fee, right of entry easement, if applicable, proof of funding under ORC 122 and any required engineering plans and calculations stamped by a registered professional engineer. If approved the credit shall be placed on the appropriate stormwater bill.
 - B. The City Engineer or his designee shall inspect the property prior to approving the credit and periodically after the credit is issued to insure compliance with the approved cleanup plan.
 - C. If inspections find that the cleanup is no longer proceeding, the City may
 - 1. Require corrective action
 - 2. Reduce the credit to a level comparable with the detention/retention provided
 - 3. Revoke the credit and require repayment in accordance with Section 918.09.

- (f) Industrial National Pollution Discharge Elimination System Permit (NPDES) Credit.
- (1) General Policies.
 - A. This program is available to all non-single family properties or part thereof.
 - B. Credits will be issued on a property by property basis.
 - C. In no case will the total credit amount be more than the cap identified in Section 918.13(l).
 - (2) Credits available. NPDES credits may be granted to properties receiving and operating under an individual industrial National Pollution Discharge Elimination System Permit for stormwater or an individual or general Municipal Separated Storm Sewer System Permit as issued by the United States Environmental Protection Agency or delegated state authority. NPDES credits may be granted to recognize improve stormwater management and water quality from stormwater discharges as follows
 - A. A 30% credit may be given for a valid NPDES permit covering stormwater discharges.
 - (3) Basic Procedures.
 - A. In order to receive NPDES credits, the non-single family property owner will need to submit an application, including application fee, right of entry easement, if applicable, and proof of valid NPDES permit and Stormwater Pollution Prevention Plan, if applicable. If approved the credit shall be placed on the appropriate stormwater bill.
 - B. The City Engineer or his designee shall investigate the status of the NPDES permit to determine if it is valid and appropriate.
 - C. If the NPDES permit is revoked or enforcement action is taken by the issuing authority, the City may
 1. Require corrective action
 2. Reduce the credit to a level comparable with the detention/retention provided
 3. Revoke the credit and require repayment in accordance with Section 918.09.
- (g) Economic Development Credit.
- (1) General policies.
 - A. This program is available to all non-single family properties or part thereof.
 - B. Credits will be issued on a property by property basis.
 - C. In no case will the total credit amount be more than the cap identified in Section 918.13(l).
 - (2) Credits available. Economic Development credits may be granted to properties classified by the County Auditor on the most recent tax roll as Land Uses 200-299, 300-400, 404-1000 having commercial water service.
 - A. A 10% credit may be given for providing job opportunities in the City.

- (3) Basis procedures.
- A. In order to receive Economic Development credits, the non-single family property owner will need to submit an application, including application fee. If approved the credit shall be placed on the appropriate stormwater bill.
 - B. The City Engineer or his designee shall inspect the property prior to approving the credit to determine that the property falls under the appropriate land use code and periodically to insure that the proper land use code applies.
 - C. If inspections find that the property no longer falls within the applicable land use codes, the City may:
 1. Revoke the credit and require repayment in accordance with Section 918.09.
- (h) Phase In Credit.
- (1) General policies.
- A. This program is available to all non-single family properties with an Equivalent Residential Unit Calculation before credits of 50 ERU or greater.
 - B. Credits will be issued on a property by property basis.
 - C. In no case will the total credit amount be more than the cap identified in Section 918.13(1).
- (2) Credits available. Phase in credits may be granted to properties receiving bills larger than 50 ERU before credits to allow budgeting for stormwater charges as follows:
- A. A 15% credit may be given for billing cycles within the calendar year of 2004.
 - B. A 10% credit may be given for billing cycles billed within the calendar year 2005.
 - C. A 5% credit may be given for billing cycles billed within the calendar year 2006.
- (3) Basic procedures.
- A. In order to receive a Phase in credit, the non-single family property owner will need to submit an application, including application fee. If approved the credit shall be placed on the appropriate stormwater bill.
 - B. The City Engineer or his designee shall review the property impervious area calculations prior to approving the credit and periodically after the credit is issued to insure that the ERU calculation is 50 ERU or greater before credits.
 - C. If review finds that the property no longer meets the criteria for the credit, the City may:
 1. Revoke the credit and require repayment in accordance with Section 918.09.
- (i) Adjustments for the above credits will be made only to non-single family properties with an ERU greater than five (5) units.
- (j) Credit applications will not be accepted from any property that has a delinquent utility account.

(k) Credits apply only to the non-single family property in which the activity applies. Credits may not be transferred to other properties.

(l) In no case shall the total amount of all credits issued under this Section exceed 50% of the stormwater bill for the property.
(Ord. 23-03. Passed 6-23-03; Ord. 53-04. Passed 9-27-04.)

918.14 VALIDITY.

The invalidity of any section, clause, sentence or provision of this chapter shall not affect the validity of any other part of this chapter which can be given effect without such invalid part or parts. (Ord. 23-03. Passed 6-23-03.)

918.15 EFFECTIVE DATE.

The rates and charges herein set forth shall become effective on the first full billing period of December 2003 to be billed the first full billing period of January 2004.
(Ord. 23-03. Passed 6-23-03.)

CHAPTER 919
Storm Water Sediment and Soil Erosion Protection

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919.02 Definitions.	919.17 Maintenance
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919.06 Requirements.	919.21 Injunctive relief.
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919.10 Concentrated water erosion.	919.25 Violations deemed a public nuisance.
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919.13 Stormwater Pollution Prevention Plan content.	
919.14 Exceptions.	
919.15 Plan review.	

CROSS REFERENCES

Storm Water Utility Program - see S.U. & P.S. Ch. 918

919.01 PURPOSE.

This chapter is adopted for the purpose of controlling the pollution of public waters by sediment from accelerated soil erosion and accelerated stormwater runoff caused by earth-disturbing activities and land use changes connected with developing urban areas. Control of such pollution shall promote and maintain the health, safety and general well-being of all inhabitants of the City.

(Ord. 4-14. Passed 4-14-14.)

919.02 DEFINITIONS.

For the purpose of this chapter, certain rules or word usage apply to the text as follows:

- (a) "City" means the City of Lancaster, Ohio or its duly designated representative.
- (b) "Channel" means a natural stream that conveys water; a ditch or channel excavated for the flow of water.

- (c) "Development area" means any contiguous area owned by one person or operated as one development unit and used or being developed for nonfarm commercial, industrial, residential or other nonfarm purposes upon which earth- disturbing activities are planned or under way.
- (d) "District" means the Fairfield Soil and Water Conservation District.
- (e) "Ditch" means an excavation either dug or natural for the purposes of drainage or irrigation with the intermittent flow.
- (f) "Drainageway" means an area of concentrated water flow other than river, stream, ditch or grassed waterway.
- (g) "Dumping" means leveling, pushing, piling, throwing, unloading or placing.
- (h) "Earth-disturbing activity" means any grading, excavating, filling or other alteration of the earth's surface where natural or manmade ground cover is destroyed and which may result in or contribute to erosion and sediment pollution.
- (i) "Earth material" means soil, sediment, rock, sand, gravel and organic material or residue associated with or attached to the soil.
- (j) "Erosion" means
 - (1) The wearing away of the land surface by running water, wind, ice, or other geological agents including such processes as gravitational creep.
 - (2) Detachment and movement of soil or rock fragments by wind, water, ice or gravity.
 - (3) "Erosion" includes
 - A. "Accelerated erosion": erosion occurring much more rapid than normal, natural or geologic erosion, primarily as the result of the influence of the activities of man.
 - B. "Floodplain erosion": abrading and wearing away of the overbank areas situated on either side of a channel due to overflow flooding.
 - C. "Gully erosion": the erosion process whereby water accumulates in narrow channels during and immediately after rainfall or snow or ice melt and actively removes the soil from this narrow area to considerable depths such that the channel would not be obliterated by normal smoothing or tillage operations.
 - D. "Natural erosion": geologic erosion or the wearing away of the earth's surface by water, ice or other natural environmental conditions of climate, vegetation, etc., undisturbed by man.
 - E. "Normal erosion": the gradual erosion of land used by man which does not greatly exceed natural erosion.
 - F. "Rill erosion": an erosion process in which numerous small channels only several inches deep are formed, occurs mainly on recently disturbed soils.
 - G. "Sheet erosion": the removal of a fairly uniform layer of soil from the land surface by wind or runoff water.
- (k) "Grassed waterway" means a broad or shallow natural course or constructed channel covered with erosion-resistant grasses or similar vegetative cover and used to conduct surface water.
- (l) "Landside" means the rapid downward and outward movement of large rock matter and/or soil mass under the influence of gravity in which the movement of the soil mass occurs along an interior surface of sliding.

- (m) "Person" means an individual, corporation, partnership, joint venture, agency, unincorporated association, municipal corporation, County or State agency, the Federal Government, or any combination thereof.
- (n) "Public waters" means water within rivers, streams, ditches and lakes except private ponds and lakes wholly within single properties or waters leaving property on which surface water originates.
- (o) "Sediment" means solid material both mineral and organic, that is in suspension, is being transported or has been moved from its site of origin by wind, water, gravity or ice, and has come to rest on the earth's surface above or below sea level.
- (p) "Sediment basin" means a barrier, dam or other suitable detention facility built across an area of waterflow to settle and retain sediment carried by the runoff waters.
- (q) "Stormwater Pollution Prevention Plan (SWP3)" means a written description and graphical exhibit, acceptable to the City of methods for controlling sediment pollution from accelerated erosion on a disturbed development area of one or more contiguous acres or smaller areas that are part of a larger development over one acre.
- (r) "Sediment pollution" means failure to use management or conservation practice to abate wind or water erosion of the soil or to abate degradation of the waters of the State by soil sediment in conjunction with land grading, excavating, filling or other soil-disturbing activities.
- (s) "Slip" means a landslide as defined in subsection (1) hereof.
- (t) "Sloughing" means a slip or downward movement of an extended layer of soil resulting from the undermining action of water or the earth-disturbing activity of man.
- (u) "Soil loss" means soil relocation on or removed from a given site by the force of erosion and redeposit of the soil at another site on land or in a body of water.
- (v) "Storm frequency" means the statistical average time within which a storm of a given duration and intensity can be expected to be equaled or exceeded.
- (w) "Stream" means a body of water running or flowing on the earth's surface or channel in which such flow occurs. Flow may be seasonally intermittent.
- (x) "Topsoil" means surface and upper surface soils which presumably are darker colored, fertile soil materials, ordinarily rich in organic matter or humus debris.
- (y) "100 year floodplain" means land susceptible to being inundated by water from a base flood that has a one percent or greater chance of being equaled or exceeded in any given year.
- (z) "Clearing" means the removal of trees, brush, and other unwanted material in order to develop land for other uses, or to provide access for site work.
- (aa) "Best Management Practice (BMP)" means a range of management procedures, schedules of activities, prohibitions on practices and other management practices which have been demonstrated to effectively control the quality and/or quantity of water runoff and which are compatible with the planned land use.
- (bb) Municipal separate storm sewer system "(MS4)" refers to a storm sewer system owned and operated by the Municipality in which it is located. These storm sewer systems may discharge into local rivers and streams and are regulated by the Environmental Protection Agency to reduce the amount of pollutants that reach these bodies of water from the storm sewer system.
(Ord. 4-14. Passed 4-14-14.)

919.03 SCOPE.

(a) This chapter shall apply to earth-disturbing activities to areas designated below which are within the jurisdiction of the City unless otherwise excluded within this chapter or unless expressly excluded by State law; land used or being developed for commercial, industrial, residential, recreational, public service or other nonfarm purposes.

(b) This chapter shall not apply to:

- (1) Strip mining operations regulated by Ohio R.C. Chapter 1513; or
- (2) Surface mining operations regulated by Ohio R.C. Chapter 1514.
- (3) Land disturbed for crop production.
(Ord. 4-14. Passed 4-14-14.)

919.04 DISCLAIMER OF LIABILITY.

Neither submission of a plan under provisions of this chapter nor compliance with provisions of this chapter shall relieve any person from responsibility for damage to any person or property otherwise imposed by law, nor impose any liability upon the City for damage to any person or property.

(Ord. 4-14. Passed 4-14-14.)

919.05 SEVERABILITY.

If any clause, section or provision of this chapter is declared invalid or unconstitutional by a court of competent jurisdiction, the validity of the remainder shall not be affected thereby.

(Ord. 4-14. Passed 4-14-14.)

919.06 REQUIREMENTS.

(a) No person shall cause or allow earth-disturbing activities on a development area prior to submittal and approval of a stormwater pollution prevention plan (SWP3) showing compliance with the standards and criteria set out in Chapter 919.

(b) No storm sewer tap under Section 913.10, zoning clearance under Section 1155.02, approval of plans under Section 1105.08, or Flood Plain development permit under Section 13 31.12 shall be issued until the developer receives approval of a Stormwater Pollution Prevention Plan (SWP3) and methods for control of stream channel and floodplain erosion control showing compliance with the standard and criteria set out in Chapter 919.

(Ord. 4-14. Passed 4-14-14.)

919.07 EXCEPTIONS.

(a) When the proposed earth-disturbing activity includes less than one acre, it is not necessary to submit a stormwater pollution prevention plan (SWP3). The developer shall incorporate best management practices into the site development plan submitted for approval. When the proposed earth-disturbing activity includes less than one acre and the development is exclusively one-, two- and three family housing not part of a larger development, it is not necessary to submit a stormwater pollution prevention plan (SWP3). Compliance with the other provisions of this chapter is required.

(b) Where to post development stormwater discharge increases by less than one cubic foot per second (1 cfs) in a 100 year storm event, no stream channel and floodplain erosion is required under Section 919.12, Compliance with the other provisions of this chapter is required.

(Ord. 4-14. Passed 4-14-14.)

919.08 STANDARDS AND CRITERIA.

In order to control sediment 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 by standards set forth by the Ohio Department of Natural Resources, Division of Soil and Water Conservation and the City Engineer.

- (a) Development shall comply with the Ohio Environmental Protection Agency General Construction Permit.
- (b) Discharges from dewatering activities, including discharges from dewatering trenches and excavations, are prohibited unless managed by appropriate controls.
- (c) Development shall design, install, implement and maintain effective pollution prevention measures to minimize the discharge of pollutions from equipment and vehicle washing, exposure of building materials and construction waste.
- (d) The following discharges are prohibited
 - (1) Wastewater from washout of concrete, unless managed by an appropriate control;
 - (2) Wastewater from washout and cleanout of stucco, paint, from release oils, curing compounds and other construction materials;
 - (3) Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and
 - (4) Soaps or solvents used in vehicle and equipment washing.
(Ord. 4-14. Passed 4-14-14.)

919.09 SHEET AND RILL EROSION.

To control pollution of public waters by soil sediment from accelerated sheet and rill erosion of development areas, the person responsible shall:

- (a) Construct and maintain sediment basins sized in accordance with the Ohio Department of Natural Resources handbook, "Rainfall and Land Development"; or
- (b) Use other Best Management Practices designed in accordance with the Ohio Department of Natural Resources handbook "Rainfall and Land Development" to control sediment pollution, provided those methods are acceptable to the City.
- (c) Stabilize disturbed areas in accordance with the Ohio Environmental Protection Agency General Construction Permit.
(Ord. 4-14. Passed 4-14-14.)

919.10 CONCENTRATED WATER EROSION.

To control pollution of public waters by soil sediment from accelerated erosion in drainageways, grassed waterways, streams and ditches disturbed or modified in conjunction with the development process, the person responsible for the change shall:

- (a) Design, construct and maintain sediment basins sized in accordance with the Ohio Department of Natural Resources handbook, "Rainwater and Land Development"; or,
- (b) Use other Best Management Practices designed in accordance with the Ohio Department of Natural Resources handbook "Rainfall and Land Development" to control sediment pollution provided those methods are acceptable to the City.
- (c) Stabilize disturbed areas in accordance with the Ohio Environmental Protection Agency General Construction Permit.
(Ord. 4-14. Passed 4-14-14.)

919.11 SLOUGHING, LANDSLIDING AND DUMPING.

To control sediment pollution of public waters caused by sloughing, landsliding or dumping of earth material, or placing of earth material into such proximity that it may readily slough, slide or erode into public waters by natural forces, no person shall:

- (a) Dump or place earth material into public waters or into such proximity that it may readily slough, slide or erode into public waters unless such dumping or placing is authorized by the City for such purposes as constructing bridges, culverts, erosion control structures and other in-stream or channel bank improvement works; or,
- (b) Grade excavate, fill or impose a load upon any soil or slope known to be prone to slipping or landsliding, thereby causing it to become unstable, unless qualified engineering assistance has been employed to explore the stability problems and make recommendations to correct, eliminate or adequately address the problems. Grading, excavating, filling or construction shall commence only after the City has reviewed and approved the exploratory work and recommendations and only in accordance with the approved recommendations.
- (c) Fail to stabilize disturbed areas in accordance with the Ohio Environmental Protection Agency General Construction Permit.
(Ord. 4-14. Passed 4-14-14.)

919.12 STREAM CHANNEL AND FLOODPLAIN EROSION.

(a) To control pollution of public waters by soil sediment from accelerated stream channel erosion and to control floodplain erosion caused by accelerated stormwater runoff from the development areas, the increased peak rates and volumes of runoff shall be controlled such that the peak rate of runoff from the twenty four hour storm having a recurrence frequency of 100 years occurring on the development area does not exceed the peak rate of runoff from a two year frequency, twenty four hour storm occurring on the same area under predevelopment conditions.

(b) Methods for controlling increases in storm water runoff peaks and volumes may include but are not limited to:

- (1) Retarding flow velocities by increasing friction; for example, grassed road ditches rather than paved street gutters where practical, low density development areas, access roads, etc; discharging roof water to vegetated areas; or grass- and rock-lined drainage channels;
- (2) Grading and construction of terraces and diversions to slow runoff and use of grade control structures to provide a level of control in flow paths and stream gradients;
- (3) Inducted infiltration of increase storm water runoff into the soil where practical; for example, constructing special infiltration area where soils are suitable; retaining topsoil for all areas to be revegetated; or providing good infiltration areas with proper emergency overflow facilities. However, no concentrated infiltration technology, including infiltration basins or trenches, permeable pavement-infiltration, bioretention areas/cell and infiltration, and other methods where the stormwater infiltrates into the ground will be permitted within the Wellhead Protection Zone 1 or Wellhead Protection Zone 2 as defined by Section 1335.04; and,

- (4) Provisions for detention and retention; for example, permanent ponds and lakes with stormwater basins provided with proper drainage, multiple use areas for stormwater detention and recreation, wildlife, transportation, fire protection, aesthetics or subsurface storage areas.

(c) Where required by the City Engineer, provide a 50 foot undisturbed natural buffer around surface waters of the state.

(d) Stabilize disturbed areas in accordance with the Ohio Environmental Protection Agency General Construction Permit.
(Ord. 4-14. Passed 4-14-14.)

919.13 STORMWATER POLLUTION PREVENTION PLAN CONTENT.

In compliance with Section 919.06 a Stormwater Pollution Prevention Plan (SWP3) for the proposed development area, with maps drawn to scale of not less than one inch equals one hundred feet shall be submitted containing the following information:

- (a) All items listed in Part III G of the Ohio Environmental Protection Agency General Construction Permit.
- (b) Structural Post Construction Best Management Practices shall be limited to Dry Extended Detention Basin including underground detention tanks, Wet Extended Detention Basin and Bioretention Areas unless approved by the City Engineer.
(Ord. 4-14. Passed 4-14-14.)

919.14 EXCEPTIONS.

The City Engineer may waive specific requirements for the plan detail if the area is covered by a previously approved plan or is incorporated into a development permit under Chapter 1331.

(Ord. 4-14. Passed 4-14-14.)

919.15 PLAN REVIEW.

The City shall, in a reasonable time period, indicate its approval or disapproval to the person who filed the plan. Indication of disapproval shall include the plan deficiencies and the procedures for filing a revised plan. Pending preparation and approval of a revised plan, earth disturbing activities shall proceed only in accordance with conditions outlined by the City.

(Ord. 4-14. Passed 4-14-14.)

919.16 INSPECTION TO ENSURE COMPLIANCE.

The City or its authorized representative may inspect development areas to determine compliance with these regulations and the approved Stormwater Pollution Prevention Plan (SWP3). If it is determined that a violation of these regulations exists, the responsible person shall be notified of the deficiencies or noncompliance. After a reasonable time for voluntary compliance, the inspector or inspecting agency shall report the deficiency or noncompliance to the City. The City, upon determining that a person is not complying with these regulations, may issue an order to comply. The order shall describe the problem and the work needed, and specify a date when the work shall be completed. The City maintains the right to issue a stop-work order for non-compliance with specified time schedule or upon City determination of a need to remedy of a serious problem.

(Ord. 4-14. Passed 4-14-14.)

919.17 MAINTENANCE.

(a) When a site is developed under single ownership, the costs of maintaining any soil sediment control facilities shall be the responsibility of the property owner.

(b) When the benefiting area will involve two or more property owners, the person(s) developing the site shall provide for the permanent maintenance of structures and other facilities designed to control erosion and manage stormwater through the formation of an owners association. The cost of maintenance of all storm water facilities shall be the responsibility of the association.

(Ord. 4-14. Passed 4-14-14.)

919.18 APPEAL OF NOTICE OF VIOLATION.

(a) Right to Appeal. Any person affected by a decision of the Service Safety Director or his authorized designee or a notice or order issued under this Chapter shall have the right to appeal to the Hearing Board established under Section 918.08, provided that a written application for appeal is filed within twenty days after the day the decision, notice or order was served.

(b) Limitation of Authority. An application for appeal shall be based on a claim that the true intent of the rules legally adopted hereunder have been incorrectly interpreted, the provisions of this code do not apply, or the requirements of this code are adequately satisfied by other means. (Ord. 4-14. Passed 4-14-14.)

919.19 ENFORCEMENT MEASURES AFTER APPEAL

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within 30 days of the decision of the Board upholding the decision of the Service Safety Director or his authorized designee, then the Service Safety Director or his authorized designee shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above. (Ord. 4-14. Passed 4-14-14.)

919.20 COST OF ABATEMENT OF THE VIOLATION.

Within 45 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written appeal of the amount of the assessment within 20 days. If the amount due is not paid within a timely manner as determined by the decision Service Safety Director or his authorized designee or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

Any person violating any of the provisions of this chapter shall become liable to the city by reason of such violation. (Ord. 4-14. Passed 4-14-14.)

919.21 INJUNCTIVE RELIEF.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. If a person has violated or continues to violate the provisions of this ordinance, the Service Safety Director or his authorized designee may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation. (Ord. 4-14. Passed 4-14-14.)

919.22 RIGHT TO REIMBURSEMENT.

The Service Safety Director or his authorized designee may recover all attorney's fees court costs and other expenses associated with enforcement of this chapter, including sampling and monitoring expenses. (Ord. 4-14. Passed 4-14-14.)

919.23 REMEDIES NOT EXCLUSIVE.

The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the Service Safety Director or his authorized designee to seek cumulative remedies. (Ord. 4-14. Passed 4-14-14.)

919.24 ADOPTION OF CHAPTER.

This chapter shall be in full force and effect immediately after its final passage and adoption. All prior ordinances and parts of ordinances in conflict with this chapter are hereby repealed. (Ord. 4-14. Passed 4-14-14.)

919.25 VIOLATIONS DEEMED A PUBLIC NUISANCE.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken. (Ord. 4-14. Passed 4-14-14.)

919.99 CRIMINAL PENALTY.

Whoever violates any section of this chapter shall be deemed guilty of an unclassified misdemeanor subject to thirty days jail and a maximum fine of one thousand dollars (\$1,000.00). (Ord. 4-14. Passed 4-14-14.)

CHAPTER 920
Electricity

EDITOR'S NOTE: There are no sections in Chapter 920. This chapter has been established to provide a place for cross references and any future legislation.

CROSS REFERENCES

City consent for electrical fixtures and lines on public property - see
Ohio R.C. 715.27, 4933.03, 4933.13, 4933.16
Electrically charged fence - see GEN. OFF. 521.05(b)

CHAPTER 921
Utilities Installation in Developments

921.01	Installation authorized without detriment.	921.03	Compliance with standards.
921.02	Precedence over existing law.	921.04	Permits and permit fees.
		921.05	Application.

CROSS REFERENCES

Utility improvements - see P. & Z. 1113.01

Order of improvements - see P. & Z. 1113.02

921.01 INSTALLATION AUTHORIZED WITHOUT DETRIMENT.

The Superintendent of the Division of Water is hereby instructed that he shall not install or make any arrangements or commitments to install new water lines, fire hydrants or appurtenances in any new development where the installation shall be for the sole benefit of providing water to that development. However, when in the opinion of the Service-Safety Director, the Division of Water can accomplish the installation of water lines, fire hydrants and appurtenances without detriment to its operations involving the maintenance of the water distribution system, then the Director may direct the Superintendent to install lines and appurtenances on a public utility basis. (Ord. 11-95. Passed 4-10-95.)

921.02 PRECEDENCE OVER EXISTING LAW.

This shall take precedence over any existing section of the Codified Ordinances of the City that may obligate City personnel to install water lines, fire hydrants or appurtenances for the benefit of the owner or owners of a development. (Ord. 11-95. Passed 4-10-95.)

921.03 COMPLIANCE WITH STANDARDS.

Any water line, fire hydrant and/or appurtenance constructed that will become part of or will be connected to the City's water distribution system, shall be built to the standards, specifications and policies of the Division of Water and the State of Ohio Environmental Protection Agency. (Ord. 11-95. Passed 4-10-95.)

921.04 PERMITS AND PERMIT FEES.

It shall be the responsibility of any person, partnership and/or corporation installing water lines and/or appurtenances to make application for and obtain all necessary permits. The total cost of applying for and obtaining permits including any permit fees shall be borne by the applicant. (Ord. 11-95. Passed 4-10-95.)

921.05 APPLICATION.

This chapter shall apply to all developments that have not made arrangements or received a commitment from the City for installation of water lines, fire hydrants and/or appurtenances prior to the date of first reading for this chapter.
(Ord. 11-95. Passed 4-10-95.)

TITLE FIVE - Other Public Services

Chap. 931. Parks.
 Chap. 933. Cemeteries.
 Chap. 935. Lancaster-Fairfield County Joint Hospital.
 Chap. 937. Waste Removal.
 Chap. 939. Trees.

**CHAPTER 931
 Parks**

<p>931.01 Zane Parks named. 931.011 Lancaster City Bike Trail. 931.02 Open Space Plan. 931.03 Supervision of park recreational activities. 931.04 Park rangers; appointment, powers and duties.</p>	<p>931.05 Hours of operation. 931.06 Motor vehicles in park. 931.07 Trail regulations. 931.99 Penalty.</p>
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CROSS REFERENCES

Land appropriation for parks - see Ohio R . C . 715.21, 719.01
 Power to regulate vehicle speed in parks - see Ohio R. C.4511.07(E)
 Free water furnished to parks - see S. & P. S. 911.01

931.01 ZANE PARKS NAMED.

The downtown parks located at the intersection of Main Street and Broad Street, are hereby declared to be known as Zane Parks. (Ord. 109-65. Passed 10-25-65.)

931.011 LANCASTER CITY BIKE TRAIL.

(a) The Lancaster City Bike Trail is hereby designated as a Lancaster City Park.

(b) Park rangers, county, city, and state law enforcement officers are hereby authorized to enforce violations under this chapter.
 (Ord. 29-07. Passed 4-23-07.)

931.02 OPEN SPACE PLAN.

The Open Space Plan for the City parks and surrounding areas now on file with the Clerk of Council is hereby approved. (Ord. 12-74. Passed 2-28-74.)

931.03 SUPERVISION OF PARK RECREATIONAL ACTIVITIES.

The Board of Park Commissioners is hereby vested with authority to supervise and maintain all recreational activities in the public parks, all in accordance with Ohio R.C. 755.13. (Ord. 21-75. Passed 6-23-75.)

931.04 PARK RANGERS; APPOINTMENT, POWERS AND DUTIES.

(a) The Service-Safety Director of the City is hereby authorized to hire auxiliary policemen to serve in the City parks as park rangers.

(b) Such auxiliary policemen shall be appointed and removed at the discretion of the Service-Safety Director who shall be the executive head of the auxiliary police unit. Such members of the auxiliary unit are not eligible for membership in the Police Relief and Pension Fund and shall not be in the classified service of the Municipality. (Ord. 8-76. Passed 1-26-76.)

(c) The Service-Safety Director shall prescribe rules and regulations for the organization, training, administration, control and conduct of the auxiliary police unit. Any auxiliary policeman who is appointed prior to commencing service, shall satisfactorily complete a basic course of police training in accordance with Ohio law. (Ord. 13-92. Passed 5-11-92.)

(d) Auxiliary policemen shall have the same powers and jurisdiction as other police officers have under State law, including the authority to arrest anyone who commits a misdemeanor in his presence. (Ord. 8-76. Passed 1-26-76.)

931.05 HOURS OF OPERATION.

The Park Superintendent shall establish the hours of operation for each Park. Each park shall close at dusk and open at dawn, unless posted otherwise. No person shall enter or remain within the park during hours when the park is closed unless they are participating in an authorized "Parks" program or activity, are members of a group which has reserved a facility beyond normal operating hours. (Ord. 29-07. Passed 4-23-07.)

931.06 MOTOR VEHICLES IN PARK.

(a) Persons shall not operate, within any park, any motor vehicle that is not customarily registered with the Department of Motor Vehicles of the State of Ohio and designated for highway travel.

(b) Persons shall not operate motorized vehicles including electric personal assistive mobility devices on multi-use trails, footpaths, or bicycle paths, except park employees or emergency service personnel in the performance of their official duties or except as necessary for transportation by persons with disabilities. Persons shall not use any portion of any park for purposes of travel except drives, roadways, paths, walks, and trails established for such purposes by the Park Superintendent unless granted written permission by the Park Superintendent. (Ord. 29-07. Passed 4-23-07.)

931.07 TRAIL REGULATIONS.

Persons shall obey all traffic control signs, lane markings, devices and posted operational policies on trails.

(Ord. 29-07. Passed 4-23-07.)

931.99 PENALTY.

Any violation of this section shall be a fourth degree misdemeanor on the first offense and each offense thereafter is enhanceable to a misdemeanor of the third degree on a second offense, a misdemeanor of the second degree on a third offense and a misdemeanor of the first degree on a fourth offense.

(Ord. 29-07. Passed 4-23-07.)

CHAPTER 933
Cemeteries

EDITOR'S NOTE: Ohio R.C. 759.11 provides that the Director of Public Service may make bylaws and regulations not inconsistent with the ordinances of the City and the Constitution and laws of the State of Ohio for the management and protection of the burial grounds and the cemeteries under his control and for the burial of the dead therein, and they shall have the same validity as City ordinances. The Director of Public Service, pursuant to Ohio R. C. 759.09, shall take possession and charge and have the entire management, control and regulation of public burial grounds and cemeteries located in or belonging to the City, subject to its ordinances. The Director shall determine the size and price of cemetery lots, the terms of payment therefor and shall give to each purchaser a receipt showing the amount paid and a pertinent description of the lots sold, as provided by Ohio R.C. 759.13.

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| <p>933.01 Burial in Square No. 16 prohibited.</p> <p>933.02 Investment of cemetery funds; certificate.</p> <p>933.03 Lot sale or transfer.</p> | <p>933.04 Cemetery Funds.</p> <p>933.05 Perpetual Care Fee.</p> |
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CROSS REFERENCES

Municipal cemeteries - see Ohio R. C. Ch. 759

933.01 BURIAL IN SQUARE NO. 16 PROHIBITED.

(a) The lots comprising Square No. 16, heretofore used as a burial ground, shall be kept enclosed for the purpose of containing and preserving the dead who are buried and the monuments that are erected therein but from and after July 1, 1837, there shall be no more burials on such lot. (1939 R.O., 12:02)

(b) No further interments will occur on this cemetery and the property will continue to be used for public purpose.
(Ord. 26-06. Passed 6-12-06.)

933.02 INVESTMENT OF CEMETERY FUNDS; CERTIFICATE.

The City Investment Committee is authorized to invest the funds for the Perpetual Care Trust Fund and Pre-Interment Trust Fund for the care of lots in cemeteries of the City.
(Ord. 26-06. Passed 6-12-06.)

933.03 LOT SALE OR TRANSFER.

(a) All of the land in any City Cemetery is the property of the City of Lancaster, in fee simple. Cemetery deeds convey the right to use portions of that land for grave lots for the sole purpose of interment. A separate deed shall be prepared for each lot purchased. Each owner is vested with the title to his or her graves for the sole purpose of interment.

(b) Any sale or transfer of a cemetery lot by the owner of such lot must be processed by the City Cemetery Department. Graves cannot be sold or transferred without prior permission of the Cemetery Department.

(c) Owners may transfer their ownership of a lot through a will. When an owner dies intestate, the lot(s) will descend to his or her heirs, as determined by the Statutes of the State of Ohio in effect at the time of death. Consent to these transfers will not be unreasonably withheld. Owners shall provide to the Cemetery Department the names, addresses and telephone numbers of the persons to whom the grantee's property would pass by intestate secession.

Any person who receives a lot by gift or inheritance must, within one year after receiving such interest, give written notice of his/her name and address to the Cemetery Department. In addition, he/she must notify the Cemetery Department of any subsequent changes in name and address. The Cemetery Department requires the heirs to submit proof of inheritance and return the old deed to the City for a name transfer.

(d) A transfer fee will be charged each time a lot is sold or transferred at the current rate in effect at the time of the transfer. (Ord. 26-06. Passed 6-12-06.)

933.04 CEMETERY FUNDS.

(a) The Cemetery Fund is a Special Revenue Fund generating monies for the operation of the Cemetery. (Ord. 26-06. Passed 6-12-06.)

(b) The Cemetery Pre-Interment Fund is a fund for the pre-interment monies paid in advance for interment.

- (1) The investment of the fund shall be managed by the City Investment Committee.
- (2) The fund is to be used for operating expenses or capital improvements within the Cemetery Department.
- (3) The money shall be appropriated to the Cemetery Department only after the actual interment has occurred.
(Ord. 21-12. Passed 12-3-12.)

(c) Cemetery Perpetual Care Fund is a fund created for the perpetual care of the City cemeteries.

- (1) Twenty percent (20%) of the sale proceeds of cemetery lots shall be credited to the Cemetery Perpetual Care Fund.
- (2) The Fund shall be managed by the City Investment Committee.
- (3) The Fund balance shall not be used for operating expenses. The interest from the Fund balance may be used for operating expenses of the Cemetery Department annually.
- (4) The balance of the Fund may be used for critical capital cemetery improvement projects with the approval of City Council. Said Fund balance shall be safeguarded by Council to ensure the perpetual nature of the Fund. (Ord. 22-12. Passed 12-3-12.)

933.05 PERPETUAL CARE FEE.

The Superintendent of the Cemetery Department shall charge for perpetual care on each lot purchased prior to 1963 a fee equal to the current fee for perpetual care for lots acquired after January 1, 1963. Such fee shall be paid at the time of burial or in advance if the owner so desires. These funds shall be deposited in the Perpetual Care Trust Fund.
(Ord. 26-06. Passed 6-12-06.)

(NOTE: The next printed page is page 87.)

CHAPTER 935
Lancaster-Fairfield County Joint Hospital

EDITOR'S NOTE: There are no sections in Chapter 935. This chapter has been established to provide a place for cross references and any future legislation.

CROSS REFERENCE
Municipal hospitals - see Ohio R. C. Ch. 749

**CHAPTER 937
Waste Removal**

937.01	Definitions.	937.11	Dumpsters.
937.02	Purpose.	937.12	Transfer station rates.
937.03	Rates for collection.	937.13	Solid waste disposal fees.
937.04	Private waste disposal.	937.14	Unacceptable waste and yard waste.
937.05	Acceptable waste container regulations.	937.15	Bulk pick-up rates and regulations.
937.06	Collection business prohibited.	937.16	Charges a lien.
937.07	Vehicles of private haulers.	937.17	Appeal.
937.08	Collection regulations.	937.18	Rules and regulations.
937.09	Ownership of waste on disposal site.	937.99	Penalty.
937.10	Discontinuance of service; nuisance conditions.		

CROSS REFERENCES

Collection and disposal - see Ohio R.C. 715.43, 717.01

Employment of scavengers - see Ohio R.C. 3707.39

Disposal and transportation upon public ways - see Ohio R.C. 3767.20 et seq.

Obstructing streets with building construction refuse - see BLDG. 1311.01

937.01 DEFINITIONS.

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

- (a) "Acceptable waste" means that portion of the residential and commercial stream that is normally disposed of by occupants of a residential dwelling or commercial establishment including only common household waste and refuse.
- (b) "Acceptable waste container" means only the trash carts provided and assigned by the City that may be used for acceptable waste disposal pursuant to the requirements in Section 937.05. An acceptable waste container does include a sealed plastic bag or box.
- (c) "Common household waste" means waste originating from a residential unit or commercial entities and includes, but is not limited to fiber material, paper, cardboard, packaging, cans, bottles, jars, food wastes and other similar materials.
- (d) "Commercial business" means any business that requires a dumpster for their trash needs that can be serviced multiple times per week.
- (e) "Condemned products" means any structure, installation, utensil, equipment, food, drink, feed, chemical or biological preparation, device or article of any kind, that may be a health hazard as determined by the Health Commissioner and which has been seized, tagged or labeled by the Health Commissioner as a hazard and which may not be used in any manner until the Health Commissioner determines the hazard has been abated.

- (f) "Construction, remodeling and demolition waste" means all waste building materials, rubble and spoils resulting from construction, remodeling, repair, and demolition operations on buildings, dwelling units, places of business, garages, pavements, streets, alleys, trenches, ditches, underground utilities, excavations, and other structures including, but not limited to roofing, concrete and cinder block, plaster, insulation, lumber, structural steel, plumbing fixtures, electrical wiring, heating and ventilation equipment, windows and doors, interior finishing materials such as woodwork and cabinets, siding, sheathing and aged railroad ties.
- (g) "Double or duplex family residence" means the grouping together of two residential units under a common roof.
- (h) "Hazardous waste" means any chemical, compound mixture, substance, or article which has been designated by the United States Environmental Protection Agency or an appropriate agency of the State to be hazardous, including, but not limited to flammables such as paint, gasoline, lacquer thinner, or any container that once contained these materials, as well as propane tanks, gun powder and other explosives, and automobile batteries.
- (i) "Industrial business" means any business that requires a roll-off container or compacting roll-off container that the City cannot service.
- (j) "Medical waste, infectious waste" shall include:
 - (1) Cultures and stocks of infectious agents and associated biologicals;
 - (2) Laboratory wastes that were, or are likely to have been, in contact with infectious agents that may present a substantial threat to public health if improperly managed;
 - (3) Pathological wastes;
 - (4) Waste materials from the rooms of humans, or the enclosures of animals, that have been isolated because of diagnosed communicable disease that are likely to transmit infectious agents;
 - (5) Human and animal blood specimens and blood products that are being disposed of not including patient care waste such as bandages or disposable gowns that are lightly soiled with blood or other body fluids;
 - (6) Contaminated carcasses, body parts, and bedding of animals that were intentionally exposed to infectious agents during research, production of biologicals, or testing of pharmaceuticals, and carcasses and bedding of animals otherwise infected that may present a substantial threat to public health if improperly managed;
 - (7) Sharp wastes such as hypodermic needles, syringes, or scalpel blades used in the treatment, diagnosis, or inoculation of human beings or animals or that have, or are likely to have, come in contact with infectious agents in medical research or industrial laboratories and which must be placed into puncture resistant containers before disposal;
 - (8) Any other waste materials generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals that the public council created in Ohio R.C. 3701.33;
 - (9) Any other waste materials the generator designates as infectious waste.
- (k) "Multiple family residence" or "apartment" means the grouping together under a common roof of three or more residential units.
- (l) "Normal business" means any business that does not require a dumpster but needs more than one (1) ninety-five (95) gallon provided and assigned trash cart of service per week. These businesses shall be provided and assigned up to three (3) ninety-five (95) gallon trash carts that will be serviced one time per week.

- (m) "Radioactive waste" means any substance that spontaneously emits ionizing radiation.
- (n) "Recyclables" means aluminum cans, glass bottles and jars, plastic containers, tin cans, newspaper and any other material designated by the Sanitation Department as recyclables.
- (o) "Refrigerants and items containing chlorofluorocarbons (CFC) or their substitutes" means items that contain chlorofluorocarbons which contribute to the depletion of the ozone layer. This includes refrigerators and other devices utilizing either chlorofluorocarbons as a coolant or the substitutes for chlorofluorocarbons which may not cause ozone depletion but which are subject to special handling requirements.
- (p) "Refuse" means paper, boxes, baskets, rags, old shoes, broken glass, tin cans, ashes and similar discarded materials. It does not include construction, remodeling, and demolition waste.
- (q) "Residential unit" means the place of abode of persons living separately or together as an independent family in a "dwelling unit" as defined in Section 1161.01(37).
- (r) "Small business" means any business that only needs only one (1) ninety-five (95) gallon provided and assigned trash cart of service per week.
- (s) "Trash cart" means a thirty-five (35) gallon or a ninety-five (95) gallon wheeled trash container with a closable lid approved, provided, and assigned by the Sanitation Department. The Sanitation Department Superintendent, or his/her designee, will designate approved trash carts with the concurrence of City Council.
- (t) "Unacceptable waste" means that portion of the waste stream that will not be picked up by the City of Lancaster and is further defined in Section 937.14.
- (u) "Volume", as used in Section 937.12, means average volume.
- (v) "White goods" are a type of bulk refuse that may be recycled or resold including, but not limited to large, enameled appliances such as clothing washers and dryers, dish washers, furnaces and electrical heaters, hot water heaters, stove and ovens.
- (w) "Yard waste" means solid waste that included only grass clippings, brush, garden waste, tree trunks, holiday trees, tree trimmings, and/or prunings. (Source: EPA definition from The Municipal Solid Waste Landfill Regulations OAC 3745-27). (Ord. 9-18. Passed 7-16-18.)

937.02 PURPOSE.

(a) This waste code is enacted to preserve and promote the public health, safety and welfare by establishing minimum standards for the storage, collection, transportation and disposal of acceptable and unacceptable waste in order to maintain a sanitary environment for the residents of the City of Lancaster. Whenever this chapter conflicts with any other portion of the Codified Ordinances, this chapter shall prevail with respect to any matters relating to acceptable or unacceptable waste generated by residential units or places of business. (Ord. 9-18. Passed 7-16-18.)

937.03 RATES FOR COLLECTION.

(a) Monthly Rates. Monthly rates for the collection and disposal of acceptable waste by the City are hereby established as follows:

- (1) Class 1. Any one or two persons, sixty-two (62) years of age or older, occupying a residential unit will be provided and assigned by the Sanitation Department, at no charge, one (1) thirty-five (35) gallon trash cart in which all trash for pick-up must be placed. All trash must be placed in the trash cart with the lid closed. No bags, boxes or trash of any kind shall be placed on top of the trash cart or on the ground. Class 1 occupants must sign an application at the Utilities Collection Office.
 - a) Rate - nine dollars (\$9.00) per month.
- (2) Class 2. Residential units will be provided and assigned by the Sanitation Department, at no charge, one (1) ninety-five (95) gallon trash cart. All trash must be placed in the trash cart with the lid closed. No bags, boxes, or trash of any kind shall be placed on top of the trash cart or on the ground.
 - a) Rate - thirteen dollars and fifty cents (\$13.50) per month.
 - b) Any residential unit needing more than one (1) trash cart may request a second trash cart provided and assigned by the Sanitation Department for a one-time non-refundable fee of twenty-five dollars (\$25.00) and an additional three dollars per month service fee for a total monthly rate of sixteen dollars and fifty cents (\$16.50) per month.
- (3) Class 3. Small businesses will be provided and assigned by the Sanitation Department, at no charge, one (1) ninety-five (95) gallon trash cart.
 - a) Rate - thirteen dollars and fifty cents (\$13.50) per month.
- (4) Class 4. Normal businesses will be provided and assigned by the Sanitation Department, at no charge, no more than three (3) ninety-five (95) gallon trash carts per week.
 - a) Rate - twenty-four dollars (\$24.00) per month.
- (5) Class 5a. Commercial, industrial, multiple-family residences and businesses using dumpsters per uncompacted cubic yard, with minimum of two (2) cubic yards.
 - a) Rate - eighteen dollars and seventy-five cents (\$18.75) per month.
- (6) Class 5b. Commercial, industrial, multiple-family and businesses using dumpster per compacted cubic yard.
 - (b) Rate - sixty-eight dollars and fifty cents (\$68.50) per month.
 - (c) Dumpsters. Dumpsters shall be approved by the Sanitation Department.
(Ord. 9-18. Passed 7-16-18.)

937.04 PRIVATE WASTE DISPOSAL.

- (a) No person shall throw, dump or deposit acceptable or unacceptable waste upon the ground or bury the same upon any premises, public or private, within the City, and no person shall permit any acceptable or unacceptable waste to stand or lay on the premises occupied by him, as tenant or owner, for a period of longer than one (1) week or burn the same in any place except a heating plant or incinerator so designed as to thoroughly consume the same without causing nuisance or smoke, fly ash or offensive odors. Whenever a landlord assumes responsibility for utility services for a tenant, such landlord shall be equally responsible with the tenant for sanitation services as provided herein.
(Ord. 9-18. Passed 7-16-18.)

937.05 ACCEPTABLE WASTE CONTAINER REGULATIONS.

Acceptable waste containers in the City of Lancaster shall be only the following:

- (a) Ninety-five (95) or thirty-five (35) gallon trash carts provided and assigned by the Sanitation Department. Should a resident already own a trash cart and wish to use it as a second trash cart they still must pay an additional fee of three dollars (\$3.00) per month, but the one time twenty-five dollars (\$25.00), non-refundable fee will be waived.
- (b) Dumpsters approved by the Sanitation Department.
- (c) Any other garbage can or trash can, plastic bag, box or container is not an acceptable waste container.
(Ord. 9-18. Passed 7-16-18.)

937.06 COLLECTION BUSINESS PROHIBITED.

(a) No person, business, firm or corporation, except the City, shall engage in or carry on the business of collection, hauling and disposing of waste in the City.

(b) An exception to this section is permitted if such person, business, firm or corporation received permission in writing from the Superintendent of Sanitation and Service Safety Director.
(Ord. 9-18. Passed 7-16-18.)

937.07 VEHICLES OF PRIVATE HAULERS.

Industrial or other producers of waste herein granted the right to convey waste to the waste disposal site shall accomplish the same in trucks or vehicles so constructed as to prevent the leakage or scattering of the contents thereof, and all such conveyances shall be provided with a suitable tarpaulin which shall at all times cover the contents thereof, except when being loaded or unloaded. (Ord. 9-18. Passed 7-16-18.)

937.08 COLLECTION REGULATIONS.

(a) It is the intention of this chapter that each family or person occupying a separate residential unit, or each business or firm, shall make a separate provision for the collection and removal of acceptable waste. There shall be no doubling up. Any multiple family residence and/or three (3) separate businesses shall, if deemed necessary, be required to have a dumpster.

(b) No acceptable waste shall be placed or allowed to be placed for removal except in the acceptable waste containers provided and assigned by the Sanitation Department for that purpose. Acceptable waste containers shall not be placed for pick-up until the night before or the day of pick-up service and no later than 7:30 a.m. on day of pick-up. All trash must be placed inside the trash cart, with the lid completely closed. Additional trash cannot be stacked on top of the trash cart. No other bags, cans, or containers will be picked-up, with the exception of holiday weeks. Holiday weeks shall be defined as the ten (10) holidays that the City of Lancaster observes which are New Year's Day, Martin Luther King Day, President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day and Christmas Day. Failure to abide by these regulations will result in additional fees as set forth in subsection (f) below.

(c) Collection shall be made at the street curb or alley property lines as determined by the Superintendent of the Sanitation Department. Trash carts must be placed within three (3) feet of the curb or alley with lid opening facing the street or alley and the wheels toward the residence. Trash carts must be placed at least three (3) feet from any tree, pole, mailbox, etc., and at least ten (10) feet from parked cars. Multiple trash carts must be spaced three (3) feet apart.

(d) When, in the opinion of the Superintendent of the Sanitation Department, an alternate route of collection will better serve the City and the person whose acceptable waste is being collected, the Superintendent may use such an alternate route.

(e) All trash carts shall be returned by the City employees to designated pick-up points set forth in subsection (c) above. Owners shall then return trash carts to the point of origin/storage location and shall not be left at the street curb or alley property line. Trash carts must be removed from the curb or alley by 7:00 PM the day of pick-up.

(f) Additional fees shall apply as follows:

- (1) If one (1) cubic yard or less outside of trash cart
 - i. First and Second offense: Trash will be picked-up, and trash cart will be tagged with a warning.
 - ii. Third and Fourth offense: Trash will be picked-up and a service fee of ten dollars (\$10.00) will be added to the monthly utility bill for each separate offense.
 - iii. After Fourth offense: A second ninety-five (95) gallon trash cart will be provided and assigned to the address, a one-time twenty-five dollars (\$25.00) non-refundable fee will be assessed for the second trash cart, and the monthly sanitation rate will be increased by three dollars (\$3.00) to sixteen dollars and fifty cents (\$16.50).
- (2) Bulk items and/or excessive trash in excess of one (1) cubic yard outside closed trash cart, or if too much trash or items that are too large to fit in the trash cart, and arrangements for a bulk pick-up are made with the Sanitation Department, then bulk pick-up rates will apply pursuant to Section 937.15.
- (3) Bulk items and/or excessive trash in excess of one (1) cubic yard outside closed trash cart, or if too much trash or items that are too large to fit in the trash cart, and arrangements for bulk pick-up ARE NOT MADE with the Sanitation Department, will automatically be picked-up and a ten dollar (\$10.00) service fee will be added to the monthly utility bill for each and every bulk pick-up occurrence in addition to the applicable bulk pick-up rates in Section 937.15.
(Ord. 9-18. Passed 7-16-18.)

937.09 OWNERSHIP OF WASTE ON DISPOSAL SITE.

All waste on the disposal site is the property of the City, and no person shall be allowed to separate and collect, carry off or dispose of the same except under the direction of the Sanitation Superintendent.

(Ord. 9-18. Passed 7-16-18.)

937.10 DISCONTINUANCE OF SERVICE; NUISANCE CONDITIONS.

Fermenting, putrefying and odoriferous waste in containers which has not been collected or which has been dumped in the open due to failure to pay waste removal fees shall be declared a nuisance and the person or persons responsible shall be liable to prosecution under Ohio R.C. 3767.13.

(Ord. 9-18. Passed 7-16-18.)

937.11 DUMPSTERS.

(a) It shall be the duty of all commercial businesses and multiple-family residences, where ninety-five (95) gallon trash carts are not suitable for the amount of acceptable waste accumulated, to maintain a dumpster. Such dumpster shall be constructed and located so as to allow servicing by City equipment by means of a specially designed dumping mechanism.

(b) It shall be the duty of the Superintendent of Sanitation to determine the need, size, number, and frequency of pick up of dumpsters and require use of same.
(Ord. 9-18. Passed 7-16-18.)

937.12 TRANSFER STATION RATES.

(a) The following rates shall be charged at the Transfer Station for all residents and customers within the Solid Waste District.

- (1) Class 2. Minimum charge per customer, up to 999 lbs. Rate - \$20.00.
- (2) Class 3. Per ton, if 1,000 lbs. or over. Rate - \$45.00.
- (3) Class 4. Each appliance, other than refrigerant base. Rate - \$10.00.
- (4) Class 5. Each refrigerant based appliance. Rate - \$15.00.
- (5) Class 5. Tires - each.
 - a. Light truck or passenger care tire. Rate - \$10.00.
 - b. Heavy truck tire. Rate - \$15.00.
 - c. Tractor tire. Rate - \$25.00.

(b) The Transfer Station will not accept building materials, yard waste, dirt, liquids, or large automotive parts.

(c) The use of the Transfer Station shall be restricted to the residents and commercial haulers of the Coshocton Fairfield Licking-Perry County Solid Waste District.

(d) Transfer Station Accounts. Customers using charge accounts at the Transfer Station shall be charged a penalty of one and five tenths percent (1.5%) per month (18% APR) on outstanding balances thirty calendar days from the closing date of their statement. Charge accounts are to be approved at the discretion of the Sanitation Superintendent using volume as one of the criteria. The superintendent has the authority to refuse to open charge accounts.
(Ord. 9-18. Passed 7-16-18.)

937.13 SOLID WASTE DISPOSAL FEES.

The following fees shall be established for the Coshocton, Fairfield, Licking, Perry Solid Waste District:

- (a) One dollar (\$1.00)/ton for waste generated within the District;
- (b) Two dollars (\$2.00)/ton for waste generated outside the District, but inside the State; and
- (c) One dollar (\$1.00)/ton for waste generated outside the State.
(Ord. 9-18. Passed 7-16-18.)

937.14 UNACCEPTABLE WASTE, RECYCLABLES AND YARD WASTE.(a) Unacceptable Waste, and Yard Waste and Exclusions.(1) Unacceptable waste.

- A. "Unacceptable waste" means that portion of the waste stream that will not be collected by the City of Lancaster. If any other governmental agency or unit having appropriate jurisdiction determines that substances which are not as of yet considered harmful, toxic, or dangerous, are in fact harmful, toxic or dangerous or are hazardous or harmful to health, then any such substances or materials should thereafter constitute unacceptable waste.
- B. "Unacceptable waste" includes but is not limited to:
1. Medical waste, infectious waste (defined in Section 937.01.)
 2. Radioactive waste (defined in Section 937.01.)
 3. Hazardous waste (defined in Section 937.01.)
 4. Explosive materials
 5. Liquid waste including motor oil
 6. Asbestos
 7. Whole and shredded tires
 8. Lead acid batteries
 9. Drums and barrels
 10. Motor vehicles or major parts thereof
 11. Equipment or machinery
 12. Fecal matter, other than human fecal matter contained in a diaper or other sanitary garment, pad or napkin and wrapped separately in plastic before it is placed into a container or receptacle
 13. Construction, remodeling and demolition waste (defined in Section 937.01.)
 14. Refrigerants or items containing chlorofluorocarbons (CFCs) or their substitutes (defined in Section 937.01.)
 15. Ashes of any kind
 16. Offal or animal wastes, byproducts or hide trimmings
 17. Nonresidential waste
 18. Shredder fluff from shredding automobiles, light duty trucks, motor vehicle engines, household appliances, white goods, (defined in Section 937.01) and other miscellaneous metal parts
 19. Condemned products (defined in Section 937.01)
 20. And other items as may be determined by the Sanitation Superintendent.

(2) Yard waste.

- A. Yard waste will be collected at curb line only in approved container at no additional cost.
- B. Yard waste must be:
1. Tied in bundles not exceeding four (4) feet in length and two (2) feet in diameter or fifty (50) pounds; or
 2. Placed in acceptable bio-degradable paper bags weighing no more than fifty (50) pounds each when loaded with waste.

3. Co-mingling of yard waste within the same container as acceptable waste is prohibited.
- (3) Any exclusion or exception to any part of this chapter shall be approved by the Superintendent or his designated representative.
(Ord. 9-18. Passed 7-16-18.)

937.15 BULK PICK-UP RATES AND REGULATIONS.

(a) Bulk Pick-Up. Any resident or business within Lancaster City limits may call the Sanitation Department to make an appointment for bulk pick-up of items not picked up with normal waste for an additional fee.

- (1) Minimum twenty-five dollars (\$25.00) charge per bulk pick-up, with minimum of one (1) cubic yard.
- (2) Each additional yard will have a fee of eighteen dollars and seventy-five cents (\$18.75) per cubic yard with a maximum of eight (8) cubic yards, not exceeding one hundred and fifty dollars (\$150.00).
(Ord. 9-18. Passed 7-16-18.)

937.16 CHARGES A LIEN.

Each charge or rental levied by or pursuant to this chapter is made a lien upon the corresponding lot, land or premises served by the Sanitation Department of the City, and if the same is not paid within thirty (30) days after it shall become due and payable, it shall be certified to the County Auditor who shall place the same on the tax duplicate of the County with the interest and penalties allowed by law and shall be collected.

(Ord. 9-18. Passed 7-16-18.)

937.17 APPEAL.

Any customer shall have the right to appeal surcharges or penalties assessed, pursuant to this chapter, to their city utilities monthly billing statement using the appeals process set forth in the City of Lancaster Utilities Collection Office's "General Rules and Regulations" which is available on-line at their City's website and/or at the Utilities Collection Office during normal business hours. (Ord. 9-18. Passed 7-16-18.)

937.18 RULES AND REGULATIONS.

The Sanitation Department Superintendent, with the approval of the Service-Safety Director, shall have authority to make such other rules and regulations, not inconsistent herewith, pertaining to the handling, collection and disposal of refuse, waste, recyclables, and yard waste, as well as the administration thereof, as he/she deems necessary, proper or convenient to facilitate their collection and disposal.

(Ord. 9-18. Passed 7-16-18.)

937.99 PENALTY.

Whoever violates this chapter shall be deemed guilty of a minor misdemeanor and shall be fined not more than one hundred fifty dollars (\$150.00). Each day's violation shall constitute a separate offense. (Ord. 7-16. Passed 3-14-16.)

CHAPTER 939
Trees

939.01 Definitions.
939.02 City Tree Commission.
939.03 Municipal Arborist.

939.04 Enforcement.
939.05 Authority of Arborist.

CROSS REFERENCES

Destruction of trees - see GEN. OFF. 541.06

Removal of dead trees and tree limbs - see GEN. OFF. 565.03

939.01 DEFINITIONS.

For the purpose of this chapter the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The word " shall" is mandatory and not merely directory.

- (a) "Municipal Arborist" is the Superintendent of the Park Department of the City assigned to carry out the enforcement of this chapter.
- (b) "Person" is any person, firm, partnership, association, corporation, company or organization of any kind.
- (c) "Street or highway" means the entire width of every public way or right of way when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular and pedestrian traffic.
- (d) "Park" means all property under the jurisdiction of the Lancaster Park Board.
- (e) "Public places" include all other grounds owned by the City.
- (f) "Property line" means the outer edge of a street or highway.
- (g) "Treelawn" is that part of a street or highway, not covered by sidewalk or other paving, lying between the property line and that portion of the street or highway usually used for vehicular traffic.
- (h) "Public trees" include all shade and ornamental trees now or hereafter growing on any street or any public places where otherwise indicated.
- (i) "Property owner" means the person owning such property as shown by the County Auditors Plat of the City. (Ord. 20-75. Passed 6-23-75.)

939.02 CITY TREE COMMISSION.

(a) There shall be created a commission to be known and designated as the City Tree Commission composed of seven citizens, five of whom shall be residents of the Municipality. The five resident members shall be appointed by the Mayor with approval of Council. The sixth member shall be the Director of Public Service and the seventh member shall be the Superintendent of the Department of Parks. All members of the Commission shall serve without pay. The five members appointed by the Mayor shall be appointed as follows:

two for two years, two for three years and one for four years, and serve until their successors are duly appointed and approved by Council. Successors to those members appointed by the Mayor shall, thereafter be appointed for terms of four years. Vacancies caused by death, resignation or otherwise, shall be filled for the unexpired term in the same manner as original appointments are made.

- (b) The duties of the City Tree Commission are as follows:
- (1) To study the problems and determine the needs of the Municipality relative to a tree care and tree planting program.
 - (2) To recommend to the proper authority, the type and kind of trees to be planted upon such municipal streets or parts of municipal streets or in parks is designated.
 - (3) To assist the properly constituted officials of the Municipality as well as Council and citizens of the Municipality, in the dissemination of news and information regarding the selection, planting and maintenance of trees within the corporate limits, whether the trees are on private or public property, and to make such recommendations from time to time to Council as to desirable legislation concerning the tree program and activities of the Municipality.
 - (4) To provide regular and special meetings at which the subject of trees insofar as it relates to the Municipality may be discussed by the members of the Commission, officers and personnel of the Municipality and its several divisions, and all others interested in the tree program.

(c) Within a reasonable time after the appointment of the Commission and the approval of the members thereof, upon call of the Mayor, the Commission shall meet and organize by the election of a chairman and the appointment of the Municipal Arborist as secretary. The Commission shall then provide for the adoption of rules and procedures and for the holding of regular and special meetings as the Commission deems advisable and necessary in order to perform the duties set forth. (Ord. 20-75. Passed 6-23-75.)

939.03 MUNICIPAL ARBORIST .

The Municipal Arborist shall be the Superintendent of the Parks Department. (Ord. 20-75. Passed 6-23-75.)

939.04 ENFORCEMENT.

The Municipal Arborist shall have the authority to enforce any ordinances governing the planting, maintenance, removal, fertilization, pruning and bracing of trees on the streets or other public sites in the Municipality, and shall direct, regulate and control the planting, maintenance and removal of all trees growing now or hereafter in any public area of the Municipality. He shall cause the provisions of this chapter to be enforced. In his absence these duties shall be the responsibility of a qualified alternate designated by the Mayor. (Ord. 20-75. Passed 6-23-75.)

939.05 AUTHORITY OF ARBORIST.

The Municipal Arborist shall have the following authority:

- (a) To regulate the planting, maintenance and removal of trees on streets and other publicly owned property to insure safety or preserve the aesthetics of such public sites.

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- (b) The Municipal Arborist or his designated alternate shall have the authority and it shall be his duty to supervise or inspect all work done under a permit issued in accordance with the terms of this chapter.
 - (c) To formulate a Master Street Tree Plan with the advice, a hearing, and approval of the City Tree Commission. The Master Street Tree Plan shall specify the species of trees to be planted on each of the streets or other public sites of the Municipality. From and after the effective date of the Master Street Tree Plan, or any amendment thereof, all planting in the public right of way shall conform thereto.
 - (d) To consider utility and environmental factors when recommending a specific species for each of the streets and other public sites of the Municipality.
 - (e) To amend or add to the Master Street Tree Plan at any time that circumstances make it advisable, with the approval of the City Tree Commission.