

CODIFIED ORDINANCES OF FAIRVIEW PARK

PART NINE - STREETS, UTILITIES AND PUBLIC SERVICES CODE

TITLE ONE - Streets and Sidewalk Areas

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- Chap. 903. Sidewalks and Curbs.
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**CHAPTER 901
Street Openings**

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| <p>901.01 Permit required. 901.02 Application; insurance; deposit; fee. 901.03 Barricades, lights and signs.</p> | <p>901.04 Exception. 901.99 Penalty.</p> |
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CROSS REFERENCES

- Excavation liability - see Ohio R.C. 723.49 et seq.
 Digging, excavating and piling earth on streets - see Ohio R.C. 5589.10
 Dangerous, abandoned excavations - see GEN. OFF. 521.03
 Barricades and warning lights - see GEN. OFF. 521.03
 Grading and excavating contractors - see S. U. & P. S. Ch. 909
 Street openings for sewers - see S. U. & P. S. 911.07

901.01 PERMIT REQUIRED.

- (a) No person shall dig, trench, excavate, grade, tunnel or do any work in, over or under any street, sidewalk or other public ground within the City without first obtaining a permit therefor from the Building Commissioner. All such work shall be under the supervision of the Director of Public Service and Development and shall be done to his satisfaction.
 (Ord. 67-61. Passed 7-17-67.)

(b) No person shall break the pavement of a newly paved street within five years of the date of installation of the paving for any purpose, except emergency repairs.

901.02 APPLICATION; INSURANCE; DEPOSIT; FEE.

No permit shall be issued unless the applicant therefor shall have complied with the following requirements:

- (a) Application. File an application with the Building Commissioner which, in addition to any information which may be requested, shall contain:
 - (1) The location where the work is to be performed,
 - (2) The name and address of the owner, and
 - (3) The name of the person doing the work.
- (b) Insurance Policy. Deposit or show evidence of a public liability insurance policy insuring the City against any loss or damage to persons or property resulting from the work being done, such policy to have minimum limits of two hundred fifty thousand dollars (\$250,000) for injury or death to any one person, five hundred thousand dollars (\$500,000) for any one accident, and fifty thousand dollars (\$50,000) for property damage, in form acceptable to the Director of Law and in maximum limits acceptable to the Building Commissioner on the basis of work to be done and the risk involved.
- (c) Deposit. Deposit with the Building Commissioner such sum as may be deemed necessary on the basis of the work to be done and the risk involved.
- (d) Inspection Fee. Pay to the Building Commissioner an inspection fee of fifty dollars (\$50.00).

The deposit may be held and used by the City to cover costs of maintaining, reconditioning and repaving. A portion of the deposit which is not used shall be returned to the permittee when the work is completed to the satisfaction of the Director of Public Service and Development. (Ord. 87-22. Passed 2-15-88.)

901.03 BARRICADES, LIGHTS AND SIGNS.

The permitted shall maintain sufficient barricades, warning signs and lights as determined by the Director of Public Service and Development during the entire period that the work is being done. Steel plates shall be anchored to adjacent pavement and are required when street excavations of any size or depth are made. (Ord. 83-1. Passed 3-21-83.)

901.04 EXCEPTION.

Nothing herein contained shall be deemed applicable to any contract with the City for doing any construction or repair work within the public right of way.

901.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months, or both. Each day's continued violation shall constitute a separate offense.

**CHAPTER 903
Sidewalks and Curbs**

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| <p>903.001 Definitions.</p> <p>903.01 Construction of sidewalks required.</p> <p>903.02 Sidewalk permit.</p> <p>903.03 Bond or deposit to insure sidewalk construction.</p> <p>903.04 Engineer's approval.</p> <p>903.05 Repairing sidewalk; permit.</p> <p>903.06 Establishment of line and grade.</p> | <p>903.07 Curb cuts; permit and fee.</p> <p>903.08 Sidewalks to be kept in repair.</p> <p>903.09 Repairs by City; collection of costs.</p> <p>903.10 Construction by City; bids.</p> <p>903.11 Corner lots; credit.</p> <p>903.99 Penalty.</p> |
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CROSS REFERENCES

Changing established grade - see Ohio R.C. 727.07
 Construction or repair at owner's expense - see Ohio R.C. 729.01 et seq.
 Notice to construct or repair sidewalks - see Ohio R.C. 729.03 et seq.
 Sidewalk regulations - see GEN. OFF. Ch. 543
 Surface water drainage - see BLDG. Ch. 1317

903.001 DEFINITIONS.

The terms used in this chapter shall have the meanings herein defined unless another meaning is clearly apparent in the language or context.

- (a) "Owner" means:
- (1) In the case of land, any person who is recorded on the tax records as the owner of the land, or
 - (2) In the case of property other than land, any person who is in lawful possession thereof.
- (b) "Occupant" means:
- (1) A person who is in physical possession of a property, or
 - (2) A person who has responsibility for, and control over, the condition of a property, the activities conducted on that property, and the persons allowed to enter that property.
- (c) "Person" includes any individual, corporation, society, association, partnership or firm and the successor or the heir, executor, administrators or other legal representatives of a person.

- (d) "Sidewalk" means a part of a highway especially adapted to the use of or ordinarily used by pedestrians and includes that part of the highway between the curb line (or edge of the roadway where there is no curb line) and the adjacent property line, whether or not paved or improved.
(Ord. 03-52. Passed 12-15-03.)

903.01 CONSTRUCTION OF SIDEWALKS REQUIRED.

Any property owner, his agent or contractor shall construct and install sidewalks in accordance with City standard specifications along the public right of way on which their property abuts before the issuance of an occupancy permit, unless otherwise exempted by Council.

903.02 SIDEWALK PERMIT.

Before commencing or proceeding with the construction and installation of a sidewalk, a permit therefor shall be obtained by the owner, developer, contractor or agent of the owner, from the Building Commissioner. No person shall commence or proceed with any such work unless such a permit shall have been obtained.
(Ord. 66-18. Passed 4-18-66.)

903.03 BOND OR DEPOSIT TO INSURE SIDEWALK CONSTRUCTION.

(a) In order to insure the construction and installation of sidewalks and driveway aprons, the Building Commissioner shall cause cash, or a bond, to be deposited with the City in a sum equal to three dollars (\$3.00) per square foot of sidewalk and driveway apron, to be constructed and installed by the owner, developer, contractor or agent of the owner, developer or contractor. If such sidewalk and driveway apron is not constructed and installed prior to the premises being occupied or by the time allowed by the Building Commissioner, then such sum of money or bond shall be forfeited to the City and shall be used by the City to install and construct such sidewalks and driveway aprons in any manner that the City deems advisable and appropriate.

(b) Where there is an existing sidewalk or driveway apron and such sidewalk or any part thereof or driveway apron or any part thereof may be damaged or destroyed as a result of construction on the premises, then in order to insure the repair or replacement of such existing sidewalk or any part thereof, or such driveway apron or any part thereof, the Building Commissioner shall cause cash, or a bond, to be deposited with the City in a sum equal to three dollars (\$3.00) per square foot of sidewalk and driveway apron to be repaired or replaced. If such sidewalk or any part thereof or driveway apron or any part thereof is not repaired or replaced prior to the premises being occupied or by the time allowed by the Building Commissioner, then such sum of money or bond shall be forfeited to the City and shall be used by the City to repair or replace such sidewalk or any part thereof or driveway apron or any part thereof in any manner that the City deems advisable and appropriate.

(c) No deposit or bond shall be required where there is an existing occupied building, and no existing sidewalk and/or driveway apron, even though a sidewalk and/or driveway apron is required.
(Ord. 91-121. Passed 5-4-92.)

903.04 ENGINEER'S APPROVAL.

No sidewalk or driveway apron heretofore laid shall be raised or lowered without the approval of the City Engineer, and all sidewalks and driveway aprons hereafter laid shall be in accordance with the provisions of this chapter and under the supervision of the City Engineer.
(Ord. 91-121. Passed 5-4-92.)

903.05 REPAIRING SIDEWALK; PERMIT.

No sidewalk or driveway apron shall be improved as herein provided, nor shall any sidewalk or driveway apron be replaced or relaid, unless a permit for so doing shall have been first obtained from the Building Commissioner.

(Ord. 91-121. Passed 5-4-92.)

903.06 ESTABLISHMENT OF LINE AND GRADE.

The owner of land in front of which a permit to improve or repair the sidewalk or driveway apron has been given shall obtain the line and grade from the City Engineer.

(Ord. 91-121. Passed 5-4-92.)

903.07 CURB CUTS; PERMIT AND FEE.

No property owner or his agent shall cut, lower or remove any street curb or curbing without first obtaining a permit therefor from the Building Commissioner and paying the following fees therefor:

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| New work, up to 10 feet | \$ 25.00 |
| Each additional foot | 2.00 |
| Widening existing cuts, up to 5 feet | 15.00 |
| Each additional foot | 2.00 |

All such work shall be under the supervision of the Director of Public Service and Development and shall be done to his satisfaction.

(Ord. 87-22. Passed 2-15-88.)

903.08 SIDEWALKS TO BE KEPT IN REPAIR.

(a) In addition to the requirements of other applicable ordinances, every property owner and/or occupant of real estate in the City abutting a roadway shall be required to maintain a sidewalk and driveway apron in good repair.

The Director of Public Service and Development, in accordance with subsection (c) hereof, shall determine what sidewalks and driveway aprons are not in good repair and shall compile a list of such sidewalks and driveway aprons based upon the inspection of the Property Maintenance Officer or his designee.

(b) The Director shall establish a program for carrying out the provisions of this section.

The Director is hereby further authorized and directed to promulgate rules and regulations consistent with the requirements and provisions of this chapter to carry out the intent and purpose of this chapter.

(c) The Property Maintenance Officer of the City or his designee shall inspect the sidewalks and driveway aprons of the City at reasonable intervals and, within the limitations of available funds, require repair or installation of sidewalks and/or driveway aprons in those areas of the City where the most need for the improvement thereof then exists.

- (1) A sidewalk or driveway apron block shall be replaced when any of the following conditions are present:
 - A. A difference of elevation between two slabs at a formed or random joint or crack exceeds one inch;
 - B. Where a portion of the sidewalk or driveway apron is missing;
 - C. Where a horizontal gap exceeds one inch;

- D. Where a block has buckled, within the limits of the block, to a height which exceeds one inch;
 - E. Where a block has settled, within the limits of the block, to a depth which exceeds one inch;
 - F. Where a slab has pitted, spalled, scalled or deteriorated twenty-five percent (25%) or more of its surface;
 - G. Where a slab has disintegrated or shattered;
 - H. Where a slab rocks or moves under the weight of a pedestrian; or
 - I. Where diagonal, transverse and longitudinal cracks interconnect forming a series of polygons resembling an alligator skin.
- (2) Upon such determination, the owner of the property shall be notified by personal service or by certified mail, return receipt requested, to make the necessary improvements. If notice is returned undelivered, a copy thereof shall be posted in a conspicuous place on the property to which it relates and a copy of such notice shall be published in a newspaper of general circulation within the City once. No person shall remove or deface a posted copy of such notice without prior written authorization of the Building Commissioner. Such repairs or replacements shall be made within thirty days from the giving of notice when such notice is not returned undelivered or within thirty days following the period of publication or from the date of posting of notice on the property, unless extension(s) are granted by the Building Commissioner due to inclement weather or other unforeseen circumstance.
- (3) All workmanship and materials shall conform to the engineering requirements of the City.
(Ord. 91-121. Passed 5-4-92.)

(d) On any claim presented for bodily injury or property damage on the sidewalk, the adjoining or abutting property owner shall be held liable in tort for such damages to another. Alternatively, should the City of Fairview Park be called upon to make such payment to a third party, the City will look to the adjoining/abutting landowner for contribution and indemnity.
(Ord. 03-45. Passed 11-17-03.)

903.09 REPAIRS BY CITY; COLLECTION OF COSTS.

(a) If, after the expiration of thirty days following the giving of the notice required in Section 903.08(c), the repair or installation of sidewalks and/or driveway aprons is not made by the owner, the Director of Public Service and Development or the City Engineer shall establish the grade and the Director shall order the installation of the sidewalk and/or driveway apron under the overall sidewalk-driveway apron contract of the City as hereinafter provided. The installation and/or repair of such sidewalk and/or driveway apron shall be supervised by the Department of Public Service and Development.
(Ord. 91-121. Passed 5-4-92.)

(b) Upon completion of such work by the City, a statement by the Finance Director shall be forwarded to the owner at his tax mailing address as shown in the records of Cuyahoga County by registered mail, return receipt requested. If any notice herein required to be given by registered mail, return receipt requested, is not delivered to such owner or his agent as evidenced by the postal return thereon, it shall then be advertised in a newspaper of general circulation in the City for a period of not less than once a week for three consecutive weeks.

(c) The statement shall include the cost of repair and/or installation, the cost of the notices, twenty-five dollars (\$25.00) for establishing the grade and supervision for each lot as shown by the subdivision plat records and all other necessary expenses. The owners shall thereafter have thirty days during which to pay such expense, and if it is not paid at the expiration of the thirty day period, the cost shall thereupon constitute a lien upon the lots and lands so benefitted and a tax is levied therefor. The Finance Director shall certify such tax lien to the County Auditor in the following manner:

- (1) If the amount of construction or repair is equal to or less than 500 square feet, the amount due shall be divided into two semi-annual payments and collected within the immediate tax year. The Director of Finance shall add to the amount due interest at the rate of ten percent (10%) but in no event an amount less than fifty dollars (\$50.00).
- (2) If the amount of construction or repair is greater than five hundred square feet, the amount due shall be divided into four semi-annual payments, and collected one-half within the immediate tax year, and one-half in the next following tax year. The Director of Finance shall add to the amount due interest at the rate of ten percent (10%) per annum, but in no event an amount less than fifty dollars (\$50.00).
(Ord. 88-31. Passed 7-18-88.)

903.10 CONSTRUCTION BY CITY; BIDS.

The Director of Public Service and Development shall, based upon the inspection of the Property Maintenance Officer or his designee, estimate the number of square feet of sidewalk and driveway apron that will be laid in the City during each year, available funds, circumstances and conditions permitting. The inspection of the Property Maintenance Officer shall be completed not later than December 31 of the then current year for the ensuing year. The City Engineer shall prepare bid specifications not later than March 1. The Director shall, without further authorization, immediately, but not later than April 15, advertise for bids for the repair or installation of sidewalks and driveway aprons, in accordance with City specifications and the estimate, reserving to the City the option to order more or less as circumstances and conditions warrant. The Board of Control shall award a contract to the lowest and most responsible bidder who shall, at the direction of the Division of Building, repair or install sidewalks and driveway aprons as required by the bid specifications of the City during the balance of such calendar year. The Division of Building, within thirty days of an award of a contract to a contractor, shall issue written notification to owners of property with sidewalks and/or driveway aprons to be repaired and/or replaced. The bid required hereunder shall provide that the price is to be based on normal grade conditions. In the performance of individual jobs involving grades that require filling with or removal of earth or other materials, not including cinders or slag, the Director shall agree with the contractor for the reasonable cost of the earth removal or fill to accomplish normal grade. The Division of Building and the Department of Finance shall provide a written quarterly status report to the Mayor and Council of each project year.
(Ord. 91-121. Passed 5-4-92.)

903.11 CORNER LOTS; CREDIT.

Whenever the City determines that an original installation of sidewalks is necessary along the side line of a corner lot, and the construction of such sidewalk is performed by the City or its subcontractor, and the corner lot owner has previously paid or is in the process of paying for a new sidewalk installation along the frontage of his corner lot, then the Finance Director shall allow the corner lot owner a credit for such frontage sidewalk installation based on the percentage of frontage sidewalk measured against the side line sidewalk installation. This section shall not apply to new construction in the City wherein an owner, builder or contractor is required by the ordinances of the City to install front and side line sidewalks.
(Ord. 68-97. Passed 1-20-69.)

903.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months, or both. Each day's continued violation shall constitute a separate offense.

CHAPTER 905
Trees

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| <p>905.01 Definitions.</p> <p>905.02 Appointment and jurisdiction of City Arborist.</p> <p>905.03 Master Street Tree Plan adopted.</p> <p>905.04 Permit required; conditions.</p> <p>905.05 General tree and shrub regulations.</p> <p>905.06 Certain trees prohibited.</p> <p>905.07 Preservation and removal of trees on public property.</p> <p>905.08 Procedure upon order to preserve or remove.</p> | <p>905.09 Prohibiting stone or concrete on ground adjacent to tree trunk.</p> <p>905.10 Moving of trees; permit; deposit or bond.</p> <p>905.11 Duties of private owners.</p> <p>905.12 Authority of City Arborist to enter private premises.</p> <p>905.13 Interference with City Arborist prohibited.</p> <p>905.99 Penalty.</p> |
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CROSS REFERENCES

Ohio plant pest law - see Ohio R.C. 927.15
Destruction of shrubs, trees or crops - see GEN. OFF. 541.06

905.01 DEFINITIONS.

For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- (a) "City" means the City of Fairview Park.
- (b) Whenever the words "City Arborist" appear in this chapter, they mean the Director of Public Service and Development of the City of Fairview Park or a specially assigned member of his staff.
- (c) "Persons" means any person, firm, partnership, association, corporation, company or organization of any kind.
- (d) "Street tree" or "tree" means a tree in a public place, except where otherwise indicated.

- (e) Whenever the words "public place" appear in this chapter, they mean any public street, public highway, public park or any property owned or held by the City.
- (f) Whenever the words "arboriculture" or "tree preservation" appear in this chapter, they mean and include the treating, spraying, pruning, maintaining and any other care or work intended for the strengthening of trees, and the removal and prevention of tree pests, blights and diseases of any and all kinds.

905.02 APPOINTMENT AND JURISDICTION OF CITY ARBORIST.

(a) Director of Public Service and Development to be City Arborist. The Director of Public Service and Development shall, by virtue of his office, be the City Arborist.

(b) Scope of Authority. The City Arborist is hereby given full jurisdiction, authority, control, supervision and direction of all trees which now or which may hereafter exist upon any public place in the City and over all trees which exist upon any private property in the City when such trees constitute a menace to the City.

(1) Permit issuance. The City Arborist is also given full jurisdiction, authority and control in connection with the issuing of permits hereinafter provided for.

(2) Delegation of duties and authority. In the exercise of any or all of the powers herein granted, the City Arborist shall have the authority to delegate all or such part of his power and duties with respect to supervision and control of trees to his subordinates and assistants in the employ of the City as he may from time to time determine.

(c) Order to Preserve or Remove. The City Arborist shall have the authority and it shall be his duty to order the trimming, preservation or removal of trees or plants upon private property when he shall find such action necessary to public safety or to prevent the spread of disease or insects to public trees and places.

905.03 MASTER STREET TREE PLAN ADOPTED.

There is hereby adopted for the City of Fairview Park a Master Street Tree Plan Public Document showing varieties of species of all trees to be planted in the public right of way of all streets within the City. Such Plan, as amended January, 1995 is incorporated in this chapter by reference as if fully set forth herein.

No person shall hereafter plant, transplant or move any public tree on or to any street of the City, except to a location where it will be in conformance to the Master Street Tree Plan, as amended, and the species or variety therein designated.

(Ord. 95-1. Passed 2-21-95.)

905.04 PERMIT REQUIRED; CONDITIONS.

(a) Permit Required. No person shall plant, remove, destroy, cut, prune, treat, break, climb, injure or spray any tree existing on any public place in the City, or authorize or procure any person to do so, or remove or tamper with any device placed for the protection of any such tree, or attach any rope, wire, chain, sign or other device placed for the protection of such tree, or authorize or cause the same to be done, without having first obtained a permit from the City Arborist.

(b) Species, Spacing, Size, Supports. Such permit, when granted for the planting of any tree to be located on any public place in the City, shall designate the species of tree to be planted, the required spacing and required minimum planting size, as specified in the Master Street Tree Plan as such Plan now exists or as it may be amended from time to time. All newly planted trees, whether installed by the abutting property owner or contractor, shall be supported by a ninety-six inch iron fence post placed on the street side of the tree. No person shall guy any tree less than four inches in caliper with wires or rope. For trees over four inches in caliper, special permission must be obtained, and the permitted must assume liability for accidents occurring therefrom.

(c) Application Data. The application for the permit herein required shall state the number and kind of trees to be trimmed, sprayed, preserved, removed or planted, and kind of treatment to be administered and such other information as the City Arborist shall find reasonably necessary to a fair determination of whether a permit should issue hereunder.

(d) Standards for Issuance. The City Arborist shall issue the permit provided for herein when he finds that the desired action or treatment is necessary and that the proposed method and workmanship are satisfactory.

(e) Supervision. The City Arborist shall have the authority and it shall be his duty to supervise all work done under a permit issued in accordance with the terms of this chapter.

(f) Conditional Permit. The City Arborist shall have the authority to affix reasonable conditions to the grant of a permit hereunder.

(g) Exemptions. No permit shall be required to cultivate, fertilize or water public trees or shrubs. The City Arborist may authorize any person to do any work or act described in subsection (a) herein without written permit whenever he determines that such work or act will not be detrimental to the public interest and will be in accord with the spirit and other requirements of this chapter.

905.05 GENERAL TREE AND SHRUB REGULATIONS.

(a) Injury to Trees and Shrubs Prohibited. No person shall, without the consent of the owner in the case of a private tree or shrub, or without a written permit from the City Arborist in the case of a public tree or shrub, do, or cause to be done by others, any of the following acts:

- (1) Secure, fasten or run any rope, wire, sign or other device or material to, around or through a tree or shrub.
- (2) Break, injure, mutilate, deface, kill or destroy or permit any fire to burn where it will injure any tree or shrub.
- (3) Permit any toxic chemical, gas, smoke, salt, brine, oil or other injurious substance to seep, drain or be emptied upon or about any tree or shrub.
- (4) Excavate any ditch, tunnel or trench or lay any drive within a radius of ten feet from any tree or shrub.

- (5) Erect, alter, repair or raze any building or structure without placing suitable guards around all nearby public trees or shrubs which may be injured or defaced by, or where such injury or defacement may arise out of, or in connection with, or by reason of, such an operation. The quality of such guard shall be determined by the City Arborist.
- (6) Knowingly permit any unprotected electric service wires to come in prolonged contact with any public tree or shrub.
- (7) Remove any guard, stake or other device or material intended for the protection of a public tree or shrub, or close or obstruct any open space about the base of a public tree or shrub designed to permit access of air, water and fertilizer.

(b) Trimming of Trees on Public Places. The City Arborist shall, and he is hereby directed to keep all trees standing upon any public place in the City trimmed so that the branches of such trees projecting over any public sidewalk, private driveway, or into any public street beyond the curb line, shall not conflict with the public welfare.

(c) Trimming of Trees on Private Property. All trees standing upon private property in the City having branches projecting into public highways or public places shall, under the supervision of the City Arborist, be kept trimmed by the owner or occupant of such private property to such an extent that the lowest branches of such trees shall not come within nine feet of the ground where they overhang any public sidewalk or public place, or thirteen feet over a public highway.

(d) Obstruction of View at Intersections Prohibited. Notwithstanding any other provision of this chapter, no person shall maintain, plant or permit to remain on any private or public premises situated at the intersection of two or more streets or alleys in the City any hedge, tree, shrub or other growth which may obstruct the view of the operator of any motor vehicle approaching such intersection to the extent that such operator is unable to observe other vehicles or pedestrians approaching or crossing such intersection. Any such hedge, tree, shrub or growth is hereby declared to be a public nuisance.

905.06 CERTAIN TREES PROHIBITED.

(a) Types of Trees Prohibited. The following types of trees shall not be planted as street trees or upon public lands in the City: *Acer saccharinum* (Silver Maple); *Acer negundo* (Box elder); *Ailanthus altissima* (Tree of Heaven); *Catalpa speciosa* (Catalpa); *Gleditsia Triacanthos* (Common Honey locus, except that thornless varieties are acceptable); *Gymnocladus dioica* (Kentucky Coffee Tree); *Maclura promifera* (Osageorange); *Morus* (various species) (Mulberry); *Populus* (various species) (White Poplar, Cottonwood and others); *Rhus* (various species) (Sumac); *Robinia pseudoacacia* (Black Locust); *Salix* (various species) (Willow); *Ulmus pumila* (Siberian or Chinese Elm); *Tilia americana* (Basswood); *Acer platanoides* (Norway Maple); *Ailanthus altissima* (Chinese Tree of Heaven); *Alnus glutinosa* (European Black Alder); *Alnus icana* (European White Alder); *Broussonetia papyrifera* (Paper mulberry); *Decondon verticillatus* (Swamp Loosestrife); *Lythraceae* (Loosestrife); *Malus floribunda* (Japanese Crab Apple); *Malus sieboldii* (Toringo Crab Apple); *Morus alba* (White Mulberry); *Morus rubra* (Red Mulberry); *Picea abies* (Norway Spruce); *Rhamnus cathartica* (European Buckthorn); *Rhamnus frangula* (Alder Buckthorn). (Ord. 96-90. Passed 1-6-97.)

(b) Trees with Thorns Prohibited. Trees of any type with thorns shall not be planted as street trees or in any public area which would present a danger to pedestrian or wheeled traffic.

(c) Trees on Private Property. Any tree on the list specified in subsection (a) hereof, or a tree with thorns, upon private property in the City in such close proximity to any public place in the City as shall permit the roots of such tree to penetrate through or under the surface of any public place, or the branches to overhang any public place, or the leaves, branches or fruits to unduly present, through their inherent characteristics, undue maintenance on the part of the City or danger to pedestrian or wheeled traffic, is hereby declared to be a public nuisance and may be abated by the City Arborist as provided in Sections 905.02(c) and 905.08.

905.07 PRESERVATION AND REMOVAL OF TREES ON PUBLIC PROPERTY.

The City Arborist shall have the right and duty to trim any tree existing on any public place in the City so as to insure the public safety or to preserve the function or beauty of such public place. He shall further have the right to remove any such tree or any part thereof which is in an unsafe condition or which, by reason of its location or nature, is injurious or detrimental to other public improvements, or is infected with any injury, fungus, insect or other pest or disease which cannot otherwise be controlled. Such infested or infected tree is a public nuisance.

905.08 PROCEDURE UPON ORDER TO PRESERVE OR REMOVE.

When the City Arborist shall find it necessary to order the trimming, preservation or removal of trees or plants upon private property as authorized in Sections 905.02(c) and 905.05(c), he shall serve a written order to correct the dangerous condition upon the owner, operator, occupant or other person responsible for its existence.

- (a) Method of Service. The order required herein shall be served in one of the following ways:
- (1) By making personal delivery of the order to the person responsible.
 - (2) By leaving the order with some person of suitable age and discretion upon the premises.
 - (3) By affixing a copy of the order to the door at the entrance of the premises in violation.
 - (4) By mailing a copy of the order to the last known address of the owner of the premises, by registered mail.
 - (5) By publishing a copy of the order in a local paper once a week for three successive weeks.
- (b) Time for Compliance. The order required herein shall set forth a time limit for compliance, dependent upon the hazard and danger created by the violation. In cases of extreme danger to persons or public property, the City Arborist shall have the authority to require compliance immediately upon service of the order.

- (c) Appeal from Order. A person to whom an order hereunder is directed shall have the right, within twenty-four hours of the service of such order, to appeal to the Mayor, who shall review such order within five days and file his decision thereon. Unless the order is revoked or modified, it shall remain in full force and be obeyed by the person to whom directed. No person to whom an order is directed shall fail to comply with such order within thirty days after an appeal has been determined.
- (d) Failure to Comply. When a person to whom an order is directed shall fail to comply within the specified time, the City Arborist shall remedy the condition or contract with others for such purpose and charge the cost thereof to the person to whom the order is directed. The person remedying a condition under a contract made hereunder shall be authorized to enter premises for that purpose.
- (e) Special Assessment; Penalty for Delinquent Payment. If the cost of remedying a condition is not paid within sixty days after receipt of a statement therefor from the City Arborist, such cost shall be levied against the property upon which such hazard exists, as a special assessment. The levying of such assessment shall not affect the liability of the person to whom the order is directed to fine and imprisonment as herein provided. Such special assessment shall be collected in the manner provided in Ohio Revised Code Sections 727.30 through 727.38, with a forfeiture of five percent and interest for failure to pay at the time fixed by the assessing ordinance.

905.09 PROHIBITING STONE OR CONCRETE ON GROUND ADJACENT TO TREE TRUNK.

No person shall place or maintain upon the ground in any public place any stone, concrete, brick or other impervious material or substance in such a manner as may obstruct the free access of air and water to the roots of any tree upon any public place in the City without first having obtained a permit therefor. Unless otherwise provided for, there shall be maintained about the base of the trunk of each such tree at least nine square feet of open ground for every three inches in diameter, and for every two inches of increase of such diameter, there shall be an increase of at least one square foot of open ground.

905.10 MOVING OF TREES; PERMIT; DEPOSIT OR BOND.

All moving of trees upon any public place in the City made necessary by the moving of a building or structure, or any other private enterprise, shall be done under the supervision of, and with a permit from the City Arborist, and at the expense of the applicant or person seeking the removal of such tree. Such applicant, as one of the conditions of obtaining a permit, shall deposit with the City such sum in cash as the City Arborist may determine and specify to cover all of the cost of moving and replacing such tree, if the conditions of such permission require the replacement thereof. However, in lieu of such cash deposit, the City Arborist may, in his discretion, accept a good and sufficient bond in like amount conditioned upon the payment of all the cost of such moving and replacing.

905.11 DUTIES OF PRIVATE OWNERS.

It shall be the duty of any person growing a tree within a public highway or responsible for trees growing on property abutting on public places supporting trees or plants to:

- (a) Trim his trees so as not to cause a hazard to public places or interfere with the proper lighting of public highways by the street lights, and so that the minimum clearance of any overhanging portion thereof shall be nine feet over footways and thirteen feet over vehicular ways.
- (b) Treat or remove any tree or plant so diseased or insect-ridden as to constitute a hazard to trees or plants in public places.
- (c) Remove and refrain from planting any of the species mentioned in Section 905.06.

905.12 AUTHORITY OF CITY ARBORIST TO ENTER PRIVATE PREMISES.

The City Arborist shall have the authority to enter upon private premises at all reasonable times for the purpose of examining any tree or shrub located upon or over such premises and carrying out any of the provisions of this chapter.

905.13 INTERFERENCE WITH CITY ARBORIST PROHIBITED.

No person shall prevent, delay or interfere with the City Arborist or his agents, employees or servants while they are engaged in carrying out any work or activities authorized by this chapter.

905.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months, or both. Each day's continued violation shall constitute a separate offense.

CHAPTER 907
Newspaper Dispensing Devices

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| <p>907.01 Permit application; denial or approval.</p> <p>907.02 Definitions.</p> <p>907.03 Criteria for installation, placement and size regulations.</p> <p>907.04 Permit fee and conditions.</p> <p>907.05 Permit revocation.</p> | <p>907.06 Appeal procedure.</p> <p>907.07 Prohibitions.</p> <p>907.08 Equitable remedies.</p> <p>907.09 Violation notice; removal; disposition.</p> <p>907.99 Penalty.</p> |
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CROSS REFERENCES

Maintenance of streets and sidewalks free from nuisance - see Ohio R.C. 723.01
 Littering - see GEN. OFF. 521.05
 Newspaper drop off deliveries - see GEN. OFF. 521.10
 Newspaper dispensing devices and vending machines - see BUS. REG. Ch. 735

907.01 PERMIT APPLICATION; DENIAL OR APPROVAL.

(a) Prior to the installation, placement or use of a newspaper dispensing device, within the public right of way, the owner of such device shall file, on forms provided by the Director of Public Service and Development, a permit application with the Director containing the following information:

- (1) The name, address and telephone number of the owner;
- (2) The name, address and telephone number of the individual or other person to whom the City shall serve in person or by mail any notice or order required by this chapter;
- (3) The location and dimensions of each newspaper dispensing device for which the permit application is being made, with sufficient detail to enable the Director to verify that the installation and placement of the newspaper dispensing device in accordance with the permit application shall meet the criteria regulations contained in Section 907.03.

(b) One application may be submitted to include any number of newspaper dispensing devices.

(c) The permit fee required by Section 907.04 shall be paid.

(d) Upon receipt of the information required by this section, payment of the required fees to the Director, and verification by the Director that the installation and placement of a newspaper dispensing device in accordance with the permit application shall meet the criteria regulations contained in Section 907.03, a permit shall be issued or renewed for each newspaper dispensing device. All permits shall be issued, renewed or denied within ten working days of the filing of the permit application. The permit shall indicate the location of the newspaper dispensing device for which the permit has been issued. Notice of a denial shall be served in person or by certified mail to the individual or other person identified in the permit application as required by subsection (a)(2) hereof.

(e) The owner shall promptly notify the Director in writing of any change in the information required by subsection (a) hereof. If the owner proposes to change the location of a newspaper dispensing device, a new permit application as required by subsection (a) hereof, together with a fee required by Section 907.04, shall be filed prior to the change in location.

(f) Every owner desiring to renew a newspaper dispensing device permit shall file a permit renewal application with the Director containing the information required by subsection (a) hereof. A permit application shall be filed no sooner than thirty days prior to the date of expiration of the existing permit. The fee required by Section 907.04 for each newspaper dispensing device shall accompany each permit renewal application.

(g) If the number of permit applications exceed the number of newspaper dispensing devices which may be placed adjacent to each other and which are otherwise permissible under Section 907.03, the Director shall determine which of the newspaper devices comply with such requirements based upon the order in which the permit applications were filed in accordance with this section. (Ord. 87-37. Passed 12-7-87.)

907.02 DEFINITIONS.

As used in this chapter, certain terms are defined as follows:

- (a) "Crosswalk" means that part of a street at intersections which is ordinarily included within the projected prolongation of property and curb lines, or, in the absence of curbs, the edges of the traversable roadway; or any portion of a street at an intersection or elsewhere, distinctly indicated for pedestrian crossing by lines or other markings on the street surface.
- (b) "Group of newspaper dispensing devices" means any two or three adjacent newspaper dispensing devices.
- (c) "Newspaper dispensing device" means any mechanical self-service coin operated box, container, storage unit or dispenser as well as boxes, containers, storage units or dispensers which may be operated without the payment of a consideration, and which in either case makes available to persons publications, magazines, newspapers, pamphlets, posters and periodicals of any kind, nature or description contained therein other than obscene material, materials harmful to juveniles, or sexually oriented matter involving a minor, as those terms are defined in Chapter 533 of the Codified Ordinances and which are specifically excluded and prohibited.

- (d) "Owner" means a person or an agent or officer of a person in whom is vested ownership, dominion, control or title of a newspaper dispensing device. The term "owner" shall include the term "permittee".
- (e) "Public right of way" means any way which has been deeded to the public or dedicated to the public for use for pedestrian or vehicular travel.
- (f) "Roadway" means that portion of a street intended for the use of vehicular travel.
- (g) "Sidewalk" means that portion of a street between the curb line or the lateral line of the roadway, and the adjacent property lines, intended for the use of pedestrians.
- (h) "Street" means that portion of a street between the curb line or the lateral line of the roadway, and the adjacent property lines, intended for the use of pedestrians and vehicular traffic.
- (i) "Traffic sign" means any sign placed or erected by a public body or official for the purpose of regulating, warning or guiding vehicular travel, excluding "no parking" and "no stopping" signs.
(Ord. 87-37. Passed 12-7-87.)

907.03 CRITERIA FOR INSTALLATION, PLACEMENT AND SIZE REGULATIONS.

- (a) Location. No newspaper dispensing device shall be placed, installed, used or maintained:
- (1) In such manner as to rest, in whole or in part, on or over any portion of the roadway;
 - (2) In any residential district or civic and recreational district of the City except in those locations adjacent to public bus shelters in accordance with subsection (a)(8) hereof;
 - (3) At any location where the width of the paved clear space in any direction for the passageway of pedestrians is reduced to less than five feet;
 - (4) So as to reduce the clear, continuous combined sidewalk and paved tree lawn width to less than five feet;
 - (5) Within five feet of any fire hydrant, fire call box, police call box or other emergency facility;
 - (6) Within five feet of any intersecting driveway, alley, access drive or street;
 - (7) Within three feet of any crosswalk;
 - (8) Within eight feet of a sign identifying a particular bus company or bus route number and marking a designated bus stop except that a group of newspaper dispensing devices may be located adjacent to a bus shelter in a manner that does not restrict ingress or egress, of bus passengers, or which is installed, placed, used or maintained contrary to any other provision of this section;
 - (9) Within three feet of any traffic sign;
 - (10) Within six inches of any public utility pole, provided that placement adjacent to a public utility pole shall be limited to one side of the pole;

- (11) Within that portion of the sidewalk parallel to an area designated for handicapped parking, a commercial loading or unloading space, or which serves as a handicap curb or ramp;
- (12) Within one foot of any public area improved with lawn, flowers, shrubs or trees;
- (13) Within three feet of any display window of a building abutting a sidewalk or in such a manner as to impede or interfere with the reasonable use of such window for display purposes;
- (14) Within 250 feet of any other newspaper dispensing device on the same side of the street which contains the same publication, magazine, newspaper, pamphlet, poster or periodical except that the Director of Public Service and Development may permit two such dispensing devices at the same location where such placement would not impede traffic or otherwise create a hazardous condition;
- (15) In a manner that blocks, obstructs or restricts the free passage of pedestrians in the lawful use of the sidewalk;
- (16) So as to be stacked one on top of another; or
- (17) In other than a secure and stationary manner.

Newspaper dispensing devices may be placed or installed adjacent to each other provided that no more than three newspaper dispensing devices are adjacent to each other. No group of newspaper dispensing devices shall be placed within twenty-five feet of any other group of newspaper dispensing devices.

Newspaper dispensing devices shall be placed or installed parallel to a curb or to a wall of a building abutting the sidewalk at such specific locations applied for and determined by the Director as shall not cause an undue health or safety hazard, or cause a nuisance, and which complies with the provisions of this section. Newspaper dispensing devices placed parallel to a curb shall face away from the roadway. Newspaper dispensing devices placed parallel to a wall of a building abutting the sidewalk shall be no more than twelve inches from the wall and no less than three feet from any doorway.

(b) Installation; Removal. Newspaper dispensing devices shall be not cabled, chained or otherwise attached to the sidewalk or to any other object or building except to another newspaper dispensing device. Upon removal of a newspaper dispensing device, the owner of such device shall be responsible for repairing any damage to the sidewalk caused by the installation or placement of such device. The extent of the repairs shall be determined by the Director.

- (c) Size. All newspaper dispensing devices shall:
- (1) Not exceed fifty inches in height, thirty inches in width or twenty-four inches in depth;
 - (2) Weigh at least 160 pounds when empty;
 - (3) Have a functioning coin return mechanism if a fee is charged;
 - (4) Have affixed in a readily visible place a notice setting forth the title, address and phone number of a responsible officer or agent of the owner to contact to report a malfunction of the coin return mechanism.

(d) Color. All newspaper dispensing devices shall be of the same color or colors as required of other streetscape facilities.
(Ord. 87-37. Passed 12-7-87.)

907.04 PERMIT FEE AND CONDITIONS.

The rental permit shall be granted upon the following conditions:

- (a) The owner shall pay a permit fee which shall be fifteen dollars (\$15.00) per calendar year, or any part thereof, for each location where a newspaper dispensing device is installed;
- (b) The owner, upon the removal of a newspaper dispensing device, shall restore the property of the City to the same condition as when the device was initially installed, ordinary wear and tear excepted;
- (c) The owner shall maintain the device in good working order, in a safe, clean and attractive condition, free of rust, and the area surrounding such device free from litter and debris;
- (d) The owner shall not use or permit to be used a newspaper dispensing device for the display of signs, advertising matter or for publicity purposes other than to identify the company name or trade name; the display, sale or purchase of the merchandise available therein or therefrom; instructions of operation; the notice required by Section 907.03(c)(4); and cost, if any, of the merchandise;
- (e) Permits shall be for a term of one calendar year, or part thereof, unless earlier revoked by the Director of Public Service and Development, and which shall all expire at 11:59 p.m. on December 31, of each year;
- (f) Permits shall not be assignable, delegable or transferrable from owner to owner or location to location; and
- (g) The owner complies with each and every provision of this chapter.

No permanent rights of any kind, nature or description shall be secured by the owner upon the granting by the City of a permit or any renewal thereof.
(Ord. 87-37. Passed 12-7-87.)

907.05 PERMIT REVOCATION.

(a) Rental permits issued pursuant to the provisions of this section shall be revoked by the Director of Public Service and Development after notice and hearing for any of the following causes:

- (1) Fraud, misrepresentation or any false statement contained in the application for such a permit;
- (2) Violation of any provision of this section regulating such rental permit; or
- (3) Violation of the terms of the rental permit granted.

(b) Notice of hearing for such a revocation shall be given in writing stating the grounds of the complaint together with the time, date and place of hearing and which shall be mailed postage prepaid to the permittee at the address given in the rental permit application of at least seven days prior to the date set for hearing.

(Ord. 85-36. Passed 7-1-85.)

907.06 APPEAL PROCEDURE.

Any person aggrieved by any order, requirements, decision or determination of the Director of Public Service and Development, including a denial or revocation of a permit shall have a right of appeal to the Board of Zoning and Building Appeals. Such appeal shall be taken by filing a written notice of appeal including a statement of the grounds for the appeal with the Board within fifteen days after notice of the order, requirements, decision or determination of the Director has been given. The Board shall set the date, time and place for hearing such appeal and notice of such date, time and place shall be given in the same manner as specified in Section 907.05(b). The Board shall have the power to reverse, affirm or modify the order, requirement, decision or determination of the Director. Any such decision made by the Board shall be final. If the Board affirms an order of the Director issued pursuant to Section 907.09(a), the owner shall have three working days to correct the violation or remove the newspaper dispensing device in question; if the owner fails to correct the violation or remove the newspaper dispensing device within that time, the newspaper dispensing device may be impounded by the Director. If the Board reverses an impoundment caused pursuant to Section 907.07(c), the Board shall order an immediate return of the newspaper dispensing device and its contents to the owner without assessment of an impoundment fee.

(Ord. 87-37. Passed 12-7-87.)

907.07 PROHIBITIONS.

No person shall install, erect, locate, place or display or cause to be installed, erected, located, placed or displayed a newspaper dispensing device upon any public street, public sidewalk, public place or other public property without having first obtained a permit to do so in accordance with the provisions of this chapter. No person shall permit or cause to remain a newspaper dispensing device upon any public street, public sidewalk, public place or other public property if the permit issued to do so has been revoked.

(Ord. 85-36. Passed 7-1-85.)

907.08 EQUITABLE REMEDIES.

In addition to the penalty provided in Section 907.99, no provision of this chapter shall be construed or interpreted so as to preclude the institution of appropriate proceedings in a court of competent jurisdiction by the Department of Law for the purpose of abating violations of this chapter. (Ord. 85-36. Passed 7-1-85.)

907.09 VIOLATION NOTICE; REMOVAL; DISPOSITION.

(a) Upon a determination by the Director of Public Service and Development that a newspaper device has been installed, erected, located, placed, displayed, maintained or used in violation of any of the provisions of this chapter, the Director shall issue an order to remedy the violation. The order shall be served in person or by certified mail to the individual or other person identified in the permit application as required by Section 907.01(a)(2). If no permit application for the newspaper dispensing device, including where there has been a failure to file a timely renewal application, has been filed with the City, as required by Section 907.01, or which has been revoked, the order shall be served on the owner in person or by certified mail. The order shall state the nature of the violation and provide that the owner shall have fifteen days within which to remedy the violation.

(b) If a violation is neither remedied within the time period set forth in the order issued pursuant to subsection (a) hereof, or appealed to the Board of Zoning and Building Appeals in accordance with the provisions of Section 907.06, the newspaper dispensing device which has been determined to be in violation by the Director may be impounded by the Director. The fee for impoundment shall be the actual costs incurred by the City in impounding the device.

(c) Notwithstanding any other provision of this section, the Director shall remove and impound any newspaper dispensing device upon the determination by the Director that the device has been installed, erected, located, placed, displayed or maintained in a manner which presents a clear and present danger to the public health or safety. Within three days of the date of impoundment made pursuant to this subsection, notice of the impoundment including the reasons therefor shall be served in person or by certified mail to the individual or other person identified in the permit application as required by Section 907.01(a)(2). If no permit application has been filed or a permit application denied or permit revoked, for the newspaper dispensing device, the order shall be served on the owner in person or by certified mail.

(d) Unless the newspaper dispensing device and its contents are being held as evidence in a criminal prosecution, the owner of the contents of an impounded newspaper dispensing device may recover those contents at any time.
(Ord. 87-37. Passed 12-7-87.)

907.99 PENALTY.

Whoever violates any provision of this chapter shall, in addition to the revocation or denial of a rental permit, be guilty of a misdemeanor of the first degree. Each day of violation shall constitute a separate offense.
(Ord. 85-36. Passed 7-1-85.)

CHAPTER 909
Grading and Excavating Contractors

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| <p>909.01 Deposit required for street cleaning.</p> <p>909.02 Permit required; deposit refund; fee.</p> | <p>903.03 Retention of deposit.</p> |
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CROSS REFERENCES

Power to establish and care for streets - see Ohio R.C. 715.19, 717.01, 723.01
 Surface treatment - see Ohio R.C. 723.23, 723.31
 Street openings - see S. U. & P. S. Ch. 901
 Established elevations to be grade - see BLDG. 1317.02

909.01 DEPOSIT REQUIRED FOR STREET CLEANING.

A deposit of one hundred fifty dollars (\$150.00) shall be required of all grading and building excavators and contractors as a guarantee for necessary street cleaning. This deposit shall be made with the Building Commissioner at the time the permit is issued to such contractor for construction work.

(Ord. 87-22. Passed 2-15-88.)

909.02 PERMIT REQUIRED; DEPOSIT REFUND; FEE.

Grading and building excavators and contractors shall first obtain a street cleaning permit from the Building Commissioner and pay the permit fee of fifty dollars (\$50.00) before commencing any work within the City, which permit fee shall be in addition to the deposit required by Section 909.01.

The deposit required by Section 909.01 shall be refunded after approval of the work by the Building Commissioner.

(Ord. 87-22. Passed 2-15-88.)

909.03 RETENTION OF DEPOSIT.

In the event of noncompliance with these street cleaning requirements, the deposit or any portion thereof shall be forfeited to the City.

TITLE THREE - Sewers

Chap. 911. Sewer Use and Rate.

Chap. 915. Pretreatment.

**CHAPTER 911
Sewer Use and Rate**

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| 911.00 | Definitions. | 911.14 | Sewer revenue funds. |
| 911.01 | Care and control of sewers. | 911.15 | Charges and rates. |
| 911.02 | Clear water connections. | 911.16 | Collection and billing procedure. |
| 911.03 | Limitations of connections. | 911.17 | Effective date. |
| 911.04 | Sewer design and permits. | 911.18 | Charges a lien. |
| 911.05 | Readiness-to-serve charge. | 911.19 | Liability for payment; lessor and lessee. |
| 911.06 | Sanitary sewer discharge standards. | 911.20 | Payment through banks. |
| 911.07 | NPDES permit limits. | 911.21 | Annexation not a prerequisite for service. |
| 911.08 | Surcharge for industrial wastes. | 911.22 | No free services. |
| 911.09 | Inspection and enforcement. | 911.99 | Penalties. |
| 911.10 | Test procedures for analysis of pollutants. | | |
| 911.11 | Industrial permits reporting. | | |
| 911.12 | Appeal procedures. | | |
| 911.13 | Intent and purpose of sanitary sewer charges. | | |

CROSS REFERENCES

Power to license sewer tappers and vault cleaners - see Ohio R.C. 715.27

Power to construct sewerage system - see Ohio R.C. 715.40, 717.01

Compulsory sewer connections - see Ohio R.C. 729.06

Management and control of sewerage system - see Ohio R.C. 729.50

Dangerous, abandoned excavations - see GEN. OFF. 521.03

Street openings - see S. U. & P. S. Ch. 901

Surface water drainage - see BLDG. Ch. 1317

911.00 DEFINITIONS.

- (a) As used in this chapter, certain terms are defined as follows:
- (1) "Authorized person" means a person duly authorized by the Director of Public Service and Development to act on his/her behalf in fulfilling the provisions of this chapter.
 - (2) "BOD" means biochemical oxygen demand, the quantity of oxygen, expressed as milligrams per liter, utilized in the biochemical oxidation of organic matter for a five-day time period at 20EC., further explained in the current edition of Standard Methods for Water and Wastewater Analysis, published by the American Public Health Association.
 - (3) "COD" means chemical oxygen demand, the quantity of oxygen, expressed as milligrams per liter, used in the chemical oxidation of organic matter to carbon dioxide and water, further explained in Standard Methods for Water and Wastewater Analysis.
 - (4) "Combined sewer" means a sewer which is designed to carry sanitary sewage, industrial wastes and stormwater.
 - (5) "Debt service" means the bond retirement which is incurred in the payment of capital costs for the construction and/or capital improvement of wastewater collection and treatment facilities.
 - (6) "Domestic sewage" means sanitary sewage which does not exceed normal wastewater concentrations.
 - (7) "Industrial wastes" means the liquid wastes from industrial manufacturing processes, trade or business, as distinct from domestic sewage.
 - (8) "mg/l" means milligrams per liter.
 - (9) "Nondomestic" means any wastes exceeding normal wastewater concentrations.
 - (10) "Normal wastewater concentrations" for the purposes of the extra strength surcharge system, means a five day biochemical oxygen demand of 250 milligrams per liter, suspended solids of 250 milligrams per liter, phosphorus of twenty milligrams per liter and oil and grease of fifty milligrams per liter.
 - (11) "NPDES Permit" means the National Pollutant Discharge Elimination System Permit, the permit issued by the U.S. EPA or the State of Ohio EPA under the Clean Water Act regulating the discharge of water to navigable waters.
 - (12) "OM&R" means operation, maintenance and replacement.
 - (13) "Operation and maintenance cost" means the costs which are incurred in providing for the operation and maintenance of wastewater collection treatment and sewer billing services. Debt service costs are not included in operation and maintenance costs.
 - (14) "pH" means the logarithm of the reciprocal of the weight of hydrogen ions in gram moles per liter of solution.
 - (15) "Phosphorus" means compounds of orthophosphates, polyphosphates and organic phosphorus.
 - (16) "ppm" means parts per million.

- (17) "Replacement charge" means expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the treatment works to maintain capacity and performance for which such works were designed and constructed.
- (18) "Sanitary sewage" means a combination of the liquid and water carried wastes from the sanitary convenience of residences, business buildings, institutions and commercial and industrial establishments.
- (19) "Sanitary sewer" means a sewer which carries sanitary sewage and industrial wastes and to which storm, surface and ground waters are not intentionally admitted.
- (20) "Sewer service charge" means the fee levied on the sewer user to fund the operation, maintenance, replacement and bond retirement costs for providing wastewater collection and treatment services.
- (21) "Storm sewer" means a sewer which carries storm, surface waters and drainage, but which excludes sanitary sewage and industrial wastes, other than polluted cooling water.
- (22) "Storm water" includes rain, surface and other water which is ordinarily discharged into public storm sewers in contrast to such other liquids and solids which are ordinarily discharged into public sanitary sewers.
- (23) "Subsurface drainage" means any water collected by footer drains or other devices below the ground.
- (24) "Suspended solids (SS)" means solids that either float on the surface of, or are in suspension in, water, sewage or other liquids, and which are removable by laboratory filtering.
- (25) "User charge" means a charge levied on users of the wastewater collection and treatment facilities for the users proportionate share of the cost of operation and maintenance (including replacement) of such facilities.
- (26) "User class" means a group of sewer users which have similar magnitudes of wastewater flows and wastewater characteristics.
(Ord. 84-57. Passed 9-24-84.)
- (27) "Residential user" means a user who occupies premises for human habitation including apartments, etc., but excluding hotels and motels.
- (28) "Industrial user" means a user who discharges a waste resulting from manufacturing activities involving the chemical or mechanical transformation of materials or substances into other products.
- (29) "Commercial user" means a user who discharges anything not meeting the definitions of residential or industrial.
(Ord. 85-5. Passed 1-21-85.)

911.01 CARE AND CONTROL OF SEWERS.

All sewers and drains of every kind within the line of any street, alley or other public grounds shall be under the care and control of the Director of Public Service and Development.
(Ord. 84-57. Passed 9-24-84.)

911.02 CLEAR WATER CONNECTIONS.

- (a) (1) No person, firm or corporation shall discharge or cause to be discharged, either directly or indirectly, any storm water, surface water, ground water, roof runoff, subsurface drainage, cooling water or unpolluted industrial process waters to any sanitary sewer.
- (2) Any connections made either before or after the effective date of this section shall be considered illegal and shall be subject to immediate removal by the owner of the premise so connected and at such owner's expense.
- (3) The Director of Public Service and Development or a designee thereof may enter upon any lot or parcel of land within the City and test any downspout on any building thereon to determine whether or not it discharges water into any sanitary sewer.
- (4) Should the owner of an illegally connected premise fail to remove the connection within fifteen days, the City shall cause the connection to be removed, charging the owner the full costs of such removal.

(b) Stormwater and all other unpolluted drainage shall be discharged into sewers which are specifically designed and designated as storm sewers or to a combined sewer or a natural outlet approved by the City.

(c) No person, firm, corporation or municipality constructing a sanitary sewer, building or house connection, shall leave same open, unsealed or incomplete in such a fashion as to permit storm, surface or subsurface water to enter the sewers.

(d) No person shall open, enter or allow to remain open, any manhole in any public sewer without a permit from the Director.

(e) All parcels of land located on the south side of Lorain Road in the City and being further described as the various parcels of land lying immediately easterly of 20777 Lorain Road (Permanent Parcel No. 322-3-3) and the westerly line of 20123 Lorain Road (Permanent Parcel No. 322-5-10) and including all parcels lying between such easterly and westerly lines are required to direct all storm waters into the ravine lying along the southerly line of such parcels. (Ord. 84-57. Passed 9-24-84.)

911.03 LIMITATIONS OF CONNECTIONS.

(a) No unauthorized person shall uncover, make any connection with or opening into, use, alter or disturb public or private sanitary or combined sewer or appurtenance thereof without first obtaining a permit from the City.

(b) No sewer, or system of sewers, shall be constructed, which connects either directly or indirectly to sanitary sewerage facilities controlled by the City until the owner of the sewer, or system of sewers, can demonstrate to the City that quality of the wastewater to be conveyed by this sewer can meet the requirements of this sewer use chapter.

(c) No permit shall be issued to connect a house sewer to a public sewer if the connection of any portion thereof is in, under or on a lot not owned by the person whose house is to be connected and if no recorded easement exists authorizing the connection on such lot.

(d) No permit to connect to or tap a public sewer shall be issued if the sewage to be discharged would, in the opinion of the Director of Public Service and Development, overload any public sewer or downstream facilities including pump stations and/or treatment plants.

(e) When, in the opinion of the Director of Public Service and Development, it is necessary to connect a house connection sewer to a public sewer at a point where no connection facility has been provided, application for the public sewer tap shall be submitted and a separate fee for each tap shall be paid by the applicant before the permit is issued for the construction of the house connection sewer.

(f) No person other than an authorized employee of the City shall in any way tamper with, remove or otherwise move or disturb any street manhole cover of a City sewer or sewer opening without first obtaining permission from the Director of Public Service and Development.

(g) No person, firm or corporation shall discharge or cause to be discharged to any natural outlet or storm sewer any sanitary sewage or other polluted waters. Effluent from privately owned individual household disposal devices shall not be discharged to storm sewers.

(h) The Director of Public Service and Development or any employee of the City designated by him may enter on any lot or parcel of land and open any test tee thereon to determine whether or not any sewer or sewer connection is blocked on the lot, parcel of land or in the public street in front of the same and to determine whether the sewer connections are connected to the proper sewer. (Ord. 84-57. Passed 9-24-84.)

911.04 SEWER DESIGN AND PERMITS.

(a) No person shall construct, continue, extend or connect any house sewer or drain, or open any trench or remove any pavement for such purpose, within the City without first procuring a permit from the Building Commissioner in writing, to do so. No such work shall be commenced or prosecuted unless such permit is upon the grounds and in the possession of the person in charge of the work.

The permit shall be granted on the express condition that the owner or tenant for whose benefit such connection shall be made, and each succeeding owner or tenant, shall, in consideration of the privilege thereby granted, hold the City harmless for any loss or damage that may in any way result from or be occasioned by such connections.

(b) Permits shall be taken out in each case in the name of the plumber before the work is commenced. Each permit shall designate the name of the owner, agent or person in whose interest the work is to be done, the street and number of the house and subplot and shall include such definite description of the premises as to clearly define the location of the same.

(c) The sewer connection inspection permit herein provided for, a copy of which shall be furnished the Director of Public Service and Development at the time of issuance, shall be issued on application to the Building Commissioner and, upon payment by the applicant of a fee of twenty-five dollars (\$25.00), such permit shall authorize either one connection to a sanitary sewer, one connection to a stormwater sewer or one connection to each, if both connections are to be located in the same trench, but such permit shall not authorize the making of any opening in any street to extend beyond the curb line of the street, unless a street opening permit has first been obtained to do so.

(d) Connections made to the main sewer or made to the service connection of the main sewer at the curb line, for premises named in a permit, shall be made only by licensed plumbers or sewer builders.

Such information as the City possesses relative to the depth and location of the sewer, or connection at the curb line, shall be furnished on application and all reasonable care shall be taken to insure the correctness of such information, but the City shall not be liable for any error arising therefrom.

(e) All openings made within the street lines for the purpose of laying any sewer connection or house drain shall be done in open trench. All paving material, flagging, curb and ballasting shall be carefully removed and preserved. After the connection is properly laid, the trench shall be refilled in accordance with the City regulations relating to street openings.

(f) The Building Commissioner before granting any permit, in accordance with the provisions of this chapter, which will necessitate any excavation in, upon or under any state highway in the City, or the making of a connection to a sewer or house connection sewer for which a permit is also required from a county sanitation district or a political subdivision other than the City, shall require such permit to be presented for inspection.

(g) Nothing in this section shall be deemed or construed to require the application for or the issuance of a permit for the purpose of removing stoppages in any house connection sewer, except when it is necessary to replace any part or all of the sewer connection or to excavate in any street or sidewalk or sewer easement in connection therewith.

(h) A permit under which an excavation, tunnel or the laying of sewer or storm drain pipe in any public street is contemplated shall be issued only to other departments of the City, other governmental agencies or qualified contractors.

(i) The provisions of subsections (a) through (e) hereof, shall not be construed to apply to contractors constructing house connection sewers under contracts entered into under proceedings had or taken pursuant to any of the procedure ordinances of the City, the County or the State statutes, or other contracts authorized by Council, providing for the construction of house connection sewers.

- (j) (1) No person having obtained a permit from the City shall construct, alter or repair any house connection sewer or any portion of any house connection sewer, or make a connection to any public sewer or house connection, pursuant to any permit, at any place other than that designated thereon. Neither shall the person fail, refuse or neglect to comply with any requirement contained or referred to in this section.
- (2) At all times, while the work under any such permit is in progress, the original of the permit shall be kept at the place of the work and shall, on demand, be exhibited to the City or to any of its inspectors, agents or representatives, or to any police officer.

(k) The construction of all sewers, and all repairs to sewers, shall be in accordance with the Uniform Standard for Sewerage Improvements of the combined agencies of the City of Cleveland, Northeast Ohio Regional Sewer District, Cuyahoga County Sanitary Engineer and Cuyahoga County Municipal Engineer's Association.

(l) The provisions of this chapter are supplementary to the provisions of the City Building Code. (Ord. 84-57. Passed 9-24-84.)

911.05 READINESS-TO-SERVE CHARGE.

(a) No person, corporation, public agency, partnership or association whatsoever shall connect, or cause to be connected, any building or other structure either directly or indirectly with a sanitary sewer in the Rocky River Sewer District and the North Olmsted Sewer District of the City of Fairview Park for the purpose of discharging sanitary sewage or industrial waste therefrom without first receiving a permit for such purpose in a form prescribed by the City Engineer and without first paying to the City, a readiness-to-serve charge determined in accordance with the provisions of subsection (b) hereof.
(Ord. 84-57. Passed 9-24-84.)

(b) The City Engineer shall not issue a permit for the purpose described in subsection (a) hereof until the applicant for such permit has paid to this City, a readiness-to-serve charge to be determined in accordance with the following schedule:

| <u>Residence</u> | <u>Charge</u> |
|--|---|
| Single family | \$750.00 |
| Multiple family (including apartments) | 550.00 for each family unit having one bedroom or less; plus 100.00 for each additional bedroom. |

Nonresidential buildings, structures or other facilities shall pay a readiness-to-serve charge determined by the City Engineer in the following manner: The City Engineer shall review the preliminary plans of the building, structure or other facility to be served by the connection, together with other pertinent information and, based upon accepted engineering practices, determine the anticipated daily quantity of sewage to be discharged from such building, structure or other facility to the sanitary sewer system. The quantity so determined shall then be divided by the average daily quantity of sewage discharged from a single family residence and the resulting quotient multiplied by seven hundred fifty dollars (\$750.00) shall be the readiness-to-serve charge for such building, structure or other facility.
(Ord. 95-48. Passed 6-19-95.)

(c) In the event that the City Engineer ascertains that any property has been connected directly or indirectly to a sanitary sewer in violation of the provisions of this section, the City Engineer is authorized to disconnect such property until such violation ceases. The City shall be reimbursed for expenses incurred for disconnection by the property owner.
(Ord. 84-57. Passed 9-24-84.)

911.06 SANITARY SEWER DISCHARGE STANDARDS.

- (a) (1) Except as provided in subsection (b) hereof, no person shall place, throw or deposit or cause or permit to be placed, thrown or deposited in any public sewer, drain, catch basin, water closet, privy, any dead animal, offal or garbage, fish, fruit, vegetable waste or any other solid matter or material of any kind whatsoever, of such a nature or in such quantities as will, or will be likely to clog or obstruct any public sewer, drain, or catch basin, or which will or will be likely to interfere with or prevent the effective or efficient use of the operation of any of the same.
- (2) No person shall cause or permit to be deposited or discharged into any public sewer, drain or catch basin, water or sewage, or liquid waste of any kind, containing chemicals, greases, oil, tar or other matter or material which would by reason of precipitation or settlement of such matter or materials be likely to clog or obstruct any of the same, or which by reason thereof will be likely to interfere with or prevent the effective or efficient use of any of same, or which will be likely to necessitate or require frequent repair, cleaning out, or flushing of any sewer, drain or catch basin.

(b) Garbage from the preparation of any food or drink prepared on premises where they are served or proposed to be served for consumption, properly ground to such fineness and by such methods as may be from time to time approved by the City, may be discharged into a public sewer by such methods as may be from time to time approved by the City.

(c) No person shall intentionally allow sanitary sewage to flow into a sanitary sewer of the City which flows into the Rocky River Sewage Treatment Plant, which does not meet the following requirements:

- (1) Shall have a temperature of not more than 150E F;
- (2) Shall contain no gasoline, benzine, naphtha, fuel, oil or gases, or other flammable or explosive liquid, solid or gas, except as may be found in normal domestic sanitary sewage;
- (3) Shall contain no unground garbage;
- (4) Shall have a pH of more than 6.0 but less than 9.0;
- (5) Shall contain no toxic, poisonous, noxious or malodorous substances in sufficient quantities to cause a public nuisance, hazard to humans or animals or interference with any sewage treatment process;
- (6) Shall contain no cooling water;
- (7) Shall contain no more than 10 milligrams per liter of the following gases: hydrogen sulfide, sulphur dioxide or nitrous oxide;

- (8) Shall contain no phenols in excess of 0.5 milligrams per liter by weight. These limits may be modified at the discretion of the City if the aggregate of contributions throughout the area of service create treatment difficulties, or produce a plant effluent discharge to receiving waters, which may be prohibitive;
- (9) Shall have no corrosive properties either acid or alkaline capable of causing damage or hazard to structures, equipment and personnel of the department of sewers; (Ord. 84-57. Passed 9-24-84.)
- (10) Shall not contain a toxic or poisonous substance of high chlorine demand in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, or create any hazard to the receiving waters or stormwater overflows or the effluent of the wastewater treatment plant. The following list is not intended to be a complete list of forbidden toxic materials. Additional restrictions may also be placed on other compounds when it is shown that the concentration of these materials at a treatment plant is sufficient to adversely affect any portion of the treatment process. The average concentration of toxic substances into the sewage system from any one establishment shall be the magnitude of the stated concentrations with peak concentrations not greater than twice this amount (unless otherwise stated). However, where low downstream dilution might be expected, the requirements may be modified at the discretion of the City. The following list of toxic substances is to be used as a guide indicating limits of concentration not to be exceeded in the sanitary sewer to which discharges are made:

| <u>Substance</u> | <u>Concentration (mg/l)</u> | <u>Expressed as</u> |
|-----------------------|---------------------------------|---------------------|
| Arsenic | 0.5 | As |
| Boron | 1.0 | B |
| Cadmium | 0.1 | CD |
| Chromium (Hexavalent) | 0.37 | Cr |
| Copper | 2.1 | Cu |
| Cyanide | 0.1 | HCN |
| Iron | 15.0 | Fe |
| Lead | 0.5 | Pb |
| Mercury | 0.06 | Mercury Compounds |
| Nickel | 1.59 | N |
| Silver | 0.5 | Ag |
| Zinc | 10.0 | Zn |

These limits may be modified as necessary to comply with Federal toxic waste discharge standards; (Ord. 05-41. Passed 9-19-05.)

- (11) Any water or wastes containing the discharge of strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not;

- (12) Any long half life (over 100 days) of toxic radioactive isotopes, without special permit from the City. The radioactive isotopes such as I131 and P32 used at hospitals are not prohibited, if properly diluted at the source and discharged in accordance with Atomic Energy Commission recommendations;
- (13) Any waters containing suspended solids of such character and quantity that unusual provisions, attention or expense is required to handle such materials at the wastewater treatment plant;
- (14) Any waste exerting excessive or unusual chlorine demand in such quantities as to constitute a load greater than twenty percent (20%) the normal average demand at the wastewater treatment plant;
- (15) Any waste or water containing excessive amounts of phosphorus so as to constitute a load greater than twenty percent (20%) the normal average load at the wastewater treatment plant; and
- (16) Any waste which would cause the City to violate the pretreatment standards established by U.S. Environmental Protection Agency.

(d) No person shall intentionally permit or allow sanitary sewage to flow into a sanitary sewer of the City which flows into the North Olmsted Sewage Treatment Plant, which does not meet the following requirements:

- (1) Shall have a five day biochemical oxygen demand not greater than 330 ppm by weight;
- (2) Shall contain suspended solids not exceeding 550 ppm by weight;
- (3) Shall have a temperature of not more than 150 degrees Fahrenheit;
- (4) Shall contain not more than fifty ppm by weight of fat, oil or grease;
- (5) Shall contain no gasoline, benzene, naphtha, fuel, oil or gases, except as may be found in normal domestic sanitary sewage;
- (6) Shall contain no unground garbage;
- (7) Shall contain no ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure or other solid or viscous substances capable of causing obstruction to the flow in sewers or interference with the proper operation of the sewage works;
- (8) Shall have a pH of more than 6.0 but less than 8.0;
- (9) Shall contain no toxic, poisonous, noxious or malodorous substances in sufficient quantities to cause a public nuisance, hazard to humans or animals, or interference with any sewage treatment process; and
- (10) Shall contain no cooling water.

(e) Any wastes which are highly colored, or wastes which are of unusual volume, concentration of solids, or composition, as for example in total suspended solids of inert nature (such as fuller's earth) or in total dissolved solids (such as sodium chloride, calcium chloride or sodium sulfate) or unusual in BOD, shall not be discharged into the sanitary sewer without special review by the City.

(f) Any water or wastes which by interaction with other water or wastes in the public sewer system, releases obnoxious gases; develops color of undesirable intensity (greater than 20 color units); forms suspended solids in objectionable concentration (greater than 2500 mg/l); or creates any other conditions deleterious to structures and treatment processes, shall be subject to control or shall be debarred from the system as determined by the City.

(g) No person shall deposit cesspool effluent or any waste or sewage into any manhole without a permit from the Director of Public Service and Development. The Director may permit operators of cesspool pump trucks holding valid certificates of registration issued by the County Health Officer to dispose of cesspool effluent into manholes designated by him upon payment of a disposal fee, as defined in Section 911.15, for each truckload; provided the effluent does not contain any substance which, in his opinion, is deleterious.

(h) Every person is hereby expressly prohibited from introducing into the sewage system of the City any wastes which exceed the standards herein provided. Introduction of such wastes into the City sewage system in excess of such standards is hereby declared to be a public nuisance which can be abated by court action on the part of the City.

(i) 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 above, and which in the judgment of the City may have a deleterious effect upon the wastewater facilities, processes, equipment or receiving waters, or cause a violation of the NPDES permit, or which otherwise create a hazard to life or constitute a public nuisance, the City may:

- (1) Reject the wastes;
- (2) Require pretreatment to an acceptable condition for discharge to the public sewers;
- (3) Require control over the quantities and rates of discharge; and/or
- (4) Require payment to cover added cost of handling and treatment of such wastes consistent with the user charge system and to generate revenue in proportion to cost incurred.

(Ord. 84-57. Passed 9-24-84.)

911.07 NPDES PERMIT LIMITS.

The Rocky River Wastewater Treatment Plant and North Olmsted Sewage Treatment Plant are operated under conditions set forth in their current NPDES permit issued by the Ohio Environmental Protection Agency. Required pretreatment of wastes shall be in accordance with the NPDES permit conditions and Chapters 915 and 917, the Pretreatment Ordinances of Rocky River Wastewater Treatment Plant and North Olmsted Sewage Treatment Plant, respectively to be passed after completion of pretreatment studies.

(Ord. 84-57. Passed 9-24-84.)

911.08 SURCHARGE FOR INDUSTRIAL WASTES.

- (a) (1) 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 domestic sewage, either directly or indirectly into the sewerage system under the jurisdiction of the City, shall be charged and shall pay a sewerage surcharge in addition to the sewerage service charge for normal sewage.
- (2) Through the collection and analysis of wastewater samples from the sewer user and a review of water consumption, the City of Rocky River shall calculate the extra-strength surcharge for these sewer users, and transmit these charges to the City of Fairview Park, Director of Finance. The Director of Finance shall add the amount of the extra-strength surcharge to the normal user charge for that sewer user. All extra-strength surcharge revenue which is collected within a given user class shall be credited to that user class and not commingled among other user classes. The extra-strength surcharge revenue shall be credited to its particular user class prior to calculating the user charge for the user class for the upcoming year.

(b) Constituents discharged to the system other than the constituents of normal sewage which will affect the biological treatment process in such a manner as to increase treatment costs or increase sewer maintenance cost shall be subject to a surcharge other than as described in this section. The amount of surcharge shall be determined by the Director of Public Service and Development and Council.

(Ord. 84-57. Passed 9-24-84.)

911.09 INSPECTION AND ENFORCEMENT.

(a) In enforcing the provisions of this chapter, the Director of Public Service and Development, or his duly authorized representative, bearing proper credentials and identification, may at any reasonable hour enter upon any premises. No person shall obstruct, hamper or interfere with him while performing these duties. The Director may enter any property to:

- (1) Determine the size, depth and location of any connection with a public sewer or public storm drain;
- (2) Determine the quantity and nature of industrial waste being discharged into any public sewer, public storm drain or watercourse;
- (3) Inspect, test and sample the discharge of any device used to prevent the discharge into any sewer, storm drain or watercourse of waste prohibited by this section
- (4) Determine the location of roof, swimming pool and surface drains, and whether they are connected to a street gutter, storm drain or sewer;
- (5) Determine the nature and quantity of flow in any open watercourse or storm drain;
- (6) Determine whether there is a violation of the provisions of this section; and
- (7) Exercise any other powers vested in him by this section.

(b) On entering any lot or parcel of land for any of the purposes mentioned in subsection (a) hereof, the Director or any employee designated by him may make the excavation and do such other work as may be necessary to make the tests herein authorized. Upon completion of the tests, the Director shall cause the premises to be restored as nearly as practicable to their condition before such tests were made.

(c) The City shall reserve the right to inspect any sewer contributing flow to the City collection system suspected of being in violation of this chapter. The inspection shall be made after proper notification to the potential violating entity. If the subject entity is determined to be in violation of proper maintenance, the cost of the inspection shall be borne by the violating entity. The City shall notify the subject entity that they are in violation of proper maintenance and shall further stipulate a reasonable time period for correcting the violation.

(d) The Director may inspect, as often as he may deem necessary, every public sewer, sewage pumping plant, sewage or industrial waste treatment plant, or facility, industrial connection sewer, interceptor, dilution basin, neutralization basin, or other similar appurtenance to ascertain whether the facilities are maintained and operated in accordance with the provisions of this chapter.

(e) The Director may require the installation of a manhole for the purpose of measuring the flow of sewage or for making periodic tests of the wastes from the sewer connection at the owner's expense.

(f) No person shall install, construct or place any permanent or temporary object or structure where it will interfere with ready and easy access to any pretreatment or treatment facility, sampling compartment, manhole, flow metering device, or any instrumentality for which a permit is required by this section. Any obstruction shall be removed upon order of the Director by the person responsible for it and at no expense to the City.

(g) It shall be the duty of the person to whom a sewer permit has been issued, on completion of any connection to be installed thereunder, to notify the Building Commissioner for inspection purposes and obtain his approval thereof before proceeding to cover any such connection or to fill the trench in which any such connection is located. The Building Commissioner shall, on receipt of such notification and without unnecessary delay, inspect the same and, if the connection as constructed conforms to the City's regulations and specifications, he shall approve same and endorse such approval on the copy of the permit.

(h) If, on the inspection of any such connection, the Building Commissioner shall find the same not constructed in accordance with the City's regulations and specifications, he shall indicate to the person in charge of the work in what particulars such connection fails to so conform, and the Building Commissioner shall order changes made therein to cause the work to so conform before giving his final approval thereof.

(i) When the Building Commissioner is satisfied that all work done to rectify a violation is completed, he shall reserve the right to inspect the work to see that it conforms to the requirements of this chapter and other such provisions of law as may be applicable.

(j) All fees received by the City under this section shall be deposited in the appropriate sewer fund to be maintained by the Director of Finance.
(Ord. 84-57. Passed 9-24-84.)

911.10 TEST PROCEDURES FOR ANALYSIS OF POLLUTANTS.

All measurements, tests and analysis shall be made in conformance with the latest edition of "Standard Methods for the Examination of Water and Wastewater" as published by the American Public Health Association and "Guidelines Establishing Test Procedures for the Analysis of Pollutants (40 CFR 136)".
(Ord. 84-57. Passed 9-24-84.)

911.11 INDUSTRIAL PERMITS REPORTING.

The Director of Public Service and Development and City Engineer may require periodic discharge reports from any industry as a condition of issuing a sewer permit under this chapter. Costs of any such testing and reporting shall be paid by the industry.
(Ord. 84-57. Passed 9-24-84.)

911.12 APPEAL PROCEDURES.

Any person or entity receiving services under this chapter has the right to express grievances and/or appeal decisions to the Director of Public Service and Development and then to the appropriate committee of Council.
(Ord. 84-57. Passed 9-24-84.)

911.13 INTENT AND PURPOSE OF SANITARY SEWER CHARGES.

It is hereby determined and declared to be necessary and conducive to the public health, safety, welfare and convenience of the City and its inhabitants to operate the sewerage system of the City as a public utility and to levy and collect sewer service or rental charges upon all lands, lots and premises served or to be served by connections with the system, and such charges, when collected, shall be used for the purposes hereinafter provided.
(Ord. 84-57. Passed 9-24-84.)

911.14 SEWER REVENUE FUNDS.

(a) The funds received from the collection of the rates and charges hereinafter provided for shall be deposited as received with the Director of Finance who shall keep the same in a separate fund designated as the Fairview Park Sewer Enterprise Fund. Moneys in such Fund shall be used for the payment of the cost of the management, maintenance, operation, and repair of the sewerage system, and sewage pumping, treatment, and disposal works.

(b) Any surplus in such Fund may be used for the enlargement or replacement of the sewerage system and works, for construction and reconstruction of main and interceptor storm sewers, for the payment of interest on any debt incurred for the construction thereof, for the payment of such debt, but shall not be used for any other purpose except as provided in Ohio R.C. 729.52, which provides in part that monies deposited in this fund: ". . . shall be used for the payment of the cost of management, maintenance, operation, and repair of the sewage system and sewage pumping, treatment, and disposal works."; and 5705.15 and 5705.16 (Transfers of Funds Upon Petition to Common Pleas Court). Such surplus, as found by Council, will be paid into the Fairview Park Sanitary and Storm Sewer Maintenance and Improvement Fund. The funds deposited in the Fairview Park Sewer Maintenance and Improvement Fund will be used only for the purposes as set forth herein for the use of surplus funds.
(Ord. 02-41. Passed 10-21-02.)

911.15 CHARGES AND RATES.

(a) Pursuant to the authority contained in Ohio R.C. 729.49 and related sections, and in order to provide a fund for the payment of all the necessary costs and expenses of the management, maintenance, operation and repair of the sewerage system and sewerage pumping, treatment and disposal works, and to meet the current obligations of the City as a party to agreements concerning the Rocky River Sanitary Sewer District and the North Olmsted Sewer District, and to provide a fund to pay the future costs for such activities, there is hereby levied upon every person, firm or corporation, and each and every water consumer in the City of Fairview Park, a sewer service rental charge equal to twenty dollars (\$20.00) per 1,000 cubic feet of water consumed each quarter as shown by the records of the water department of the City of Cleveland based upon actual water meter readings. Such charge shall be a minimum rate charge for the first 1,000 cubic feet or fraction thereof of water consumed each quarter.

The sewer service or rental charge shall include debt service costs and shall be allocated as follows:

| <u>Cost Item</u> | <u>User Charge, \$/1000 Ft.</u> |
|---|---------------------------------|
| Operation, Maintenance and Replacement | 17.05 |
| Debt Service | <u>2.95</u> |
| | \$ 20.00 |

(Ord. 95-107. Passed 9-18-95.)

(b) In addition to the sewer service or rental charge set forth in subsection (a) hereof, there is hereby levied upon every person, firm or corporation and each and every water consumer in the City of Fairview Park, a sewer maintenance and improvements charge equal to seven dollars (\$7.00) per 1000 cubic feet of water consumed each quarter as shown by the records of the water department of the City of Cleveland based upon the actual water meter readings. This maintenance and improvement charge will be deposited by the Finance Director in the Fairview Park Sanitary and Storm Sewer Maintenance and Improvement Fund and will be used for the enlargement or replacement of the system and works, for construction and reconstruction of main and interceptor storm sewers, for payment of interest on any debt incurred for the construction thereof and for no other purpose except as provided in Ohio R.C. 729.52 which provides in part that monies deposited in this fund: ". . . shall be used for the payment of the cost of the management, maintenance, operation, and repair of the sewage system and sewage pumping, treatment, and disposal works", and 5705.15 and 5705.16 (Transfer of Funds Upon Petition to Common Pleas Court).

(Ord. 02-41. Passed 10-21-02.)

(c) There is hereby levied and charged a disposal fee for cesspool effluent discharged in accordance with Section 911.06(g), a fee payable in the amount of two cents (2¢) per gallon determined as follows:

lbs. BOD/gallon of septage x Cost (\$)/lb. BOD treated.

(d) For extra-strength wastes, the following surcharges shall be assessed in accordance with Section 911.08.

BOD \$0.18; SS \$0.13; P \$0.54; O/G \$0.08

The proportionality of the above user charges shall be reviewed at least every two years to insure sufficient revenue and that each user pays its proportionate share of OM&R costs. Adjustments shall be made with the changes in water consumption by user classes. The review shall be the responsibility of the Mayor or official designate. Each user shall receive annual notification of the rate and portion of sewer service charge attributable to OM&R costs of wastewater treatment services.

(e) The surcharge based on water consumption shall be determined on the basis of the records of the Water Department by the City of Cleveland, where the premises obtain water service from that source. On premises using water supplied from sources other than the Water Department of Cleveland, the quantity of water consumed shall be measured by a meter installed and maintained for such purpose at the expense of the owner or other interested party and acceptable to the Director of Public Service and Development, or the owner or other interested party may, at his option, request the Director to determine the amount of water consumed on such premises shall be amount so measured by such meter or so determined by the Director.

(f) In the event it can be shown to the satisfaction of the Director of Public Service and Development, with respect to any premises, that a portion of the water derived from metered public water supply consumed on such premises does not and cannot enter the sanitary sewer system, then in each such case the owner or other interested party may, upon proper application to the Director, install, at his expense, such metering devices as to demonstrate to the satisfaction of the Director the portion of the water so supplied and consumed in the premises which is so discharged into the system, which portion shall constitute the basis for determining the sewer charge for the premises. The City of Fairview Park shall notify the Department of Public Utilities of the City of Cleveland as to persons issued a permit for a separate water meter. (Ord. 84-57. Passed 9-24-84.)

911.16 COLLECTION AND BILLING PROCEDURE.

(a) The sewer service or rental charges as hereinbefore established shall be computed quarterly and shall be included as a separate item or charge on each quarterly water bill, and included in such charge shall be a collection fee established by and for the benefit of the City of Cleveland, which it shall retain for each billing made by such City, whether such bill is collected or not.

(b) Failure to pay the sewer service or rental charge by the due date on the delinquent notice sent on unpaid water bills, to which bills were added the sewer service or rental charges, shall result in terminating the water service, without regard to change of ownership or occupancy of such premises. Water shall not again be turned on or supplied until all sewer service or rental charges due and payable shall have been paid and discharged.
(Ord. 84-57. Passed 9-24-84.)

911.17 EFFECTIVE DATE.

The sewer charges established in Section 911.15 shall commence on passage of this section, except that charges for new connections shall commence when the building, structure or other facility is connected to the sanitary sewer system, or as of a date six months following the date on which a sanitary sewer was available for making such connection, whichever date first occurs.
(Ord. 84-57. Passed 9-24-84.)

911.18 CHARGES A LIEN.

Every sewer service or rental charge which has become due and payable, and has remained unpaid for more than thirty days prior to July 1 of each year, shall be certified by the Director of Public Service and Development to the Director of Finance, who shall certify the same to the Auditor of Cuyahoga County on or before the second Monday in September of each year, together with a pertinent description of the premises to which the sewer service or rental charge has been made, and the amount so certified shall be placed by the Auditor on the tax duplicate of Cuyahoga County to be collected as other taxes are collected. In addition to such collection procedure, any such unpaid amount may be collected through civil action brought in the name of the City in any court of competent civil jurisdiction.
(Ord. 84-57. Passed 9-24-84.)

911.19 LIABILITY FOR PAYMENT; LESSOR AND LESSEE.

In the case of leased lots, parcels of land or premises having a connection with the system, the lessor and lessee shall both be liable for the payment of the sewer charges herein provided to the lessor or the lessee or it may certify delinquent charges to the Auditor of Cuyahoga County as provided in Section 911.18.
(Ord. 84-57. Passed 9-24-84.)

911.20 PAYMENT THROUGH BANKS.

The Director of Finance shall have the authority to make provisions for the payment of the sewer charges levied pursuant to this chapter through conveniently located branches of such banks which have been designated as depositories for public funds of the City as the Director of Finance may designate, pursuant to agreement with such depository banks.
(Ord. 84-57. Passed 9-24-84.)

911.21 ANNEXATION NOT A PREREQUISITE FOR SERVICE.

Property receiving services under this chapter shall not require annexation as a prerequisite for receiving such services.
(Ord. 84-57. Passed 9-24-84.)

911.22 NO FREE SERVICES.

Every person, firm or corporation whose premises are served by a sewer connection which discharges sanitary sewage, industrial wastes, water or other liquids, either directly or indirectly, into sewerage facilities under the jurisdiction of the City, shall be charged for the use of such facilities and for the treatment of such sewage and wastes at the rates established by this chapter. (Ord. 84-57. Passed 9-24-84.)

911.99 PENALTIES.

(a) Any entity in violation of this chapter who does not rectify the violation within a reasonable time period shall be penalized as provided in the State statute or as determined by the Director of Public Service and Development, and Council, and shall not be less than the damage incurred to the collection system or the treatment system. Each day shall constitute a separate violation subject to penalty.

(b) Whoever violates any provision of this chapter shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months or both. Each day's continued violation shall constitute a separate offense. (Ord. 84-57. Passed 9-24-84.)

**CHAPTER 915
Pretreatment**

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| 915.01 | Purpose and policy. | 915.08 | Records retention. |
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CROSS REFERENCES

Sewer use and rate - see S.U. & P.S. Ch. 911

Sanitary sewer discharge standards - see S.U. & P.S. 911.06

915.01 PURPOSE AND POLICY.

(a) This chapter sets forth uniform requirements for dischargers into the City wastewater collection and treatment systems, 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 Rocky River Wastewater Treatment Plant, and which will pass through the system into receiving waters or the atmosphere or otherwise be incompatible with the system; and
- (3) To improve the opportunity to recycle and reclaim wastewater and sludge from the Rocky River WWTP.

(c) This chapter provides for the regulation of discharges into the City wastewater system through the enforcement of administrative regulations. This chapter does not provide for the recovery of operations, maintenance or replacement costs of the Rocky River WWTP. (Ord. 92-16. Passed 5-18-92.)

915.02 DEFINITIONS.

As used in this chapter certain terms are defined as follows:

- (a) "Act" means the Clean Water Act (33 U.S.C. 1251 et seq.), as amended.
- (b) "Bypass" means the intentional diversion of wastestreams from any portion of an industrial discharger's treatment facility.
- (c) "Categorical pretreatment standards" means the national pretreatment standards specifying quantities or concentrations of pollutants or pollutant properties which may be discharged or introduced into the Rocky River WWTP by specific industrial discharges.
- (d) "Discharger-industrial discharger" means a source of indirect discharge.
- (e) "General wastewater discharge orders" means orders issued to each significant or potentially significant industrial discharger by the City of Rocky River. These orders advise the discharger of the applicability of the pretreatment regulations and specific discharge limitations; establish the required monitoring frequency and parameters to be measured; and establish the frequency and schedule for submission of self-monitoring reports.
- (f) "Indirect discharge" means the discharge or the introduction of nondomestic pollutants from a source regulated under Section 307(b) or (c) of the Act, into the Rocky River WWTP.
- (g) "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.
- (h) "Interference" means a discharge which, alone or in conjunction with a discharge or discharges from other sources, both:
 - (1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
 - (2) Therefore is a cause of a violation of any requirement of the POTW's NPDES permit.
- (i) "May" indicates a discretionary condition.
- (j) "NPDES permit" means the National Pollutant Discharge Elimination System permit, the permit issued by the U.S. EPA or the State of Ohio EPA under the Clean Water Act regulating the discharge of water to navigable waters.
- (k) "New source" means any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
 - (1) The building, structure, facility or installation is constructed at a site at which no other source is located;
 - (2) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - (3) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

- (l) "OM & R" means Operation, Maintenance and Replacement.
- (m) "Other wastes" means decayed wood, sawdust, shavings, bark, lime, refuse, ashes, garbage, offal, oil, tar, chemicals and all other substances except sewage and industrial waste.
- (n) "Pass through" means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of violation of any requirements of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).
- (o) "Pollutant" means any substance discharged into the Rocky River WWTP or the tributary collection system which upon such 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.
- (p) "Pretreatment" 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 the Rocky River WWTP.
- (q) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass.
- (r) "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.
- (s) "Sewer" means any pipe, conduit, ditch or other device used to collect and transport sewage or storm water from the generating source.
- (t) "Shall" is mandatory.
- (u) "Significant industrial user" means:
 - (1) Except as provided in subsection (u)(2) hereof, the term "significant industrial user" includes:
 - A. All industrial users subject to categorical pretreatment standards; and
 - B. Any other industrial user that: discharges an average of 25,000 gallons per day or more of process wastewater to the Rocky River WWTP; contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the Rocky River WWTP; or has a reasonable potential, in the opinion of the Pretreatment Coordinator, to adversely affect the Rocky River WWTP's operation or for violating any pretreatment standard or requirement.
 - (2) The Pretreatment Coordinator may at any time, on his/her own initiative or in response to a petition received from an industrial user, determine that a noncategorical industrial user is not a "significant industrial user" if the industrial user has no reasonable potential to adversely affect the Rocky River WWTP's operation or for violating any pretreatment standard or requirement.

- (v) "Slugload" 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 Rocky River Wastewater Treatment Plant.
- (w) "Toxic pollutants" 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.
- (x) "Upset" means an exceptional incident in which a discharger unintentionally and temporarily is in a state of noncompliance with the standards set forth in Section 307(a) of the Act hereto 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.
- (y) "Wastewater" means industrial waste, or sewage or any other waste including that which may be combined with any groundwater, surface water or storm water, that may be discharged to the Rocky River WWTP.
- (z) "WWTP" means the Wastewater Treatment Plant.
(Ord. 92-16. Passed 5-18-92.)

915.03 DISCHARGE REGULATIONS.

(a) General Discharge Prohibitions. No discharger shall contribute or cause to be discharged, directly or indirectly, any of the following described substances into the wastewater disposal system or otherwise to the facilities of the City:

- (1) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction to cause fire or explosion or be injurious in any other way to the operation of the Rocky River WWTP. This includes, but is not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using the method specified in 40 CFR 261.21;
- (2) Solid or viscous substances which will or may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater system;
- (3) Any wastewater having a pH less than 6.5 or higher than 9.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment or personnel of the system;
- (4) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction to injure or interfere with any wastewater treatment process, or constitute a hazard to humans or animals. This includes, but is not limited to, pollutants which result in the presence of toxic gases, vapors or fumes within the Rocky River WWTP in a quantity that may cause acute worker health and safety problems;
- (5) Any noxious or malodorous liquids, gases or solids which either singly or by interaction are capable of creating a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for their maintenance and repair;

- (6) Any substance which may cause the Rocky River WWTP effluent or treatment 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 Rocky River WWTP cause the Rocky River WWTP 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 standards applicable to the sludge management method being used;
 - (7) Any substance which will cause the Rocky River WWTP to violate its NPDES permit;
 - (8) Any substance with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions;
 - (9) Any wastewater having a temperature which will inhibit biological activity in the Rocky River wastewater treatment plant resulting in interference, not exceeding 104° F (40° C) at the treatment plant; but in no case, wastewater with a temperature at the introduction into the City's wastewater collection system which exceeds 150° F;
 - (10) Any slugload, which shall mean 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 Rocky River WWTP;
 - (11) Any unpolluted water including, but not limited to noncontact cooling water;
 - (12) 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 regulations;
 - (13) Any wastewater which causes a hazard to human life or creates a public nuisance; or
 - (14) Any wastewater containing petroleum oil, nonbiodegradable cutting oil or products of mineral oil origin in such quantities that can pass through or cause interference at the Rocky River WWTP.
- (b) Limitations on Wastewater Strength.
- (1) National categorical pretreatment standards. National categorical pretreatment standards as promulgated by the U.S. Environmental Protection Agency (EPA) pursuant to the Act shall be met by all dischargers of the regulated industrial categories. An application for modification of the national categorical pretreatment standards may be considered for submittal to the USEPA Regional Administrator by the City, when the Rocky River wastewater treatment system achieves consistent removal of the pollutants as defined by 40 CFR 403.7.

- (2) Right of revision. The City reserves the right to amend this chapter to provide for more stringent limitations or requirements on discharges to the Rocky River WWTP where deemed necessary to comply with the objectives set forth in Section 915.01.
 - (3) 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.
 - (4) Calculation of equivalent mass and concentration limits for categorical standards. When the limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the City may convert the limits to equivalent limitations expressed either as a mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual industrial discharges following the methodology contained in 40 CFR 403.6(c)(3) and (c)(4). Industrial discharges shall be required to comply with the equivalent limitations in lieu of the promulgated categorical standards from which the equivalent limitations were derived.
- (c) Accidental Discharges.
- (1) Each discharger shall provide protection from accidental discharge of prohibited or regulated materials or substances established by this chapter. Where necessary, facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the discharger's 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. Each existing discharger shall complete its plan and submit same to the City by January 1, 1988. No discharger who discharges to the Rocky River WWTP after the aforesaid date shall be permitted to introduce pollutants into the system until accidental discharge protection procedures have been approved by the City. Review and approval of such plans and operating procedures by the City shall not relieve the discharger from the responsibility to modify its facility as necessary to meet the requirements of this chapter.
 - (2) Dischargers shall notify the City immediately upon the occurrence of a "slugload" or accidental discharge of substances prohibited by this chapter. The notification shall include location of discharge, date and time thereof, type of waste, concentration and volume, and corrective actions. Any discharger who discharges a slugload of prohibited materials shall be liable for any expense, loss or damage to the Rocky River WWTP, in addition to the amount of any fines imposed on the City on account thereof under State or Federal law.
 - (3) Signs shall be permanently posted in conspicuous places on discharger's premises, advising employees whom to call in the event of a slug or accidental discharge. Employers shall instruct all employees who may cause or discover such a discharge with respect to emergency notification procedure.

(d) No person shall access the sewer system or Rocky River WWTP for any activity including discharge of hauled septic or industrial wastes except at locations and at times as designated by the Pretreatment Coordinator. 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 Pretreatment Coordinator, or without the expressed permission of the Pretreatment Coordinator, shall be considered a violation and shall be subject to enforcement action including fines and penalties allowed under this chapter.
(Ord. 92-16. Passed 5-18-92.)

915.04 FEES.

(a) Purpose. It is the purpose of this chapter to provide for the payment of fees from dischargers to the City's wastewater disposal system, to compensate the City for the cost of administration of the pretreatment program established herein.

(b) Charges and Fees. The City may adopt charges which may include the fee for the following:

- (1) Fees for monitoring, inspections and surveillance procedures;
- (2) Fees for filing appeals; and
- (3) Fees for reviewing accidental discharge procedures and construction.

(Ord. 92-16. Passed 5-18-92.)

915.05 ADMINISTRATION.

(a) Wastewater Dischargers. 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 Rocky River WWTP without having first complied with the terms of this chapter. New sources shall install and have in operating condition, and shall start up all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge. Within the shortest feasible time, not to exceed ninety days, new sources shall meet all applicable pretreatment standards.

(b) Wastewater Discharge Data Disclosure.

- (1) General disclosure. All industrial dischargers proposing to connect to or to discharge sewage, industrial wastes and other wastes to the Rocky River WWTP shall comply with all terms of this chapter within ninety days after the effective date of this section.
- (2) Disclosure forms and baseline monitoring reports. Industrial dischargers shall complete and file with the City, a disclosure declaration in the form prescribed by the City, and accompanied by the appropriate fee. Existing industrial dischargers shall file disclosure forms within thirty days after the effective date of this section, and proposed new dischargers shall file its disclosure forms at least ninety days prior to connecting to the Rocky River WWTP. Existing dischargers that become industrial dischargers subject to Categorical Pretreatment Standards or New Sources subject to Categorical Pretreatment Standards, shall complete and file a baseline monitoring report as required by 40 CFR 403.12(b), at least ninety days prior to commencement of discharge. In addition to the above disclosure requirements, the disclosure to be made by the discharger shall be made on written forms provided by the City and shall cover:

- A. Disclosure of name, address and location of the discharger;
- B. Disclosure of Standard Industrial Classification (SIC) number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended;
- C. Disclosure of wastewater constituents and characteristics including but not limited to those mentioned in this chapter, also referred in Section 307(a) of the Act and as defined by 40 CFR, 403.5, as appropriate, and determined by bonafide chemical and biological analysis. Sampling and analysis shall be performed in accordance with procedures established by the U.S. EPA and contained in 40 CFR, Part 136, as amended;
- D. Disclosure of time and duration of discharges;
- E. Disclosure of average daily and instantaneous peak wastewater flow rates, in gallons per day, including 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;
- F. 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;
- G. 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;
- H. 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, maintenance and replacement activities and/or additional pretreatment is required for the discharger to comply with this chapter;
- I. Where additional pretreatment and/or operation, maintenance and replacement activities shall be required to comply with this chapter, the discharger shall provide a declaration of the shortest schedule by which the discharger shall provide such additional pretreatment and/or implementation of additional operational, maintenance and replacement activities.
 1. 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 contract for major components, commencing construction, completing construction and all other acts necessary to achieve compliance with this chapter.

2. Under no circumstances shall the City permit a time increment for any single step directed toward compliance which exceeds nine months.
3. 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.

- J. Disclosure of each product produced by type, amount, process or processes and rate of production;
- K. Disclosure of the type and amount of raw materials utilized, average and maximum per day;
- L. All disclosure forms and the baseline monitoring report shall be signed as provided in subsection (c)(4) hereof and by a qualified engineer (licensed to practice in the State of Ohio); and
- M. 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 thirty-six inches containing flow measuring, recording and sampling equipment as required by the City to assure compliance with this chapter.

The City shall evaluate the complete disclosure form 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 notify the discharger of the City's acceptance thereof.

- (3) Standards modification. The City reserves the right to amend this chapter and the terms and conditions thereof 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, this chapter shall be amended to require compliance by dischargers with such standards within the time frame prescribed by such standards. All national categorical pretreatment standards adopted after the promulgation of this chapter 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 a disclosure form as required by subsection (b)(2) hereof, the discharger shall file a disclosure form with the City within 180 days after the promulgation of the applicable national categorical pretreatment standard by the U.S. EPA. In addition, any discharger operating on the basis of a previous filing of a disclosure statement, shall submit to the City within 180 days after the promulgation of an applicable national categorical pretreatment standard, the additional information required by subsections (b)(2)H. and I. hereof. The discharger shall be informed of any proposed changes in the chapter at least thirty days prior to the effective date of change. Any changes or new conditions in the chapter shall include a reasonable time schedule for compliance.

(c) Reporting Requirements for Discharger.

(1) Compliance date 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 Rocky River WWTP 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. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional OM and R and/or pretreatment is necessary to bring the discharger into compliance with the applicable pretreatment standards or requirements. This statement shall be signed as provided in subsection (c)(4) hereof, and by a qualified engineer (licensed to practice in the State of Ohio). In addition to the above required information, for industrial dischargers subject to equivalent mass or concentration limits, this report shall contain a reasonable measure of such discharger's long term production rate. For all other industrial dischargers subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit or production (or other measure of operation), this report shall include the discharger's actual production during the appropriate sampling period.

(2) Periodic compliance reports.

A. Any discharger subject to general wastewater discharge orders, after the effective date of such orders, shall submit to the City according to the schedule included in the orders, a report indicating the nature and concentration of prohibited or regulated substances in the effluent which are limited by the pretreatment standards as set forth in the orders. This report shall be signed as provided in subsection (c)(4) hereof. In addition, this report shall include a record of all measured or estimated average and maximum daily flows during the reporting period reported in subsection (c)(1) 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 flow estimated by verifiable techniques. The City, for good cause shown considering such factors as local high or low flow rates, holidays, budget cycles, or other extenuating factors may authorize the submission of such reports on months other than those specified above.

- B. 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 of this chapter. All analyses shall be performed in accordance with 40 CFR, Part 136 and amendments thereto. (Comment: Where 40 CFR, Part 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the procedures set forth in the PA publication, Sampling and Analysis Procedures for Screening of Industrial Effluents 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. If sampling performed by an industrial discharger indicates a violation, the discharger shall notify the City within twenty-four hours of becoming aware of the violation. The discharger shall also repeat the sampling and analysis and submit the results of the repeat analysis to the City within thirty days after becoming aware of the violation, except the industrial discharger is not required to resample if:
1. The City performs sampling at the industrial discharger at a frequency of at least once per month; or
 2. The City performs sampling at the discharger between the time when the discharger performs its initial sampling and the time when the discharger receives the results of this sampling.
- (3) Notification of changed discharge. All industrial dischargers shall promptly 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).
- (4) Signatory requirements for industrial discharge reports. The reports required by subsections (b)(2), (c)(1) and (c)(2) hereof shall include the following certified statement:
- I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.
- In addition, such reports shall be signed as follows:

- A. By a responsible corporate officer, if the industrial discharger submitting the reports required by subsections (b)(2), (c)(1) and (c)(2) hereof is a corporation. For the purposes of this subsection, a responsible corporate officer means:
 - 1. A president, secretary, treasurer or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - 2. The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding twenty-five million dollars (\$25,000,000) (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- B. By a general partner or proprietor if the industrial discharger submitting the reports required by subsections (b)(2), (c)(1) or (c)(2) hereof is a partnership or sole proprietorship respectively.
- C. By a duly authorized representative of the individual designated in subsections (c)(4)A. or B. hereof if:
 - 1. The authorization is made in writing by the individual described in subsections (c)(4)A. or B.;
 - 2. The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates, such as the position of plant manager, operator of a well or well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and
 - 3. The written authorization is submitted to the City.
- D. If an authorization under subsection (c)(4)C. hereof is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company a new authorization satisfying the requirements of subsection (c)(4)C. hereof shall be submitted to the City prior to or together with any reports to be signed by an authorized representative.

(d) Monitoring Facilities. Each discharger shall provide and operate at the discharger's own expense, a monitoring facility to allow inspection, 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 shall not be obstructed by landscaping or parked vehicles.

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.

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.

(e) 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.

(f) Confidential Information. 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. 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 to 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, 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.

Information accepted by the City as confidential, shall not be transmitted to any governmental agency or to the general public by the City, until and unless a ten-day notification is given to the discharger.

(Ord. 92-16. Passed 5-18-92.)

915.06 ENFORCEMENT.

(a) Enforcement Action. It shall be the responsibility of the City to enforce all sections of this chapter. Should the City fail to enforce the provisions of this chapter, in a timely manner, the City of Rocky River, Ohio as operator of the Rocky River Wastewater Treatment Plant is empowered under Ohio R.C. 6111.032(A)(4) and 6111.032(B) to enforce the applicable pretreatment regulations in the City of Fairview Park, either the City Pretreatment Ordinance and/or the City of Rocky River Pretreatment Ordinance, whichever is most stringent.

All costs incurred by the City of Rocky River to enforce the pretreatment regulations shall be added to the City of Fairview Park share of the Rocky River Wastewater Treatment Plant operation and maintenance costs.

(b) Compliance Orders. The City shall issue orders to any industrial discharger to comply with any portion of this chapter, including categorical pretreatment standards, other discharge limits and reporting requirements.

(c) 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, substantial danger to the environment, interference with the operation of the Rocky River WWTP, or violation of any pretreatment limits imposed by this chapter. Any discharger notified of the suspension of wastewater treatment service 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 commence judicial proceedings immediately thereafter to compel the discharger's compliance with such order. The City shall reinstate 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.

(d) Revocation of Treatment Services. The City may seek to terminate the wastewater treatment services to any discharger which fails to:

- (1) Factually report the wastewater constituents and characteristics of its discharge;
- (2) Report significant changes in wastewater constituents or characteristics;
- (3) Refuses reasonable access to the discharger's premises by representatives of the City for the purpose of inspection or monitoring; or
- (4) Violates the conditions of this chapter, or any final judicial order entered with respect thereto.

(e) Notification of Violation; Administrative Adjustment. Whenever the City finds that any discharger has engaged in conduct which justifies termination of wastewater treatment services, pursuant to subsection (b) hereof, 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.

(f) Show Cause Hearing. Where the violation of subsection (b) hereof is not corrected by timely compliance by means of administration adjustment, the City may order any discharger which causes or allows conduct prohibited by subsection (b) hereof, to show cause before the City or its duly authorized representative, why the proposed service termination action should not be taken. A written notice shall be served on the discharger by personal service, certified or registered, 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.

(g) Judicial Proceedings. Following the entry of any order by the City with respect to the conduct of a discharger contrary to the provisions of subsection (b) hereof, the Attorney for the City may, following the authorization of such action by the City, commence an action for appropriate legal and/or equitable relief in the appropriate local court.

(h) Enforcement Actions; Annual Publication. At least annually, a list shall be published 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, an industrial user is in significant noncompliance if its violations meet one or more of the following criteria:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken during a six month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;
- (2) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all the measurements for each pollutant parameter taken during a six month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);
- (3) Any other violation of a pretreatment effluent limit (daily maximum or longer term average) that the Pretreatment Coordinator determines has caused, alone or in combination with other dischargers, interference or pass through (including endangering the health of Rocky River WWTP personnel or the general public);
- (4) Any discharge of a pollutant that has caused imminent endangerment of human health, welfare or to the environment or has resulted in the Rocky River WWTP's exercise of emergency authority to halt or prevent such a discharge;

- (5) Failure to meet, within ninety days after the schedule date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- (6) 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;
- (7) Failure to accurately report noncompliance; or
- (8) Any other violation or group of violations which the Pretreatment Coordinator determines will or has adversely affected the operation or implementation of the City's pretreatment program.

(i) 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 and deals with matters of performance or compliance with this chapter 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.

(j) Operating Upsets. Any discharger which experiences an upset in operations which places the discharger in a temporary state of noncompliance with this chapter 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; and
- (3) 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 operating upset shall be an affirmative defense to any enforcement action brought by the City against a discharger for any noncompliance with the chapter which arises out of violations alleged to have occurred during the period of the upset. (Ord. 92-16. Passed 5-18-92.)

915.07 PENALTY; COST RECOVERY; FALSIFICATION.**(a) Penalties.**

- (1) Whenever any discharger who may have violated and/or who has neglected or failed 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 orders issued pursuant to this chapter, the City may institute an appropriate action at law or in equity to restrain the execution in violation of this chapter, and the violator shall be fined not more than one thousand dollars (\$1,000) per violation per day. Each day's violation constitutes a separate offense.
- (2) Any discharger who, with criminal intent or gross negligence, violated any provision of this chapter, and the regulations or rules of the City, or orders of any court of competent jurisdiction or orders issued pursuant to this chapter, shall be guilty of a first degree misdemeanor and upon conviction thereof shall be fined not more than one thousand dollars (\$1,000) or be subject to imprisonment for not more than six months, or both.

(b) Recovery of Costs Incurred by the 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 discharger 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 cost shall constitute a violation of this chapter enforceable under the provisions of Section 915.06.

(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, upon conviction be punished by the imposition of a civil penalty of not more than one thousand dollars (\$1,000) or by imprisonment for not more than six months, or by both.
(Ord. 92-16. Passed 5-18-92.)

915.08 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. 92-16. Passed 5-18-92.)

915.09 MISCELLANEOUS.

(a) Removal Credits. Where applicable, the City may elect to initiate a program of removal credits as part of this chapter to reflect the Rocky River WWTP's ability to remove pollutants in accordance with 40 CFR Part 403.7.

(b) Net/Gross Calculations. The City may elect to adjust categorical pretreatment standards to reflect the presence of pollutants in the discharger's intake water, in accordance with 40 CFR Part 403.15.

(Ord. 92-16. Passed 5-18-92.)

915.10 SEPARABILITY.

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

(Ord. 92-16. Passed 5-18-92.)

915.11 CONFLICT.

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this chapter shall supersede the extent of such inconsistency or conflict.

(Ord. 92-16. Passed 5-18-92.)

915.12 BYPASS.

(a) Bypass Not Violating Applicable Pretreatment Standards or Requirements. An industrial discharger may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of subsections (b) and (c) hereof.

(b) Notice.

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

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

- (c) Prohibition of Bypass.
- (1) Bypass is prohibited, and the City may take enforcement action against an industrial discharger for a bypass, unless:
- A. Bypass was unavoidable to prevent loss of life, personal injury or severe property damage;
 - B. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and
 - C. The industrial discharger submitted notices as required under subsection (b) hereof.
- (2) The City may approve an anticipated bypass, after considering its adverse effects, if the City determines that it shall meet the three conditions listed in subsection (c)(1) hereof.
(Ord. 92-16. Passed 5-18-92.)

APPENDIX A
TOXIC POLLUTANT LIST

The Toxic Pollutant List contained in the Federal Environmental Protection Agency's Pretreatment Standards as contained in 40 CFR, Part 403, Appendix B as revised are hereby adopted and incorporated herein by reference.
(Ord. 92-16. Passed 5-18-92.)

TITLE FIVE - Other Public Services

- Chap. 921. Parks.
 Chap. 923. Bain Park Cabin, Dunson Community Room and
 Other Public Properties.
 Chap. 925. Cemeteries.
 Chap. 927. Recreation and Community Center Complex.

**CHAPTER 921
 Parks**

- | | | | |
|--------|---------------------------------|--------|-----------------------------|
| 921.01 | Bohlken Park. | 921.05 | Park rules; penalty. |
| 921.02 | Morton Splash Park. | 921.06 | Tri-City Park rules. |
| 921.03 | Bain Park. | 921.07 | Nelson Russ Park. |
| 921.04 | Park hours of operation. | | |

CROSS REFERENCES

- Parks and Recreation Commission - see CHTR. Art. VII, §3; ADM. Ch. 135
 Land appropriation for parks - see Ohio R. C. 715.21, 719.01
 Power to regulate against fires - see Ohio R. C. 737.21, 737.37
 Deposit of offensive garbage or refuse matter - see GEN. OFF. 521.05
 License required for sales - see BUS. REG. 717.01
 Permit for use after normal hours - see GEN. OFF. 541.09
 Bain Park Cabin - see S. U. & P. S. Ch. 923
 Zoning regulations for Civic and Recreation Districts - see P. & Z. Ch. 1113

921.01 BOHLKEN PARK.

The tract of land known as Hawks Field is hereby designated as Bohlken Park in honor of and as a tribute to Mayor Karl A. Bohlken. (Res. 2383. Passed 4-18-55.)

921.02 MORTON SPLASH PARK.

(a) The Morton Splash Park is open for use by Fairview Park residents only. Proper identification must be shown for admittance. Proper identification includes a valid Ohio Drivers license, a State of Ohio ID, or a Fairview schools identification card that verifies Fairview Park as the place of residence for the individual. Each resident is entitled to a maximum of four non-resident guests. Non-resident guests must be accompanied by a Fairview Park resident at all times. (Ord. 05-36. Passed 6-20-05.)

(b) The park site located on the south side of Morton Avenue, heretofore acquired for municipal playground and park purposes, shall be designated as Morton Park. (Res. 60-62. Passed 8-18-60.)

921.03 BAIN PARK.

The public park now known as the Fairview Community Park is hereby renamed Bain Park. (Ord. 57-44. Passed 10-7-57.)

921.04 PARK HOURS OF OPERATION.

As specified in Section 541.09, no person shall be allowed to enter or be in any of the City parks between sunset and sunrise daily, except in those certain illuminated facilities in the parks pursuant to lawfully authorized use after hours by the Director of Public Service and Development.

921.05 PARK RULES; PENALTY.

(a) The following park rules shall be observed by all users of the parks and shall be enforced by the Police Department:

- (1) Normal park hours are sunrise to sunset daily.
- (2) Dogs are prohibited in parks.
- (3) Alcoholic beverages are prohibited.
- (4) Golf practice is prohibited.
- (5) Hard ball playing is permitted on diamonds only.
- (6) Cars shall be parked only in designated areas.
- (7) No model airplanes or rockets are permitted without permission of the Director of Public Service and Development.
- (8) Ground fires are prohibited.
- (9) Refuse must be placed in trash containers.
- (10) Driving a motor vehicle on park lands, other than on designated parking areas shall be prohibited. This rule shall not apply to Police Department or Department of Public Service and Development motor vehicles while in the performance of their duty.

(b) Whoever violates any of these park rules is guilty of a minor misdemeanor. (Ord. 79-44. Passed 7-9-79.)

921.06 TRI-CITY PARK RULES.

The following rules and regulations for the Tri-City Park are hereby established.

(a) Hours. Tri-City Park shall be open from sunrise to sunset. The hours set forth herein may be extended by the Director of Public Service and Development with the concurrence of the Directors of Public Safety and Service of the cities of Rocky River and Westlake.

(b) Motor Vehicles.

- (1) Motor vehicles shall be operated on vehicular roadways and drivers shall obey all traffic control devices. Where no such roadway exists, all four-wheel vehicles shall be parked in designated and marked areas, and all two and three-wheel motor vehicles, motorized bicycles, all purpose vehicles, mini-bikes, all-terrain bikes and snowmobiles shall be parked in such designated parking areas as are posted. No such vehicles shall be parked in areas where prohibited by posted "No Parking" signs, or by order of law enforcement officers and/or the Director of Public Service and Development, and the Directors of Public Safety and Service of the cities of Rocky River and Westlake.

- (2) No person shall operate a motor vehicle on any grassy areas or in any wooded areas; nor off any such roadways nor shall any operator be in physical control of any motor vehicle off of the roadway or designated parking areas.
- (3) No person shall park any vehicle after sunset at Tri-City Park.
- (c) Animals.
 - (1) Dogs or any domestic animals shall be on a leash and shall not be permitted to run at large in Tri-City Park.
 - (2) Dogs and other domestic animals are prohibited from children's playground areas.
 - (3) The owner or person in charge of or in immediate control of any dog or domestic animal which defecates on park property shall remove all feces and dispose of same in a sanitary manner.
- (d) Alcohol. No person shall possess or consume any intoxicating liquor, malt liquor or beer while on park grounds.
- (e) Golf. No person shall practice golf or swing golf clubs in the park.
- (f) Enforcement. Law enforcement officers or other duly appointed officials of the cities of Fairview Park, Rocky River and Westlake shall enforce provisions of this section.
- (g) Penalty.
 - (1) Whoever violates any provision of this section is guilty of a minor misdemeanor.
 - (2) Parking tickets may be waived by payment of ten dollars (\$10.00) within forty-eight hours of the time such citation is issued and twelve dollars (\$12.00) thereafter.
(Ord. 86-20. Passed 4-21-86.)

921.07 NELSON RUSS PARK.

The tract of land located on the south side of MacBeth Avenue, heretofore acquired for municipal purposes, is hereby dedicated as a public, municipal park and is hereby designated as Nelson Russ Park in honor of and as a tribute to Nelson Russ.
(Ord. 91-88. Passed 9-16-91.)

CHAPTER 923
Bain Park Cabin, Dunson Community Room and Other Public Properties

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| <p>923.01 Management and operation. 923.02 Custodian. 923.03 Rental regulations. 923.04 Furniture, equipment and decoration. 923.05 Rates, charges and deposits.</p> | <p>923.06 False application statements, prohibited conduct. 923.07 Fee exemptions. 923.08 Bain Park Pavilion. 923.99 Penalty.</p> |
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CROSS REFERENCES

Park rules - see S.U. & P.S. 921.05

923.01 MANAGEMENT AND OPERATION.

The management and operation of the Bain Park Cabin, Dunson Community Room and other public properties, and the maintenance thereof shall be under the supervision of the Director of Public Service and Development, hereinafter referred to as, "Director".
(Ord. 04-34. Passed 10-18-04.)

923.02 CUSTODIAN.

(a) The Director is authorized to employ a custodian for the Bain Park Cain, Dunson Community Room and other properties, subject to the approval of the Mayor.

(b) The custodian of the Bain Park Cabin shall perform such services for the management and operation of the Bain Park Cabin, including preparation for the use of the Bain Park Cabin by groups and organizations, and cleaning up after each function, and such other custodial duties as the Director may determine.

(Ord. 04-34. Passed 10-18-04.)

923.03 RENTAL REGULATIONS.

(a) The Director is authorized to rent the Bain Park Cabin, the Dunson Community Room and other public properties under the terms and conditions set forth in this chapter. All applications for rent shall be in writing and signed by a member of the group or organization. The application along with all required application fees and charges shall be filed with the Director. Upon review and approval thereof, the Director shall sign the permit. The permit shall be nonassignable and shall be used only by the person, group or organization receiving the same.

(b) The permit shall be in triplicate, the original of which shall be retained by the Director. The first copy shall be delivered to the applicant and the second copy to the custodian of the rented facility. If there is any damage or loss to the facility or equipment the custodian shall deliver his copy of the permit to the Director with notations thereon regarding such loss or damage and any other remarks pertinent thereto. In case of any shortage or damage to the equipment in the Bain Park Cabin or other Municipal facility, the decision of the Director shall be final and an assessment charged accordingly.

(c) Per Section 921.05(a)(3) of this Code, alcoholic beverages are prohibited in City parks and violators of this prohibition shall be guilty of a minor misdemeanor.

(d) The application for the permit and the permit to be issued shall be in a form satisfactory to the Director.

(e) The group, person or organization holding a permit may cancel the permit by giving notice in writing to the Director at least four days in advance of the date and time for which the permit was issued. In such event, they shall forfeit fifty percent (50%) of the rental charge. If notice is not given as herein stated, the group, person or organization to whom the permit is issued shall forfeit the full 100 percent (100%) of the rental charge.

(f) All moneys derived from the fifty dollar (\$50.00) application fee for the use of Bain Park Cabin or any other Municipal facility shall be paid to the Bain Park Cabin Restoration Fund.

(g) All moneys derived from the rental fee for the use of Bain Park Cabin or any other Municipal facility shall be paid into the General Fund of the City and disbursement for the operation and maintenance of the Bain Park Cabin or other Municipal facilities paid therefrom. (Ord. 04-34. Passed 10-18-04.)

923.04 FURNITURE, EQUIPMENT AND DECORATION.

(a) The furnishings and equipment at any rental facility shall be used only for the purpose for which they are intended. No decorations are to be permitted in or about the Bain Park Cabin or any other Municipal facilities unless approved by the custodian. In no case will permanent decorations be allowed at any time unless approved by the Director.

(b) Any furniture or equipment furnished by the group, person or organization and used in the Bain Park Cabin, or any other Municipal facility, shall be removed on the same date that the Bain Park Cabin or any other Municipal facility is used by such groups, persons or organizations. The custodian shall check in and out all such furniture and equipment. Kitchen fee is included in rental fee. (Ord. 04-34. Passed 10-18-04.)

923.05 RATES, CHARGES AND DEPOSITS.(a) Schedule of Rates.

Definitions:

- (1) "Local party, group or organization":
 A "local party" shall be a resident whose legal address is located within the City. The "local party" making the application for rental must be in attendance during the hours rented.
 A "local group or organization" shall be based in the City of Fairview Park and composed of at least seventy-five percent (75%) of residents whose legal address is located within the City.
- (2) "Local nonprofit corporation" means an organization who qualifies under U.S. Internal Revenue Service Code and Regulations as a nonprofit entity and whose legal address is located within the City of Fairview Park.
- (3) "CR" means rental permitted only if applicant assumes extra cost of custodial services when rented out of normal hours. Cost to be fixed by the Director at the time of application.

Rates for Local Fairview Park Residents for Bain Park Cabin/
 Dunson Community Room/or Any Other Municipal Facility

All rates include \$50.00 application fee

| <u>Days/Times</u> | <u>Rate</u> |
|---|---|
| Monday - Sunday 8:00 a.m. - 5:00 p.m. | \$100.00 plus "CR" for Dunson Room if applicable |
| Monday - Thursday 6:00 p.m. - Midnight | \$100.00 plus "CR" for Dunson Room if applicable |
| Friday-Saturday-Sunday evenings 6:00 p.m. - Midnight | \$150.00 plus "CR" for Dunson Room if applicable |
| Holiday Fee Schedule | Rates as above for day and time PLUS an additional \$100.00 fee |

Rates for Local Fairview Park Civic Organizations
 and Community Clubs for Bain Park Cabin/
 Dunson Community Room/or Any Other Municipal Facility

One time application fee of \$50.00 is required when booking for the year

| <u>Days/Times</u> | <u>Rate</u> |
|--|-------------|
| Monday - Sunday 8:00 a.m. - 5:00 p.m. | \$34.00 |
| Monday - Sunday 6:00 p.m. - Midnight | \$34.00 |

Rates for Non-Residents, Outside Groups, Outside Organizations
and Outside Nonprofit Organizations for Bain Park Cabin/
Dunson Community Room/or Any Other Municipal Facility

All rates include \$50.00 application fee

| <u>Days/Times</u> | <u>Rates</u> |
|---|--|
| Monday - Sunday 8:00 a.m. - 5:00 p.m. | \$190.00 plus "CR" for Dunson Room if applicable |
| Monday - Thursday 6:00 p.m. - Midnight | \$225.00 plus "CR" for Dunson Room if applicable |
| Friday-Saturday-Sunday evenings 6:00 p.m. - Midnight | \$285.00 plus "CR" for Dunson Room if applicable |
| Holiday Fee Schedule | Rates as above for day and time PLUS an additional \$100.00 fee |

(b) Fund Raising Functions. Only officially recognized local nonprofit organizations as set forth in subsection (a) hereof may apply to the Director for a twenty-five percent (25%) discount from the applicable rental rates for charitable fund raising.

(c) Use of Bain Park Cabin and the Municipal Facilities Before 8:00 a.m. on Saturdays, Sundays and Holidays. At the discretion of the Director, permission may be granted to allow use of these facilities before 8:00 a.m. on Saturdays, Sundays or Holidays. The rental charge shall then be adjusted for use at twenty dollars (\$20.00) per hour or fraction thereof until 8:00 a.m., and thereafter the rates shall be charged as set forth in subsection (a) hereof.

(d) Time Extension to 1:00 a.m. On Friday and Saturday nights the Director may permit an extension of the rental time at Bain Park Cabin to, and not to exceed, 1:00 a.m. Such time extension shall be noted on the application by the renter and arranged for at the time of the application submission approved by the Mayor or Director. There shall be an additional fee of fifty dollars (\$50.00) for such time extension for all groups, persons, organizations or nonprofit organizations.

(e) Application Fee. The nonrefundable application fee of fifty dollars (\$50.00) is included in the base rate of charges for local resident and nonresident groups. A one-time nonrefundable application fee of fifty dollars (\$50.00) is required for Fairview Park civic and community organizations when application is booked for the entire year.

(f) Charges for Damage. All groups, persons, organizations or nonprofit organizations shall be charged for shortage or damage to equipment at the facilities, if any, in such amount as may be determined by the Director. The applicant responsible for the rental shall be liable for payment of any and all damages and may be denied further rentals of City property until restitution has been made to the City.

(g) Nonprofit Organizations Only. The Bain Park Cabin and Municipal facilities shall not be available for private, profit making activities. The determination of the qualification of such activity shall be determined by the Mayor.
(Ord. 04-34. Passed 10-18-04.)

923.06 FALSE APPLICATION STATEMENTS, PROHIBITED CONDUCT.

Any person making an application for the use of the Bain Park Cabin or other Municipal facilities shall give true and accurate information and statements and failure to do so shall be deemed a misdemeanor and shall be punished as in Section 923.99.
(Ord. 04-34. Passed 10-18-04.)

923.07 FEE EXEMPTIONS.

With the exception of members of Council, City officials and City board members and Commissioners who are permitted to use the Bain Park Cabin or other Municipal facilities for any municipal purpose or function free of any charge, no person, group, corporation or organization shall be permitted to use these facilities without paying the charges heretofore set forth with the following exceptions:

- (a) Recreational activities sponsored by the Recreation Department shall be granted free use of the Bain Park Cabin or other Municipal facilities.
- (b) There shall be no exemptions to the fifty dollar (\$50.00) application fee which benefits the Bain Park Cabin Restoration Fund as specified in Section 923.05(d).
- (c) The Mayor shall have the discretion to exempt the rental fee for local organizations whose membership is composed of City residents and are recognized by the City of Fairview Park, provided that the function is limited to award affairs, service projects and joint activities where no profit is to be derived by the participating organization or organizations. There shall be no exemptions to the fifty dollar (\$50.00) application fee which benefits the Bain Park Cabin Restoration Fund as specified in Section 923.05(d).
(Ord. 04-34. Passed 10-18-04.)

923.08 BAIN PARK PAVILION.

The Bain Park Pavilion is available for reservation for Fairview Park residents only. Permits are to be issued by the Director to qualified residents on a first come, first serve basis. A nonrefundable application fee of twenty dollars (\$20.00) is part of the permit process.
(Ord. 04-34. Passed 10-18-04.)

923.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than fifty dollars (\$50.00). Each day's continued violation shall constitute a separate offense.
(Ord. 04-34. Passed 10-18-04.)

(EDITOR'S NOTE: The next printed page is page 81.)

CHAPTER 925
Cemeteries

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| <p>925.01 Grave lot prices.</p> <p>925.02 Charge for opening grave.</p> <p>925.03 Monuments; foundation fee.</p> | <p>925.04 Permitted burial vault materials.</p> |
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CROSS REFERENCES

Burials may be prohibited - see Ohio R.C. 759.05
 Management and control - see Ohio R.C. 759.09
 Union cemeteries - see Ohio R.C. 759.27 et seq.
 Burial permits - see Ohio R.C. 3705.24 et seq.
 Burial of indigent persons - see Ohio R.C. 5113.15

925.01 GRAVE LOT PRICES.

(a) Residents. The price of single-grave lots in Fairview Park Cemetery to residents of the City is fifty dollars (\$50.00) each.

(b) Nonresidents. The price of single-grave lots in Fairview Park Cemetery to nonresidents of the City is one hundred dollars (\$100.00) each.
 (Ord. 70-64. Passed 12-21-70.)

925.02 CHARGE FOR OPENING GRAVE.

The charge for opening each grave in Fairview Park Cemetery shall be seventy-five dollars (\$75.00). (Ord. 70-64. Passed 12-21-70.)

925.03 MONUMENTS; FOUNDATION FEE.

All monuments in Fairview Park Cemetery shall be subject to the approval of the Director of Public Service and Development and shall be set on foundations provided by the Service Department.

The charge for a monument foundation of a dimension not to exceed two and one-half feet long by one and one-half feet wide by two and one-half feet deep shall be thirty dollars (\$30.00); all other foundations exceeding such dimensions shall be fifty dollars (\$50.00)
(Ord. 70-64. Passed 12-21-70.)

925.04 PERMITTED BURIAL VAULT MATERIALS.

Only steel reinforced concrete, metal, copper and fiberglass burial vaults shall be used in the Fairview Park Cemetery. Cement slab boxes and wood type boxes are specifically prohibited.
(Ord. 70-64. Passed 12-21-70.)

CHAPTER 927
Recreation and Community Center Complex

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| 927.01 | Management and operation. | 927.04 | Furniture, equipment and decoration. |
| 927.02 | Fees for use of Recreation and Community Center Complex. | 927.05 | Persons prohibited in playgrounds, parks and recreation facilities. |
| 927.03 | Rental regulations. | | |

927.01 MANAGEMENT AND OPERATION.

The management and operation of the Recreation and Community Center Complex shall be under the supervision of the Director of Recreation hereinafter referred to as "Director". (Ord. 07-15. Passed 4-2-07.)

927.02 FEES FOR USE OF RECREATION AND COMMUNITY CENTER COMPLEX.

Fees for the use of the Recreation Community Center Complex at any time shall be determined by the Director of Recreation and may be adjusted periodically by the Director. (Ord. 07-15. Passed 4-2-07.)

927.03 RENTAL REGULATIONS.

(a) The Director is hereby authorized to rent the Recreation and Community Center Complex. All applications for rent shall be in writing and signed by a member of the group or organization. The application along with the required application fees and charges shall be filed with the Director. Upon review and approval thereof, the Director shall sign the permit. The permit shall not be assignable and shall be used only by the person, group or organization receiving the same.

(b) The permit shall be in triplicate, the original of which shall be retained by the Director. The first copy shall be delivered to the applicant and the second copy to the custodian of the rented facility. If there is any damage or loss to the facility or equipment the custodian shall deliver his copy of the permit to the Director with notations thereon regarding such loss or damage and any other remarks pertinent thereto as outlined in the Recreation and Community Center Complex Rules and Regulations. In case of any shortage or damage to the equipment in the Recreation and Community Center Complex, the decision of the Director shall be final and an assessment charged accordingly.

(c) Alcohol is permitted in the Community Rooms of the Recreation and Community Center Complex as stipulated in the Recreation and Community Center Complex Rules and Regulations.

(d) The application for the permit and the permit shall be in a form satisfactory to the Director.

(e) The group, person or organization holding a permit may cancel the permit by giving notice in writing to the Director at least thirty (30) days in advance of the date and time for which the permit was issued for any of the individual Community Rooms, A, B or C. If all Community Rooms, A, B and C are rented together combined 2 or all 3, then the written cancellation request must be submitted at least sixty (60) days in advance to the date and time for which the permit was issued.

(f) All moneys derived from the application and rental fees shall be paid into the Recreation Community Center Fund of the City and disbursement for the operation and maintenance of the Recreation and Community Center Complex paid there from. (Ord. 07-15. Passed 4-2-07.)

927.04 FURNITURE, EQUIPMENT AND DECORATION.

(a) The furnishings and equipment at any rental facility located within the Recreation and Community Center Complex shall be used only for the purpose for which they were intended. No decorations are to be permitted in or about the Recreation and Community Center Complex unless approved by the Director or the Director's designee. In no case will permanent decorations be allowed at any time unless approved by the Director.

(b) Any furniture or equipment furnished by the group, person or organization and used in the Recreation and Community Center Complex, shall be removed on the same date that the Recreation and Community Center Complex is used by such groups, persons or organizations. The custodian shall check in and out such furniture and equipment. Kitchen fee is included in the rental fee. (Ord. 07-15. Passed 4-2-07.)

927.05 PERSONS PROHIBITED IN PLAYGROUNDS, PARKS AND RECREATION FACILITIES.

(a) As used in this section:

- (1) "Registered Offender" means any person who is required to register pursuant to the terms of Ohio R.C. 2950.04 through 2950.06 as the same may be amended from time to time.
- (2) "Park Facilities" includes all land and buildings owned or controlled by the City and used for park or recreation purposes, including but not limited to the Gemini Center Recreation and Community Center Complex, including athletic fields, Morton Park and Splashground, Bohlken Park, Bain Park, Bain Park Cabin, Nelson Russ Park, Grannis Park, and their playgrounds, ball fields, rest room facilities and pavilions.
- (3) "Offenses of Violence" include those defined in Ohio R.C. 2901(A)(9).
- (4) "Public Body" has the same meaning as found in Ohio R.C. 121.22.

(b) No registered sexual offender or any person convicted of an offense of violence as defined in Ohio R.C. 2901.01(A)(9) shall enter or remain upon any park facility except, and only to the extent necessary, to attend meetings of the public bodies.

(c) Whoever violates this section shall be guilty of criminal trespass as provided in Section 541.05 or Ohio R.C. 2911.21. (Ord. 07-71. Passed 12-17-07.)