



# CITY COUNCIL REGULAR MEETING PACKET

May 2, 2022 @ 6:30pm Smith Park Shelter House

1. Call to Order: Mayor Mike Lowrey
2. Roll Call: Clerk of Council
3. Invocation:
4. Pledge of Allegiance:
5. Action on Minutes: **04/18/2022** Regular Meeting
6. Communications:
7. City Manager's Report: Attached
8. Comments from Members of the Public: \*Comments limited to 5 minutes or less
9. Committee Reports: Charter Review and/or Parks & Recreation Board (If applicable)

## 10. RESOLUTIONS: (1 - Intro; 1 - Action\*)

### **\*A. Resolution 2022-09R (Introduction, Public Hearing & Action Tonight)**

A RESOLUTION SUPPORTING THE 2022 MIAMI VALLEY WATER COMPACT

## 11. ORDINANCES: (6 - Intro; 2 - Action\*)

### **\*A. Ordinance 2022-14 (Introduced on 4/18/2022. Public Hearing & Action Tonight)**

AN ORDINANCE AUTHORIZING THE CITY OF NEW CARLISLE, OHIO, TO LEASE GASTINEAU BASEBALL FIELD, PROPERTY OF THE CITY, TO THE NEW CARLISLE DIAMONDBACKS ADULT BASEBALL CLUB

### **B. Ordinance 2022-15 (Introduction Tonight. Public Hearing & Action on 5/16/2022)**

AN ORDINANCE AMENDING CHAPTER 1040 OF THE CODIFIED ORDINANCES OF THE CITY OF NEW CARLISLE REGARDING THE CITY'S WATER UTILITY

### **C. Ordinance 2022-16 (Introduction Tonight. Public Hearing & Action on 5/16/2022)**

AN ORDINANCE AMENDING CHAPTER 1043 OF THE CODIFIED ORDINANCES OF THE CITY OF NEW CARLISLE REGARDING THE CITY'S WATER AND SEWER RATE STRUCTURE

### **D. Ordinance 2022-17 (Introduction Tonight. Public Hearing & Action on 5/16/2022)**

AN ORDINANCE AMENDING CHAPTER 1041 OF THE CODIFIED ORDINANCES OF THE CITY OF NEW CARLISLE REGARDING SEWER SERVICE CHARGES

### **E. Ordinance 2022-18 (Introduction Tonight. Public Hearing & Action on 5/16/2022)**

AN ORDINANCE AMENDING CHAPTER 1042 OF THE CODIFIED ORDINANCES OF THE CITY OF NEW CARLISLE REGARDING SEWER USE REGULATIONS AND USER CHARGE SYSTEM

### **\*F. Ordinance 2022-19E (Introduction, Public Hearing & Action Tonight)**

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO PURCHASE A BACKUP ENGINE AND CONTROLLER FOR THE HONEY CREEK SANITARY SEWER LIFT STATION OPERATED AND MAINTAINED BY THE CITY OF NEW CARLISLE, AND DECLARING AN EMERGENCY

### **G. Ordinance 2022-20 (Introduction Tonight. Public Hearing & Action on 5/16/2022)**

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AMENDED CONTRACT WITH WASTE MANAGEMENT FOR THE CURBSIDE COLLECTION AND DISPOSAL OF RESIDENTIAL GARBAGE, REFUSE, AND RECYCLABLES IN THE CITY OF NEW CARLISLE, OHIO

## 12. OTHER BUSINESS:

- Additional City Business
  - Joint Special Meeting: W/ Bethel Township, Miami County, to Discuss Potential Annexation
    - Friday, May 13th, 2022 @ 6:30PM. Located at 8735 Second Street, Tipp City, Ohio 45371
  - City Offices Closed: Monday, May 30<sup>th</sup> to Observe Memorial Day
  - Open Discussion for City Related Matters

## 13. Executive Session:

## 14. Return to Regular Session:

## 15. Adjournment

Next **Regular Meeting** of Council will be held on at the Smith Park Shelter House on Monday, May 16th, at 6:30pm



Dep. Majercak	29	9	5	12	1	11	0	0	197	0
Dep. Forrest	30	14	5	10	1	9	0	0	109	1
Dep. McDuffie	41	11	9	18	9	9	9	0	21	1
Dep. Garman	51	7	10	12	4	8	5	0	31	1
Dep. Harris	27	11	5	19	7	12	5	0	260	1
<b>Total</b>	<b>178</b>	<b>52</b>	<b>34</b>	<b>71</b>	<b>22</b>	<b>49</b>	<b>19</b>	<b>0</b>	<b>618</b>	<b>4</b>

Lowrey asks about the gators and golf carts on the roads. Majercak notes gators for farm use are allowed with slow moving vehicle signs if going farm to farm. Golf carts/Gators need to be licensed with working lights and turn signals.

**Fire/EMS Report:**

City of New Carlisle  
City Council Meeting  
04-18-2022  
Fire-EMS Report

- In the Month of March, the New Carlisle Fire Division responded to 72 EMS call in the city an 13 in Elizabeth Township.
- The Division responded to 9 Fire related calls in the city and 2 in Elizabeth Township.
- We had 3 EMS calls answered by mutual aid, either by Pike Township or Bethel Clark, due to medic 52 being on a response.
- We answered 2 mutual aid EMS calls for Pike Township and 3 for Bethel Clark.
- We have hired 2 new Paramedics and 2 new EMTs

Rodewald asks how the new contract works out, Trusty notes great, "the city is protected at all times". Lowrey asks about the parking for the fire dept. Trusty notes the last bid for the lot was \$43,000. Trusty adds it is not in this year's budget. Lowrey asks for the general fund to pay for the parking lot. Discussion on the lot, plans to turn it into a parking lot for the fire house and possible ways to fund the project sooner vs later.

**Finance Report:**

**COUNCIL FINANCIAL REPORT SUMMARY – MARCH 2022**

<b>Estimated Revenue</b>	<b>\$ 6,814,884.00</b>
Amended Est. Resources	
Amended Est. Resources	\$ -
Amended Est. Resources	\$ -
Amended Est. Resources	\$ -
<b>2022 REVISED TOTAL EST. REV.</b>	<b>\$ 6,814,884.00</b>

<b>2022 Original Budget</b>	<b>\$ 7,853,526.00</b>
1st Q. Supplemental	\$ 164,950.00
2nd. Q. Supplemental	\$
3rd. Q. Supplemental	\$
4th Q. Supplemental	\$
<b>2022 REVISED TOTAL BUDGET</b>	<b>\$ 8,018,476.00</b>

Month	Revenue Received
January	\$ 567,869.37
February	\$ 835,723.95
March	\$ 1,158,287.72
April	
May	
June	
July	
August	
September	
October	
November	
December	
<b>Received To Date</b>	<b>\$ 2,561,881.04</b>

Month	Expenses Paid
January	\$ 381,705.01
February	\$ 813,030.24
March	\$ 1,036,941.13
April	
May	
June	
July	
August	
September	
October	
November	
December	
<b>Expenses to Date</b>	<b>\$ 2,231,676.38</b>

## Statement of Cash from Revenue and Expense

From: 1/1/2022 to 3/31/2022

Fund	Description	Beginning Balance	Net Revenue YTD	Net Expense YTD	Unexpended Balance	Encumbrance YTD	Ending Balance
Grand Total:		\$6,014,278.47	\$2,561,881.04	\$2,231,676.38	\$6,344,483.13	\$951,799.32	\$5,392,683.81

## BANK RECONCILIATIONS - March 2022

Bank Accounts	Bank Balance	Outstanding Vendor	Outstanding Employee	Deposits in Transit	NSF Check (s)	Adjustments	Book Balance	Difference
PNC - General	\$ 2,913,136.10	\$ -	\$ -	\$ 776.28	\$ -	\$ (20.92)	\$ 2,913,891.46	\$ -
PNC - Payroll	\$ 112,160.93	\$ (12,140.01)	\$ -	\$ -	\$ -	\$ -	\$ 100,020.92	\$ -
Star Ohio	\$ 1,189,408.50	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,189,408.50	\$ -
Park Nat. General	\$ 1,484,497.37	\$ (76,712.37)	\$ -	\$ 711.19	\$ -	\$ (81,443.80)	\$ 1,327,052.39	\$ -
Park Nat. - MMA	\$ 738,430.28	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 738,430.28	\$ -
Park Nat. - Mayor's	\$ 200.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 200.00	\$ -
NCF	\$ 526.50	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 526.50	\$ -
NCF - CD's	\$ 74,453.08	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 74,453.08	\$ -
Cash on Hand	\$ 500.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 500.00	\$ -
Grand Totals	\$ 6,513,312.76	\$ (88,852.38)	\$ -	\$ 1,487.47	\$ -	\$ (81,464.72)	\$ 6,344,483.13	\$ -

Motion by Eggleston and 2nd Bahun to accept the financial report. YES: Cook, Eggleston, Rodewald, Lowrey, Grimm, Bahun NAY: 0 Accepted 6-0

**Service Report:**

To: Mr. Bridge, City Manager  
 From: Howard Kitko, Service Director  
 Date: April 18, 2022  
 Subject: Council Update

**Public Works Departments:**

- The Street Dept. has begun dura-patching potholes city-wide. Please call in Potholes to the Street Dept. at 937-845-3058.
- Cleaned up Street department area.
- Meeting with contractors for the Spring street-sweeping right after dura-patching

**Water Department:**

- Sanitary Survey: Updating the number of private well locations to complete our backflow program.
- Crews performing valve exercising and pressure testing.
- Adam's Street Tower demo is 99% completed. City to perform final restoration.
- We have submitted a water infrastructure grant in the amount of \$2.5 million to replace lead service lines, water main, and mainline water valves that are 85 years old, in the old section of town. Application is still under review.

**Sewer Department:**

- Engineering agreement has been executed to start the engineering and bidding process for secondary clarifier #1. The new secondary clarifier #2 is currently being manufactured. American Rescue Plan Funds and minimal local Wastewater funds. Estimated \$295,000 ARP Federal and \$10,000 local.
- OPWC grant to pay 50% of the cost of the Primary #2 Clarifier was approved, with matching funds from American Rescue Plan. OPWC Funds \$98,500 & 98,500 ARP Federal Funds.

**2022 Road Reconstruction/Resurfacing Projects:**

- Clark County Resurface Project: Preparing for 2022 list of roads to resurface. **"Discussion"**
- Burgess and Niple have been tasked to evaluate the curbs and ADA ramps on St. Rte. 235. Project funded by Springfield/Clark County TCC. Meeting onsite to occur 3/22/2022. Results are in, in order to perform the work this summer, prior to resurfacing in 2023. **"Discussion"**

**GIS Mapping of City Infrastructure:**

- We have begun the task of mapping our utilities utilizing the newly purchased pipe-locator/GPS point data collection device.



**Zoning YTD**

- 32 Received Zoning Applications
- 4 Board of Zoning Appeal Cases
  - No cases applications currently submitted
- 4 Planning Board Cases
  - Next Planning Board Meeting 4/19/2022 at 6pm.
  - Agenda includes 1 commercial site plan review and Community Garden ordinance discussion.
- Planning Board currently discussing/reviewing proposed ordinance related to Community Gardens.

**Economic Development / Community Development**

- Residential Development
  - DDC Management currently starting the annexation process for the development west of Scarff Rd.
  - City met with Arbor Homes to discuss the potential development north of Northwoods Subdivision/west of Addison New Carlisle Rd. Anticipating a site plan soon.
- Commercial Development
  - 2 New Business applied for Occupancy
    - 201 N. Church Street, Windreach Veterinary Services. Still in the process of renovation of interior and will be at Planning Board 3/19/22 for site review of a parking lot expansion.
    - 135 S. Main Street, Studio 235. Arts & Crafts Studio. Visit Facebook Page at Studio 235 LLC for more info.
  - Building owners at 104-106 S. Main Street. Looking for a tenant to occupy the 104 unit which is a 1,500 sq ft space.
- Economic Development website in development.
  - Economic tool to assist with small business resources, site selection, available commercial spaces, local business info.
- DC Fly-In Event. Dayton Development Coalition Conference hosted in Washington D.C.
  - Derek Hutchinson attended this event last week, April 5-7.
  - Annual event that started in 1984 held in D.C.
  - Event focuses on Economic Development, bringing jobs/businesses to Dayton areas and Government/Military relationships.
- CHIP Program
  - Approximately 15 applications County wide were received for the 4 programs offered, a large majority of applications from the City of New Carlisle.
  - Applications are currently in the review process.
- PY2022 CDBG Community Development Allocation Grant
  - Clark County estimates \$215,00 available Allocation for this grant.
  - This is a competitive grant among Clark County Townships, Villages and New Carlisle. (Springfield excluded)
  - Activities that could be submitted that New Carlisle could utilize is Park & Recreation Facilities. Outcomes include athletic fields, general park improvements, items of equipment installed/repared, restroom facilities, linear feet of fencing or walkways.
  - Initial thought would be Carlisle Park off North Church and Scott Streets.
    - Potential improvements could include walkways, parking lot, rehab of existing basketball court, playground equipment replacement, possible dog park or location for a Veterans Memorial area.
  - Application due May 6, 2022.

**Other Planning Department items**

- Volunteers needed to form a group that can assist our residents that may need help with maintenance and repairs. Tool Lending Center can supply tools and possibly materials.
- Board of Zoning Appeals (BZA) members needed. This is a board of 5 that needs filled.

Grant ideas discussion. Rodewald asks about removing the privacy fence by Dollar General. He adds if it was visible by Main St. more people would see it. Bridge asks for Council's ideas. Rodewald notes Haddix Field could really use help. Council discussion on possible ideas, park projects. Council agreed New Carlisle Park could use some upgrades. Discussion on areas of the city well fields.

**B. INFORMATIONAL ITEMS:**

- Discussion Topics
  - New Water Shut-Off Procedures
    - Slide Show Print-Out at Council Meeting
  - Waste Management Rates for Every Week Recycling
    - \$1.95 with all levels of service paying the increase or;
    - \$2.15 increase with Senior level of service excluded
      - ◇ Seniors would still get every week recycling
    - Both rates include the request \$0.93 inflationary increase
    - Discussion and motion for next steps
      - ◇ Legislative timeline
  - Joint Meeting with Bethel Township, Miami County
    - Annexation Agreement favorable w/ stipulations
  - Oath of a Councilmember
  - American Fireworks 2023 date
  - Work in Progress
    - Council Retreats Examples from other communities
    - Boards and Commissions Handbook
    - Social Media Policy Development
    - Indigent Burials Policy and Employees Generally Review/Amendment

Bridge explains the powerpoint slide of new water procedures. Rodewald asks about adding Call 811 before you dig.

Council and admin discussions on trash/recycle contracts. Motion by Cook and 2nd by Grimm to keep contract as is and grant inflationary rate increase. YES: 2 Cook, Grimm NAY: 4 Bahun, Eggleston, Rodewald, Lowrey Failed 2-4

Rodewald motions to grant rate increase of \$2.15- that includes the .93 cent inflation rate along with increase to have weekly recycling with a 2nd by Bahun. YES: 4 Eggleston, Rodewald, Lowrey, Bahun NAY: 2 Grimm, Cook Accepted 4-2

Eggleston- Where are we with Mayor Court- Bridge: as soon as the inside of 101 Main is complete (restroom ADA update) and tickets printed will start.

#### **8. Comments from Members of the Public:**

Melissa Tuttle- 30 Dover Rd.-Noted all ATV have the ability to have titles, local ordinances can set restrictions for these. Give a kudos to the City for having one trash company. Springfield does not have a centralized trash refuse. She thanks everyone for all they are doing and she introduces herself as a candidate for Judge on May 3, 2022.

Judy Bible- 806 White Pine- notes in the newsletter the density will be comparable to the other neighborhoods. Ms. Bible shares some comparisons of square footage to neighborhoods in New Carlisle. Make it "not so painful, get more income tax and not damage the ecosystem".

Janelle Zimmerman- 219 Prentice Dr. notes she agrees with Judy. Adds it is not fair to the residents of Bethel township and asks if Tecumseh will get kids too?. Ms. Zimmerman notes she loves the small town feeling and hopes they look for another alternative.

Jeff Mulford- 4720 Scarff- opposed to the development, suggests leaving it agricultural. He adds he has signatures from residents against the development. He went door to door and set up at the church on Lake. There are 117 residents against the development who signed his form. Mr. Mulford makes reference to past comments from Mayor Lowrey about people not coming because they "do not care". Mayor Lowrey noted his statement noted a "pattern", when things happen citizens are against they show up to meetings.

Bill Cook- notes as advised per his legal council he will not comment on this annexation.

Continued discussion on the annexation by Mr. Mulford and Council.

#### **9. Committee Reports: Parks and Recreation:**

Brandie Mullett- Thanked all who helped Bridge, Eggleston, Lowrey, Students from Tecumseh High School and Rodewald. She adds she would have liked to have more volunteers but felt the egg hunt was a success. Council thanks Ms. Mullett. She notes some things they will work on for future events.

#### **10. RESOLUTIONS: None**

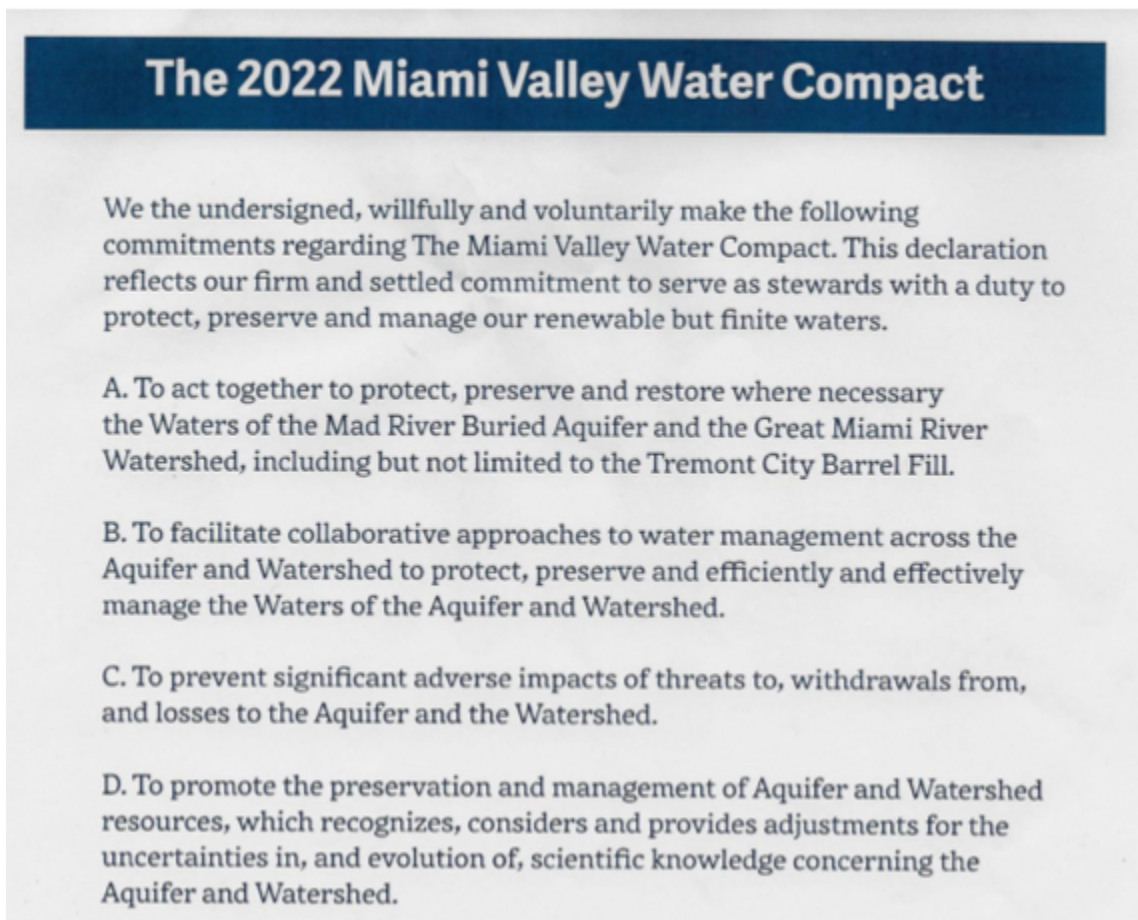
**11. ORDINANCES:**

**Ordinance 2022-14 (Introduction Tonight. Public Hearing & Action on 05/02/2022)** AN ORDINANCE AUTHORIZING THE CITY OF NEW CARLISLE, OHIO, TO LEASE GASTINEAU BASEBALL FIELD, PROPERTY OF THE CITY, TO THE NEW CARLISLE DIAMONDBACKS ADULT BASEBALL CLUB

**12. OTHER BUSINESS:**

Additional City Business:

- 2022 Miami Valley Water Compact, Information Attached, Discussion- Grimm notes he attended a meeting on Tremont City Landfill, cleanup will begin. He informs the Council on the cleanup information, who is paying for it. Grimm motions the City of New Carlisle as a signatory for the 2022 Miami Valley Water Compact via a resolution with a 2nd by Cook YES: Eggleston, Rodewald, Lowrey, Grimm, Bahun, Cook NAY: 0 Accepted 6-0



- Charter Review Commission - Requested Review/Edits/Suggestions- none
- Open Discussion for City Related Matters

Motion by Cook with 2nd by Eggleston to excuse Lindsey. YES: Rodewald, Lowrey, Grimm, Bahun, Cook, Eggleston NAY: 0 Accepted 6-0

Grimm suggests having a joint meeting with the planning board to become better informed on the annexation process.

**14. Adjournment:** 1st Grimm 2nd Cook @8:51pm Yes: Eggleston, Rodewald, Lowrey, Grimm, Bahun, Cook NAY: 0 Accepted 6-0

\_\_\_\_\_  
Mayor Mike Lowrey

\_\_\_\_\_  
Clerk of Council Emily Berner





# City Manager's Report

May 2, 2022

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## **A. DEPARTMENTAL REPORTS / YEAR END REPORTS**

- The Following Departmental Reports will be given at the next City Council meeting that will be held on Monday, May 16, 2022
  - Finance, Public Service, Planning & Zoning, Fire/EMS, and Police

## **B. INFORMATIONAL ITEMS**

- Discussion Topics
  - Economic Development Webpage
  - Change from a .net to a .gov
  - Joint Special Meeting w/ Bethel Township, Miami County
  - Annexation Process Information
    - Developer Indicated - Expedited Type II Annexation; Information Attached
    - Meeting Needed or Self-Review?
  - Mayor's Court
  
- Works in Progress
  - Council Retreat Examples and Suggestions
  - Boards and Commission Handbook
  
- Upcoming Legislation for Council Review/Approval
  - Employees Generally Code Section Update
  - Indigent Burials
  - Social Media Policy
  - Community Garden Code Inclusion
  - Golf Carts as Vehicles

### **Motion Summary:**

None Requested

### **Attachment Summary:**

County Commissioners Association of Ohio Annexation Manual - *Expedited Type II Annexations*

# Expedited Type 2 Annexations: Petitions By All Property Owners With or Without Consent of Municipality & Township(s)

## General Comments

Chapter 5 will deal with “Expedited Type 2 Annexations” — those authorized under ORC 709.023. In Expedited Type 2 Annexations, the petition must include the signatures of all property owners in the territory proposed to be annexed. In addition, the territory annexed is not, at any time, to be excluded from the township(s) under ORC 503.07 (ORC 709.023 (A) & (H)). The territory, thus, remains subject to the township's real property taxes. The only exception is in the case where an annexation agreement (ORC 709.192) or a cooperative economic development agreement (ORC 701.07) has been entered into that allows some or all of the territory to be excluded or removed from the township(s). Furthermore, the annexation may or may not have the consent of the municipality or township(s).

## Special Nature of Annexation Proceedings

Under an Expedited Type 2 Annexation, the annexation proceedings are conducted under ORC 709.02 (C), (D), and (E) and ORC 709.021 and 709.023 to the exclusion of any provision in Chapter 709 of the Revised Code.

However, ORC 709.021 provides that the following ORC Sections apply to the granting of this type of annexation:

- A. 709.014 -- Establishment of fee schedule and delegation of authority to county administrator or clerk. (see Chapter 1)
- B. 709.015 -- Substantial compliance of procedural requirements provision. (see Chapter 1)
- C. 709.04 -- Municipal consideration of annexation petition.
- D. 709.10 -- Annexation effective 30 days after municipality passes resolution/ordinance accepting annexation.
- E. 709.11 -- Annexation petition to be filed in county in which the majority of acreage of the territory is situated. (see Chapter 1)
- F. 709.12 -- Apportioning of indebtedness of annexed territory.

- G. 709.192 -- Annexation agreements. (see Chapter 10)
- H. 709.20 -- Residents in territory have same rights as other municipal residents upon completion of annexation.
- I. 709.21 -- No error in annexation proceeding shall invalidate annexation once it has become final.

## **Annexed Area Not to Be Excluded From Township**

The territory annexed shall not, at any time, be excluded from the township under ORC 503.07. The annexed area, thus, remains subject to the township's real property taxes.

The only exception to this rule is if the municipality and township have entered into an annexation agreement (ORC 709.192) or a cooperative economic development agreement (ORC 701.07) that would allow such exclusion or removal from the township.

ORC 709.023  
(A) & (H)

## **Filing of Petition**

### **Contents of Petition**

An Expedited Type 2 Annexation petition must be submitted to the clerk of the board of county commissioners of the county where the territory is located. The petition must specifically request that the board follow ORC 709.023. If the territory is situated in more than one county, the annexation proceedings are to be in the county where the majority of acreage of the territory is located. It must contain the following information:

- A. Signatures of all the property owners in the territory proposed to be annexed. To be a valid signature, it must be the signature of the owner of the property as of the date the petition is filed.
  1. The person who signs or the circulator of the petition must write the date the signature was made next to the owner's name.
  2. Any signature obtained more than 180 days before the petition is filed is not a valid signature.
  3. Any owner who signed the petition may have the signature removed before the document is filed by delivering a signed statement to the agent for the petitioners asking to have it removed. If the agent receives such a statement, the agent must strike through the signature, deleting it from the petition.
- B. Accurate legal description of the perimeter of the territory proposed to be annexed.
- C. Accurate map or plat of territory.
- D. Name of person or persons to act as the agent for the petitioners. The agent may be an official, employee, or agent of the municipality to which annexation is proposed.

ORC 709.02 (C)  
ORC 709.021 (B)

### **Other Information that Must Be Filed With the Petition, But Is Not a Part of the Petition**

Other information that must be filed with the petition, but is not a part of the petition includes:

- A. List of all tracts, lots, or parcels in the territory to be annexed, and all tracts, lots, or parcels located adjacent to the territory to be annexed or directly across the road when the road is adjacent to the territory to be annexed.
- B. The list is to include for each tract, lot, or parcel:
  - 1. Name of owner.
  - 2. Mailing address of owner.
  - 3. Permanent parcel number from the county auditor's permanent parcel numbering system (ORC 319.28).
- C. Any error in the list shall not affect the validity of the petition.

ORC 709.02 (D)  
ORC 709.021 (B)

**Waiver of Right to Appeal & Special Disclosure Notice on Petition**

Under an Expedited Type 2 Annexation, owners who sign the petition requesting the special procedure be used expressly waive their right to appeal, in law or equity, any action taken by the board of county commissioners. The owners also waive any rights they may have to sue on any issue relating to a municipality requiring a buffer and waive any rights to seek a variance that would exempt them from that buffer requirement.

For an Expedited Type 2 Annexation petition to be valid, the petition circulated to collect signatures must contain the following notice in bold face capital letters immediately above the heading of the place for signature on each part of the petition:

ORC 709.021 (B)  
ORC 709.023 (A)

**“WHOEVER SIGNS THIS PETITION EXPRESSLY WAIVES THEIR RIGHT TO APPEAL IN LAW OR EQUITY FROM THE BOARD OF COUNTY COMMISSIONERS’ ENTRY OF ANY RESOLUTION PERTAINING TO THIS SPECIAL ANNEXATION PROCEDURE, ALTHOUGH A WRIT OF MANDAMUS MAY BE SOUGHT TO COMPEL THE BOARD TO PERFORM ITS DUTIES REQUIRED BY LAW FOR THIS SPECIAL ANNEXATION PROCEDURE.”**

**Definition of Owner or Owners**

The term “owner” or “owners” means any of the following who is seized of a freehold estate in land:

- A. Any adult individual who is legally competent.
- B. The state or any political subdivision as defined in ORC 5713.081.
  - 1. Authorized agent of the state or political subdivision must sign the petition.
  - 2. Authorized agent of the state is the Director of Administrative Services.
  - 3. If an authorized agent does not sign, the state or political subdivision shall not be considered an owner and shall not be included in determining the number of owners needed to sign the petition.
- C. Any firm, trustee, or private corporation. If the owner is a corporation, partnership, business trust, estate, organization, group, institution or society, the petition must be signed by a person authorized to sign for that entity.

ORC 709.02 (E)  
ORC 709.021 (B)

In addition, an owner is determined as of the date the petition is filed with the board of county commissioners.

A person who owns more than one parcel of real estate, either individually or as a tenant in common or by survivorship tenancy, shall be counted as one owner.

### **Ownership Interests Excluded From Definition of Owner or Owners**

Items specifically excluded from the definition of "owner" or "owners" include:

- A. Easements.
- B. Any railroad, utility, street or highway rights-of-way held in fee, by easement, or by dedication and acceptance.
- C. Any person, firm, trustee, private corporation, the state, or any political subdivision that has become an owner of real estate if the primary purpose of the conveyance is to affect the number of owners required to sign an annexation petition.

ORC 709.02 (E)  
ORC 709.021 (B)

## **Consideration of Petition**

The petition, signed by all the owners of land contiguous to a municipality, may be filed requesting the special procedure in ORC 709.023 be used. The petition is filed with the clerk of the board of county commissioners in which the territory is located. If the territory is situated in more than one county, the annexation proceedings are to be in the county in which the majority of acreage of the territory is located. After the petition is filed, the following steps are involved.

### **A. *Petition Entered Upon Journal***

The clerk of the board shall cause the petition to be entered upon the journal of the board at its next regular session. This is the first official act of the board on the petition.

ORC 709.023

### **B. *Notices to Be Sent by Agent for Petitioners***

1. Within 5 days after filing the petition, the agent for the petitioners must notify:
  - a) Clerk of the legislative authority of the municipality to which annexation is proposed.
  - b) Clerk of each township any portion of which is included in the territory proposed to be annexed.
  - c) Clerk of board of county commissioners of any other county if land is located in another county.
  - d) Owners of property adjacent to the territory proposed for annexation or adjacent to a road that is adjacent to that territory and located directly across the road from that territory.
2. The notice must refer to the time and date the petition was filed and the county in which it was filed. The notice must include:
  - a) Copy of the petition.
  - b) Any attachments or documents accompanying the petition as filed.

3. The notice to governmental bodies must be given by certified mail, return receipt requested, or by causing the notice to be personally served on the appropriate governmental officer, with proof of service being by affidavit of the person who delivered the notice.
4. The notice to property owners is sufficient if sent by regular U.S. mail to the tax mailing address listed on the county auditor's records.
5. Proof of service of notice on each governmental official, but not on property owners, must be filed with the board of county commissioners.
6. The law does not provide any time requirement for the proof of service.

**C. *Filing Statement of Municipal Services With Board of County Commissioners***

1. Within 20 days after the petition is filed, the municipality to which annexation is proposed must adopt an ordinance or resolution relating to municipal services.
2. The ordinance or resolution must state what services the municipality will provide to the territory proposed for annexation, upon annexation.
3. The ordinance or resolution shall also include an approximate date by which the municipality will provide the services.
4. The ordinance or resolution must be filed with the board within 20 days after the petition was filed.
5. The board shall make the ordinance or resolutions available for public inspection.
6. The municipality is entitled in its sole discretion to provide services in addition to those described in the ordinance or resolution to the territory proposed for annexation, upon annexation.

**D. *Filing Municipal Statement on Incompatible Land Uses and Zoning Buffer***

1. Within 20 days after the petition is filed, the municipality to which annexation is proposed must adopt an ordinance or resolution relating to land uses and zoning buffers, if the territory proposed to be annexed is currently subject to either county or township zoning.
2. The ordinance or resolution must state:
  - a) if the territory is annexed, and
  - b) becomes subject to municipal zoning, and
  - c) the municipal zoning permits uses in the annexed territory that the municipality determines are clearly incompatible with uses under current county or township zoning in the adjacent land remaining in the township, from which the territory was annexed,then the municipality will require, in the zoning ordinance permitting the incompatible uses, the owner of the annexed territory to provide a buffer separating the use of the annexed territory and the adjacent land remaining in the township.
3. The ordinance or resolution must be filed with the board within 20 days after the petition is filed.
4. A buffer is defined to include open space, landscaping, fences, walls, or other structured elements; streets and street rights-of-way; and bicycle and pedestrian paths and sidewalks.

5. If the buffer is not in place before any development of the annexed territory, civil action to enforce compliance may be sought by any owner of land that remains in a township and that is adjacent to the territory annexed.

**E. *Township or Municipality Consents or Objects***

1. Within 25 days after the date that the petition is filed, the municipality to which annexation is proposed and each township with land included in the proposed annexation may adopt an ordinance or resolution consenting or objecting to the proposed annexation.
2. An objection to a proposed annexation by a municipality or township(s) must be based solely on the conditions under which commissioners rule on Expedited Type 2 Annexations as specified ORC 709.023 (E). These conditions are listed later in this chapter in the section titled, "Conditions for Annexation in Expedited Type 2 Annexations."
3. Failure by the municipality or township(s) to file an ordinance or resolution within 25 days of the filing of the petition is deemed to constitute consent to the proposed annexation.

**F. *Action By County Commissioners When Municipality & Township Consent***

If the municipality and each township file an ordinance or resolution consenting to the annexation within 25 days after the petition was filed, the board at its next regular session shall enter upon its journal a resolution granting the proposed annexation.

**G. *Action By County Commissioners When Municipality or Township Objects***

1. If the municipality or any township with territory proposed to be annexed objects to the annexation on the basis of the conditions specified in ORC 709.023 (E), the board must review the petition not less than 30 or more than 45 days after the date that the petition was filed, and determine if each of the conditions for Expedited Type 2 Annexation has been met.
2. If the board determines that each condition has been met, it shall enter upon its journal a resolution granting the annexation.
3. If the board determines that one or more of the conditions have not been met, it shall enter upon its journal a resolution denying the petition and stating which of the conditions have not been met.

**H. *Transmittal to Municipality***

If the petition is granted, the clerk is to deliver a certified copy of the entire record of the annexation proceeding to the auditor or clerk of the municipality. The entire record includes:

1. All resolutions of the board, signed by a majority of the members of the board.
2. The petition.
3. The map.
4. All other papers on file.
5. The recording of the proceedings if a copy is available. However, no hearing recording or hearing exhibits would be involved, since no hearing is statutorily required.

If the petition is denied, the statute gives no direction on notification to the parties; however, notification should probably be made.

## **Conditions for Annexation in Expedited Type 2 Annexations**

The following conditions must be met to approve an Expedited Type 2 Annexation:

- A. The petition meets all the requirements set forth in, and was filed in the manner provided in, ORC 709.021. (see technical checklist in Appendix N) (ORC 709.023 (E) (1))
- B. The persons who signed the petition are owners of property located in the territory proposed to be annexed, and they constitute all owners in the territory. (ORC 709.023 (E) (2))
- C. The territory proposed to be annexed does not exceed 500 acres. (ORC 709.023 (E) (3))
- D. The territory proposed to be annexed shares a contiguous boundary with the municipality for a continuous length of at least 5% of the perimeter of the territory proposed to be annexed. (ORC 709.023 (E) (4))
- E. The annexation will not create an unincorporated area of the township that is completely surrounded by the territory proposed to be annexed. (ORC 709.023 (E) (5))
- F. The municipality has agreed to provide the territory proposed to be annexed the services specified in the municipal services statement. (ORC 709.023 (E) (6))
- G. If a street or highway will be divided or segmented by the boundary line between the municipality and township as to create a road maintenance problem, the municipality has agreed as a condition of annexation to assume maintenance of that street or highway or to otherwise correct the problem. (ORC 709.023 (E) (7))

ORC 709.023 (E)

## **Appeals and Mandamus Actions**

Under Expedited Type 2 Annexation there is no appeal in law or equity from the board's decision. Any party may, however, seek a writ of mandamus to compel the board to perform its duties under this special procedure. It should be noted that the term "party" is not defined by the Ohio Revised Code for Section 709.023 -- Expedited Type 2 Annexation.

ORC 709.023 (G)

## **Enforcement of Municipal Buffer Zones**

The board of county commissioners is not involved in the enforcement of municipal buffer zones. Enforcement is by civil action. Any owner of land remaining in the township that is adjacent to territory annexed under this special procedure and who is directly affected by failure of the municipality to enforce a buffer zone may commence a civil action in common pleas court. The action is against the owner who is not in compliance with the buffer requirement whenever the required buffer is not in place before any development of the annexed territory begins.

ORC 709.023 (I)

## **Commentary on Statutory Ambiguities and Other Issues**

- A. The "review" required if the municipality or township(s) object to the petition is not technically a hearing, and the statute gives no guidance as to how the "review" should be conducted. Therefore, CCAO recommends the following procedure:



1. Conduct the “review” during a meeting of the board in open session.
  2. Invite the municipality, township(s), and agent to the meeting and offer them the opportunity to present a statement regarding the proposed annexation and answer questions that the board might have.
  3. Request the municipality to send a representative to the meeting to verify that it agrees to provide the services it has outlined in its resolution/ordinance which it has filed with the commissioners.
  4. Prior to the review, the board may choose to examine the map to consider whether a road maintenance problem may be created. If the board believes that such a problem will be created, and it was not stated in an objection, the board may request that representatives from the municipality and the township(s) be present at the meeting to discuss the issue.
- B. The law does not provide for any involvement or public comment regarding the petition. However, since all sessions of the board are open to the public, CCAO believes it is within the discretion of the board to accept public comment during any meeting on the petition.
- C. There is no specific statutory authority given for the board to refer the legal description and map/plat to the county engineer for review. It is suggested that such action is inherent in the statutory language that the petition must contain an accurate legal description and plat/map. (ORC 709.02 (C) (2))
- D. It should be noted that unlike Expedited Type 1 (ORC 709.022) and Expedited Type 3 (ORC 709.024) Annexations statutes, Expedited Type 2 (ORC 709.023) Annexation statute includes no definition of “party” as do the other two expedited annexations. ORC 709.021 (D) defines a “party” to be the municipality, township(s), and agent, but only as it related to the other two expedited processes.
- E. Under an Expedited Type 2 Annexation, a hearing is not required. If both the municipality and township(s) consent to the annexation, the commissioners proceed as required by law. If either the municipality or any township objects, the commissioners must “review” the petition, but this does not involve a hearing. Since in either case there is no hearing, commissioners should take special care to assure that the petition is a valid petition and the required conditions for annexation have been met. Such special care is advised by CCAO because in the absence of a hearing, the opportunity for parties to point out problems with the petition will be more limited than when a hearing is conducted.

For the petition to be valid, it must conform with all of the statutory requirements as outlined in this chapter. These include the petition and attachments being accurate and complete; the petition contains the language waiving the right to appeal; the land is contiguous to the municipality; and, the owners who sign the petition are “owners” as now defined in ORC 709.02. In addition, commissioners should assure that the statement of municipal services and statement of incompatible land uses and zoning buffer have been filed. Finally, commissioners must assure that all of the conditions for an Expedited Type 2 Annexation have been met.

## **Refer to Appendix for Flow Chart and Check Lists**

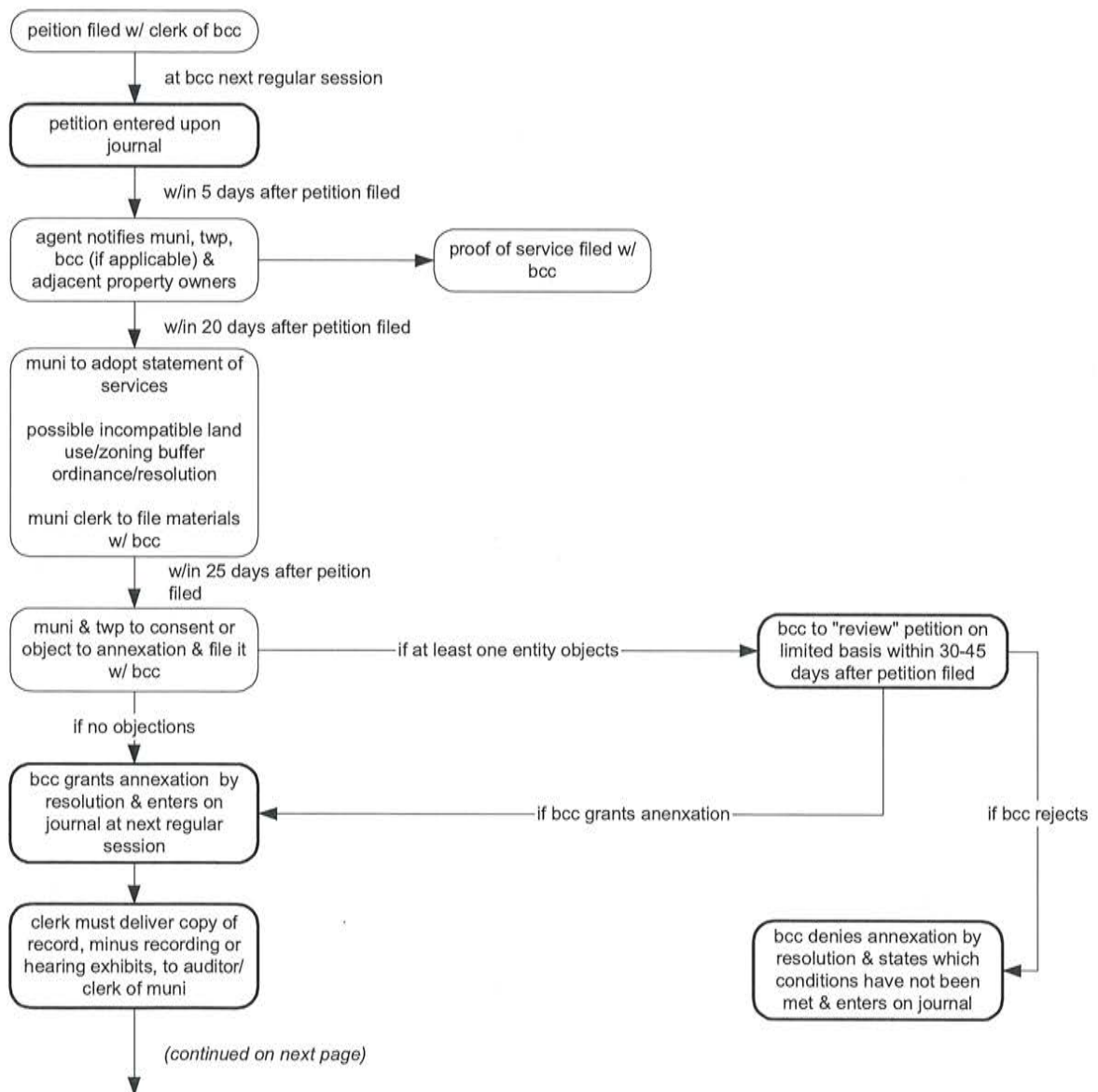
In the Appendix of this manual, the following appendices may be helpful in processing an Expedited Type 2 Annexation:

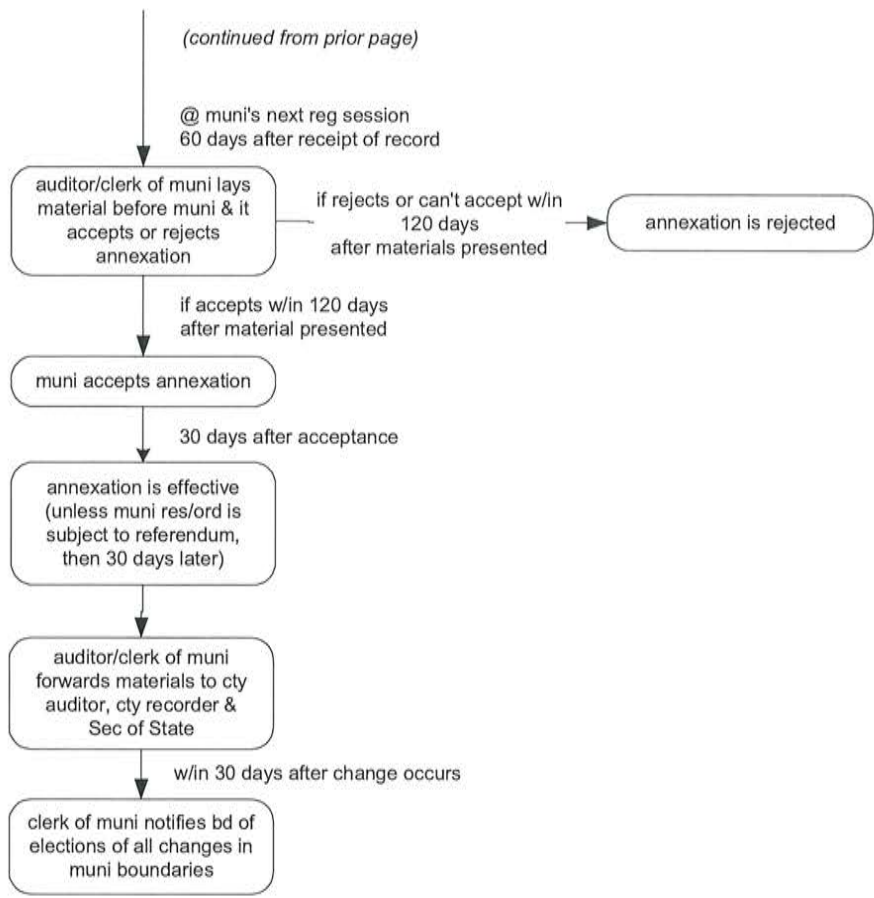
Appendix L	Procedural Flow Chart for Expedited Type 2 Annexations
Appendix M	Procedural Checklist for Expedited Type 2 Annexations
Appendix N	Technical Checklist for Expedited Type 2 Annexations

# Appendix L

## Procedural Flow Chart for Expedited Type 2 Annexations ORC 709.023

### Petitions Submitted By All Property Owners With or Without Consent of Municipality & Township(s)







## **RESOLUTION 2022-09R**

### A RESOLUTION SUPPORTING THE 2022 MIAMI VALLEY WATER COMPACT

**WHEREAS**, the waters of the Mad River Valley Buried Aquifer (“Aquifer”) and the Great Miami River Watershed (“Watershed”) are a shared public treasure and therefore persons, organizations, villages, townships, cities and counties (the “Parties”) serve as stewards with a duty to protect, preserve and manage these renewable but finite waters; and

**WHEREAS**, the Aquifer and Watershed (collectively, “Waters”) are interconnected and form a single hydrologic system; and

**WHEREAS**, safeguarding the City’s ground water resources, that serve as a source of drinking water for the City’s public water system, is of the utmost importance and therefore it is necessary to preserve the community’s potable water supply against contamination from existing and future potential pollution sources by regulating nuisances and the storage, handling, use and/or production of those substances which could pose a threat to the Waters; and

**WHEREAS**, protecting, preserving, restoring and improving these Waters is the foundation of water resource management and essential to maintaining the integrity of both the Aquifer and the Watershed; and

**WHEREAS**, continued sustainable, accessible and adequate water supplies for the people and economy of the Aquifer and Watershed are of vital importance; and

**WHEREAS**, in light of possible variations in climate conditions and the potential cumulative effects of demands that may be placed on the Waters, all parties to this Compact must act to ensure the protection and preservation of the Waters for future generations; and

**WHEREAS**, effective protection, preservation and management are dependent upon all Parties acting in a continuing spirit of comity and cooperation.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of New Carlisle that:

**SECTION 1.** The City Council of the City of New Carlisle, makes the following commitments regarding The Miami Valley Water Compact. This declaration reflects our firm and settled commitment to serve as stewards with a duty to protect, preserve and manage our renewable but finite waters by doing the following:

- A. Acting together to protect, preserve and restore where necessary the Waters of the Mad River Valley Buried Aquifer and the Great Miami River Watershed, including the Tremont City Barrel Fill.
- B. Facilitating collaborative approaches to water management across the Aquifer and Watershed to protect, preserve, and efficiently and effectively manage the Waters of the Aquifer and Watershed.
- C. Preventing significant adverse impacts or threats to, withdrawals from, or losses to the Aquifer and the Watershed.

D. Promoting the preservation and management of Aquifer and Watershed resources, which recognizes, considers and provides adjustments for the uncertainties in, and evolution of, scientific knowledge concerning the Aquifer and Watershed.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Mike Lowrey, Mayor

\_\_\_\_\_  
Emily Berner, Clerk of Council

APPROVED AS TO FORM:

\_\_\_\_\_  
Jacob M. Jeffries, DIRECTOR OF LAW

1st \_\_\_\_\_

2cd: \_\_\_\_\_

<b>Eggleston</b>	<b>Y</b>	<b>N</b>
<b>Bahun</b>	<b>Y</b>	<b>N</b>
<b>Lindsey</b>	<b>Y</b>	<b>N</b>
<b>Mayor Lowrey</b>	<b>Y</b>	<b>N</b>
<b>Vice Mayor Grimm</b>	<b>Y</b>	<b>N</b>
<b>Rodewald</b>	<b>Y</b>	<b>N</b>
<b>Cook</b>	<b>Y</b>	<b>N</b>

**Totals:**

**Pass**

**Fail**

\*Resolution Requested by Vice Mayor Grimm

Intro: 05/02/2022

Action: 05/02/2022

Effective: 05/17/2022



**ORDINANCE 2022-14**

**AN ORDINANCE AUTHORIZING THE CITY OF NEW CARLISLE, OHIO, TO LEASE GASTINEAU BASEBALL FIELD, PROPERTY OF THE CITY, TO THE NEW CARLISLE DIAMONDBACKS ADULT BASEBALL CLUB**

**WHEREAS**, it has been determined that continuing to lease Gastineau Field to the New Carlisle Diamondbacks Adult Baseball Club would be in the City’s best interest; and

**WHEREAS**, Section 4.13(e) of the Charter of the City of New Carlisle, Ohio, requires the passing of an ordinance before the City can proceed with leasing any City-owned land.

**NOW, THEREFORE, THE CITY OF NEW CARLISLE HEREBY ORDAINS** that:

Section 1: The City Manager is hereby authorized, on behalf of the City of New Carlisle, to lease Gastineau Field to the New Carlisle Diamondbacks Adult Baseball Club subject to the covenants in said Lease Agreement, attached hereto. The annual rent of One Dollar (\$1.00) is to be paid to the City by May 21<sup>st</sup> of each lease year.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2022

\_\_\_\_\_  
Mike Lowrey, Mayor

\_\_\_\_\_  
Emily Berner, Clerk of Council

APPROVED AS TO FORM:

\_\_\_\_\_  
Jake Jeffries, DIRECTOR OF LAW

1st \_\_\_\_\_

2cd: \_\_\_\_\_

<b>Eggleston</b>	<b>Y</b>	<b>N</b>
<b>Bahun</b>	<b>Y</b>	<b>N</b>
<b>Lindsey</b>	<b>Y</b>	<b>N</b>
<b>Mayor Lowrey</b>	<b>Y</b>	<b>N</b>
<b>Vice Mayor Grimm</b>	<b>Y</b>	<b>N</b>
<b>Rodewald</b>	<b>Y</b>	<b>N</b>
<b>Cook</b>	<b>Y</b>	<b>N</b>

**Totals:** \_\_\_\_\_

**Pass      Fail**

Intro: 04/18/2022  
Action: 05/2/2022  
Effective: 05/17/2022



## **LEASE AGREEMENT**

The CITY OF NEW CARLISLE, OHIO, 331 South Church Street, New Carlisle, Ohio 45344 ("CITY"), the Lessor, in consideration of the covenants herein, agrees to lease the baseball diamond known as Gastineau Field, which is located on Clark County parcel number 0300500034106011 and is property of the CITY, to the NEW CARLISLE DIAMONDBACKS ADULT BASEBALL CLUB, 12170 Milton Carlisle Road, New Carlisle, Ohio 45344 ("DIAMONDBACKS"), the Lessee.

The lease term commences on May 21, 2022 and ends on May 20, 2025. The annual rent, in the amount of One Dollar (\$1.00), is to be paid by the DIAMONDBACKS to the CITY, by May 21<sup>st</sup> of each lease year, or the DIAMONDBACKS may pay the rent for the entire lease term prior to the commencement of the lease.

The City reserves the right to place, maintain, repair, and replace utility lines, pipes, tunneling and the like, on, under and over the leased premises as may be reasonably necessary or desirable, at the discretion of the City. The City shall have the right to enter onto the leased premises at all reasonable times. The DIAMONDBACKS agree that nothing in this paragraph shall permit the DIAMONDBACKS to receive an abatement of rent or to make a claim for damages or losses to their business resulting directly or indirectly therefrom.

The DIAMONDBACKS shall pay, upon demand, all the CITY's reasonable costs, charges, and expenses, including without limitation, attorney fees, incurred in enforcing the DIAMONDBACKS' obligations hereunder or incurred by the CITY in any litigation, negotiation, or transaction in which the DIAMONDBACKS cause the CITY to become involved or concerned.

As further consideration, the DIAMONDBACKS agree to the following terms and conditions:

1. The DIAMONDBACKS shall maintain upon the leased premises suitable facilities for the encouragement and playing of baseball in conformity with the purposes for which it was organized, subject to approval by the CITY.
2. The DIAMONDBACKS shall not use or occupy said premises or permit the same to be used or occupied for any purpose other than normal use for the sport of baseball/softball and/or related activities, except as otherwise agreed to by the CITY. The DIAMONDBACKS shall not use or occupy, or permit the use or occupancy of the leased premises or any part thereof in any unlawful manner or for any illegal purpose.
3. This Lease may not be assigned or subleased without the prior written consent of the CITY.
4. The DIAMONDBACKS shall make no alterations or additions in or to said premises without the prior written consent of the CITY.



5. The DIAMONDBACKS shall maintain all fences and erected structures on said premises during the term of this Lease.

6. The DIAMONDBACKS shall maintain the premises in a nuisance-free condition and be responsible for mowing all portions of the leased premises during the term of the lease. The DIAMONDBACKS shall not use any fertilizer, pesticide, herbicide, or any other chemical application on the premises without prior CITY approval.

7. The DIAMONDBACKS shall do all things necessary to protect the municipal property from damage by all persons who come upon said leased premises.

8. All league players and invitees shall sign a waiver of responsibility form that is reviewed and approved by the City Law Director, and which releases the CITY from all claims resulting from all injuries sustained while participating in DIAMONDBACKS league sponsored activities. These signed forms shall be maintained and kept on file by the DIAMONDBACKS for a period of at least seven (7) years. No league participant shall be allowed to participate in DIAMONDBACKS events being conducted under this Lease until his waiver of responsibility has been signed.

9. The DIAMONDBACKS shall indemnify and hold harmless the CITY, its officials, employees, agents, and staff in both their individual and official capacities, and hereby agree to release the CITY from all claims resulting from any and all liability arising out of DIAMONDBACKS activities at the leased premises.

10. The DIAMONDBACKS shall maintain in force for the term of this Lease a policy of liability insurance in the minimum amount of Two Million Dollars (\$2,000,000) with the CITY being designated as an additional named insured, and the DIAMONDBACKS agree to provide the CITY with a current Certificate of Insurance before the commencement of the lease.

11. The DIAMONDBACKS shall surrender and deliver up said premises at the end of said term in as good a condition as existed at the beginning of the term, reasonable wear and tear and unavoidable casualty excepted. The DIAMONDBACKS will be liable for restoring the leased premises at the end of the term in as good order and condition as existed at the beginning of the term, beyond reasonable wear and tear and unavoidable casualty.

12. The CITY agrees to provide water for field maintenance through existing water points located on said premises during the term of this lease. The DIAMONDBACKS understand that CITY does not warrant this service will be free from interruption. The DIAMONDBACKS acknowledge that this service may be suspended by reason of accident or repair, alteration, or improvement necessary to be made, or by operation of law, or causes beyond the control of CITY. Any such interruption or discontinuance of services shall never be deemed an eviction or disturbance of the DIAMONDBACKS' use and occupancy of the leased premises or any part thereof, render the CITY liable to the DIAMONDBACKS for damages, or relieve the DIAMONDBACKS from performance of its obligations under this Lease. In the event of any such interruption, the CITY shall take reasonable efforts to restore services as soon as reasonably possible.

13. The DIAMONDBACKS may dump refuse in the dumpsters at the CITY Street Department.

14. The CITY agrees to maintain in good repair the existing concrete backstop bleachers on said premises.

15. Either party, upon sixty days written notice to the other, may terminate this Lease for any reason.

16. The failure of either party to enforce any provision of these terms and conditions will not constitute a waiver of such provision nor diminish the right of either party to the remedies of such provision.

17. Both parties agree that:

In the hiring of employees for the performance of work under the contract or in any subcontract, no contractor or subcontractor, by reason or race, color, religion, sex, age, disability, or military status as defined in section 4112.01 of the Ohio Revised Code, national origin, or ancestry, shall discriminate against any citizen of this state in the employment of a person qualified and able to perform the work to which the agreement relates; and

No contractor, subcontractor, or person acting on behalf of any contractor or subcontractor, in any manner, shall discriminate against, intimidate, or retaliate against any employee hired for the performance of work under the agreement on account of race, color, religion, sex, age, disability or military status as defined in section 4112.01 of the Ohio Revised Code, national origin, or ancestry.

18. By signing this Agreement, both parties certify that they are currently in compliance with and will continue to adhere to the requirements of the Ohio Ethics Law as provided by Ohio Revised Code Sections 102.03 and 102.04.

19. Both parties agree that in the performance of this agreement there shall be no discrimination against any client or any employee because of race, color, sex, religion, national origin, or any other factor specified in the Civil Rights Act of 1964 and subsequent amendments. Also included is the Americans with Disabilities Act. It is further agreed that both parties will fully comply with all applicable Federal and State laws regarding such discrimination and the right to and method of appeal will be made available to all persons served pursuant to the terms of this agreement.

20. If all or a portion of the leased premises shall be condemned or taken by a governmental authority or sold to any such governmental authority to prevent such taking, then this Lease shall terminate effective as of the date possession is to be taken by said governmental authority. The DIAMONDBACKS agree it shall not, because of such taking, assert any claim against the taking authority or against the CITY for any compensation because of such taking.

21. Should the DIAMONDBACKS withhold possession of the leased premises after the termination of this Lease, whether by lapse of time or otherwise, the DIAMONDBACKS shall be subject to all the terms and conditions of this Lease, except the rent required to be paid shall be at a rate equal to two (2) times the rent required to be paid immediately prior to such holdover. Further, if the CITY suffers any damage or loss which may result from the CITY's inability to timely deliver the leased premises to the next tenant, the DIAMONDBACKS shall promptly pay that amount of damage or loss to the CITY. Should the DIAMONDBACKS occupy the leased premises after termination of this Lease for any cause, the DIAMONDBACKS shall be considered a tenant-at-will and by sufferance of the CITY and no such occupancy shall operate as a renewal of this Lease or any part thereof.

22. Signs - All signage must comply with the CITY'S Sign Ordinances and must be approved before installation.

23. All personal property, equipment and inventory belonging to the DIAMONDBACKS, its agents, or its guests, located on or about the leased premises shall be at the sole risk of the DIAMONDBACKS, and the CITY shall not be liable for theft or misappropriation, shall not be liable for any damage or injury thereto and shall not be liable for any damage or injury to the DIAMONDBACKS, or any of its officers, agents, employees, licensees or guests, or to other persons or to any property caused by fire, explosion, wind, water, rain, snow, frost, steam, gas, electricity, any Acts of God, heat or cold, dampness, sewers or sewage odors, noise, or neglect of any other person.

24. This Lease contains the entire agreement between the parties, and any agreement hereafter or heretofore made shall not operate to change, modify, terminate, or discharge this Lease, in whole or in part, unless such agreement is in writing and signed by each party to this Lease.

25. If any portion of this Agreement is found to be void, unenforceable, or against public policy, the remaining portions of this Agreement shall not be affected, and each term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

26. This Lease, and all rights and obligations of the parties hereunder, shall be construed and governed by the laws of the State of Ohio.

IN WITNESS THEREOF, the CITY OF NEW CARLISLE, OHIO, Lessor herein, by its City Manager, and the NEW CARLISLE DIAMONDBACKS ADULT BASEBALL CLUB, Lessee herein, by its Manager, have set their hands below to duplicate originals hereof, on this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

CITY OF NEW CARLISLE

NEW CARLISLE DIAMONDBACKS  
ADULT BASEBALL CLUB

\_\_\_\_\_  
Randy Bridge, City Manager

\_\_\_\_\_  
Ray Franks, MANAGER

APPROVED AS TO FORM:

\_\_\_\_\_  
Jake Jeffries, Law Director, New Carlisle



**ORDINANCE 2022-15**

**AN ORDINANCE AMENDING CHAPTER 1040 OF THE CODIFIED ORDINANCES OF THE CITY OF NEW CARLISLE REGARDING THE CITY’S WATER UTILITY**

**WHEREAS**, Chapter 1040 of the Codified Ordinances of the City of New Carlisle governs the City’s water utility; and

**WHEREAS**, certain sections of that chapter are being amended for the purposes of better assisting water customers and providing an improved work policy for water staff.

**NOW, THEREFORE, THE CITY OF NEW CARLISLE HEREBY ORDAINS** that Chapter 1040 of the Codified Ordinances of the City of New Carlisle be amended as detailed in Exhibit “A”.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Mike Lowrey, Mayor

\_\_\_\_\_  
Emily Berner, Clerk of Council

APPROVED AS TO FORM:

\_\_\_\_\_  
Jacob M. Jeffries, DIRECTOR OF LAW

1st \_\_\_\_\_

2cd: \_\_\_\_\_

<b>Eggleston</b>	<b>Y</b>	<b>N</b>
<b>Bahun</b>	<b>Y</b>	<b>N</b>
<b>Lindsey</b>	<b>Y</b>	<b>N</b>
<b>Mayor Lowrey</b>	<b>Y</b>	<b>N</b>
<b>Vice Mayor Grimm</b>	<b>Y</b>	<b>N</b>
<b>Rodewald</b>	<b>Y</b>	<b>N</b>
<b>Cook</b>	<b>Y</b>	<b>N</b>

<b>Totals:</b>		
	<b>Pass</b>	<b>Fail</b>

Intro: 05/02/2022  
Action: 05/16/2022  
Effective: 05/31/2022

## CHAPTER 1040

### Water

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**EDITOR'S NOTE:** Resolution 93-05R, passed June 7, 1993, established an Inter-Jurisdictional Ground Water Advisory Committee (I.G.W.A.C.), consisting of members drawn from the City administration, Council, the Board of Health and the community at large. The purpose of the Committee is to recommend safeguards for present and future water supply quality and quantity by gathering and exchanging information relating to reasonable land and water use practices, to protect the ground water from degradation, to foster inter-jurisdictional cooperation and to promote public awareness of ground water resources and safeguards.

- 1040.01 Application of chapter.
- 1040.02 Quality or service not guaranteed.
- 1040.03 Shut-offs without notice.
- 1040.04 Right of entry; inspections; off and on charge.
- 1040.05 Request for service.
- 1040.06 Connection required; alternate supply systems.
- 1040.07 Water main construction plans and procedure.
- 1040.08 Pipes and fittings.
- 1040.09 Excavation and pipe laying.
- 1040.10 Backfilling.
- 1040.11 Testing, cleansing and chlorination.
- 1040.12 Valves.
- 1040.13 Valve boxes.
- 1040.14 Fire hydrants.
- 1040.15 Meters.
- 1040.16 Rates generally; billing; consumer responsibility for leaks.
- 1040.17 Connection permits.
- 1040.18 Connection charges.
- 1040.19 Taps and installations; line size requirements.
- 1040.195 Oversizing water and sewer lines for future development.
- 1040.20 Effective date of charges.
- 1040.21 Abandoned connections.
- 1040.22 Charges for connections outside the Municipality.
- 1040.23 Fire protection service.
- 1040.24 Miscellaneous service connection requirements.
- 1040.25 Extensions.
- 1040.26 Backflow prevention devices.
- 1040.27 Cross-connection control.
- 1040.99 Penalty.

#### **CROSS REFERENCES**

Water pollution - see Ohio R.C. 715.08, 743.24 et seq.; GEN. OFF. 660.04

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

Management and control of waterworks - see Ohio R.C. 743.26 et seq.

Prosecutions for theft of utilities - see GEN. OFF. 642.26

Sewer use regulations - see S.U. & P.S. 1042.03 et seq.

Water rate structure - see S.U. & P.S.Ch. 1043

Private water systems - see P. & Z.1224.06(c)(2)

Subdivision regulations - see P. & Z.Ch. 1228 et seq.

Water in mobile home parks - see P. & Z.1288.03(j)(1),(2)

Utilities in flood hazard areas - see P. & Z.1294.16(c)

#### **1040.01 APPLICATION OF CHAPTER.**

(a) The provisions of this chapter shall be considered a part of the contract with every person who is supplied with water through the water system of the Municipality, and every person who uses such water shall be considered to have expressed his or her consent to be governed thereby.

(b) The Municipality reserves the right to alter, amend or add to this chapter at any time.

(Ord. 21-78. Passed 6-27-78.)

#### **1040.02 QUALITY OR SERVICE NOT GUARANTEED.**

The supply of water to all parties is subject to the following conditions:

(a) The **Municipality** Department of Public Service does not guarantee to the consumer a fixed or continuous pressure, or ~~the Department does not guarantee the quality, purity or temperature of water delivered.~~

(b) Such aspects of the water are subject to the variable conditions which may arise in the operation and maintenance of the water system.

(Ord. 21-78. Passed 6-27-78.)

#### **1040.03 SHUT-OFFS WITHOUT NOTICE.**

(a) In case of breaks in mains, services, pumping machinery, reservoirs or other water system equipment, and for the purpose of tapping, extending, repairing, replacing or cleaning mains, the water may be shut off without notice and no claims for damages from such action shall be considered.

(b) The **Municipality** Department of Public Service shall attempt, whenever possible, to notify consumers before shut-offs.

(Ord. 21-78. Passed 6-27-78.)

#### **1040.04 RIGHT OF ENTRY; INSPECTIONS; OFF AND ON ENTRY REFUSAL CHARGE; MISSED APPOINTMENT FEE**

(a) The **Municipality** Department of Public Service reserves the right, through its authorized agents, to enter at all reasonable hours the premises to which its service extends, for the purpose of reading, repairing, installing, removing or inspecting meters, or for any other purposes which it may deem necessary in properly safeguarding the interests of the **Municipality** Department and the consumer. When such entry is refused the water may immediately be turned **shut** off and not turned on again until the request of the **Municipality** Department has been satisfied ~~complied with and an off and on the Entry Refusal~~ Charge of **twenty-five fifty** dollars (\$**250.00**) has been paid.

(b) If a customer makes an appointment for service and/or repairs and fails to be present (or arrange for a **responsible** person **over the age of 18** to be present) at the service address on the scheduled date and time, a **return trip Missed Appointment** Fee of **twenty-five fifty** dollars (\$**250.00**) shall be charged.

(Ord. 13-06. Passed 2-19-13.)

#### **1040.05 REQUEST FOR SERVICE.**

(a) A request for water service shall be made in writing at the office of the Department of Public Service in the City Building.

(b) The appropriate fee, as established by Council, shall be paid to the Department before water lines, extensions, laterals or services are permitted to tap in, or otherwise connect, to any Municipal water supply.

(c) In some cases, a deposit, established **determined** by the **Municipality** Authority, may be required to establish a new account. Said deposit will be applied to the final bill or returned to the customer once the final bill is paid.

(Ord. 21-78. Passed 6-27-78; Ord. 13-06. Passed 2-19-13.)

#### 1040.06 CONNECTION REQUIRED; ALTERNATE SUPPLY SYSTEMS.

- (a) In the interest of the public health, safety and welfare, all structures, wherein water will or can be used for personal consumption in the Municipality, shall have a water supply connected thereto metered from the Municipal water supply system.
- (b) No alternate water supply system shall be physically connected to the Municipal water supply system.

(Ord. 21-78. Passed 6-27-78.)

#### 1040.07 WATER MAIN CONSTRUCTION PLANS AND PROCEDURE.

- (a) Detail plans for all water main construction must be submitted to the Director of Public Service and must meet his or her approval and the approval of the Ohio Department of Health before any water main construction is started.
- (b) All water mains, fittings, specials, appurtenances, etc. shall be constructed in accordance with this chapter.
- (1) No work shall be approved or accepted by the Municipality unless twenty-four hours or one working day's notice of the commencement of work is given to the Director.
  - (2) When water main construction begins, the contractor must contact the Director before attaching to or extending any existing water main.
  - (3) The contractor shall schedule with the Municipality the time when the lines shall be shut off.
  - (4) The shut-off time shall be kept to a minimum.
  - (5) The Municipality shall operate all valves required for shut-off and turn-on.
  - (6) The contractor shall dig necessary exploratory test pits to determine the location and exact outside diameter of the existing pipe.
  - (7) Such pits shall be in advance of pipe laying to ensure against damaging delays in making connections.

(Ord. 21-78. Passed 6-27-78.)

#### 1040.08 PIPES AND FITTINGS.

- (a) **Size.** Unless otherwise approved, all material for pipes, fittings and specials shall be cast iron, either ductile or grey iron. Pipes shall be a minimum of six inches in diameter.
- (b) **Ductile Cast Iron Pipe.** ~~Ductile cast iron pipes~~ Shall be manufactured in accordance with ASA Specification A 21.50 and A 21.51 or with AWWA Standard C 151.
- (1) The pipe shall have push-on rubber gasket joints or mechanical joints meeting the requirements of ASA Specification A 21.11 or AWWA Standard C 111.
  - (2) Pipes shall be Class III, unless otherwise approved.
  - (3) Ductile cast iron specials and fittings shall conform to the requirements of ASA Specification A 21.10 or AWWA Standard C 110.
    - (A) Fittings and specials shall be Class 150.
    - (B) Fittings shall have mechanical joints, unless otherwise approved.
    - (C) Ductile iron retainer glands with set screws shall be used to lock joints in connections.
  - (4) All pipes and fittings shall be cement-lined half-thickness to meet Federal Specification WW-P-421a, Subsection 3.10.
  - (5) The outside of the pipes shall be coated with a uniform coating of coal tar varnish or enamel applied hot.

(Ord. 21-78. Passed 6-27-78.)

#### 1040.09 EXCAVATION AND PIPE LAYING.

- (a) All pipes, fittings and specials shall be laid in accordance with the manufacturer's instructions, with AWWA Standard C 600 and with this chapter.
- (b) All pipes and appurtenances shall be installed true to line, grade, and location; with joints centered, spigots home; proper support and blocking provided; and all valve stems plumb. (Ord. 21-78. Passed 6-27-78.)



(c) Trenches shall be excavated to the depths shown by profiles on the plans unless additional depth is required to avoid interference with existing underground facilities.

- (1) The pipes shall have a minimum cover of four feet below finish grade at all times.
- (2) Trenches shall have vertical sides and be wide enough to properly install the pipes but not wider.
- (3) The width of the trench at the top shall not exceed two feet plus the nominal diameter of the pipes.
- (4) If ~~overdigging~~ **over digging** occurs, the trench bottom must be brought back to grade with thoroughly tamped granular bedding as specified in this chapter.
- (5) Water and sewer lines shall be placed five feet from each other when placed at the same depth.
- (6) If, for any reason, this requirement cannot be met, water and sewer lines may be placed closer together or in the same trench, provided that the sewer line is placed twelve to eighteen inches lower than the water line.
- (7) All water and sewer line repair, replacement and/or new installation shall be approved by the Director of Public Service or his or her appointed representative.

(Ord. 87-07. Passed 4-6-87.)

(d) The pipes must be laid level or on a grade to prevent humps that will cause air pockets. Grade stakes or a level shall be used on each pipe to ensure its correctness.

(e) Pipes laid in excavations shall be laid on good foundation with a uniform bearing, trimmed to shape and, where required, secured against settlement in a manner approved by the Director of Public Service.

- (1) Compact granular bedding, of a minimum depth of three inches, shall be used under all grey cast iron pipe.
- (2) Bedding is optional under ductile cast iron pipe.
- (3) Granular bedding shall be crushed stone or gravel size gradation meeting Ohio Department of Transportation Specification Size No. 67 or an approved equal.

(f) At joints, enough depth and width shall be provided to permit the jointers to reach entirely around the pipes so that the joints may be made in a proper manner. All elbows, tees, etc. shall be properly backed up and anchored so that there will be no movement of the pipes in the joints due to internal or external pressure.

(g) The open ends of all pipes and special castings shall be plugged or otherwise closed with a watertight plug to the approval of the Director before leaving the work for the night and at other times of interruption of the work. All pipe ends or tees which are to be permanently closed shall be plugged with a cast iron or other approved plug, bolted to the end bell.

(h) The pipes shall be carefully lowered into the trench by crane or other approved means.

- (1) Pipe interiors shall be thoroughly cleaned of dirt and foreign matter before laying, by brushing, swabbing or another method approved by the Director, and means shall be provided to prevent entry of dirt during progress of installation.
- (2) Ground water shall be kept out of the pipes at all times.
- (3) Just prior to joining pipes, the surfaces of joint rings shall be wiped clean, and the joint rings and rubber gaskets shall be liberally lubricated with an approved type of vegetable oil soap.
- (4) The spigot end shall be entered into the bell of the pipe already laid, making sure that both pipes are properly aligned.
- (5) Before the joint is fully home, the position of the gasket in the joint shall be determined by means of a suitable feeler gauge supplied by the pipe manufacturer.
- (6) The pipe shall then be forced home firmly and fully. In its final position, the pipe shall not be deflected more than recommended by the pipe manufacturer.

(i) At each line valve, bend, plug, tee, etc., where hydrostatic pressures exert a disjoining pressure, the pipe joints shall be tied together.

- (1) For pipes twelve inches or smaller, a ductile iron mechanical joint retainer ring shall be used except as directed by the Director.
- (2) Where directed for small size and for all large pipes, approved blocking shall be used.

(Ord. 21-78. Passed 6-27-78.)

#### 1040.10 BACKFILLING.

(a) To a depth of twelve inches above the top of the pipe, the backfill shall be composed of select material, free from large stone (one-inch maximum size allowed) and frozen material, deposited manually and thoroughly tamped.

- (1) Above this point, special backfill shall be used under all streets, alleys, curbs and gutters, sidewalks, driveways, roadways, parking areas and as ordered.
- (2) Wet granule special backfill shall be placed in six-inch layers loose measure, then thoroughly consolidated by tamping, rolling, watering or other methods approved by the Director of Public Service.
- (3) Special backfill shall be crushed stone, of a size gradation meeting Ohio Department of Transportation Specification 310; approved bank run sand and gravel; or other approved material.
- (4) Pea gravel or No. 9 stone is not permitted.

(b) The backfill of trenches in locations other than streets, roadways, alleys, curbs and gutters, sidewalks, driveways, parking areas, etc. shall be compacted to a density not less than that of the surrounding ground, unless otherwise specified. No material shall be used for backfilling that contains stones, rocks, pieces of masonry, pavement, etc. greater than twelve inches in diameter, frozen earth, debris or earth with an exceptionally high void content.

(c) All trenches and excavations shall be backfilled immediately after pipes are laid therein. Under no circumstances shall water be permitted to rise in unbackfilled trenches after pipes have been placed.

(d) Immediately after placement of backfill in existing streets, temporary pavement shall be installed, and the street opened.

- (1) Temporary pavement shall consist of nine inches of compacted Ohio Department of Transportation Specification 304 base and a surface course of Ohio Department of Transportation Specification 405 or 409.
- (2) The surface shall be kept flush with the existing street.

(e) Any settlement of a trench causing depressions shall be refilled as required by the Director of Public Service. This provision applies for a one-year period after work is accepted by the Municipality.

(f) All temporary pavement and sidewalks shall be maintained by the contractor or the developer, at his or her own expense, in a suitable and safe condition for traffic until permanent replacement is made or until the project is finally accepted by the Municipality.

(Ord. 21-78. Passed 6-27-78.)

#### 1040.11 TESTING, CLEANSING AND CHLORINATION.

- (a) Hydrostatic testing, cleansing and chlorination shall be done by the contractor.
- (b) The test pressure will be 100 psi or fifty percent above normal operating pressure, whichever is greater.
- (c) The pressure shall be maintained for a period sufficient to allow for the thorough inspection of pipes, fittings, valves, etc.
- (d) Leaking joints shall be tightened; cracked or otherwise defective material furnished and installed by the contractor shall be removed and replaced by the contractor; and the test shall be repeated until satisfactory results are obtained.
- (e) Allowable leakage shall not exceed fifty gallons per inch of pipe diameter per mile of pipe per twenty-four hours.

(Ord. 21-78. Passed 6-27-78.)

#### 1040.12 VALVES.

(a) ~~Generally~~. All valves shall be resilient wedge valves **and comply with AWWA Standards and this chapter.**

(b) Where a valve is installed on a branch connection off the main and not connected to an existing main, the open end of the valve shall be closed with a cast iron or other approved plug.

(c) The valve shall also be secured or strapped to the main line tee or pipe by a method approved by the Director of Public Service.

(d) Valves shall be protected at all times from rust or damage both before and after installation and until accepted by the Municipality.

~~b) Resilient Wedge Valves. Resilient wedge valves shall comply with AWWA Standards and this chapter.~~

(Ord. 13-06. Passed 2-19-13.)

### **1040.13 VALVE BOXES.**

Unless otherwise approved, valve boxes for resilient wedge valves shall be as specified and approved by the Director of Public Service.

(Ord. 13-06. Passed 2-19-13.)

### **1040.14 FIRE HYDRANTS.**

#### **(a) Specifications**

- (1) Fire hydrants shall meet the requirements of AWWA Standard C 502 and this chapter.
- (2) Hydrants shall open left (counterclockwise) and shall have compression-type shut-off, either with or against pressure. Unless otherwise specified, each hydrant shall have a main valve opening of five inches, with a side inlet for a six-inch water main.
- (3) Bury length shall be at least five feet and shall be two sections with break-off flange or joint.
- (4) The stem or valve rod shall be made in one continuous section, between the valve and the operating nut, except the breaking coupling which shall be located at the proper point to conform to the breaking flange in the barrel.
- (5) Stem seals shall be of the "O" ring type.
- (6) The design must ensure that the upper and lower sections of the hydrant will break apart cleanly when struck by a smashing blow, without bending the stem sections and without damage to the working parts of the hydrant, or the abutting parts of the barrel sections, and that when the valve is open, the only obstruction, within the valve opening, will be the stem itself.
- (7) There shall be two hose nozzles and one pumper nozzle on each hydrant.
- (8) The hose nozzles shall be two and one-half inches with National Standard fire hose coupling screw threads.
- (9) The pumper nozzle shall be four inches and have National Standard threads.
- (10) Nozzle caps shall have rubber gaskets and no chains.
- (11) Operating and nozzle cap nuts shall be pentagonal, measuring fifteen-sixteenths of an inch on the outer end to thirty-one thirty-seconds of an inch on the inner end.
- (12) Before leaving the factory, each hydrant shall be given two coats of special red hydrant enamel, above ground line, and the nozzle caps and top cover or bonnet shall be given two coats of special white hydrant enamel.
- (13) Hydrants are to be Kennedy or Mueller, or such other type as approved by the Director of Public Service.

#### **(b) Installation**

- (1) Hydrants shall be installed at locations shown on the plans.
- (2) At no times shall the spacing of hydrants in residential areas exceed 500 feet.
- (3) Hydrants shall be made of the proper length to suit the depth of cover over the water main at the location shown on the plans.
- (4) The pit or trench for a hydrant shall be so excavated that when it is installed, the base shall rest on undisturbed soil and the hydrant shall be plumb.
- (5) Unless otherwise shown or ordered, hydrants shall be set a minimum of two feet back of the curb and the nozzles approximately eighteen inches above the finish grade line.
- (6) The break-off flange or joint shall be set at least two inches, and not more than four inches, above the finish grade line.
- (7) After the hydrants are installed and the joints made, approved blocking shall be placed between the base of the hydrant and the undisturbed soil at the end or side of the pit or trench to prevent any movement of the hydrant.
- (8) Approved anchor devices may be used in place of such blocking.
- (9) After installation is completed, only authorized Municipal employees shall be allowed to operate or use a hydrant.

(c) **Backfilling**

- (1) Gravel sized from one-half inch to one inch shall be used to backfill the bottom three feet of the excavation.
- (2) Straw or tar paper shall be placed on top of the gravel and earth backfill shall be used to complete the fill of the excavation.

(d) **Service Lines** Unless otherwise approved by the Director of Public Service, no person except an employee of the Department of Public Service shall be permitted to tap or make a connection with the mains or distribution lines.

**1040.15 METERS.**

(a) **Required** All water services shall be metered.

(b) **Service to Apartment Buildings**

- (1) ~~The Department of Public Service requires the installation of such and number of meters needed on a service to supplying an apartment building containing more than one apartment unit shall be determined as by the Director of Public Service and the City Manager determine to be appropriate under the circumstances.~~
- (2) The plans showing the pipe arrangements must be submitted to and approved by the Director of Public Service ~~and the City Manager~~. Further, it is required that:
  - (A) The meters all be contained compactly or in a meter room, and that each meter be controlled separately of the others
  - (B) The owner assumes all responsibility for the installation of required adaptors and accessories for the meters other than that assumed by the Department; and
  - (C) The meters shall be kept in an area that will keep them from freezing.

(c) **Water for Construction Projects.**

- (1) Water for construction projects and bulk water shall be furnished at ~~seven dollars (\$7.00)~~ **the current water rate** per 1,000 gallons plus a twenty-five-dollar (\$25.00) service fee hookup.
- (2) The cost of labor and additional material and the additional cost involved in supplying the water to be used shall be paid by the owner.
- (3) Homes built for resale (speculative homes) shall pay the water for construction rate until which time the home is sold or occupied. Once sold or occupied, the home will convert to the current combined water/sewer rate. No water usage will be allowed until after final plumbing inspection has been approved.
- (4) Residents may water newly placed sod at the current water for construction rate for a period of two consecutive weeks once per calendar year.
  - (A) Residents must use a construction meter provided by the City **of New Carlisle** to receive the construction rate.
  - (B) ~~A refundable deposit of one hundred dollars (\$100.00)~~ **equal to the dollar amount the City of New Carlisle would pay to replace** is required for use of the construction meter **shall be required.**
  - (C) **The deposit shall be refunded when the construction meter is returned to the City of New Carlisle in acceptable condition.**
- (5) When a meter is ~~needed~~ requested for a project other than a home, a deposit based on the meter size shall be required **as stated in Section 1040.18 of the codified ordinances.**

(d) **Registration.**

- (1) All meters shall be registered by service numbers and apply to street numbers and ~~lot~~ **parcel** numbers and not to the names of property owners.
- (2) Inquiries regarding meters should include street numbers and, if possible, the service number.

(e) **Payment of Cost by User.** The person applying for the service shall pay for the meter **at market rate** in accordance with the current cost to the Municipality, as established by the **meter vendor** Director of Public Service.

(f) **Maintenance and Replacement.**

- (1) The maintenance and/or replacement of meters shall be at the expense of the Department of Public Service.
- (2) **However**, the customer shall be charged and held responsible for the cost of repair or replacement due to any act of negligence or deliberate damage on the part of the customer.
- (3) The ~~C~~city requires the customer to permit the city to have reasonable access to meters for regular maintenance.
- (4) When water has been off for more than 30 days on an abandoned or foreclosed property, a new meter shall be installed by the City at the expense of the new property owner.

(g) **Water for Swimming Pools.**

- (1) Residents with permanent in ground and permanent above ground swimming pools, with a water capacity of at least 10,000 gallons may fill their swimming pool, once per calendar year, at the current water for construction rate with the use of a construction meter provided by the City.
- (2) A refundable deposit of one hundred dollars (\$100.00) equal to the dollar amount the City of New Carlisle would pay to replace is required for use of the construction meter shall be required. The deposit shall be refunded when the construction meter is returned to the City of New Carlisle in acceptable condition.

(Ord. 83-38. Passed 10-3-83; Ord. 85-51. Passed 11-4-85; Ord. 90-11. Passed 5-7-90; Ord. 04-28. Passed 6-21-04; Ord. 07-12. Passed 4-16-07; Ord. 08-51. Passed 10-6-08; Ord. 13-06. Passed 2-19-13.)

**1040.16 RATES GENERALLY; BILLING; CONSUMER RESPONSIBILITY FOR LEAKS.**

(a) **Rates Established by Ordinance.** Water rates shall be established by Municipal ordinance.

(b) **Reading Meters.** Meters shall be read monthly. When a meter reading cannot be obtained, the Department of Public Service reserves the right to estimate and bill for the water consumed on the basis of **based on** the preceding comparable quarter month.

(c) **Due Dates for Bills.**

- (1) Water bills are due on receipt.
- (2) Bills not paid on or before the fifteenth of the billing month **shall be** are subject to a charged a ten percent **(10%)** penalty charge.
- (3) Water bills not paid in full by the **final payment date** last day of the billing month may **shall** result in the service being shut off without further notice unless a **Payment Agreement** provisions for payment have has been made with the **Utility** Department.
- (4) Such provisions will **Payment Agreements can** be limited to three times during a calendar year per customer allowed to be made **executed at** any time before the final payment is due date.
- (5) ~~Payment agreements for a severe water leak will be determined on a case-by-case basis. However, w~~When the final payment date falls on a Saturday, Sunday or legal holiday, the final payment date shall be the next regular working day.
- (6) Users may elect to pay charges in advance at any time; any remaining credit will be reflected on monthly bills. The amount paid in advance shall not exceed three hundred dollars (\$300.00) and any refund request must be approved by the City Manager.

(d) **Charges for Water as Liens.** All charges for *unpaid water and sewer bills* are assessed against the property to which the service is rendered and are a lien against the property, collectable in the same manner as other taxes and assessments. A person who purchases property shall ascertain if any water bill assessed to such property is unpaid **and shall assume the responsibility of such delinquent charges.**

(e) **Occupancy by Tenant.**

~~(1) Effective September 18, 2003, all residential properties where one outside shut-off controls more than one dwelling must be in the property owner's name. Any residential rental property with an individual outside shut-off per unit may be placed in the tenant's name at the property owner's request. All residential property accounts must be in the property owner's name.~~

**(A) All residential accounts, as of the effective date of this ordinance, shall be transferred from the tenant to the property owner at the next lease renewal or when the property owner executes a new lease with a different tenant.**

**(B) It shall be the responsibility of the property owner to inform the city of all changes to property leases that will impact the account. All residential accounts must be paid in full prior to the transfer of account ownership**

(2) All accounts involving a commercial property where one outside shut-off controls more than one rental unit ~~may~~ shall be in the property owner's name. Any account involving a commercial rental property where there is an individual outside shut-off per unit may be placed in the tenant's name at the property owner's request. **All commercial accounts shall be paid in full prior to the transfer of account ownership.**

~~(3) If the owner of any premises elects to have his or her tenant or lessee pay the water bill, such tenant or lessee does so as the agent of the owner and such owner is not relieved from the payment of any bill, penalty or other such charge that may occur.~~

~~(4) All accounts must be paid in full prior to the transfer of accounts.~~

(f) **Delivery of Bills**

- (1) Third-party vendors **will may** undertake the delivery of bills for water, also referred to as "utility bills", by depositing the same in the post office only as a matter of convenience to the owner or consumer.
- (2) The failure of a person to receive a bill shall not relieve him or her from his or her obligations to pay the bill.
- (3) In utilizing the U.S. Postal Service for delivery of their payment of a water service charge, users assume the responsibility for any failure of the U.S. Postal Service to timely deliver the payment to the Authority, also known as the City of New Carlisle.
- (4) Accordingly, the Authority shall not waive payment penalties for any person claiming the U.S. Postal Service failed to timely deliver a bill or payment.
- (5) If the user elects for paperless billing, the user shall receive no paper bill but will still be responsible for the payment of services rendered on the appropriate due date.

**(g) Unpaid Bills for Customers Connected to Municipal Water and Sewer Supply.**

~~When the water and sewer is turned off because of an unpaid bill, it will not be turned on again until the bill, plus penalty, has been paid, together with an off and on charge of fifty dollars (\$50.00); forty dollars (\$40.00) deposited into the Water Enterprise Fund account and ten dollars (\$10.00) deposited into the Wastewater Enterprise Fund account. Water only accounts shall be forty dollars (\$40.00) deposited into the Water Enterprise Account.~~

- (1) ~~Service d~~Disconnection for ~~u~~Unpaid ~~b~~Bills. Service may be disconnected for non-payment of a monthly bill **as described in the current administrative policy developed by the City Manager** ~~when more than thirty days past due,~~ or for non-payment of a ~~p~~Payment ~~a~~Agreement ~~e~~extension wherein the customer fails to pay under the terms and conditions of the agreement.
- (2) ~~Service disconnection fee~~ **Non-Pay Fee**. A fifty dollar (\$50.00) *non-pay fee* will be assessed **applied** to unpaid accounts on the day service is disconnected; **and shall be receipted in the financial books of the city with forty dollars (\$40.00) deposited into the Water Enterprise Fund account and ten dollars (\$10.00) deposited into the Wastewater Enterprise Fund account. However, the non-pay fee for water only accounts shall be forty dollars (\$40.00) instead, all of which shall be deposited into the Water Enterprise Account.**
- (3) ~~When the water and sewer is turned off because of an unpaid bill, it will~~ **the water shall** not be turned on again until the bill, plus penalty and the applicable non-pay fee has been paid., ~~together with the non-pay fee an off and on charge of fifty dollars (\$50.00);~~
- (3) ~~Service disconnection fee~~ **Non-Pay Fee**. A fifty dollars (\$50.00) fee will be assessed **applied** to all unpaid accounts on the day service is disconnected; **and shall be receipted in the financial books of the city with forty dollars (\$40.00) deposited into the Water Enterprise Fund account and ten dollars (\$10.00) deposited into the Wastewater Enterprise Fund account.**
- (4) (3) ~~Reconnection of s~~Service. If payment is received in our offices by 3:00 p.m. on the day of disconnection, we will attempt to reconnect service on the same day, however reconnection of services on the same day of payment is not guaranteed.
  - (A) **Service Fee for Outside Normal Business Hours**. Any turn-ons and turn-offs requested outside normal business hours will be charged an additional one hundred dollars (\$100.00) per turn-on and/or turn-off.
  - (B) The Director of Public Service or the City Manager will be the only people permitted to determine if a fee will be waived for an emergency shut-off.
- (5) ~~Utility b~~Billing ~~r~~Rules and ~~r~~Regulations. The City Manager or his or her designee will establish an office policy to direct personnel and enforce codified ordinances concerning utility billing and regulations and update as needed.
- (h) **Unrepaired Leaks**. When a consumer has been notified of a leak and such leak is not repaired within ten days of such notice, the service may be shut off without further notice.
- (i) ~~Service Fee for Outside Normal Business Hours~~. Any turn-ons and turn-offs requested outside normal business hours will be charged an additional one hundred dollars (\$100.00) per turn-on and/or turn-off. ~~The Director of Public Service or the City Manager will be the only people permitted to determine if a fee will be waived for an emergency shut-off.~~

(j) **(i) Insufficient Funds.**

- (1) If a bank should return a check from a user for insufficient funds, that user's **the** account will be subject to an insufficient funds charge **of thirty-five dollars (\$35.00)** established by the Authority.
- (2) Upon the claim of an **an account holder person** that the return of a check for insufficient funds was a bank error, the Authority ~~may~~ **shall** waive ~~an~~ **the** insufficient funds charge if the bank supplies adequate documentation of its error.
- (3) If an **an account holder person** has two checks returned for insufficient funds, the Authority ~~may~~ **shall** require all future payments from that account holder be made in cash or by money order.
- (4) Water will be disconnected immediately when a check is returned **for insufficient funds** and not **reconnected** ~~turned on~~ until the amount of the bill, **plus any additional applicable charges**, and ~~disconnection fee is~~ **are** paid in full.
- (5) If a user elects to pay his or her water bill online and the credit card used is declined, the user is still responsible for making the payment to avoid disconnection for non-payment.
- (6) In the instance where the user's credit card was utilized without his or her permission to make the online water payment, the user is still responsible for payment to avoid disconnection.

~~(k)~~ **(j) Final Bills.** The landlord of the property is responsible for all final bills. All final bills must be paid within 30 days or a ~~late fee~~ **penalty charge** of 10% will be added for each month the bill is past due.

(l) **(k) Fees for Online Utility Payments.**

- (1) There will be a fee to use a credit card and/or debit card online and at the City Building to make utility payments.
- (2) The fee shall be one dollar and ninety-five cents (\$1.95) per one-hundred-dollar (\$100.00) increment.

(Ord. 02-28. Passed 7-15-02; Ord. 03-07. Passed 4-9-03; Ord. 03-24. Passed 9-2-03; Ord. 03-47. Passed 1-5-04; Ord.08-30. Passed 6-16-08; Ord. 08-51. Passed 10-6-08; Ord. 13-06. Passed 2-19-13; Ord. 15-55. Passed 12-7-15; Ord. 17-30. Passed 9-18-17; Ord. 2020-03. Passed 2-18-20.)

#### **1040.17 CONNECTION PERMITS.**

- (a) No person shall place any water connection in service until he or she obtains the proper water connection and inspection permit from the Department of Public Service.
- (b) An application for such permit shall be signed by the owner or lessee of the property and the person employed to do the work, and shall be accompanied by payment of a fee of:
  - (1) Twenty-five dollars (\$25.00) for a new service connection;
  - (2) Forty dollars (\$40.00) for reconnection of service that was disconnected for reason of nonpayment of service charges; or
  - (3) Five dollars (\$5.00) for a transfer of ownership or tenant where the previous owner or tenant notified the Municipality that such owner or tenant no longer required service and obtained a final meter reading before vacating the premises of the service location.
- (c) However, a developer who installs, at his or her own expense within a given plat, a complete water distribution system consisting of water mains in the street or in an appropriate right of way, and service connections to the curb, shall obtain a permit but is exempt from payment of a fee for the same.

(Ord. 08-51. Passed 10-6-08.)

#### 1040.18 CONNECTION CHARGES.

(a) **Charge Based on Meter Size.** There is hereby established a water connection charge, based on the size of the water meter to serve the premises, for each water connection made to each structure in the Municipality, to be based on the following table:

Meter Size (Inches)	<u>Regular Charges Inside City Limits</u>	<u>Regular Charges Outside City Limits</u>
3/4	\$1,150	\$1,265
1	\$1,350	\$1,485
1-1/2	\$1,550	\$1,705
2	\$1,750	\$1,925
3	\$2,150	\$2,365
4	\$2,450	\$2,695
6	\$2,950	\$3,245
8	\$3,350	\$3,685

- (1) Connection charges for commercial and industrial application will be determined by the Director of Public Service and the City Manager.
- (2) Charges for water connections made outside the Municipality shall be ten percent more than the regular charges

(Ord. 85-51. Passed 11-4-85.)

(b) **Charge for New Connections**

- (1) Where, at the time of construction, the owner of land abutting on an existing water line has not paid his or her pro rata share of the construction cost thereof, an additional water connection charge per front foot shall be made for each direct connection to the water line from each structure located on such land.
- (2) The amount of such charge shall be determined by Council.

(c) **Charge for Change in Meter Size.** There is hereby established an additional charge for increasing the size of a water meter serving a structure, based on the current price of the new water meter.

(d) **Charge for Installation of Additional Meters.** There is hereby established an additional charge for the installation of an additional water meter to serve a structure, based on the current price of a new water meter.

(e) **Additional Service.** There is hereby established an additional charge for the installation of an additional water service from the property line curb stop to the additional water meter, which additional charge shall be based on the size of the additional meter, as provided in subsection (b) hereof.

(Ord. 21-78. Passed 6-27-78; Ord. 08-51. Passed 10-6-08; Ord. 13-06. Passed 2-19-13.)

#### 1040.19 TAPS AND INSTALLATIONS; LINE SIZE REQUIREMENTS.

(a) ~~All taps to water mains and installations of service lines from main to curb box shall be made by the Department of Public Service.~~ *The contractor, with approval of the Director of Public Service, will tap the water line, or pay the municipality to tap said water line as indicated below:*

- (1) Charges for such work shall be established *on a case-by-case basis* by the Director of Public Service ~~and approved by the City Manager~~ and shall include all costs of labor, material and equipment used.
- (2) Installation of service lines from curb box to dwelling or other premises and installation of other water lines shall be made by only those persons approved and authorized by the Municipality.
- (3) Payment for such installations shall not relieve the property owner from securing and paying for permits as required by Section 1040.17.

(Adopting Ordinance)



(b) Minimum branch requirements for buildings for residential use are as follows:

<b>Number of Units</b>	<b>Water Service Line Size (in inches)</b>
1 - 2	3/4
3 - 5	1
6 - 12	1-1/2
13 - 20	2
21 - 40	3
41 - 100	4
100 - 250	6
251 or more	8

(Ord. 85-51. Passed 11-4-85.)

#### **1040.195 OVERSIZING WATER AND SEWER LINES FOR FUTURE DEVELOPMENT.**

(a) Whenever water or sanitary sewer lines are laid at the expense of the city without the cost thereof being paid for by or assessed against all the property owners abutting such lines and benefitted thereby, the owner of the abutting property to be served by such lines and for which property the cost thereof has not been paid or assessed shall pay his pro rata share as determined herein before tapping therein.

(b) Whenever such lines are laid by the owner or another person with the authority of and under the direction of the Director of Public Service, except in cases where the owners of new subdivisions are required to make such installation at their expense by the order of the Planning Board pursuant to the Subdivision Regulations, such owner or other person shall certify to the Director in such detail as he may require the cost of the oversizing immediately upon completion. The costs shall be subject to the approval of the Director and may be reduced if the Director, with the advice of the City Engineer, in his discretion is of the opinion that such costs are excessive.

(c) Whenever such lines are laid by the owner or another person with the authority of and under the direction of the Director of Public Service in cases where the owners of new subdivisions are required to make such installations at their expense by the order of the Planning Board pursuant to the Subdivision Regulations, and the Director also requires that said installations be made with lines larger than that needed for the new subdivision alone to allow for future growth and development adjacent to said new subdivision, such owner or other person shall certify to the Director in such detail as he may require the cost of the improvements immediately upon completion. The costs shall be subject to the approval of the Director and may be reduced if the Director, ~~with the advice of the City Engineer, in his discretion~~ is of the opinion that said costs are excessive.

(d) The owner of any abutting property thereby serviced by such lines in situations described in divisions (a), (b) or (c) herein, shall pay his pro rata share of the costs thereof as determined herein before tapping therein.

- (1) The funds so received shall be paid to the person who paid the cost of such lines and certified the costs thereof to the Director, or such person's heirs, executors, administrators or assigns; however, no such payment shall be made after the elapse of more than fifteen years after the completion of the job.
- (2) All funds received after said fifteen-year period shall be deposited into the Capital Improvement Fund of the Department of Public Service.

(e) The Director of Public Service shall determine a property owner's pro rata share by dividing the cost of the improvement by the total number of lineal front footage of the project and multiplying that quotient times the number of lineal front footage of said property owner.

(Ord. 97-03, passed 3-3-97.)

#### **1040.20 EFFECTIVE DATE OF CHARGES.**

(a) All charges outlined in Section 1040.18 shall be in force and take effective August 1, 1978, and shall apply to all connections made thereafter.

(b) ~~However, a~~ Any building or structure under construction on or before July 31, 1978, will be permitted water connections at the rates outlined in Ordinance 73-14, passed April 16, 1973. As used in this section, "under construction" applies to buildings or structures which have:

- (1) ~~(a)~~ Footers in;
- (2) ~~(b)~~ Slabs poured or subflooring down;
- (3) ~~(c)~~ The proper size water pipe from the building or structure to the curb or curb box; and
- (4) ~~(d)~~ Had the tap-in fees paid.

(Ord. 21-78. Passed 6-27-78.)

#### **1040.21 ABANDONED CONNECTIONS.**

Abandoned water connections and/or service shall be construed as follows:

- (a) A water connection or service shall be issued to a residence, building or other type of structure and not the land or premises on which it is located.
- (b) A structure which is or has been demolished, moved or otherwise removed from a property has, under this section, abandoned its water service, and a structure which is constructed or placed on such property shall comply with Section 1040.18.

(Ord. 21-78. Passed 6-27-78.)

#### **1040.22 CHARGES FOR CONNECTIONS OUTSIDE THE MUNICIPALITY.**

Charges for water connections made outside the Municipality shall be ten percent more than the regular charges provided in Section 1040.18.

(Ord. 21-78. Passed 6-27-78.)

#### **1040.23 FIRE PROTECTION SERVICE.**

- (a) **Installation Applications, Plans and Approval.** The installation of fire protection service to supply water to standpipes and sprinkler systems for fire protection only shall be permitted when applications and plans for such service have been submitted and approved by the Department of Public Service.
- (b) **Connections to Water Mains.** All fire line connections to water mains for industrial or commercial establishments for fire protection service must include a meter, or, in the case of a dry system, a detector-type meter.
- (c) **Sprinkler Pipes.** Sprinkler pipes used for fire protection must not be tapped or used for any other purpose.
- (d) **Fire Hydrants.**
  - (1) **Generally.** Fire hydrants are intended primarily for use by the Division of Fire. Permits for their use for other purposes are given reluctantly and only in cases where such use cannot be avoided. Penalties for unauthorized use are provided for in Section 1040.99.
  - (2) **Operation Limited to Authorized Personnel.** No person, except an authorized employee of the Department of Public Service or the Division of Fire, shall open, operate, or remove the nozzle cap from a fire hydrant to which water is supplied in whole or in part by the Department of Public Service.
  - (3) **Permits for Use.** At the discretion of the Director of Public Service, a special permit may be issued for the use of a fire hydrant. Charges for water will be based on the rates established by Council.
  - (4) **Use for Construction Purposes; Liability for Damage.** Fire hydrants used for construction purposes must have a reducing coupling and union attached to the nozzle of the hydrant with an independent valve for regulation of the supply.
    - (A) The main valve must be fully open at the beginning of work each day and remain open until stoppage of work for the day.
    - (B) The water supply shall be regulated by the independent valve.
    - (C) At the close of the day's work, these connections shall be disconnected or at any other time when required by the Division of Fire.
    - (D) The fire hydrant shall be operated only by a spanner to be supplied by the Department of Public Service.
    - (E) Any damage to a hydrant occasioned by an act of the user or due to freezing will be repaired by the Department at the expense of the user.
- (e) **Sprinkler Systems.** A sprinkler system may tap into the Municipal water mains at the cost of ten percent of the fees provided for in Section 1040.17, with a minimum charge of four hundred dollars (\$400.00). All sprinkler system mains shall be metered and the meters shall be purchased from the Municipality.

(Ord. 21-78. Passed 6-27-78.)

#### 1040.24 MISCELLANEOUS SERVICE CONNECTION REQUIREMENTS.

- (a) **Responsibilities Upon Damage to Main.** A person who causes a service between the main and the curb cock to be broken or damaged shall be responsible for exposing the service line. Subsequently, repairs will be made by the Department of Public Service at the expense of the person causing such damage.
- (b) **Space for Meter Required.** In roughing-in a plumbing job, sufficient space shall be provided for the required meter and the proper accessories for remote reading which shall be supplied and installed by the Department of Public Service. The property owner shall install a valve on the user's side of the meter.
- (c) **Cross Connections.** No service pipe connected with the water supply shall be connected with pipes supplied with water from any other source.
- (d) **Restriction of Curb Stop Operation.** Except in the case of an authorized plumber who is making repairs, only authorized personnel of the Department of Public Service may open or close curb stops or resilient wedge valves.
- (e) **Maintenance of Service Lines.** The Department of Public Service is responsible for service lines from the main to the curb stop or to a private property line, whichever is least distant from the main line.
- (f) **Location of Curb Stop Valves.** Curb stop valves shall be located in the area between curb and sidewalk on the side of the property facing the water main.
- (g) **Tap Charges.** Tap charges shall be in accordance with regulations established by Council.
- (h) **Bypasses.** A meter two inches or larger shall have a bypass installed around the meter, with a bypass valve sealed by the Department of Public Service. Any tampering with the bypass seal shall be subject to the penalty provided in Section 1040.99.
- (i) **Meter Pits.** The use of meter pits is discouraged, and **any meter pit** must be specifically approved by the Department of Public Service before being used.

(Ord. 21-78. Passed 6-27-78.)

#### 1040.25 EXTENSIONS.

- (a) **Required in New Developments.** A newly developed area in the Municipality must be served by Municipal water.
- (1) A water extension to serve such area shall be installed at the developer's expense and in accordance with the specifications of the Municipality.
  - (2) The line shall become the property of the Municipality upon its acceptance by the Municipality.
- (b) **Payment of Cost by Property Owner.** When, in the interest of public health and welfare and community growth, it becomes necessary for an existing water line to be extended to serve additional areas and when private individuals have no interest in financing the improvement:
- (1) Council may authorize the extension of a water main with the understanding that adjoining property owners may connect to the water main by paying to the Municipality a special privilege charge and the standard tap-in fee.
  - (2) The amount of the special privilege charge shall be determined by the Municipality and shall approximate a front foot pro rata share of the equivalent cost of the installation of the six-inch water line.
- (c) **Extensions Outside Municipality.** An extension of a water line outside the Municipality must be approved by Council.
- (1) Areas served by Municipal utilities must normally be annexed to the Municipality.
  - (2) If approved, the cost of extending the water main must be borne by the developer.
  - (3) The Municipality may request that the water line be oversized to serve future developments and negotiate with the developer as to payment for such oversizing since the initial development may have the effect of stimulating additional development in the area.
- (d) **Construction and Materials.** All construction and materials shall meet the specifications of the Municipality—~~Such specifications shall be~~ **made** available ~~from~~ **by** the Director of Public Service.
- (e) **Deviations.** A deviation from this section is permitted only by a two-thirds majority vote of Council.

(Ord. 21-78. Passed 6-27-78.)

## 1040.26 BACKFLOW PREVENTION DEVICES.

(a) If, in the judgment of the Director of Public Service, an approved backflow prevention device is necessary for the safety of the public water system:

- (1) the Service Director shall give notice to the water consumer to install such an approved device immediately.
- (2) The water consumer shall, at his or her own expense, install such an approved device at a location and in a manner approved by the Service Director, and shall have inspections and tests made of such approved devices as required by the Service Director.

(b) No person shall establish or permit to be established or maintain or permit to be maintained any connection whereby a private, auxiliary or emergency water supply, other than the regular public water supply of the city, may enter the supply or distributing system of the Service Director *such municipality*, unless such private, auxiliary or emergency water supply, and the method of connection and use of such supply, shall have been approved by the Service Director and by the Ohio Environmental Protection Agency.

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

(d) The Service Director or his or her duly authorized representative shall have the right to enter, at any reasonable time, any property served by a connection to the public water supply or distribution system of the Municipality, for the purpose of inspecting the piping system or systems thereof.

- (1) Upon demand, the owners, lessees or occupants of any property so served shall furnish to the Service Director any information which he or she may request regarding the piping system or systems or water use on such property.
- (2) The refusal of such information, when demanded, shall, within the discretion of the Service Director, be deemed evidence of the presence of improper connections as provided in this section.

(e) The Service Director is hereby authorized and directed to:

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

(Ord. 96-24. Passed 9-3-96.)

## 1040.27 CROSS-CONNECTION CONTROL.

In order to effectuate the goals and purposes of Section 1040.26, the following regulations on cross-connection control are hereby adopted:

### **REGULATIONS ON CROSS-CONNECTION CONTROL**

#### **Section 1. General Policy.**

A. **Purpose.** The purpose of these regulations is:

1. To protect the public potable water supply from contamination or pollution by isolating, within the consumer's water system, contaminants or pollutants which could backflow through the service connection into the public potable water system;
2. To promote the elimination or control of existing cross-connections, actual or potential, between the public or the consumer's potable water system and non-potable water systems, plumbing fixtures and sources or systems containing process fluids; and
3. To provide for the maintenance of a continuing program of cross-connection control, which will systematically and effectively prevent the contamination or pollution of the public and the consumer's potable water systems.

B. **Application.** These regulations shall apply to all premises served by the public potable water system of the City of New Carlisle.

C. **Policy.** The Director of Public Service shall be responsible for the protection of the public potable water system from contamination due to backflow of contaminants through the water service connection.

1. If, in the judgment of the Director of Public Service, an approved backflow prevention device is necessary at the water service connection to a consumer's premises for the safety of the water system, the Director of Public Service or his or her authorized representative shall give notice to the consumer to install such approved backflow prevention device at each service connection to his or her premises.
2. The consumer shall immediately install such approved device or devices at his or her own expense, and failure, refusal or inability on the part of the consumer to install such device or devices immediately shall constitute grounds for discontinuing water service to the premises until such device or devices have been installed.

## Section 2. **Definitions.**

The following definitions shall apply in the interpretation and enforcement of these regulations:

- A. "**Air gap separation**" means the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture or other device, and the flood level rim of the receptacle.
- B. "**Approved**" means that a backflow prevention device or method has been accepted by the supplier of water and the Director as suitable for the proposed use.
- C. "**Auxiliary water system**" means any water system on or available to the premises, other than the public water system, and includes the water supplied by the system. These auxiliary waters may include water from another supplier's public water system; water from a source, such as wells, lakes or streams; process fluids; or used water. They may be polluted, contaminated or objectionable, or may constitute a water source or system over which the supplier of water does not have control.
- D. "**Backflow**" means the flow of water or other liquids, mixtures or substances into the distributing pipes of a potable water supply from any source other than the intended source of the potable water supply.
- E. "**Backflow prevention device**" means any device, method or type of construction intended to prevent backflow into a potable water system.
- F. "**Consumer**" means the owner or person in control of any premises supplied by, or in any manner connected to, the public water system.
- G. "**Consumer's water system**" means any water system located on the consumer's premises that is supplied by, or in any manner connected to, a public water system. A household plumbing system is considered to be a consumer's water system.
- H. "**Contamination**" means an impairment of the quality of the water by sewage, process fluid or waste, to a degree which could create an actual hazard to the public health through poisoning or through the spread of disease by exposure.
- I. "**Cross-connection**" means any arrangement whereby backflow can occur.
- J. "**Degree of hazard**" means the potential risk to health and the adverse effect upon the potable water system, derived from an evaluation of that potential.
- K. "**Director**" means the Director of the Ohio Environmental Protection Agency or his or her duly authorized representative.
- L. "**Double-check valve assembly**" means an assembly composed of two single, independently-acting check valves, including tightly-closing shutoff valves located at each end of the assembly and suitable connections for testing the water- tightness of each check valve.
- M. "**Health hazard**" means any condition, device or practice in a water system or its operation that creates or may create a danger to the health and well-being of users. The word "severe," as used to qualify "health hazard," means a hazard to the health of the user that could reasonably be expected to result in significant morbidity or death.
- N. "**Interchangeable connection**" means an arrangement or device that will allow alternate, but not simultaneous, use of two sources of water.
- O. "**Non-potable water**" means water not safe for drinking, personal or culinary use.
- P. "**Person**" means the State, any political subdivision of the State, or any public or private corporation, individual, partnership or other legal entity.
- Q. "**Pollution**" means the presence in water of any foreign substance that tends to degrade its quality so as to constitute a hazard or impair the usefulness or quality of the water, to a degree which does not create an actual hazard to the public health, but which does adversely and unreasonably affect such water for domestic use.

- R. "Pollutional hazard" means a condition through which an aesthetically objectionable or degrading material not dangerous to health may enter the public water system or a consumer's potable water system.
- S. "Potable water" means water which is satisfactory for drinking, culinary and domestic purposes and meets the requirements of the Ohio Environmental Protection Agency.
- T. "Process fluids" means any fluid or solution which may be chemically, biologically or otherwise contaminated or polluted in a form or concentration such as would constitute a health, pollutional or system hazard if introduced into the public water system or a consumer's potable water system. "Process fluids" includes, but is not limited to:
  1. Polluted or contaminated waters;
  2. Process waters;
  3. Used waters originating from the public water system, which may have deteriorated in sanitary quality;
  4. Cooling waters;
  5. Contaminated natural water taken from wells, lakes, streams or irrigation systems;
  6. Chemicals in solution or suspension; and
  7. Oils, gases, acids, alkalis and other liquid and gaseous fluids used in industrial or other processes or for fire- fighting purposes.
- U. "Public water system" means that which is ascribed to such term in Sections 6109.01 and 6109.02 of the Ohio Revised Code.
- V. "Reduced-pressure principle backflow prevention device" means a device containing a minimum of two independently-acting check valves, together with an automatically-operated pressure differential relief valve located between two check valves. During normal flow and at the cessation of normal flow, the pressure between these two checks shall be less than the supply pressure. In case of leakage of either check valve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the check valves at less than the supply pressure. The unit must include tightly-closing shutoff valves located at each end of the device, and each device shall be fitted with properly located test cocks.
- W. "Service connection" means the terminal end of a service line from the public water system. If a meter is installed at the end of the service, then "service connection" means the downstream end of the meter.
- X. "Supplier of water" means the owner or operator of a public water system.
- Y. "System hazard" means a condition posing an actual or potential threat of damage to the physical properties of the public water system or a consumer's potable water system.
- Z. "Used water" means any water supplied by a supplier of water from a public water system to a consumer's water system after it has passed through the service connection and is no longer under the control of the supplier.

### **Section 3. Water System.**

- A. The water system shall be considered to be made up of two parts: the public potable water system and the consumer's water system.
- B. The public potable water system shall consist of the source facilities and the distribution system and shall include all those facilities of the potable water system under the control of the Director of Public Service up to the point where the consumer's water system begins.
- C. The source shall include all components of the facilities utilized in the production, treatment, storage and delivery of water to the public distribution system.
- D. The public distribution system shall include the network of conduits used for delivery of water from the source to the consumer's water system.
- E. The consumer's water system shall include those parts of the facilities beyond the service connection which are utilized in conveying water from the public distribution system to points of use.

### **Section 4. Cross-Connections Prohibited.**

- A. No water service connection shall be installed or maintained in any premises where actual or potential cross-connections to the public potable or consumer's water system may exist, unless such actual or potential cross-connections are abated or controlled to the satisfaction of the Director of Public Service.
- B. No connection shall be installed or maintained whereby water from an auxiliary water system may enter a public potable or consumer's water system, unless such auxiliary water system and the method of connection and use of such system shall have been approved by the Superintendent of Water and by the Director of the Ohio Environmental Protection Agency, as required by Section 6109.13 of the Ohio Revised Code.

## **Section 5. Surveys and Investigations.**

A. The consumer's premises shall be open at all reasonable times to the Director of Public Service, or his or her authorized representative, for the purpose of conducting surveys and investigations of water use practices within the consumer's premises to determine whether there are actual or potential cross-connections to the consumer's water system through which contaminants or pollutants could backflow into the public potable water system.

B. On request by the Director of Public Service, or his or her authorized representative, the consumer shall furnish information on water use practices within his or her premises.

C. It shall be the responsibility of the water consumer to conduct periodic surveys of water use practices on his or her premises to determine whether there are actual or potential cross-connections in his or her water system through which contaminants or pollutants could backflow into his or her or the public potable water system.

## **Section 6. Where Protection is Required.**

A. An approved backflow prevention device shall be installed on each service line to a consumer's water system serving premises where, in the judgment of the Director of Public Service, actual or potential hazards to the public potable water system exist.

B. An approved backflow prevention device shall be installed on each service line to a consumer's water system serving premises where the following conditions exist:

1. Premises having an auxiliary water system, unless such auxiliary system is accepted as an additional source by the Director of Public Service and the source is approved by the Director of the Ohio Environmental Protection Agency;
2. Premises on which any substance is handled in such a fashion as to create an actual or potential hazard to the public potable water system. This shall include premises having sources or systems containing process fluids or waters originating from the public potable water system which are no longer under the sanitary control of the Director of Public Service;
3. Premises having internal cross-connections that, in the judgment of the Director of Public Service, are not correctable, or having intricate plumbing arrangements which make it impractical to determine whether or not cross-connections exist;
4. Premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete cross-connection survey;
5. Premises having a repeated history of cross-connections being established or re-established; or
6. Other premises specified by the Director of Public Service or the Director of the Ohio Environmental Protection Agency.

C. An approved backflow prevention device shall be installed on each service line to a consumer's water system service, including, but not necessarily limited to, the following types of facilities, unless the Director of Public Service or the Director of the Ohio Environmental Protection Agency determines that no actual or potential hazard to the public potable water system exists:

1. Hospitals, mortuaries, clinics and nursing homes;
2. Laboratories.
3. Piers, docks and waterfront facilities;
4. Sewage treatment plants, sewage pumping stations or storm water pumping stations;
5. Food or beverage processing plants;
6. Chemical plants;
7. Metal plating industries;
8. Petroleum processing or storage plants;
9. Radioactive material processing plants or nuclear reactors;
10. Car washes; and
11. Other facilities specified by the Director of Public Service or the Director of the Ohio Environmental Protection Agency.

D. An approved backflow prevention device shall be installed at any point of connection between the public potable or consumer's water system and an auxiliary water system, unless such auxiliary system is accepted as an additional source by the Director of Public Service and the source is approved by the Director of the Ohio Environmental Protection Agency.

## **Section 7. Type of Protection Required.**

A. The type of protection required under Sections 6.A, 6.B and 6.C of these regulations shall depend on the degree of hazard which exists as follows:

1. An approved air gap separation shall be installed where the public potable water system may be contaminated with substances that could cause a severe health hazard;
2. An approved air gap separation or an approved reduced-pressure principle backflow prevention device shall be installed where the public potable water system may be contaminated with any substance that could cause a system hazard or health hazard; or
3. An approved air gap separation, an approved reduced-pressure principle backflow prevention device or an approved double-check valve assembly shall be installed where the public potable water system may be polluted with substances that could cause a pollutional hazard not dangerous to health.

B. The type of protection required under Section 6.D. of these regulations shall be an approved air gap separation or an approved interchangeable connection.

C. Where an auxiliary water system is used as a secondary source of water for a fire protection system, the provisions of Section 7.B. for an approved air gap separation or an approved interchangeable connection may not be required, provided that:

1. At premises where the auxiliary water system may be contaminated with substances that could cause a system or health hazard, the public or consumer's potable water system shall be protected against backflow by installation of an approved reduced-pressure principle backflow prevention device;
2. At all other premises, the public or consumer's potable water system shall be protected against backflow by installation of either an approved reduced-pressure principle backflow prevention device or an approved double-check valve assembly;
3. The public or consumer's potable water system shall be the primary source of water for the fire protection system;
4. The fire protection system shall be normally filled with water from the public or consumer's potable water system;
5. The water in the fire protection system shall be used for fire protection only, with no regular use of water from the fire protection system downstream from the approved backflow prevention device; and
6. The water in the fire protection system shall contain no additives.

## **Section 8. Backflow Prevention Devices.**

A. Any backflow prevention device required by these regulations shall be of a model or construction approved by the Director of Public Service and the Director of the Ohio Environmental Protection Agency and shall comply with the following:

1. An air gap separation, to be approved, shall be at least twice the diameter of the supply pipe, measured vertically above the top rim of the vessel, but in no case less than one inch.
2. A double-check valve assembly or a reduced-pressure principle backflow prevention device shall be approved by the Director of Public Service and shall appear on the current list of approved backflow prevention devices of the Ohio Environmental Protection Agency; and
3. An interchangeable connection, to be approved, shall be either a swing- type connector or a four-way valve of the lubricated plug type that operates through a mechanism which unseats the plug, turns it ninety degrees and reseats the plug. Four-way valves shall not be used as stop valves, but must have separate stop valves on each pipe connected to the valve. The telltale port on the four-way valve shall have no piping connected and the threads or flange on this port shall be destroyed so that a connection cannot be made.

B. Existing backflow prevention devices, approved by the Director of Public Service or the Director of the Ohio Environmental Protection Agency at the time of installation, and if properly maintained, shall, except for inspection, testing and maintenance requirements, be excluded from the requirement of Section 8.A of these regulations, provided that the Director of Public Service is assured that they will satisfactorily protect the public potable water system. Whenever the existing device is moved from the present location or requires more than minimum maintenance, or when the Director of Public Service finds that the maintenance of the device constitutes a hazard to health, the device shall be replaced by a backflow prevention device meeting the requirements of these regulations.



## **Section 9. Installation.**

A. Backflow prevention devices required by these regulations shall be installed at a location and in a manner approved by the Director of Public Service and at the expense of the water consumer. In addition, any backflow prevention device required by Sections 7.B. and 7.C. of these regulations shall be installed at a location and in a manner approved by the Director of the Ohio Environmental Protection Agency, as required by Section 6109.13 of the Ohio Revised Code.

B. Backflow prevention devices installed on the service line to a consumer's water system shall be located on the consumer's side of the water meter, as close to the meter as is reasonably practical, and shall be installed prior to any other connection.

C. Pits or vaults shall be of a water-tight construction, shall be so located and constructed as to prevent flooding and shall be maintained free from standing water by means of either a sump and pump or a suitable drain. Such sump pump or drain shall not connect to a sanitary sewer and shall not permit flooding of the pit or vault by reverse flow from its point of discharge. An access ladder and adequate natural or artificial lighting shall be provided to permit maintenance, inspection and testing of the backflow prevention device.

D. Reduced-pressure principle backflow prevention devices must be installed above ground level or floor level, whichever is higher.

## **Section 10. Inspection and Maintenance.**

A. It shall be the duty of the consumer, at any premises on which backflow prevention devices required by these regulations are installed, to have inspections, tests and overhauls made in accordance with the following schedule, or more often where inspections indicate a need:

1. Air gap separations shall be inspected at the time of installation and at least once every twelve months thereafter.
2. Double-check valve assemblies shall be inspected and tested for tightness at the time of installation and at least once every twelve months thereafter. They shall be dismantled, inspected internally, cleaned and repaired whenever needed and at least once every thirty months;
3. Reduced-pressure principle backflow prevention devices shall be inspected and tested for tightness at the time of installation and at least once every twelve months thereafter. They shall be dismantled, inspected internally, cleaned, and repaired whenever needed and at least once every five years; and
4. Interchangeable connections shall be inspected at the time of installation and at least once every twelve months thereafter.

B. Inspections, tests and overhauls of backflow prevention devices shall be made at the expense of the water consumer and shall be performed by the Director of Public Service or a person approved by the Director of Public Service as qualified to inspect, test and overhaul backflow prevention devices.

C. Whenever backflow prevention devices required by these regulations are found to be defective, they shall be repaired, overhauled, or replaced at the expense of the consumer, without delay.

D. The water consumer must maintain a complete record of each backflow prevention device from purchase to retirement. This record shall include a comprehensive listing that includes a record of all tests, inspections, repairs and overhauls. Records of inspections, tests, repairs and overhauls shall be submitted to the Director of Public Service.

E. Backflow prevention devices shall not be bypassed, made inoperative, removed or otherwise made ineffective without specific authorization by the Director of Public Service.

## **Section 11. Booster Pumps.**

A. Where a booster pump has been installed on the service line to or within any premises, such pump shall be equipped with a low-pressure cut-off device designed to shut off the booster pump when the pressure in the service line on the suction side of the pump drops to ten pounds per square inch gauge or less.

B. It shall be the duty of the water consumer to maintain the low-pressure cut-off device in proper working order and to certify to the Director of Public Service, at least once a year, that the device is operating properly.

## **Section 12. Violations.**

A. The Director of Public Service shall deny or discontinue, after reasonable notice to the occupants thereof, the water service to any premises wherein any backflow prevention device required by these regulations is not installed, tested and maintained in a manner acceptable to the Director of Public Service, or if it is found that the backflow prevention device has been removed or bypassed, or if an unprotected cross-connection exists on the premises, or if a low-pressure cut-off required by these regulations is not installed and maintained in working order.

B. Water service to such premises shall not be restored until the consumer has corrected or eliminated such conditions or defects in conformance with these regulations and to the satisfaction of the Director of Public Service.

**1040.99 PENALTY.**

- (a) Whoever violates or fails to comply with any of the provisions of this chapter is guilty of a misdemeanor of the fourth degree and shall be fined not more than two hundred fifty dollars (\$250.00) or imprisoned not more than thirty days, or both, for each offense.
- (b) A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.



**ORDINANCE 2022-16**

**AN ORDINANCE AMENDING CHAPTER 1043 OF THE CODIFIED ORDINANCES OF THE CITY OF NEW CARLISLE REGARDING THE CITY’S WATER AND SEWER RATE STRUCTURE**

**WHEREAS**, Chapter 1043 of the Codified Ordinances of the City of New Carlisle currently addresses the rates, fines, and billing structures for Water and Sewer; and

**WHEREAS**, this chapter is being amended so that it will address the rates, fines, limitations and penalties for Water only; and

**WHEREAS**, the amendment will streamline the various water fees and create a user-friendly list of charges that will better assist water system users and city staff; and

**WHEREAS**, separate sections for Sewer Rates will be added to the Sewer Codified Ordinances; and

**WHEREAS**, it is necessary to renumber the chapter pertaining to water rates so that the water and sewer ordinances will be better organized.

**NOW, THEREFORE, THE CITY OF NEW CARLISLE HEREBY ORDAINS** that Chapter 1043 of the Codified Ordinances of the City of New Carlisle be amended and renumbered as detailed in Exhibit “A”.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Mike Lowrey, Mayor

\_\_\_\_\_  
Emily Berner, Clerk of Council

APPROVED AS TO FORM:

\_\_\_\_\_  
Jacob M. Jeffries, DIRECTOR OF LAW

1st \_\_\_\_\_

2cd: \_\_\_\_\_

Eggleston	Y	N
Bahun	Y	N
Lindsey	Y	N
Mayor Lowrey	Y	N
Vice Mayor Grimm	Y	N
Rodewald	Y	N
Cook	Y	N

<b>Totals:</b>		
	Pass	Fail

Intro: 05/02/2022  
Action: 05/16/2022  
Effective: 05/31/2022

**Water and Sewer, Rates, Fines, Limitations & Penalties, and Billing Structure**

1043.01	Definition. (Repealed)
1043.02	Method of determining rates. (Repealed)
<del>1043.03</del>	<del>Billing.</del>
1043.03	Effective date. (Repealed)
1043.054	Charges for use of Municipal water supply.
1041.05	<b>Additional Charges, Fines, Limitations and Penalties</b>
1043.06	Use of interest income.

**CROSS REFERENCES**

Sewerage rates - see Ohio R.C. 729.49

Rate fixation - see Ohio R.C. 735.28 et seq.

Water generally - see S.U. & P.S.Ch. 1040

Sewers generally - see S.U. & P.S.Ch. 1042

Sewer service charges - see S.U. & P.S.Ch. 1041

**1043.01 DEFINITIONS. (REPEALED)**

*(EDITOR'S NOTE: Section 1043.01 was repealed by Ordinance 91-06, passed February 19, 1991.)*

**1043.02 METHOD OF DETERMINING RATES. (REPEALED)**

*(EDITOR'S NOTE: Section 1043.02 was repealed by Ordinance 91-06, passed February 19, 1991.)*

~~**1043.03 BILLING.**~~

~~(a) Generally, water meters are to be read quarterly. However, the City Manager may authorize such readings on a different schedule, more or less frequently than monthly if the City Manager determines that such different schedule would be appropriate due to special circumstances.~~

~~(b) Charges for water and sewerage service, whether determined on the basis of monthly meter readings or some other schedule authorized by the City Manager, shall be billed monthly and paid in accordance with Section 1040.16(c) following the determination of charges.~~

~~(c) Users may elect to pay charges in advance at any time; any remaining credit will be reflected on monthly bills.~~

~~(Ord. 84-28. Passed 8-6-84; Ord. 97-20, passed 11-17-97; Ord. 02-29. Passed 7-15-02.)~~

**1043.04 EFFECTIVE DATE. (REPEALED)**

*(EDITOR'S NOTE: Section 1043.04 was repealed by Ordinance 91-06, passed February 19, 1991.)*

**1043.054 CHARGES FOR USE OF MUNICIPAL WATER SUPPLY.**

(a) There is hereby established a charge, per 1,000 gallons of water used from the Municipal water supply as follows:

(1) Commencing with usage beginning January 15, 2018 and continuing through January 14, 2019 usage, a charge of eight dollars and seventy-four cents (\$8.74).

(2) Commencing with usage beginning January 15, 2019 and continuing through January 14, 2020 usage, a charge of ten dollars and five cents (\$10.05).

(3) Commencing with usage beginning January 15, 2020 and continuing through January 14, 2021 usage, a charge of ten dollars and twenty-five cents (\$10.25).

(4) Commencing with usage beginning January 15, 2021 and continuing through January 14, 2022 usage, a charge of ten dollars and forty-six cents (\$10.46).

(b) There is hereby established a minimum usage of 1,000 gallons of water per month. If less than this minimum is used, an administrative service fee of five dollars (\$5.00) per month will be charged to active accounts. This fee will be distributed as two dollars and fifty cents (\$2.50) for water and two dollars and fifty cents (\$2.50) for sewer. The regular charge per 1,000 gallons of water will be levied in any month in which the meter registers 1,000 gallons or greater.

(Ord. 98-11, passed 7-20-98; Ord. 01-18. Passed 5-21-01; Ord. 02-37. Passed 9-16-02; Ord. 02-38. Passed 10-21-02; Ord. 08-51. Passed 10-6-08; Ord. 13-08. Passed 2-19-13; Ord. 17-05. Passed 3-6-17; Ord. 17-53. Passed 12-18-17.)

**1041.05 ADDITIONAL CHARGES, FINES, LIMITATIONS AND PENALTIES**

<b>Charge</b>	<b>Amount</b>	<b>Section</b>	<b>Category</b>
<i>Entry Refusal Charge (Deny Right to Inspect)</i>	\$50	1040.04(a)	<i>Inspections</i>
<i>Missed Appointment Fee</i>	\$50	1040.04(b)	<i>Inspections</i>
<i>Bulk Water &amp; Water Construction Projects</i>	<i>Current Rate</i>	1040.15(c)(1)	<i>Construction Projects</i>
<i>Service Hook-Up for Construction Projects</i>	\$25	1040.15(c)(1)	<i>Construction Projects</i>
<i>Refund Deposit (Meter)</i>	<i>Rate to Replace</i>	1040.15(c)(4)(B)	<i>Construction Projects</i>
<i>Refund Deposit (Meter)</i>	<i>Rate to Replace</i>	1040.15(g)(2)	<i>Private Swimming Pools</i>
<i>Late Payment Penalty</i>	<i>10% of Bill</i>	1040.16 (c)(2)	<i>Rates, Billing, Consumer Responsibilities</i>
<i>Pay in Advance Threshold</i>	\$300	1040.16(c)(6)	<i>Rates, Billing, Consumer Responsibilities</i>
<i>Non-Pay (Water &amp; Sewer)</i>	\$50	1040.16(g)(3)	<i>Rates, Billing, Consumer Responsibilities</i>
<i>Non-Pay (Water Only)</i>	\$40	1040.16(g)(3)	<i>Rates, Billing, Consumer Responsibilities</i>
<i>Service Fee Outside of Business Hours</i>	\$100	1040.16(g)(4)(A)	<i>Rates, Billing, Consumer Responsibilities</i>
<i>Insufficient Funds (Returned Check)</i>	\$35	1040.16(i)(1)	<i>Rates, Billing, Consumer Responsibilities</i>
<i>Online Payments</i>	<i>\$1.95 per \$100</i>	1040.16(k)(2)	<i>Rates, Billing, Consumer Responsibilities</i>
<i>New Service Hook-Up</i>	\$25	1040.17(b)(1)	<i>Connection Permits</i>
<i>Service Reconnect for Non-Payment</i>	\$40	1040.17(b)(2)	<i>Connection Permits</i>
<i>Transfer of Ownership</i>	\$5	1040.17(b)(3)	<i>Connection Permits</i>
<i>Sprinkler Systems</i>	<i>\$400 Minimum</i>	1040.23(e)	<i>Fire Protection Services</i>
<i>Connection Charges</i>	<i>Varies</i>	1040.18	<i>Connection Charges</i>

**10431.06 USE OF INTEREST INCOME.**

All interest income earned on deposits resulting from water user revenues shall be credited to the Water Revenue Fund and shall be used to help defray the operating costs of the Water Division.

(Ord. 90-09. Passed 5-7-90.)



**ORDINANCE 2022-17**

**AN ORDINANCE AMENDING CHAPTER 1041 OF THE CODIFIED ORDINANCES OF THE CITY OF NEW CARLISLE REGARDING SEWER SERVICE CHARGES**

**WHEREAS**, Chapter 1041 of the Codified Ordinances of the City of New Carlisle was repealed in its entirety in 1995; and

**WHEREAS**, even though this chapter was repealed, its legislative history remains, and it is necessary to amend and renumber the chapter due to the renumbering of the other water and sewer ordinances.

**NOW, THEREFORE, THE CITY OF NEW CARLISLE HEREBY ORDAINS** that Chapter 1041 of the Codified Ordinances of the City of New Carlisle be amended and renumbered as detailed in Exhibit "A".

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Mike Lowrey, Mayor

\_\_\_\_\_  
Emily Berner, Clerk of Council

APPROVED AS TO FORM:

\_\_\_\_\_  
Jacob M. Jeffries, DIRECTOR OF LAW

1st \_\_\_\_\_

2cd: \_\_\_\_\_

<b>Eggleston</b>	Y	N
<b>Bahun</b>	Y	N
<b>Lindsey</b>	Y	N
<b>Mayor Lowrey</b>	Y	N
<b>Vice Mayor Grimm</b>	Y	N
<b>Rodewald</b>	Y	N
<b>Cook</b>	Y	N

<b>Totals:</b>		
	<b>Pass</b>	<b>Fail</b>

Intro: 05/02/2022  
Action: 05/16/2022  
Effective: 05/31/2022

**Sewer Service Charges**

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**EDITOR'S NOTE:** Chapter 1042, previously a codification of Ordinance 83-44, passed December 5, 1983, as amended by Ordinance 85-51, passed November 4, 1985, Ordinance 90-10, passed May 1, 1990, Ordinance 90-12, passed May 7, 1990, Ordinance 91-07, passed February 19, 1991, Ordinance 93-25, passed December 20, 1993, and Ordinance 94-47, passed December 19, 1994, was repealed in its entirety by Ordinance 95-16, passed September 18, 1995. See Chapter 10423.



**ORDINANCE 2022-18**

**AN ORDINANCE AMENDING CHAPTER 1042 OF THE CODIFIED ORDINANCES OF THE CITY OF NEW CARLISLE REGARDING SEWER USE REGULATIONS AND USER CHARGE SYSTEM**

**WHEREAS**, Chapter 1042 of the Codified Ordinances of the City of New Carlisle addresses the City’s Sewer Use Regulations and User Charge System; and

**WHEREAS**, certain sections of that chapter are being amended for the purposes of better assisting sewer customers and providing an improved work policy for sewer staff; and

**WHEREAS**, it is necessary to renumber the chapter pertaining to sewer rates so that the water and sewer ordinances will be better organized.

**NOW, THEREFORE, THE CITY OF NEW CARLISLE HEREBY ORDAINS** that Chapter 1042 of the Codified Ordinances of the City of New Carlisle be amended and renumbered as detailed in Exhibit “A”.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Mike Lowrey, Mayor

\_\_\_\_\_  
Emily Berner, Clerk of Council

APPROVED AS TO FORM:

\_\_\_\_\_  
Jacob M. Jeffries, DIRECTOR OF LAW

1st \_\_\_\_\_

2cd: \_\_\_\_\_

<b>Eggleston</b>	<b>Y</b>	<b>N</b>
<b>Bahun</b>	<b>Y</b>	<b>N</b>
<b>Lindsey</b>	<b>Y</b>	<b>N</b>
<b>Mayor Lowrey</b>	<b>Y</b>	<b>N</b>
<b>Vice Mayor Grimm</b>	<b>Y</b>	<b>N</b>
<b>Rodewald</b>	<b>Y</b>	<b>N</b>
<b>Cook</b>	<b>Y</b>	<b>N</b>

<b>Totals:</b>		
	<b>Pass</b>	<b>Fail</b>



**CHAPTER 10423**  
**Sewer Use Regulations and User Charge System**

**EDITOR'S NOTE:** Chapter 1043, previously a codification of Ordinance 80-21, passed May 19, 1980, as amended by Ordinance 87-08, passed April 6, 1987, was repealed in its entirety and re-enacted by Ordinance 95-16, passed September 18, 1995. Ordinance 94-44, passed December 5, 1994, authorized an agreement between the City and Clark County providing for the terms and conditions of connecting nonresidents of the City to the wastewater treatment facilities of the City. Copies of this ordinance and of the agreement may be obtained, at cost, from the Clerk of Council.

<b>IN GENERAL</b>	
10423.01	Purpose
10423.02	Definitions
<b>SEWER USE REGULATIONS</b>	
10423.03	Use of Public Sewers Required
10423.04	Sewer Construction Permits; Connection Charges
10423.05	Capacity Charges
10423.06	Sewer Construction and Maintenance
10423.07	Discharge to Public Sewers
10423.08	Powers and Authority of Inspectors
10423.09	Limiting Sewer Connections
10423.10	Service to Property Outside the City Limits
10423.11	Tampering with Sewage Works
<b>INDUSTRIAL PRETREATMENT REGULATIONS</b>	
10423.12	Powers of the Authority
10423.13	Prohibited Non-Residential Discharges
10423.14	New Industrial Users
10423.15	Regulated Non-Residential Discharges
10423.16	Pretreatment Facilities; Interceptors
10423.17	Pretreatment Cost
10423.18	Pretreatment Reporting
10423.19	Pretreatment Monitoring
10423.20	Accidental Discharges
10423.21	Revocation of Permits; Suspension of Service
<b>USER CHARGE REGULATIONS</b>	
10423.22	Deficit Prohibited
10423.23	Use of Revenue Funds
10423.24	Free Service Prohibited
10423.25	Base User Charges
10423.26	Sewage Surcharges
10423.27	Determination of Charges
10423.28	Annual Review of User Charges
10423.29	Billing Procedures
10423.30	Changes of Address of Ownership
10423.31	Payment of Bills
10423.32	Delinquencies
10423.33	Additional Charges for Treating Unusual Wastes
10423.34	Non-Habitable Buildings; Disconnection; Reconnection
<b>ENFORCEMENT</b>	
10423.35	Interpretation
10423.36	Grievances; Appeals
10423.37	Notice of Violations; Failure to Comply; Authority of Council; Disconnection Orders
10423.38	Separability
10423.39	Right to Contract
10423.99	Penalties; Equitable Remedies
<b>APPENDICES</b>	
<b>Appendix A</b>	<b>New Carlisle General Sewer District - Sewerage System Charges</b>
<b>Appendix B</b>	<b>New Carlisle General Sewer District - User Categories and EDU Criteria</b>

## CROSS REFERENCES

Funds for sewer improvements - see CHTR. Sec.7.05(d)  
Sewer districts - see CHTR. Sec. 8.03(d)  
Sewerage rates - see Ohio R.C. 729.49  
Management and control of sewerage system - see Ohio R.C.  
729.50 Rate fixation - see Ohio R.C. 735.28 et seq.  
Prosecutions for theft of utilities - see GEN. OFF.642.26  
Oversizing water and sewer lines for future development - see S.U. &  
P.S.1040.195 Water and sewer rate structure - see S.U. & P.S.Ch. 1043  
Sewer improvements in subdivisions - see P. & Z.1236.03(c), 1238.06,  
1238.09(e)(3) Sewers in mobile home parks - see P. & Z.1288.03(j)(3), (4)  
Utilities in flood hazard areas - see P. & Z.1294.16(c)

## IN GENERAL

### 10423.01 PURPOSE.

- (a) It is the purpose of this chapter to establish guidelines, policies, procedures, rates, and penalties for the safe, efficient, and sound fiscal operation of the wastewater collection and treatment system owned by New Carlisle. This chapter is required to comply with certain requirements of the United States Environmental Protection Agency and the Ohio Environmental Protection Agency.
- (b) The sewer use regulations are intended to protect and preserve the physical integrity of the sewage collection and treatment works.
- (c) The user charge system is intended to ratably recover from the classes of sewer system users the costs of operation, maintenance, capital debt, repair, replacement, and other reasonable contingencies.
- (d) The industrial pretreatment regulations are intended to establish guidelines and standards necessary for the control of industrial waste discharged into the New Carlisle sewage disposal system in order to prevent the introduction of pollutants into the wastewater system which could upset the normal operation of the treatment plant or contaminate the resulting sludge.

(Ord. 95-16. Passed 9-18-95.)

### 10423.02 DEFINITIONS.

As used in this chapter:

- (1) **ACT:** means the Federal Water Pollution Control Act, also known as the Clean Water Act and Public Law 92-500, as amended, 33 U.S.C. 1251, et seq.
- (2) **APPLICABLE PRETREATMENT STANDARD:** means the pretreatment limit or prohibitive standard (Federal and/or local), deemed to be the most restrictive, with which nondomestic users are required to comply.
- (3) **APPROVAL AUTHORITY:** means the Ohio Environmental Protection Agency and the United States Environmental Protection Agency.
- (4) **AUTHORITY:** means New Carlisle, Ohio, acting through its designated representatives for all areas in New Carlisle included in the respective sewer district tributary to the Authority's WWTP.

- (5) **AUTHORIZED REPRESENTATIVE OF INDUSTRIAL USER:** means a principal executive officer of at least the level of vice president, if the industrial user is a corporation; a general partner or proprietor if the industrial user is a partnership or proprietorship, respectively; or a duly authorized representative of the individual designated above, if such representative is responsible for the overall operation of the facilities from which the discharge originates.
- (6) **AVERAGE MONTHLY DISCHARGE LIMITATION:** means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during the month.
- (7) **AVERAGE WEEKLY DISCHARGE LIMITATION:** means the highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.
- (8) **BENEFICIAL USES:** means, but is not limited to, domestic, Municipal, agricultural, industrial, power generation, recreation, aesthetic enjoyment and navigation uses, and the preservation and enhancement of fish, wildlife and other aquatic resources or reserves, and other uses, both tangible and intangible, as specified by State or Federal law.
- (9) **BIOCHEMICAL OXYGEN DEMAND (BOD):** means the quantity of oxygen utilized in the biochemical oxidation of organic matter, under standard laboratory procedure, in five days at twenty degrees Centigrade, expressed in terms of weight (parts per million) and concentration (milligrams per liter (mg/l)). Laboratory procedures shall be in accordance with the latest edition of Standard Methods.
- (10) **BUILDING DRAIN:** means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of a building and conveys it to the sewer, terminating three feet outside the inner face of the building wall.
- (11) **BUILDING SEWER:** means the extension from the building drain to the Municipal sewer or other place of disposal.
- (12) **CAPACITY CHARGE:** means the charge levied on new users in the system to help fund future POTW expansions as the new users reduce existing plant growth capacity. The capacity charge is based on the EDU of the new user at the rate in effect at the time of permit application.
- (13) **CAPITAL COST:** means that portion of the cost of the sewage treatment system which is directly attributable to the cost of principal and interest obligations issued to finance acquisition and construction of the wastewater system.
- (14) **CARBONACEOUS BIOCHEMICAL OXYGEN DEMAND (CBOD):** means the quantity of oxygen utilized in the biochemical oxidation of organic matter, not including nitrification, under standard laboratory procedure in five days at twenty degrees Centigrade, expressed in terms of weight and concentration (milligrams per liter (mg/l)). Laboratory procedures shall be in accordance with the latest edition of Standard Methods.
- (15) **CATEGORICAL PRETREATMENT STANDARDS:** means the National Pretreatment Standards of the Clean Water Act specifying quantities or concentrations of pollutants which may be discharged to a treatment plant by specific discharges.
- (16) **CHEMICAL OXYGEN DEMAND (COD):** means the quantity of oxygen utilized in the chemical oxidation of organic matter under standard laboratory procedures, expressed in terms of parts per million by weight in accordance with procedures set forth in the latest edition of Standard Methods.
- (17) **CHLORINE REQUIREMENT:** means the amount of chlorine, in parts per million by weight, which must be added to sewage to produce a specified residual chlorine content or to meet the requirements of some other objective, in accordance with procedures set forth in the latest edition of Standard Methods.
- (18) **CITY:** means New Carlisle, Ohio, acting through its duly authorized officials and employees.
- (19) **CLEAN WATER ACT:** See **ACT**.
- (20) **COMBINED SEWER:** means a sewer intended to receive both wastewater and storm or surface water.

- (21) **COMMERCIAL USER:** means any aggregation of space, offices, laundries, restaurants, stores, taverns, shops, and other like units, which is equipped with one or more water fixtures draining into the wastewater disposal system, separate and distinct from other users of service. In office buildings or other premises containing more than one tenant, only those tenants shall be classified as users of service who occupy space equipped with a distinct opening or fixture or set of fixtures for the use of water separately from other tenants and with waste draining into the wastewater disposal system. "Commercial user" is further defined as any user of the sewage system not specifically categorized as residential or industrial and generally classified in the Standard Industrial Classification (S.I.C.) Manual of the U.S. Office of Management and Budget in Division F - Wholesale Trade; Division G - Retail Trade; Division H - Finance, Insurance and Real Estate; portions of Division I - Services; and Division J - Public Administration.
- (22) **COMPATIBLE POLLUTANT:** means BOD, suspended solids, phosphorous, ammonia, pH and fecal coliform bacteria, plus additional pollutants identified in the Authority's NPDES permit, if the treatment works was designed to treat such pollutants and in fact does remove such pollutants to a substantial degree.
- (23) **COMPOSITE SAMPLE:** means a sample which contains a minimum of eight discrete samples taken at equal time intervals over the compositing period or proportional to the flow rate over the compositing period. More than the minimum number of discrete samples will be required where the wastewater loading is highly variable.
- (24) **CONTROL MANHOLE:** means a structure which provides access to a building sewer. A control manhole may be used as an inspection chamber and may contain certain testing equipment.
- (25) **COOLING WATER:** means the water discharge from any use such as air-conditioning, cooling, or refrigeration, or during which the only constituent added to the water is heat.
- (26) **DAILY DISCHARGE:** means the discharge of a pollutant measured during a calendar day, or any twenty-four hour period that reasonably represents the calendar, for purposes of sampling.
- (27) **DEBT SERVICE:** means the funds used for the retirement of and interest on bonds and/or notes authorized and issued by the Authority to construct sewage system facilities.
- (28) **DEBT SERVICE CHARGES:** means charges resulting from the capital investment in the wastewater system, consisting of the annual principal and interest payments and other amounts required in connection with the issuance and sale of bonds to provide the funds for construction.
- (29) **DIRECTOR:** means the Director of Public Service of the City of New Carlisle or his or her authorized representative.
- (30) **DOMESTIC SEWAGE:** means sewage derived principally from dwellings, business buildings, institutions, and the like, which originates within the building, including the waste from kitchens, water closets, lavatories, bathrooms, showers, and laundries.
- (31) **EASEMENT:** means an acquired legal right of the specific use of land owned by others.
- (32) **EPA OR U.S. ENVIRONMENTAL PROTECTION AGENCY:** means the United States Environmental Protection Agency and may also be used, where appropriate, as a designation for the administrator or other duly authorized official of such agency.
- (33) **EQUIVALENT DWELLING UNIT (EDU):** means the measurement of a home equivalent based upon a flow rate of 175 gallons per day. Apartments, homes, trailers, cottages, and other single residential structures shall be considered as one EDU each, regardless of flow rate.
- (34) **ETHER-SOLUBLE MATTER:** means oil and grease which is soluble in ether, as measured in the laboratory procedure followed in accordance with the method set forth in Standard Methods.
- (35) **FECAL COLIFORM:** means any number of organisms common to the intestinal tract of man and animals, whose presence in sanitary sewage is an indicator of pollution.
- (36) **FEDERAL WATER POLLUTION CONTROL ACT:** See ACT.
- (37) **FLOATABLE OIL:** means oil, fat, or grease in a physical state, such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility.

- (38) **FOUNDATION DRAINS:** means subsurface drains laid around the foundation of a building, either within or outside of the building foundation, for the purpose of carrying ground or subsurface water to some point of discharge.
- (39) **GARBAGE:** means solid wastes from the preparation and dispensing of food, and from the handling, storage and sale of produce.
- (40) **GOVERNMENTAL USER:** means any user discharging wastewater from premises utilized by public political units, including Federal, State, County, and local units.
- (41) **GRAB SAMPLE:** means a sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.
- (42) **GREASE AND OIL:** means a group of substances, including hydrocarbons, fatty acids, soaps, fats, waxes, oils, or any other material, that is extracted by a solvent from an acidified sample and that is not volatilized during the laboratory test procedures. Greases and oils are defined by the method of their determination in accordance with Standard Methods.
- (43) **GREASE AND OIL OF ANIMAL AND VEGETABLE ORIGIN:** means substances that are of a less readily biodegradable nature, such as are discharged by meatpacking, vegetable oil, fat industries, food processors, canneries, and restaurants.
- (44) **GREASE AND OIL OF MINERAL ORIGIN:** means substances that are less readily biodegradable than grease and oil of animal or vegetable origin and that are derived from a petroleum source. Such substances include machinery lubricating oils, gasoline station wastes, petroleum refinery wastes and storage depot wastes.
- (45) **GROUND GARBAGE:** means the residue from the preparation, cooking and dispensing of food that has been shredded to such a degree that all particles will be carried freely in suspension under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.
- (46) **INCOMPATIBLE POLLUTANT:** means any pollutant which is not a compatible pollutant as defined herein.
- (47) **INDUSTRIAL USER:** means a person or organization who or which discharges to the Authority's wastewater disposal system liquid, solid or gaseous wastes resulting from the processes employed in industrial or manufacturing activities, or from the development, recovery, or processing of any natural resource. "Industrial user" is further defined as any nongovernmental user of the publicly owned treatment works identified in the Standard Industrial Classification Manual of the U.S. Office of Management and Budget, as amended and supplemented, under the following divisions: Division A - Agriculture, Forestry and Fishing; Division B - Mining; Division D - Manufacturing; Division E - Transportation, Communication, Electric, Gas and Sanitary Service; and Division I - Services. A user in the division may be excluded if it is determined that it will introduce primarily segregated domestic waste or wastes from sanitary conveniences.
- (48) **INDUSTRIAL WASTE:** means any liquid, solid or gaseous substance or form of energy, or combination thereof, resulting from any process of an industrial, commercial, governmental and institutional concern, or manufacturing, business, trade or research, including the development, recovery or processing of natural resources, or from sources other than those generating waste defined as "normal domestic sewage" herein.
- (49) **INDUSTRIAL WASTE PERMIT:** means a formal permit to deposit or discharge industrial waste into any sanitary sewer, as issued by the Authority.
- (50) **INFILTRATION:** means water other than wastewater that enters a sewer system (including building sewer connections and foundation drains) from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow.
- (51) **INFLOW:** means water other than wastewater that enters a sewer system from sources such as, but not limited to, roof leaders, cellar drains, yard drains, area drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, storm waters, surface runoff, street wash waters or drainage. Inflow does not include, and is distinguished from, infiltration.
- (52) **INFLUENT:** means the water, together with any waste that may be present, flowing into a drain, sewer, receptacle, or outlet and then to the sewage treatment plant.

- (53) **INSPECTION FEE:** means the amount charged by the Authority to inspect and issue a permit for new users to verify proper construction procedures and materials.
- (54) **INSTITUTIONAL USER:** means any person discharging wastewater from premises serving educational, social or eleemosynary purposes, including, but not limited to, private schools, hospitals, nursing homes, churches and charitable organizations.
- (55) **INTERFERENCE:** means the inhibition or disruption of sewage treatment processes or operations which contributes to a violation of any requirements of the Authority's NPDES permit. The term includes prevention of sewage sludge use or disposal by the treatment plant in accordance with Section 405 of the Act (33 U.S.C. 1345) or any criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substance Control Act or more stringent State criteria (including those contained in any State sludge management plan prepared pursuant to Title IV of the Solid Waste Disposal Act) applicable to the method of disposal or use employed by the Authority.
- (56) **MAJOR CONTRIBUTING INDUSTRY:** means any user of the Authority's wastewater disposal system which has a disposal flow of 25,000 gallons per average workday, has a flow greater than five percent of the flow in the Authority's wastewater disposal system, has in its wastes toxic pollutants as defined pursuant to Section 307 of the Act, or has significant impact, either singly or in combination with other contributing industries, on the wastewater disposal system, the quality of sludge, the system's effluent quality or air emissions generated by the system.
- (57) **MAXIMUM DAILY DISCHARGE LIMITATIONS:** means the highest allowable daily discharge.
- (58) **NATIONAL CATEGORICAL PRETREATMENT STANDARDS:** means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307 (b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of industrial users.
- (59) **NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT:** means a permit issued by the State of Ohio EPA or the U.S. EPA, pursuant to the Clean Water Act, for the purpose of regulating the discharge of sewage, industrial wastes and other wastes, as defined in the Code of Federal Regulations, 40 CFR Part 125, and under the authority of Section 402 of the Clean Water Act, into navigable waters of the United States.
- (60) **NATURAL OUTLET:** means any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.
- (61) **NEW SOURCE:** means any source of wastewater, the construction of which is commenced after the publication of regulations prescribing an applicable Section 307(c)(33 U.S.C. 1317) Categorical Pretreatment Standard is promulgated in the Federal Register.
- (62) **NONRESIDENTIAL USER:** means commercial, governmental, institutional and industrial users in the aggregate, and all other users not considered under the residential user category.
- (63) **NONSANITARY FLOW:** means storm water originating from downspouts and storm water, ground water and foundation drains.
- (64) **NORMAL DOMESTIC SEWAGE:** means average wastewater which, when analyzed, shows by weight a daily average of not more than 250 parts per million of suspended solids, not more than 200 parts per million of biochemical oxygen demand (BOD), ten parts per million of phosphorus and 100 parts per million of freon-soluble matter (grease and oil), and which is discharged principally from dwellings such as residences, apartments, trailers, etc.
- (65) **NPDES PERMIT:** See **NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT.**
- (66) **ON-LOT SYSTEM:** means a privately owned system located on private property, together with all appurtenances thereof.
- (67) **OPERATION AND MAINTENANCE COSTS:** means the current, reasonable and necessary costs of operation and maintenance of the wastewater disposal system, paid or incurred, determined in accordance with generally accepted accounting principles, including replacement costs, but excluding payments of principal and interest on obligations issued to finance the costs of acquisition and construction of the treatment works. In other terms, it shall mean the costs incurred in the act of keeping all facilities for collecting, pumping, treating and disposing of sewage in a good state of repair and functioning properly, including the replacement of said facilities when necessary.

- (68) **OWNER:** means any person in having title to or any interest in real property in the facilities planning area, including any of the sanitary sewer districts and their extensions and/or drainage areas now existing or subsequently created by Council, or covered by a contract providing for Municipal service to the area under contract.
- (69) **PARTS PER MILLION** (ppm): means a weight-to-weight ratio. The parts per million value multiplied by the factor 8.345 shall be equivalent to pounds per million gallons of water. Milligrams per liter (mg/l) is a synonymous term.
- (70) **PERSON:** means ~~any and~~ all persons, natural or artificial, including any individual, firm, society, group, company, Municipal or private corporation, partnership, co-partnership, joint stock company, trust, association, institution, enterprise, governmental agency, the State of Ohio, the United States of America or other legal entity, or their representatives, agents or assigns. The masculine gender shall include the feminine and the singular shall include the plural, where indicated by the context.
- (71) **pH:** means the logarithm, base ten, of the reciprocal of the hydrogen ion concentration expressed in moles per liter. It shall be determined by one of the procedures outlined in Standard Methods.
- (72) **POLLUTANT:** means dredged spoil, solid waste, incinerator residue, wastewater, garbage, wastewater sludge, munitions, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, commercial, domestic and agricultural waste, which is discharged into water.
- (73) **POLLUTION:** means an alteration of the quality of the waters of the State by waste to a degree which unreasonably affects such waters for beneficial uses or for facilities which serve such beneficial uses. Pollution is the man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.
- (74) **POTW:** See **PUBLICLY OWNED TREATMENT WORKS.**
- (75) **PREMISES:** means any piece of real estate having one or more sewers which may be connected either individually or through a common sewer and directly or indirectly to the wastewater disposal system.
- (76) **PRETREATMENT:** means the process of reducing the amount of pollutants, eliminating pollutants or altering the nature of pollutant properties, in wastewater, prior to introducing such pollutants into the Authority's wastewater disposal system. The reduction, elimination or alteration may be obtained by physical, chemical or biological processes, or by process changes or other means, except as prohibited by this chapter.
- (77) **PRETREATMENT REQUIREMENTS:** means any substantive or procedural requirement relating to pretreatment, other than a National Pretreatment Standard imposed on an industrial user.
- (78) **PRIVATE ON-SITE TREATMENT FACILITIES:** means any private sewage treatment facilities located at the site where wastewater is being generated, when such facilities are for the purpose of treating or pretreating the generated wastewater before it enters the public sewer.
- (79) **PROPERLY SHREDDED GARBAGE:** means the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely, under the conditions normally prevailing in public sewers, with no particle greater than one-half of an inch in any dimension.
- (80) **PUBLIC SEWERS:** means a sewer provided by or subject to the jurisdiction of the Authority on public or private property. "Public sewer" also includes sewers within or outside the Authority boundaries that serve one or more persons and ultimately discharge to the Authority sanitary sewer system, even though these sewers may not have been constructed with Authority funds.
- (81) **PUBLICLY OWNED TREATMENT WORKS (POTW):** means all publicly owned (Authority owned) facilities for the collection, treatment, and disposal of wastewater.
- (82) **RECEIVING STREAM:** means the watercourse, stream or body of water receiving the waters finally discharged from the wastewater treatment plant.

- (83) **REGULATED INDUSTRIAL CATEGORIES:** means those categories regulated by the Clean Water Act.
- (84) **REIMBURSABLE EXPENSES:** means those costs incurred by the Authority which are passed on to the users of the POTW on whose behalf the expenses were incurred. Included will be such items as sampling costs and laboratory fees.
- (85) **REPLACEMENT:** means any expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed. Such expenditures are also known as "equipment replacement costs."
- (86) **RESIDENTIAL USER:** means any user discharging domestic wastes from buildings or premises that are used as permanent places for human occupancy, such as single-family dwellings, rowhouses, townhouses, mobile homes, garden and standard apartments and high-rise apartments. Transient lodging, considered commercial in nature, is not included. In multi-use premises, only those divisions of the building utilized as domicile are considered residential users.
- (87) **SANITARY SEWER:** means a gravity or pressure sewer which carries sanitary and industrial wastes and to which storm, surface and ground waters are not intentionally admitted.
- (88) **SERVICE AREA:** means all users connected with the treatment works, including those in New Carlisle and outside of the City corporation limits.
- (89) **SEWAGE:** means the water-carried wastes from residences, commercial buildings, governmental buildings, industrial establishments, and institutions.
- (90) **SEWAGE SYSTEM:** means all facilities for collecting, pumping, treating and disposing of sanitary sewage to and through the sewage treatment, or disposal works or extensions thereof. This shall not include plumbing inside or in connection with building services or service sewers from a building to the publicly owned sewer connection.
- (91) **SEWAGE TREATMENT PLANT:** means an assemblage of devices, structures, and equipment for the treatment of sewage and industrial waste.
- (92) **SEWAGE WORKS:** means facilities for sampling, collecting, testing, and disposing of sewage.
- (93) **SEWER:** means a pipe or conduit for carrying wastewater.
- (94) **SEWERAGE:** means the system of sewers and appurtenances for the collection, transportation and pumping of sewage and industrial waste.
- (95) **SEWER SERVICE CHARGE:** means an imposed charge upon all users receiving services from the Authority's sewerage system in a total amount sufficient to pay the costs of the system. Sewer service charges consist of a debt service charge, an operation, maintenance and replacement charge and surcharges (if applicable).
- (96) **SHALL, MAY:** "Shall" is mandatory; "may" is permissible.
- (97) **SLUDGE:** means any solid, semi-solid or liquid waste generated by a public, commercial or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility, or any other waste having similar characteristics and effects, as defined in the standards issued under Sections 402 and 405 of the Act and in the applicable requirements under Sections 3001, 3004 and 4004 of the Solid Waste Disposal Act (PL 94-580).
- (98) **SLUG:** means any discharge of water, sewage or industrial waste which, in concentration of any given constituent or in quantity of flow, exceeds, for any period of longer duration than fifteen minutes, more than five times the average twenty-four hour concentration or flow during normal operation.
- (99) **STANDARD INDUSTRIAL CLASSIFICATION (SIC):** means the system that classifies industries pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972, assigning a code (SIC Code) denoting the manufacturing process.
- (100) **STANDARD METHODS:** means the laboratory procedures set forth in the most recent edition of Standard Methods for the Examination of Water and Wastewater, published jointly by the American Public Health Association, the American Water Works Association and the Federation of Sewage and Industrial Wastes Associations.



- (101) **STORM SEWER OR STORM DRAIN:** means a public or private sewer and public ditch which carries storm, surface and ground water drainage from the point of origin to some point of disposal, but excludes sewage and industrial wastes.
- (102) **STORM WATER RUNOFF:** means that portion of rainfall that is drained into the storm sewers or drains.
- (103) **SURCHARGE:** means the assessment, in addition to the service charge, which is levied on those persons whose wastes are greater in strength than the concentration values established as representative of normal domestic sewage.
- (104) **SUSPENDED SOLIDS (SS):** means solids that either float on the surface of, or are in suspension or will settle in, water, sewage or industrial waste, and which are removable by a laboratory filtration device. Quantitative determination of suspended solids shall be made in accordance with the procedures set forth in Standard Methods.
- (105) **TOC:** means the total organic carbon expressed in milligrams per liter.
- (106) **TOTAL SOLIDS:** means the sum of suspended and dissolved solids.
- (107) **TOXIC POLLUTANTS:** means concentration of any pollutant or combination of pollutants which, upon exposure to or assimilation into any organism, will cause adverse effects such as cancer, genetic mutations and physiological manifestations, as defined in the standards issued pursuant to Section 307(a) of the Act and which are considered priority pollutants by the U.S. EPA.
- (108) **TREATMENT PLANT:** See **SEWAGE TREATMENT PLANT.**
- (109) **UNPOLLUTED WATER OR UNPOLLUTED LIQUID:** means any water or liquid containing none of the following: free or emulsified grease or oil; acids or alkalides; substances that may impart taste, odor or color characteristics; toxic or poisonous substances in suspension, colloidal state or solution; and odorous or otherwise obnoxious gases. It shall not contain more than 2,500 parts per million by weight of dissolved solids and no more than ten parts per million each of suspended solids (SS) or biochemical oxygen demand (BOD). Analytical determinations shall be made in accordance with procedures set forth in Standard Methods.
- (110) **UPSET OR OPERATING UPSET:** means an exceptional incident in which a discharger unintentionally and temporarily is in a state of noncompliance with the standards set forth in this chapter due to factors beyond the reasonable control of the discharger, 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.
- (111) **USEFUL LIFE:** means the estimated period during which a treatment works will be operational.
- (112) **U.S. EPA:** See **EPA.**
- (113) **USER:** means any person or property who or which discharges, or causes or permits the discharge of, wastewater into the wastewater treatment system.
- (114) **USER CHARGE:** means the charge assessed users of the sewage system to recover the costs incurred in the act of keeping all facilities for collecting, pumping, treating and disposing of sewage in a good state of repair and functioning properly, including the replacement of said facilities when necessary, obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed, the funds used for the retirement of and interest on bonds and/or notes authorized and issued by the Authority to construct sewage system facilities, and acquiring all mandated discharge permits, and as well as the cost of rendering bills and collecting sewer service charges.
- (115) **USER CLASS:** means a group of users that discharges, or causes or permits the discharge of, wastewater with similar characteristics into the sewerage system. All users shall be classified as nonresidential (commercial, governmental, industrial, and institutional) and residential users.
- (116) **VOLATILE ORGANIC MATTER:** means the material in the sewage solids transformed to gases or vapors when heated at 500 degrees Centigrade for fifteen to twenty minutes, per Standard Methods.

- (117) **WASTEWATER:** means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities and institutions, together with any ground water, surface water and storm water that may be present, whether treated or untreated, which is discharged into or permitted to enter the Authority's wastewater treatment system.
- (118) **WASTEWATER TREATMENT PLANT:** See **SEWAGE TREATMENT PLANT.**
- (119) **WASTEWATER TREATMENT SYSTEM:** See **SEWAGE SYSTEM.**
- (120) **WATERCOURSE:** means a channel in which a flow of water occurs, whether continuously or intermittently.
- (121) **WATERS OF THE STATE:** means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon, the State or any portion thereof.
- (122) **WORKING CAPITAL:** means a reasonable reserve of monies within the system operating fund to provide a margin of safety for fluctuations of the cash flow in the fund.
- (Ord. 95-16. Passed 9-18-95.)

## **SEWER USE REGULATIONS**

### **10423.03 USE OF PUBLIC SEWERS REQUIRED.**

(a) No person shall place, deposit or permit to be deposited, in any unsanitary manner on public or private property within the Authority, or in any area under the jurisdiction of the Authority, any human or animal excrement, garbage or other matter, which is or may become offensive, noxious or dangerous to the public health.

(b) No person shall discharge to the waters of the State, within the area under the jurisdiction of the Authority, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with the requirements of the EPA or the local health department.

(c) No person shall construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage, without first obtaining the required permits from the Authority.

(d) The owner of any house, building or property used for human occupancy, employment, recreation or other purposes, situated within the area under the jurisdiction of the Authority and abutting on any street, alley or right of way in which there is now located or may in the future be located a public sanitary sewer of the Authority, is hereby required, at his or her expense, to install suitable toilet facilities therein and to connect such facilities directly to the public sanitary sewer, in accordance with the provisions of this chapter, within ninety days after the date of official notice to do so, provided that such street, alley or right of way is within 200 feet of the foundation walls of such house, building or other property that is usable for human occupancy.

(e) If connection to the sanitary sewer is not complete within ninety days after the date of official notice to do so, the Authority shall then proceed to make such connection at the expense of the owner.

(1) The Authority shall pursue recovery of connection charges through the Court of Common Pleas for Clark County, Ohio.

(2) After said ninety-day period has elapsed, the Authority shall charge the owner the then-current sanitary sewer charges in effect and shall collect the same in accordance with this chapter.

(Ord. 95-16. Passed 9-18-95.)

### **10423.04 SEWER CONSTRUCTION PERMITS; CONNECTION CHARGES.**

(a) Before any building sewer for the discharge of sewage or industrial waste is constructed, repaired, or altered, a permit application and fee must be submitted to the Director and a permit must be obtained from the Authority.

(1) All permits issued hereunder shall expire ninety days from the date of issuance.

(2) A connection charge must also be submitted with the permit application for any building sewer to be constructed, repaired, or altered.

(b) The applicant for a permit must furnish the following information:

(1) The name of the owner;

(2) The owner's mailing address;

(3) The name of the subdivision and the lot number or a legal description of an unparcelled lane;

(4) The mailing address of the property;

(5) The name and address of the construction contractor, if any;

(6) The type and quantity of wastewater to be conveyed from the property to the public sewer;

(7) The permit fee; and

(8) The connection charge.

(9) The transfer fee of five dollars (\$5.00) will be charged for a transfer of ownership when the customer has water and sewer. The transfer fee will be ten dollars (\$10.00) for transfer of ownership when a customer has sewer only.

(c) Such permit will be issued only to a person who can satisfy the Authority that he or she is competent to do such work.

(1) The permit and connection charges, as set forth in Appendix A, shall be paid to the Authority at the time of the application for the permit.

(2) The permit and the connection charges are required for processing of the permit application, administration of the account and inspection of the sewer installation.

(3) No refund of the permit and the connection charges shall be made unless a request is made, and the permit returned within ninety days of the permit issuance.

(d) The connection charge includes the cost of an inspection of up to five hours by the Authority.

(1) Should more than five hours of inspection be required because of failure of the owner, his or her contractor or authorized representative to install, repair, alter or perform other work necessary to install the connection and service line in accordance with this chapter, an additional fee as established by the Authority shall be charged for the time required to comply with this chapter.

(2) Such additional fees shall be paid prior to the final approval of the service line for which the permit was issued.

(e) Any individual or group seeking to connect to the City's new interceptor, designated the Sanitary Sewer Line Extension North, must receive prior approval from the City. Such approval will be predicated upon a favorable review, by the City and the Ohio EPA, of the proposed project to be served by the sewer connection. Important elements in this review process will include the following:

(1) Submittal of all appropriate plans and specifications, including a detailed location map, present and future flow estimates, and all proposed tributary sewer alignments. If a permit-to-install (PTI) is required, all applicable materials and fees shall be provided to the Ohio EPA's Southwest District Office.

(2) Submittal of a Notice of Intent to the Ohio EPA, and the preparation of a detailed Stormwater Management Plan, for any proposed development that will, initially or ultimately, exceed five acres of disturbed area, as required by the Ohio EPA's General Stormwater Permit for Construction Activity under the NPDES permit system. The Stormwater Management Plan shall include best management practices for controlling erosion and general measures for protecting surface waters.

(3) Submittal of a riparian area and/or wellfield protection plan. Riparian vegetation (the trees, shrubs, and other plants along a stream) plays a critical role in establishing and protecting the water quality and biological integrity of a stream.

(A) Since loss of such vegetation can lead to stream degradation and violation of State water quality standards, the applicant must demonstrate how existing riparian vegetation will be protected/preserved to the greatest extent possible and how streams will be kept free of sediment runoff from construction activity before any development plans or connections to the interceptor sewers can be approved.

(B) In addition, any development that could adversely affect area ground water supplies should be coordinated with the local inter-jurisdictional Ground Water Advisory Committee for wellfield protection. Any guidance or restrictions provided by the Committee shall be incorporated into the proposal submitted to the City for review and approval.

(Ord. 95-16. Passed 9-18-95; Ord. 13-07. Passed 2-19-13.)

#### **10423.05 CAPACITY CHARGE.**

(a) Except as hereinafter provided, no person shall connect any building or other structure either directly or indirectly to the sewerage system without first paying to the Authority a capacity charge determined in accordance with the schedule (Appendix A) currently adopted by the City at the time of the permit application.

(b) The Authority shall not issue a permit to connect to the sewerage system until the applicant for such a permit shall have deposited in cash, or by certified check payable to the Authority, a capacity charge to be determined in accordance with the current schedule.

(c) The capacity charge shall be as indicated in Appendix A.

(d) In the event the Authority ascertains that any property has been connected to the sewerage system without a proper permit, the Authority may disconnect such property until such violation ceases.

(1) In the event a property is disconnected and subsequently reconnected under this section, the owner shall be subject to the disconnection/reconnection charges provided herein.

(2) Such disconnection/reconnection charges shall be added to the customer's sewer service bill.

(Ord. 95-16. Passed 9-18-95.)

#### **10423.06 SEWER CONSTRUCTION AND MAINTENANCE.**

(a) All building sewers shall be inspected and approved by the Authority after installation but before covering with backfill. The person to whom the permit has been issued shall call the Authority, requesting the inspection, at least twenty-four hours before the inspection is desired.

(b) The construction shall include all facilities needed to connect to the sewerage system. The materials and/or equipment used during the construction shall conform to the applicable ASTM specifications, as directed by the Authority.

(c) The building sewer shall be constructed of a size not less than four inches, internal diameter, and shall be of first-grade quality vitrified clay pipe, ABS pipe, PVC or cast-iron pipe, using proper bends or curves for all changes in alignment or grade.

(1) All joints and connections shall be made gastight and watertight.

(2) The Authority may require the sewer tapper to demonstrate the tightness of the joints by such tests as are deemed necessary and may require additional jointing material or concrete collars at any or all joints.

(d) The building sewer shall have a minimum fall of one-fourth of an inch per linear foot of sewer from the building to the public sewer.

(1) The Authority may, by special permission in each case, authorize the building sewer to be constructed with a fall of as little as one-eighth of an inch per linear foot if it is determined that such procedure is necessary.

(2) The junction between the building sewer and the house plumbing shall be made watertight.

(e) The interior of each length of pipe shall be made perfectly clean and free from offsets, fins and projections before the next length is connected thereto. All building sewers shall be graded by line and pole, the line being first leveled from the building to the public sewer and then lowered at the downstream end to obtain the required

fall.

(f) A separate and independent building sewer shall be provided for each residence or building, except where one building stands at the rear of another on an interior lot and separate building sewers cannot be made available to each building.

(1) In such a case, one building sewer may be extended to serve both buildings.

(2) A permit shall be obtained for each building connected to the building sewer.

(g) Foundation drains shall not be connected, either directly or indirectly, to the building sewer or public sewer. If any drains are installed, carrying surface or subsurface water, they shall be constructed to carry said water to the street or other natural watercourses.

(h) Surface water which collects in basement or foundation excavations shall not be discharged at any time into the building sewer. If the building sewer is completed before the house plumbing can be connected thereto, the builder or sewer tapper shall keep the end of the building sewer tightly closed at all times with a plumber's plug or other watertight plug to prevent said surface or ground water from entering the building sewer.

(i) Old or existing building sewers may be used in connection with new buildings or alterations only when it can be demonstrated that they conform in all respects to the requirements contained herein for new building sewers.

(j) Building sewers shall not be constructed closer than three feet to any exterior wall, cellar, basement or cistern, nor shall they have less than two feet of earth or stone cover.

(k) Where the building sewer will cross unstable soil or be close to a tree where roots may enter the joints, extra heavy cast iron pipe may be required. Cast iron pipe shall be required when the building sewer is within ten feet of a water service line, well, spring, cistern, or other source of water supply.

(l) All excavation for sewers shall be by open cut from the surface.

(1) The sides of the trench shall be substantially vertical, using such sheeting and bracing as may be necessary to accomplish this result.

(2) The bottom of the excavation shall be shaped to fit the lower half of the sewer so that the pipe will have uniform bearing from end to end.

(3) In the event the trench is excavated below the required grade of the pipe, the excess space shall be filled with pea gravel or stone not over three-quarters of an inch in diameter.

(4) The width of the trench at the top of the pipe shall not exceed two feet plus the outside diameter of the pipe, nor shall the width at that point be less than one foot plus the outside diameter of the pipe.

(m) Water, gas, electric, cable television, telephone and other utility services shall not be laid in the same trench as the building sewer.

(n) The person to whom a permit is issued shall be responsible for obtaining any required permits to open cut any street, road or alley from the appropriate political body, official or person having authority or jurisdiction over such work.

(o) The building sewer shall be backfilled to an elevation at least six inches over the top of the pipe by tamping in six layers.

(1) Soil containing stones larger than three inches, in the greatest dimension, shall not be used for backfill.

(2) The balance of the backfill may be deposited in any manner which will not damage the pipe or disturb the alignment or grade of the sewer, except that the balance of the backfilling shall be done in such a manner and with such material as may be required by the permit.

(p) For new connections into the sanitary sewers, the connection methods must be approved by the Authority prior to initiating construction of the building sewer. In addition, a shut-off valve will be installed by the applicant, where feasible.

(q) The permit holder will be required to repair or restore any drains or service lines damaged or disturbed during the construction of the building sewer.

(r) Following construction of a building sewer, the property owner shall own, maintain, repair, or replace the building sewer from the building foundation to the publicly owned sewer, as necessary.

(s) If the Authority receives a service call to investigate a sewage backup on a property and performs services to clean a building sewer for which the owner of such property is responsible, the Authority may charge the owner for labor, material and equipment costs incurred. Such charges may be placed on the owner's sewer service bill.

(t) Any applicant whose property does not abut an existing sanitary sewer shall, at his or her own expense, construct trunk or lateral sewers as required to connect to the Authority's sewerage system.

(1) Upon completion of the sewer facility to the satisfaction of the Authority, the facilities within dedicated rights of way shall become the property of the Authority.

(2) Such facilities shall be subject to all rules and regulations hereunder.

(u) In any area where no sanitary sewer facilities of any kind exist, an applicant or person may contract with the Authority for the construction of such facilities.

(v) The applicant shall be responsible for construction of all extended sewer lines and appurtenances necessary to connect to the Authority's sewerage system, whether those lines and appurtenances are within the jurisdiction of the Authority or another governing body.

(1) The applicant shall bear all costs of such construction, including meters, easements, engineering, shut-off valve, and other associated costs.

(2) The materials and/or equipment used during construction shall conform to the applicable ASTM specifications as directed by the Authority.

(3) All sewers and equipment shall be inspected and approved by the Authority after installation, but before covering with backfill.

(Ord. 95-16. Passed 9-18-95; Ord. 13-07. Passed 2-19-13.)

### **10423.07 DISCHARGES TO PUBLIC SEWERS.**

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

(b) Storm water, surface drainage, subsurface drainage, ground water, roof runoff, cooling water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers or to a natural outlet approved by the local authorities. Industrial cooling water or unpolluted process waters may be discharged, on approval of the local authorities, to a storm sewer or natural outlet.

(c) Anyone proposing to discharge any pollutant, including non-contact cooling water, to the waters of the State must submit an NPDES permit application to the Ohio EPA no later than 180 days prior to any discharge.

(d) No person shall be permitted to connect to or discharge wastewater into the sewerage system, unless it has been determined by the Authority that there is sufficient capacity in the system to collect, convey and treat the proposed wastewater discharge of such person.

(e) No person shall discharge or cause to be discharged, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW. These general prohibitions apply to all users of the POTW, whether or not the user is subject to National Categorical Pretreatment Standards (40 CFR Part 403) or any other Federal, State or local pretreatment standards or requirements.

(f) No person shall discharge or cause to be discharged any of the following described substances, materials, waters or wastes into any public sewers:

(1) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant, resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds 150 degrees Fahrenheit, or which causes the temperature of the wastewater at the treatment facility to exceed 104 degrees Fahrenheit.

(2) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive 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 POTW.

(3) Any water or wastes containing fats, waxes, free oils, emulsified oils and grease exceeding an average of

fifty parts per million (417 pounds per million gallons) of ether soluble matter, or containing substances which may solidify or become viscous at temperatures between thirty-two degrees Fahrenheit and 150 degrees Fahrenheit.

- (4) Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance or create any hazard in the receiving waters of the sewage treatment plant, including cyanides.
- (5) Any garbage that has not been properly shredded to a degree that all particles will be carried freely under the flow conditions of the sewer and with no particle greater than one-half inch in any direction. The installation and operation of any garbage grinder with a motor of three-quarters Hp or larger shall be subject to the approval of the Authority.
- (6) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure, hair and fleshings, entrails, lime slurry, lime residues, chemical residues, paint residues, cannery waste, bulk solids or any other solid or viscous substance capable of causing obstruction to the flow in sewers or other interference with proper operation of the sewerage works.
- (7) Any waters or wastes containing suspended solids (SS) of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant, or any substance which may cause the POTW's effluent or treatment residues, sludges, or scums to be unsuitable for reclamation and reuse, or to interfere with the reclamation process.
- (8) Any noxious or malodorous gases or substances capable of creating a public nuisance or hazard to life, or substances causing the release of noxious or poisonous gases after discharge into the public sewer system.
- (9) Any waters or wastes containing strong acid iron pickling wastes or concentrated plating solutions, whether neutralized or not.
- (10) Any waters or wastes containing substances which may cause the treatment plant to exceed NPDES permit limitations.
  - A. Industrial waste shall not exceed the limits for the materials listed below based on a twenty-four hour composite sample, or as may be established by the Authority from time to time for such materials to meet NPDES permit conditions.

<i><b>Effluent Characteristics</b></i>	<i><b>Discharge Limitation, (mg/l)</b></i>
Aluminum	3.0
Arsenic	0.2
Barium	1.0
Boron	5.0
Cadmium	0.1
Chromium	0.5
Cobalt	1.0
Copper	0.5
Cyanide	0.5
Fluoride	5.0
Iron	5.0
Lead	0.5
Mercury	0.005
Molybdenum	5.0
Nickel	2.0
Phenols	1.0
Phosphorus	10.0

Selenium	0.1
Silver	0.03
Sulfides	50.0
Tin	3.0
Total dissolved solids	1,500.0
Tungsten	5.0
Zinc	2.0

**B.** The preceding list of substances is subject to revisions as required to meet current water quality standards or effluent standards imposed by State or Federal agencies.

**C.** In special cases (low volume users), the concentration of the applicable substances in the wastewater may be exceeded if it is determined by the Authority that the total pounds of the substances discharged to the sewerage system are not harmful to or will not interfere with the sewage treatment process, or will not violate water quality or effluent standards.

(11) Any waters or wastes containing phenols or other taste or odor-producing substances, in concentrations exceeding limits which may be established by the Authority as necessary, after treatment of the composite sewage, to meet the requirements of Federal, State or other public agencies of jurisdiction for such discharge to the receiving waters, and which might cause the POTW to violate its NPDES permit and/or other disposal system permits.

(12) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Authority in compliance with applicable State or Federal regulations.

(13) Any waters or wastes having a pH of less than 5.5 or in excess of 9.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment or personnel of the sewerage system.

(14) Materials which exert or cause:

- A. Unusual concentrations of inert suspended solids such as, but not limited to, fuller's earth, lime slurries and lime residues, or of dissolved solids such as, but not limited to, sodium chloride and sodium sulfate.
- B. Excessive discoloration such as, but not limited to, dye wastes and vegetable tanning solutions.
- C. Biochemical oxygen demand, suspended solids or chlorine requirements in such concentrations as to constitute a load on the sewage treatment works greater than that expected from normal domestic wastewater characteristics.

D. Unusual volume of flow or concentration of wastes constituting slugs.

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

(g) No discharger shall dilute a waste stream as a substitute for adequate treatment to achieve compliance with the standards set forth in this chapter.

(h) The National Categorical Pretreatment Standards, as established by the U.S. EPA, shall be met by all discharges of the regulated industrial categories. If a pollutant in an industrial discharge is limited by both National Categorical Pretreatment Standards and limits established by the Authority, the maximum allowable concentration will be the more stringent of the two.

(i) If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substance or possess the characteristics which, in the judgment of the Authority, may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or which may otherwise create a hazard to life or constitute a public nuisance, the Authority may:

- (1) Reject the wastes;
- (2) Require pretreatment to an acceptable condition in accordance with guidelines adopted herein for discharge into the public sewers;



- (3) Require control over quantities and rates of discharge; and/or
- (4) Require payment of a surcharge to cover the added cost of handling and treatment of the wastes not covered by existing taxes or sewer charges.

(j) If the Authority permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Authority and subject to the requirements of all applicable Federal, State, and local codes, regulations and laws.

(k) No person shall discharge septic tank wastes or other similar wastes into the Authority's treatment system without first obtaining written approval from the Authority prior to such discharge. Septic tank wastes and other similar wastes shall not be discharged to sewers tributary to the Authority's treatment plant unless the Authority has granted permission to do so.

(l) The Authority may refuse the services of its facilities for septic tank or other similar waste materials if the waste is determined to:

- (1) Be deleterious to the treatment plant or appurtenances thereto;
- (2) Cause unusual expense in the handling of the treatment thereof;
- (3) Inhibit the performance of the treatment process; and
- (4) Cause the plant to violate its NPDES permit and/or other disposal system permits.

(m) Treatment charges for septic tank wastes delivered by an approved hauler shall be based on a flat rate for each load of 1,000 gallons or portion thereof, as defined in Appendix A.

(Ord. 95-16. Passed 9-18-95.)

#### **10423.08 POWERS AND AUTHORITY OF INSPECTORS.**

(a) The Authority, bearing proper credentials and identification, shall be permitted to enter all properties for purposes including, but not limited to, inspection, observation, measurement, sampling, testing, repair and maintenance of any portion of the sewage works lying within such property.

- (1) All entry and subsequent work, if any, on such property, shall be done in full accordance with the terms of the owner, as agreed to by the Authority.
- (2) When entry is refused on sewer-only accounts, the sewer may immediately be turned off and not turned on again until the request of the Department has been complied with and an Off & On (Deny Right to Inspect) charge of ~~twenty-five~~ **fifty** dollars (\$~~25~~**50**.00) has been paid.
- (3) If a customer makes an appointment for service and/or repairs and fails to be present (or arrange for a responsible person to be present) at the service address on the scheduled date and time, a ~~Return~~ **Trip** ~~Fee~~ of twenty-five dollars (\$25.00) shall be charged.

(b) While performing the necessary work on private properties, the Authority shall observe all safety rules applicable to the premises established by the owner and the Authority.

(c) The Authority, bearing proper credentials and identification, shall present them to the owner, agent or present occupant of properties within the Authority before entering for the purposes of inspection, observation, measurement, sampling and testing, in accordance with the provisions contained herein.

- (1) The Authority shall also obtain and present a proper search warrant if the owner, agent or present occupant requests one.
- (2) A request by the owner, agent or present occupant that the Authority obtain a search warrant is an exercisable right of the requesting party and shall not constitute failure to cooperate, nor shall it constitute a failure to comply with the provisions of this section.
- (3) The Authority shall have no right to inquire into any processes, including metallurgical, chemical, oil, refining, ceramic, paper or other industries, beyond the point of having a direct bearing on the kind and source of discharge into the sewers or waterways to facilities for waste treatment.

(d) Information furnished to the Authority with respect to the nature and frequency of discharge shall be available to the public or other governmental agencies, unless the discharger specifically requests and demonstrates, to the satisfaction of the Authority, that the release of such information would divulge information,

processes, or production information.

(1) When requested by the discharger, the portions of a report which may disclose trade secrets or secret processes shall not be made available to the public but shall be made available, upon written request, to governmental agencies for uses relating to these regulations, the NPDES permit, a State disposal system permit and/or 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.

(2) Waste constituents and characteristics will not be recognized as confidential information.

(3) Information accepted by the Authority as confidential shall not be transmitted to any governmental agency by the Authority until and unless a ten-day notification is given to the discharger.

(Ord. 95-16. Passed 9-18-95; Ord. 13-07. Passed 2-19-13.)

#### **10423.09 LIMITING SEWER CONNECTIONS.**

The Authority shall limit connections into sewer lines if sufficient capacity to handle and treat additional wastewater is unavailable in the system.

(a) Any person applying for a permit to connect to a public sewer shall provide, with the application for said building sewer permit, sufficient data, as required by the Authority, regarding the location, type of wastewater and amount of flow to be conveyed to the public sewer.

(b) ~~(b)~~ Any costs associated with additional charges herein shall be borne by the person applying for the building sewer permit.

(Ord. 95-16. Passed 9-18-95.)

#### **10423.10 SERVICE TO PROPERTY OUTSIDE OF CITY LIMITS.**

Property not within the City limits may receive sanitary sewer service from the City, provided that the property meets the other requirements of this chapter and the owner of the property agrees to be annexed into the City at some point in the future, should the City limits become contiguous with his or her property. Agreement by the current property owner to be annexed into the City shall be binding on all heirs and assigns of the property.

(Ord. 95-16. Passed 9-18-95.)

#### **10423.11 TAMPERING WITH SEWAGE WORKS.**

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the sewerage system. Any person violating this section shall be subject to immediate arrest under a charge of disorderly conduct and shall be required to make restitution for said damages.

(Ord. 95-16. Passed 9-18-95.)

## **INDUSTRIAL PRETREATMENT REGULATIONS**

#### **10423.12 POWERS OF THE AUTHORITY.**

The Authority shall make and enforce rules and regulations establishing the types and characteristics of sewage, industrial wastes and other matter which shall be discharged into the sanitary sewerage system, the types and characteristics of sewage and industrial wastes admissible to the system only after pretreatment, requirements for pretreatment, and otherwise governing the discharge of sewage, industrial wastes and other matter into the system, in the interest of safety and efficient operation of the wastewater treatment facilities.

(Ord. 95-16. Passed 9-18-95.)

#### **10423.13 PROHIBITED NONRESIDENTIAL DISCHARGES.**

(a) No nonresidential user shall discharge, without a permit, to any natural outlet within any area under the jurisdiction of the Authority, any wastewater, except as authorized by the Authority in accordance with this chapter.

(b) In cases where the characteristics of sewage or industrial waste from any manufacturing or industrial plant, building or premises are such that it will damage the sewerage system or cannot be treated satisfactorily at the wastewater treatment plant, the Authority shall compel such users involved to dispose of such waste and prevent it from entering the sewerage system.

(Ord. 95-16. Passed 9-18-95.)

### **10423.14 NEW INDUSTRIAL USERS.**

(a) Proposed new significant major industries and other industrial users shall apply for a wastewater discharge permit, in the form prescribed by the Authority, with a fee set in accordance with Appendix A, currently in effect, at least ninety days prior to connecting to or contributing to the sewerage system, and shall have obtained such permit before such connection or contribution is made.

(b) In support of the wastewater discharge permit application, the user shall submit, in units and terms appropriate for evaluation, the following information:

- (1) The name, address and location of the user;
- (2) The SIC number, according to the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended;
- (3) The wastewater constituents and characteristics required by the Authority, as determined by a reliable analytical laboratory. Sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304 (9) of the Act and contained in 40 CFR Part 136, as amended;
- (4) The time and duration of the contribution;
- (5) The average daily and peak wastewater flow rates, including daily, monthly and seasonal variations, if any;
- (6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections and appurtenances by size, location and elevation;
- (7) A description of activities, facilities and plant processes on the premises, including all materials which are or could be discharged;
- (8) The nature and concentration of any pollutants in the discharge which are limited by County, State or Federal pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet applicable pretreatment standards;
- (9) If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest compliance schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:
  - A. The compliance schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing a contract for major components, commencing construction, completing construction, etc.).
  - B. No increment referred to in paragraph (a)(9)A. hereof shall exceed nine months.
  - C. No later than fourteen days following each date in the schedule and the final date for compliance, the user shall submit a compliance schedule progress report to the Authority, including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for the delay and the steps being taken by the user to return the construction to the schedule established.
  - D. In no event shall more than nine months elapse between such progress reports to the Authority.
- (10) Each product produced by type, amount, process or processes and the rate of production;

- (11) The type and amount of raw materials processed (average and maximum per day);
- (12) The number and type of employees, the hours of operation of the plant and the proposed or actual hours of operation of the pretreatment system; and
- (13) Any other information that may be deemed by the Authority to be necessary to evaluate the permit application.

(c) ~~(b)~~ The Authority will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the Director may issue a wastewater discharge permit subject to the terms and conditions provided herein.

(Ord. 95-16. Passed 9-18-95.)

#### **10423.15 REGULATED NONRESIDENTIAL DISCHARGES.**

In cases where the character of sewage or industrial waste from any manufacturing or industrial plant, building or premises shows excessive flow rates or concentration of pollutants such that it imposes an unreasonable burden upon the sewage collection, pumping or treatment works greater than that imposed by the average sewage entering the sewage system, the Authority may:

- (a) Require such manufacturing or industrial plant, building or premises to pretreat such sewage in such manner as specified by the Authority before discharging it into the sewerage system;
- (b) Require flow control or equalization of such wastes so as to avoid any slug loads or excessive loads that may be harmful to the treatment works;
- (c) Require payment of a surcharge on any loadings discharged to the treatment works to cover the additional costs of treating such wastes; and/or
- (d) Require payment of a capacity charge on any excessive flows discharged to the treatment works to cover the additional costs of having capacity for such wastes.

(Ord. 95-16. Passed 9-18-95.)

#### **10423.16 PRETREATMENT FACILITIES; INTERCEPTORS.**

(a) If pretreatment or equalization of waste flows is required by the Authority, the design of the facilities required shall be subject to Authority approval as well as to applicable regulations and laws.

- (1) Any entity desiring to install pretreatment facilities must obtain a permit to install from the Ohio EPA.
- (2) Where preliminary treatment or flow equalization facilities are provided, they shall be maintained in proper operation by the owner.

(b) All food establishments which maintain a kitchen or other facilities for the preparation of food shall be required by the Authority to have a grease interceptor of sufficient capacity, except that such interceptor shall not be required for private residential dwellings.

(c) Other nonresidential users may be required by the Authority to install grease, oil, sand, and grit interceptors of sufficient capacity if, in the opinion of the Authority, they are necessary to protect the sewerage system or for the proper handling of liquid wastes containing such harmful substances.

(d) All interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature.

- (1) They shall be of substantial construction, watertight and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight as approved by the Authority.
- (2) All interceptors shall be located so as to be readily accessible for cleaning and inspection.

(Ord. 95-16. Passed 9-18-95.)

#### **10423.17 PRETREATMENT COSTS.**

Any pretreatment facility or flow-equalizing facilities required by the Authority shall be constructed, owned, maintained, repaired and replaced at the cost of the owner.

(a) Prior to construction of such facilities, the owner shall submit and receive the Authority's approval of detail design plans for the facilities.

(b) Thereafter, such facilities shall be maintained continuously in satisfactory operation at the cost of the owner.

(Ord. 95-16. Passed 9-18-95.)

#### **10423.18 PRETREATMENT REPORTING.**

(a) Industrial dischargers regulated by the National Categorical Pretreatment Standards shall submit a compliance report to the Authority during the months of June and December, unless required more frequently in the Standards or by the Authority.

(1) This report shall include the nature and concentration of prohibited or regulated substances in the effluent.

(2) This report shall also include a record of all measured or estimated average and maximum daily flows.

(3) All analyses shall be performed by or for the discharger in accordance with 40 CFR Part 136 and amendments.

(4) Where 40 CFR Part 136 does not include an analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the EPA publication Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants and amendments thereto, or by any other procedures approved by the U.S. EPA at the discretion of the Authority.

(5) In consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Authority may alter the months during which the reports are to be submitted.

(b) Any industrial discharger shall, if required by the Authority, submit to the Authority a quarterly report indicating the nature and concentration of all substances prohibited or regulated by this chapter, or by the National Categorical Pretreatment Standards, that are contained in its discharge and the average and maximum daily flows.

(c) All industrial users who discharge or propose to discharge wastewaters to the wastewater treatment system shall maintain such records of production and related factors, effluent flows and pollutants as are necessary to demonstrate compliance with the requirements of any applicable State or Federal pretreatment standards or requirements.

(d) Such records shall be made available upon request by the Authority. All such records relating to compliance with pretreatment standards shall be made available to officials of the U.S. EPA.

(e) All dischargers subject to this chapter shall retain, for no less than three years, any records, documents, reports and correspondence, and any summaries thereof, relating to monitoring, sampling and analysis made by or for the discharger in connection with its discharge. All records which pertain to matters subject to administrative adjustment or other enforcement or litigation activities brought by the Authority pursuant hereto shall be retained by the discharger until all enforcement activities have concluded and all periods of limitation with respect to any appeals have expired.

(f) In the event that any substance or waste, the discharge of which is prohibited by Section 10423.07(f), is discharged to the sewerage system, the person responsible for the discharge shall notify the Authority immediately so that remedial action can be taken.

(1) All costs to correct any damage resulting from the discharge shall be charged to the person responsible for the discharge.

(2) Each such discharge shall be considered separately, and costs shall be levied accordingly.

(3) Failure to report such discharge or to take corrective measures necessary to prevent a subsequent noncomplying discharge, after being notified by the Authority to do so and being given a reasonable time in which to take such measures, shall result in the sewer through which the discharge enters the public sewer being disconnected.

(4) Said sewer will not be reconnected until, in the opinion of the Authority, proper corrective measures have been implemented.

(Ord. 95-16. Passed 9-18-95.)

### 10423.19 PRETREATMENT MONITORING.

(a) Each nonresidential user may be required to construct and maintain one or more control manholes, access points or measuring devices to facilitate observation, measurement and sampling of the wastes, including domestic sewage.

(b) When required by the Authority, control manholes, access facilities or any necessary meters shall be located and built in a manner acceptable to the Authority.

(1) If measuring devices are to be permanently installed, they shall be of a type acceptable to the Authority.

(2) Plans for the installation of the control manholes or access facilities and related equipment shall be approved by the Authority prior to the beginning of construction.

(3) The structures and facilities shall be installed by the owner at his or her expense and maintained by him or her so as to be safe and accessible at all times.

(c) All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of Standard Methods and in accordance with 40 CFR Part 136, entitled Guidelines Establishing Test Procedures for Analysis of Pollutants, and shall be determined at the control manhole provided or upon suitable samples taken at such control manhole.

(d) Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewerage works and to determine the existence of hazards to life, limb, and property.

(1) The particular analysis involved will determine whether a twenty-four hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken.

(2) Normally, but not always, BOD and suspended solids (SS) analyses are obtained from twenty-four hour composites of all outfalls, whereas pHs are determined from periodic grab samples.

(e) If necessary, the Authority shall have the right to enter and set up on a nonresidential user's property such devices as are necessary to conduct a gauging and sampling operation and the right to begin such operation without advance notice to the owner. While performing such work, the Authority's personnel will observe all safety rules applicable to the premises, as established by the property owner.

(Ord. 95-16. Passed 9-18-95.)

### 10423.20 ACCIDENTAL DISCHARGES.

(a) No statement contained in this section shall be construed as preventing any special agreement or arrangement between the Authority and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the Authority for treatment, subject to payment therefor by the industrial concern in proportion to cost and consistent with the user charge system.

(b) ~~(a)~~ Each user may be required to provide protection from accidental discharge of prohibited materials or other wastes regulated herein.

(1) Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the cost of the owner.

(2) Detailed plans showing the facilities and operating procedures to provide such protection shall be submitted for review by the Authority and shall be approved by the Authority before construction of the facility.

(3) Review and approval of such plans and operating procedures shall not relieve the nonresidential user from the responsibility to modify the facility as necessary to meet the requirements contained in this chapter.

(c) ~~(b)~~ If, for any reason, a user does not comply with or will be unable to comply with any prohibition or limitation contained herein, the user shall immediately notify the Authority that corrective action may need to be taken to protect the treatment plant. In addition, a written report addressed to the Authority detailing the date, time and cause of the accidental discharge, the quantity and characteristics of the discharge, and the corrective action taken to prevent future discharges, shall ~~to be~~ filed by the user within five days of the occurrence of the noncomplying discharge.

(Ord. 95-16. Passed 9-18-95.)

### **10423.21 REVOCATION OF PERMITS; SUSPENSION OF SERVICE.**

(a) Whenever the Authority finds that any discharger has engaged in conduct which justifies revocation of a discharge permit or suspension of service, the Authority shall serve upon such discharger a written notice, either personally or by certified mail, stating the nature of the violation.

(1) Within ten days of receipt of the notice, the discharger shall respond personally or in writing advising the Authority of its position with respect to the allegations.

(2) The parties shall then meet to ascertain the veracity of the allegations and, if necessary, establish a plan for correction thereof.

(b) Notwithstanding the provisions of subsection (a) hereof, the Authority may, for good cause, immediately suspend the treatment services of a discharger when it appears that an actual or threatened discharge presents an imminent danger to the public health and welfare, substantial danger to the environment, or interference with operation of the wastewater treatment plant, or violates any pretreatment limits proposed by this chapter or any discharge permit issued pursuant to this chapter.

(1) Any discharger notified of the suspension of service shall, within a reasonable period of time, as determined by the Authority, cease all discharges.

(2) If the discharger fails to comply voluntarily with the suspension order, the Authority shall disconnect service lines from the sewer system and commence judicial proceedings to compel the discharger's compliance.

(3) The Authority shall reinstate the discharger's service and terminate judicial proceedings upon proof of the elimination of the noncomplying discharge creating the threat of imminent or substantial danger, as set forth herein.

(4) The discharger shall be responsible for all fees associated with disconnecting and reconnecting service.

(c) The Authority may revoke the permit and/or disconnect the service of any discharger who:

(1) Fails to factually report the constituents and characteristics of its discharge in any required report;

(2) Fails to report significant changes in discharge constituents or characteristics;

(3) Refuses reasonable access to its premises by representatives of the Authority for inspection or monitoring;

or

(4) Violates the conditions of its permit application or contract or any provision of this chapter.

(Ord. 95-16. Passed 9-18-95.)

## **USER CHARGE REGULATIONS**

### **10423.22 DEFICIT PROHIBITED.**

(a) As part of the annual review provided for in Section 10423.28, the Authority or other representative shall make an estimate of the revenues and expenses for the next year. After deducting the estimated operation and maintenance costs, the estimated debt service costs and the repair and replacement reserve payment from the total estimated revenues and net carryover from the previous year, the system shall maintain a positive working capital.

(Ord. 95-16. Passed 9-18-95.)

### **10423.23 USE OF REVENUE; FUNDS**

The funds received from the collection of the rates and charges provided in this chapter shall be deposited as received by the Authority into a separate fund designated as the ~~New Carlisle General Sewerage System~~ **Wastewater Operating Fund**.

(a) Disbursements from Tap-In Fee's receipted into the *Wastewater Operating* fund shall be transferred ~~made for equipment replacement~~ to the Wastewater Equipment Fund and shall be used for equipment replacement. ~~may be made for operation and maintenance costs, debt service costs and payments to the Sewer Repair and Replacement Fund, as well as for enlargement of the collection, treatment, and disposal capacity of the system.~~

(b) The Finance Director of the Authority shall ~~may~~ separately invest the funds of the system and pay investment earnings to the *Wastewater Operating Fund or the Wastewater Equipment Fund* ~~New Carlisle General Sewerage System Fund, the Sewer Repair and Replacement Fund or the Sewer Capacity Charge Fund.~~

(Ord. 95-16. Passed 9-18-95.)

#### **10423.24 FREE SERVICE PROHIBITED.**

Service will be provided to the users of the system in accordance with the terms of this chapter.

(a) No user shall be provided service without payment of sewer service charges in proportion to the service available to such user.

(b) No person, including the Authority, shall subsidize the cost of operating, maintaining, or replacing any part of the sewerage system.

(Ord. 95-16. Passed 9-18-95.)

#### **10423.25 BASE USER CHARGES.**

(a) Charges for wastewater services shall be determined in accordance with the terms of this chapter and shall not be provided without charge to any users.

(1) User charge rates will be proportionate to the sewerage system operation, maintenance and replacement costs incurred, plus a charge to recover the proportionate share of capital costs for sewage treatment plant and collection system improvements.

(2) The sewer service charge shall consist of the sum of the general administrative charges, the operation, maintenance and replacement charges, the debt service charges, and surcharges (if applicable).

(b) User charges shall first be determined on the basis of the equivalent dwelling unit (EDU) method and then converted to the volume method for metered areas.

(1) The EDU method is used for areas where water usage is not metered. In this method, the monthly rate per EDU is multiplied by the number of EDU's applicable for a particular establishment to arrive at the monthly sewer service charge.

(2) New Carlisle has determined that 175 gallons per day is representative of the average dwelling unit's water usage.

(c) The volume method is used when metering is available for a particular area. In this method, the monthly water usage, based on meter readings for the past month and current month, is used to arrive at the monthly sewer service charge.

(1) A specific rate is multiplied by each increment of 1,000 gallons of water usage per month.

(2) Minimum charges have been established to ensure recovery of administrative and debt service expenses.

(d) The base user charges for the New Carlisle sewerage system are calculated as follows:

(1) **Operation, maintenance and replacement charge (OM&R).**

A. A proportionate rate for the operation, maintenance and replacement of the sewerage system shall be charged to all users based on the following formula:  $OM\&R = A/EDU$

Where:

- OM&R = Total operation, maintenance and replacement charge for each EDU for a one-year period.



- A = Total annual operation, maintenance and replacement costs for the sewerage system.
- EDU = Total number of equivalent dwelling units (EDU) of the system.

B. The monthly operation, maintenance and replacement charge for each EDU is then determined for areas without metered service **as shown below based on the following formula:**  $OM\&R_{month} = OM\&R/12$

Where:

- $OM\&R_{month}$  = Total operation, maintenance and replacement charge for each EDU for a one-month period.

C. For areas with metered service, the  $OM\&R_{month}$  determined above is then converted to a metered  $OM\&R$  rate for water usage, as shown by the following formula:  $\frac{OM\&R_{month} \times 1,000}{[175 \text{ gpd} \times 30.4 \text{ days/month average}]}$

$$OM\&R_{rate} = [175 \text{ gpd} \times 30.4 \text{ days/month average}]$$

Where:

- $OM\&R_{rate}$  = Operation, maintenance and replacement charge rate for each 1,000 gallons of water usage.

## (2) Debt service charge.

A. The proportionate rate for replacement of all capital costs associated with the construction of sewerage system improvements shall be charged to all users based upon the following formula:

$$DSC = B/EDU$$

Where:

- DSC = Total amortized annual debt service charge to pay for construction of sewerage system improvements for each EDU for a one-year period.
- B = Total amortized annual debt service payments for construction of the sewerage system improvements.
- EDU = Total number of equivalent dwelling units (EDU) of the system.

B. The monthly debt service charge for each EDU is then determined for areas without metered service, **as shown below based on the following formula:**  $DSC_{month} = DSC/12$

Where:

$DSC_{month}$  = Total amortized debt service charge to pay for construction of sewerage system improvements for each EDU for a one-month period.

C. For areas with metered service, the  $DSC_{month}$  determined above is then converted to a metered  $DSC$  rate for water usage, as shown by the following formula:  $\frac{DSC_{month} \times 1,000}{[175 \text{ gpd} \times 30.4 \text{ days/month average}]}$

$$DSC_{rate} = \frac{DSC_{month} \times 1,000}{[175 \text{ gpd} \times 30.4 \text{ days/month average}]}$$

Where:

$DSC_{rate}$  = Amortized debt service charge rate for each 1,000 gallons of water usage.

(Ord. 95-16. Passed 9-18-95.)

## 10423.26 SEWAGE SURCHARGES.

(a) Sewage or industrial wastes above normal domestic strength, but acceptable for discharge into the sanitary sewerage system, shall be subject to a surcharge. The surcharge shall be determined on the basis of any or all of the listed constituents of water or wastes, as follows:

(1) Total suspended solids; and/or

(2) Five-day BOD at twenty degrees Centigrade and as herein provided.

(b) When any or all of the above listed constituents of a water or waste accepted for admission to the system exceed the values of their constituents for normal domestic sewage, the excess concentration in any or all, as the case may be, shall be subject to a surcharge based on the cost per pound to remove the excess quantity of each constituent, as indicated in Appendix A and summarized below as follows:  $SSR_{BOD} \text{ or } SSR_{SS} \text{ or } SSR_p = C \times D$

Where:

- SSR = Sewage surcharge rate
- C = Pounds of BOD or SS in excess of that of normal domestic sewage.
- D = Current cost per pound to treat normal BOD or SS loads.

(c) In addition to the surcharge, the user will pay the user charges as defined in other sections of this chapter.

(d) The pounds of BOD per day and/or pounds of suspended solids per day, above the concentrations previously described for normal strength sewage, that are discharged to the sewerage system, shall be determined by the Authority or an authorized representative thereof.

(e) In addition to a surcharge on BOD and suspended solids, the Authority shall have the right to surcharge any user for the discharge of any pollutant into the sewerage system or for any other reason deemed necessary and appropriate, such as excessively high rates of discharge.

(f) An annual industrial wastewater surveillance charge shall be paid by the discharger for each connection discharging industrial wastewaters to the sanitary sewer system.

(1) Where it has been reported that no industrial wastewaters are being discharged, this fee may be reduced to cover the cost of verifying said report.

(2) The monies collected from this charge shall be used to cover the cost of making surveys, record keeping and occasional analytical work necessary for verification of owner-reported results.

(Ord. 95-16. Passed 9-18-95.)

### **10423.27 DETERMINATION OF CHARGES.**

(a) The monthly sewer service charge for each user shall be calculated by the EDU method or the volume method.

(1) For areas where water usage is not metered, the EDU method is used to determine the applicable charges.

(2) The monthly sewer service charge for each unmetered user shall be calculated by multiplying the sum of the currently adopted operation, maintenance and replacement charge (OM&R and month) and the debt service charge (DSCmonth), determined under Section 10423.25, by the number of EDU's assigned to the user in accordance with the user categories and EDU criteria. (See Appendix B.)

For unmetered service areas, the monthly sewer service charge is determined by the following formula:  
Monthly sewer service charge = SUM x EDU

Where:

- SUM = Sum of all operation, maintenance and replacement charges, and debt service charges on a monthly basis.
- EDU = Total number of equivalent dwelling units assigned to the user.

(b) If water usage in a particular area is metered, the monthly sewer service charge shall be determined by multiplying the sum of the currently adopted operation, maintenance and replacement charge rate (OM&Rrate) and the debt service charge rate (DSCrate), determined under Section 10423.25, by the monthly water usage, based on meter readings for the past month and current month.

(1) A specific rate is multiplied by each increment of 1,000 gallons of water usage in a month. Minimum charges based on meter size are also determined when metering is available.

(2) For metered service areas, the monthly sewer service charge is determined by the following formula:  
Monthly sewer service charge = SUM rates x Total water usage in gallons

1,000 gal.

Where:

- SUM = Sum of all operation, maintenance and replacement charges, and debt rates
- Total water usage in gallons = service charge rates, per 1,000 gallons.

(c) The annual industrial wastewater surveillance charge shall be two hundred dollars (\$200.00). As stated in Section 10423.26(f) hereof, this charge may be reduced if satisfactory proof that industrial wastewater is not being discharged is obtained.

(Ord. 95-16. Passed 9-18 95.)

#### **10423.28 ANNUAL REVIEW OF USER CHARGES.**

(a) Pursuant to U.S. EPA regulations, the user charges shall be reviewed annually to accomplish the following purposes:

- (1) To maintain the proportionate distribution of operation, maintenance and replacement costs among users and user classes; and
- (2) To generate sufficient revenue to pay the total operation, maintenance, replacement, capital and working capital costs of the sewerage system.

(b) The annual review of the user charges shall be conducted by the Authority or by a consulting engineer.

(1) A written report shall be prepared and submitted to Council on or before July 1 of each year.

(2) The report shall summarize actual operations for the calendar year just ended, and, based upon at least a two-year projection (the current year and the next year), shall recommend a rate increase or decrease effective January 1 of the next year.

(3) At the time recommended in the report, the Authority shall, by appropriate legislation, set the schedule of rates and charges for the users of the system.

(c) In addition to the authority of the City Council to increase or decrease rates on January 1 of each year, the Authority may, at any time, increase or decrease rates if the Authority determines that a modification of the rates is required to comply with this chapter or any revenue bond resolution, or to adjust rates to reflect final costs.

(d) Following the annual review, the Authority shall promptly notify each user, in conjunction with a regular bill, of the rate adjustments, if any, and of that portion of the sewer service charge over the past year which is attributable to operation, maintenance and replacement costs of the system and that portion which is related to debt service.

(Ord. 95-16. Passed 9-18-95; Ord. 05-29. Passed 6-20-05; Ord. 05-55. Passed 11-7-05.)

#### **10423.29 BILLING PROCEDURES.**

(a) The sewer service charges established by this chapter shall be billed after the service is rendered.

(b) The debt service charge shall be included with the sewer service charge bill. The billing frequency shall be on a monthly basis.

(c) Effective September 18, 2003, all dwellings connected to the City sanitary sewer system only must maintain the sewer account in the property owner's name.

(d) Any property connected to the sewerage system after the beginning of a month shall be charged a per diem pro-rated amount based upon the applicable monthly charge.

(Ord. 95-16. Passed 9-18-95; Ord. 03-23. Passed 9-2-03; Ord. 13-07. Passed 2-19-13.)

#### **10423.30 CHANGES OF ADDRESS OR OWNERSHIP.**

(a) Upon change of his or her mailing address, the owner of a property served by the sewerage system shall inform the Authority of the change. Failure to inform the Authority of a change of address shall not excuse an owner from any payment penalties incurred because of the failure to report an address change.

(b) Prior to the sale of a property, the present owner shall contact the Authority to arrange for proration of the final bill.

(1) The final bill shall be sent to the mailing address specified by the present owner.

(2) Failure of a previous owner to comply with this provision shall not excuse the new owner from responsibility for any delinquencies certified pursuant to the Ohio Revised Code, or for any current charges or for penalties remaining unpaid by the previous owner.

(c) Prior to the sale of a property, the purchaser shall contact the Authority to arrange for a proration of the first bill and to inform the Authority of the mailing address of the new owner. Failure to comply with this provision shall not excuse the new owner from responsibility for any delinquencies certified pursuant to the Ohio Revised Code, or for any current charges or for penalties remaining unpaid by the previous owner.

(Ord. 95-16. Passed 9-18-95; Ord. 13-07. Passed 2-19-13.)

### **10423.31 PAYMENT OF BILLS.**

#### (a) Due Dates for Bills

- (1) Sewer bills are due upon receipt.
- (2) Bills not paid on or before the fifteenth of the billing month are subject to a 10% penalty charge.
- (3) Sewer bills not paid in full by the **final payment date** the last day of the billing month may **shall** result in service being shut off without further notice, unless a **Payment Agreement** provisions for payment have **has** been made with the **Utility** Department.
- (4) Such provision will **Payment Agreements can be executed at any time before the final payment date** limited to three times during a calendar year per customer. If there is a default on the payment arrangement, future arrangements may be revoked.
- (5) However, ~~w~~When the final payment date falls on a Saturday, Sunday or legal holiday, the final payment date shall be the next regular working day.

#### (b) Delivery of Bills

- (1) A third-party vendor will **may** undertake the delivery of bills for sewer, also referred to as "utility bills", by depositing the same in the Post Office only as a matter of convenience to the owner or consumer.
- (2) The failure of a person to receive a bill shall not relieve him or her from his or her obligations to pay the bill.
- (3) In utilizing the U.S. Postal Service for delivery of their payment of a sewer service charge, users assume responsibility for any failure of the U.S. Postal Service to timely deliver the payment to the Authority, also known as the City of New Carlisle.
- (4) Accordingly, the authority shall not waive payment penalties for any person claiming the U.S. Postal Service failed to deliver a bill or payment.
- (5) If the user elects for paperless billing, the user shall receive no paper bill but will still responsible for the payment of services rendered on the appropriate due date.

#### (c) Unpaid Bills

- (1) When the payment for sewer has not been made, the **City** may enter on said premises and cause the sewer service to be disconnected and discontinued.
- (2) The owner will be responsible for fees associated with disconnecting and reconnecting sanitary sewer service.
- (3) In the event that the **City** has to disconnect service and a shut-off valve is not in place, the **City** will install a shut-off valve, where feasible.
- (4) If the property has a shut-off valve, the **Service #Reconnect #Fee** will be fifty dollars (\$50.00). The sewer will not be turned on until the fees, sewer bill, plus penalty have been paid.

#### (d) Service Fee for Outside Normal Business Hours

- (1) Any requests for turn-on and turn-offs outside normal business hours will be charged an additional one hundred dollars (\$100.00) per turn-on and/or turn-off.
- (2) The Director of Public Service or the City Manager will be the only people permitted to determine if a fee will be waived for an emergency shut-off.

#### (e) Insufficient Funds

- (1) If a bank should return a check from a user for insufficient funds, that user's account will be subject to an insufficient funds charge of thirty-five dollars (\$35.00), established by the Authority.

- (2) Upon the claim of an **account holder** person that the return of a check for insufficient funds was a bank error, the Authority ~~may~~ **shall** waive ~~an~~ **the** insufficient funds charge if the bank supplies adequate documentation of its error.
- (3) If a user has two checks returned for insufficient funds, the Authority may require all future payments from that user be made in cash or by money order.
- (4) If a user elects to pay his or her water bill ~~on line~~ **online** and the credit card used is declined, the user is still responsible for making the payment to avoid disconnection for non-payment.
- (5) In the instance where the user's credit card was utilized without his or her permission to make the online water payment, the user is still responsible for payment to avoid disconnection.

(f) Advance Payments

- (1) Users may elect to pay charges in advance at any time; any remaining credit will be reflected on monthly bills.
- (2) The amount paid in advance shall not exceed three hundred dollars (\$300.00).
- (3) Any refund requests must be approved by the City Manager.

(g) Fees for Online Utility Payments

- (1) There will be a fee to use a credit card and/or debit card online and at the City Building to make utility payments.
- (2) The fee shall be one dollar and ninety-five cents (\$1.95) per one ~~hundred~~ dollar (\$100.00) increment.

(Ord. 95-16. Passed 9-18-95; Ord. 13-07. Passed 2-19-13; Ord. 17-31. Passed 9-18-17; Ord. 2020-04. Passed 2-18-20.)

**10423.32 DELINQUENCIES.**

(a) Any unpaid billings, together with accrued penalties, shall be certified to the County Auditor, pursuant to the Ohio Revised Code, who shall place such delinquencies upon the real property tax duplicate for the property receiving the sewage service.

(b) Such delinquencies shall be a lien upon the property from the date the delinquency is placed upon the real property tax duplicate, and shall be collected in the same manner as other real estate taxes, including a foreclosure action on said lien.

(Ord. 95-16. Passed 9-18-95.)

**10423.33 ADDITIONAL CHARGES FOR TREATING UNUSUAL WASTES.**

The Authority may, in special cases, establish additional charges for wastes of unusual strength or composition which are accepted for treatment.

(Ord. 95-16. Passed 9-18-95.)

**10423.34 NON-HABITABLE BUILDINGS; DISCONNECTION; RECONNECTION.**

(a) A user who certifies that his or her building is not habitable may request the Authority to disconnect a building from the sewerage system. Upon such request, the Authority shall remove or close the sewer connections and/or remove any publicly owned equipment.

(b) Thereafter, the owner of the premises shall not allow the building to be utilized for human occupancy as a residence or place of employment and the Authority shall not bill for sewer service.

(c) A violation of subsection (b) hereof will subject the owner to the mandatory connection provisions of this chapter and Ohio law.

(d) A person or subsequent owner of a property disconnected who disconnects from the sewerage system may later request to be reconnected. Upon approval by the Authority, the Authority shall re-open sewer connections and/or replace publicly owned equipment.

(e) The charge for disconnection or reconnection shall be paid to the Authority before performance of the work, as indicated in Appendix A.

(f) The owner or his or her representative shall be present at the time of disconnection or reconnection to provide necessary access to electrical and plumbing facilities.

(Ord. 95-16. Passed 9-18-95.)

## ENFORCEMENT

### 10423.35 INTERPRETATION.

(a) The provisions of this chapter shall be interpreted liberally to effectuate the broad remedial purpose of protection of the public health, safety and welfare.

(b) Absent a showing of an actual abuse of discretion, the Authority's interpretation of such provisions shall have a strong presumption of validity.

(Ord. 95-16. Passed 9-18-95.)

### 10423.36 GRIEVANCES; APPEALS.

(a) Any user aggrieved by a decision of the Authority under this chapter may file a written grievance with the Authority. The written grievance shall set forth the substance of the Authority's decision and the basis of the user's complaint.

(b) The Authority shall investigate the grievance and issue a written determination, ~~with~~ **with** the determination ~~should include~~ **including** the following:

- (1) The name, address and location of the premises of the user;
- (2) A summary of the user's claim;
- (3) A summary of the facts revealed by the Authority's investigation;
- (4) An interpretation of any applicable regulation, law or policy;
- (5) A notice of the user's right of appeal to the Authority; and
- (6) A copy of this grievance and appeal procedure.

(c) No legal action in the courts of the State or Federal Government shall be initiated by any user until completion of this administrative remedy.

(Ord. 95-16. Passed 9-18-95.)

### 10423.37 NOTICE OF VIOLATIONS; FAILURE TO COMPLY; HEARINGS; AUTHORITY OF COUNCIL; DISCONNECTION ORDERS.

(a) Upon the violation of any prohibition, limitation or provision of this chapter, the Authority shall serve written notice, by actual delivery or certified mail, upon the user. Such written notice shall adequately state the nature of the violation and provide at least ten days for the correction of the violation, unless the Authority finds a shorter period is required to protect the public health, safety or welfare.

(b) If the violation is not corrected by timely compliance, the Authority may order any person who causes such violation, or allows an unauthorized discharge, to show cause before the City Council why service should not be terminated.

- (1) A notice shall be served on the offending party specifying the time and place of a hearing to be held by the City Council regarding the violation and directing the offending party to show cause before the City Council why an order should not be made directing the termination of service.
- (2) The notice of hearing shall be served personally or by registered or certified mail (return receipt requested) at least fifteen days before the hearing.
- (3) In the case of a noncomplying corporation, service may be made on any agent or officer of such corporation.

(c) The City Council may itself conduct the hearing and take the evidence, or may designate any members, officers or employees to:

- (1) Issue, in the name of the City Council, notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in any such hearings;
- (2) Take the evidence of the matter involved; and
- (3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations, to the City Council for action thereon.

(d) At any public hearing, testimony taken before the City Council or any person designated must be under oath and recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges therefor.

(e) After the City Council has reviewed the evidence, an order may be issued to the party responsible for the violation directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed, or existing treatment facilities, devices or other related appurtenances are properly operated, and such further orders and directions as are necessary and appropriate.

(Ord. 95-16. Passed 9-18-95.)

### **10423.38 SEPARABILITY.**

The invalidity of any section, clause, sentence or provision of this chapter shall not affect the validity of any other section, clause, sentence or provision of this chapter or subsequent resolutions.

(Ord. 95-16. Passed 9-18-95.)

### **10423.39 RIGHT TO CONTRACT.**

(a) The Authority has contracted, in the past, with entities outside of the City corporation limits for the collection, pumping, treating and disposal of wastewater from or to the contracted entities.

(b) These entities are thereby part of the City's sewerage system, whether located in the City or not.

(c) The Authority reserves the right to contract with any entity at any time for collection, pumping, treating and disposal of wastewater.

(Ord. 95-16. Passed 9-18-95.)

### **10423.99 PENALTIES; EQUITABLE REMEDIES.**

(a) Whoever violates or fails to comply with Section 10423.11 is guilty of a misdemeanor of the second degree and shall be fined not more than seven hundred fifty dollars (\$750.00) or imprisoned not more than ninety days, or both, for each offense. If such violation creates a risk of physical harm to a person, the violator is guilty of a misdemeanor of the first degree and shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months, or both, for each offense.

(1) A separate offense shall be deemed committed each day during or on which the violation or noncompliance occurs or continues.

(2) In addition, the violator is liable to the City for any expense, loss or damage occasioned by reason of such violation or noncompliance.

(3) Prior to the application of any of the penalties prescribed in this subsection, a person found in violation or noncompliance shall be notified, in writing, by the Director, advising of the violation or noncompliance and the necessary action to be taken.

(A) The person shall be granted a period of time, as determined by the Director, in which to effect remedial measures.

(B) Thereafter, the person shall be on notice that a further violation or noncompliance shall be immediately subject to the penalties set forth in this subsection.

(b) Any discharge in violation of the substantive provisions of this chapter or an order of the City Council shall be considered a public nuisance. If any person discharges sewage, industrial wastes, or other wastes into the Authority's treatment system contrary to the substantive provisions of this chapter or any order of the City Council, the City Prosecutor shall commence an action for appropriate legal and/or equitable relief in any court of competent jurisdiction.

(c) Any person who is found to have violated an order of the City Council or who willfully or negligently fails to comply with any provision of this chapter, or the orders and rules issued hereunder shall be guilty of a minor misdemeanor and shall be fined not more than one hundred dollars (\$100.00) for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(d) The following civil penalties shall apply to a violation of the following provisions of this chapter for each day of such violation after the time limit specified by the Authority in its notice of violation:

- (1) Section 10423.03: \$50.00
- (2) Section 10423.07(a): \$25.00
- (3) Section 10423.07(d) and (e): \$100.00
- (4) Section 10423.07(f) to (h): \$1,000.00
- (5) Section 10423.13(a): \$1,000.00
- (6) Section 10423.18(a) and (b): \$100.00

(e) In addition to the civil penalties set forth in subsection (d) hereof, the Authority may recover civil damages for any expense, loss or damage, including attorney fees, court costs, court reporter fees and any other expenses of litigation, occasioned by a user's violation of this chapter or orders and rules issued hereunder.

(f) Any person who knowingly makes any false statement, representation or certification in any application, record, 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 by this chapter, shall be fined not more than one hundred dollars (\$100.00) for each violation.

(g) Whoever violates any provision of this chapter shall become liable to the Authority for any expense, loss or damage occasioned by the Authority by reason of such violation, including any costs assessed by the Ohio EPA and/or the U.S. EPA as a result of the inability of the wastewater treatment to treat and effectively reduce the pollutant involved.

(Ord. 95-16. Passed 9-18-95.)



## APPENDIX A

### NEW CARLISLE GENERAL SEWER DISTRICT SEWERAGE SYSTEM CHARGES

#### (a) CONSTRUCTION PERMIT AND CONNECTION CHARGES

Effective October 1, 1995, a sewer construction permit charge and connection charge are established for all new customers of the New Carlisle sewerage system who are not presently receiving treatment services of the system.

- a. (1) The sewer construction permit charge shall be twenty-five dollars (\$25.00) and shall be submitted with the sewer construction permit application.
- b. (2) The connection charge shall be for administration of the account and for inspection of the sewer installation and shall be submitted with the sewer construction permit application.
- (3) The connection charge is based on water meter size, includes five hours of inspection and shall be as follows:

<i>Meter Size (in.)</i>	<i>Estimated Maximum</i>	
	<i>Rate of Flow (gpm )</i>	<i>Minimum Connection Charge</i>
5/8	20	\$750.00
3/4	30	1,250.00
1	50	1,750.00
1 1/4	80	2,000.00
1 1/2	100	2,500.00
2	160	4,000.00
3	300	6,000.00
4	500	10,000.00
5	800	20,000.00
6	1,000	30,000.00

- (4) Connection charge inspection time in excess of five hours shall be fifty dollars (\$50.00) per hour or any fraction thereof.
- (5) An applicant whose premises are not supplied with metered water service shall pay the connection charges listed above, based on the estimated maximum rate of flow.

#### (b) CAPACITY CHARGES

Effective October 1, 1995, a capacity charge is established for all new customers of the New Carlisle sewerage system who will be served by the New Carlisle Wastewater Treatment Plant and are not presently receiving treatment services of the system. The capacity charge shall be calculated as follows:

- a. (1) For residential services, the capacity charge shall be two hundred eighty dollars (\$280.00) per connection.
- b. (2) For nonresidential services, the capacity charge shall be one dollar and sixty cents (\$1.60) per gallon average daily flow for areas where metered service is available, or two hundred eighty dollars (\$280.00) multiplied by the number of equivalent dwelling units assigned to the new user, in accordance with Appendix B, for areas where metered service is not available.

**(c) WASTEWATER DISCHARGE PERMIT CHARGES**

- (1) Effective October 1, 1995, all new significant major industries, and other industrial users, as defined in Section 10423.02, shall pay a permit fee of one hundred dollars (\$100.00) with the application for a wastewater discharge permit at least ninety days prior to connecting to or contributing to the sewerage system.
- (2) If a new sewer connection from an industrial user to the public sewer will be constructed, the construction permit and connection charges and capacity charge presented above shall also apply to the new industrial user.

**(d) SEWER SERVICE CHARGES**

Effective March 1, 2015, the following sewer service charges are established as fair, proportional and reasonable rates, based upon the consumption of water:

- (1) For New Carlisle Service Districts I & II, the base rate for sewer service is as follows:

a. The base rate for sewer service is as follows:

	<b>November 1, 2020</b>	<b>November 1, 2021</b>	<b>November 1, 2022</b>	<b>November 1, 2023</b>
Description	Rate per 1,000 Gallons	Rate per 1,000 Gallons	Rate per 1,000 Gallons	Rate per 1,000 Gallons
Total Sewer Service	\$7.75	\$8.15	\$8.50	\$8.75

b. Minimum charges for sewer service to ensure recovery of administrative and debt service costs, based on 2,500 gal/month.

- (2) For New Carlisle Service District III,

(A) For unmetered sewer service, the equivalent dwelling unit charge is:

a. For unmetered sewer service, the equivalent dwelling unit (EDU) charge is:

	<b>November 1, 2020</b>	<b>November 1, 2021</b>	<b>November 1, 2022</b>	<b>November 1, 2023</b>
Description	Rate per Month	Rate per Month	Rate per Month	Rate per Month
Total Sewer Service	\$41.37	\$43.50	\$45.37	\$46.70

b. (B) For metered service, the base rate sewer service charge is as follows:

	<b>November 1, 2020</b>	<b>November 1, 2021</b>	<b>November 1, 2022</b>	<b>November 1, 2023</b>
Description	Rate per 1,000 Gallons	Rate per 1,000 Gallons	Rate per 1,000 Gallons	Rate per 1,000 Gallons
Total Sewer Service	\$7.75	\$8.15	\$8.50	\$8.75

- c. (3) North Hampton Service District IV.

	<b>November 1, 2020</b>	<b>November 1, 2021</b>	<b>November 1, 2022</b>	<b>November 1, 2023</b>
--	-------------------------	-------------------------	-------------------------	-------------------------

Description	Rate per 1,000 Gallons	Rate per 1,000 Gallons	Rate per 1,000 Gallons	Rate per 1,000 Gallons
Total Sewer Service	\$7.75	\$8.15	\$8.50	\$8.75

**(e) SERVICE DISCONNECTION/ SERVICE RECONNECTION CHARGES**

The charge for **service** disconnection or **service** reconnection shall be fifty dollars (\$50.00) for customers not connected to the municipal water supply.

**(f) SEWAGE SURCHARGES**

The proportionate rate for payment of the cost to treat wastewater discharges containing concentrations of BOD and SS higher than those expressed in the definition of normal domestic sewage (200 mg/l BOD; 250 mg/l SS) shall be based upon the following formula: **SSRBOD or SSRSS = C x D**

Where:

- SSR = Sewage surcharge rate
- C = Pounds of BOD or SS in excess of that of normal domestic sewage.
- D = Current cost per pound to treat normal BOD or SS loads (\$0.35/lb for BOD and \$0.28/lb for SS).

(Ord. 95-16. Passed 9-18-95; Ord. 4-37. Passed 7-19-04; Ord. 09-06. Passed 2-2-09; Ord. 13-07. Passed 2-19-13; Ord.15-04. Passed 2-2-15; Ord. 2020-37. Passed 10-5-20.)

**(g) TABLE OF SEWERAGE CHARGES**

Charge	Amount	Section	Category
Off & On (Deny Right to Inspect)	\$50	1043.08(a)(2)	Inspections
Return Trip	\$25	1043.08(a)(3)	Inspections
Late Payment Penalty	10% of Bill	1043.31(a)(2)	Payment of Bills
Pay in Advance Threshold	\$300	1043.31(f)(2)	Payment of Bills
Service Reconnect Fee	\$50	1043.31(c)(4) & Appendix A, Sec. (e)	Payment of Bills
Service Disconnect Fee	\$50	Appendix A, Sec. (e)	Disconnection/Reconnection
Service Fee Outside of Business Hours	\$100	1043.31(d)(1)	Payment of Bills
Insufficient Funds (Returned Check)	\$35	1043.31(e)(1)	Payment of Bills
Online Payments	\$1.95 per \$100	1043.31(g)(2)	Payment of Bills
Connection Permit Fee	\$25	Appendix A, Sec. (a)(1)	Connection Permits
Connection Charges	Varies	Appendix A, Sec. (a)(3)	Connection Permits
Connection Inspection > than 5 hours	\$50 per hour	Appendix A, Sec. (a)(4)	Connection Permits
Transfer of Ownership (Water & Sewer)	\$5	1043.04(b)(9)	Connection Charges
Transfer of Ownership (Sewer Only)	\$10	1043.04(b)(9)	Connection Charges
Industrial Wastewater Surveillance Charge	\$200 Annually	1043.27(c)	Determination of Charges
Capacity Charges	Varies	Appendix A, Sec. (b)	Capacity Charges
Discharge Permit Fee	\$100	Appendix A, Sec. (c)(1)	Wastewater Discharge
Sewer Service Charges	Varies	Appendix A, Sec. (d)	Service Charges
Sewage Surcharges	Varies	Appendix A, Sec. (g)	Surcharges

**APPENDIX B**  
**NEW CARLISLE GENERAL SEWER DISTRICT**  
**USER CATEGORIES AND EDU CRITERIA**

**USER CATEGORIES AND EDU CRITERIA<sup>1</sup>**

<i>Type of User</i>	<i>Estimated Sewage Flow (GPD)</i>	<i>EDU<sup>2</sup></i>
<i>Type of User</i>	<i>Estimated Sewage Flow (GPD)</i>	<i>EDU<sup>2</sup></i>
Residential:		
Homes	175 per home	1 per home
Apartments	175 per apartment	1 per apartment
Trailer Parks	175 per trailer	1 per trailer
Vacation Cottages	175 per cottage	1 per cottage
Non-Residential:		
Assembly Hall	2 per seat	0.01 per seat
Church	4 per sanctuary seat	0.02 per sanctuary seat
Country Club	28 per member	0.12 per member
Institution	100 per resident	0.44 per resident
Hospitals	170 per bed	0.76 per bed
Ordinary Restaurant (Not 24-hour)	20 per seat	0.09 per seat
24-Hour Restaurant	28 per seat	0.12 per seat
Restaurant along Freeway	56 per seat	0.25 per seat
Tavern/Bar (very Little Food Service)	20 per seat	0.09 per seat
Laundry	225 per machine	1.00 per machine
Motels	56 per room	0.25 per room
Office building	10 per employee	0.04 per employee
Recreational Vehicle - Parks and Camps	50 per trailer or tent	0.22 per trailer or tent
Retail Store	10 per employee	0.04 per employee
Elementary Schools <sup>3</sup>	5 per pupil	0.02 per pupil
Middle and High Schools <sup>3</sup>	5 per pupil	0.02 per pupil
Service Station	560 - first pump island	2.49 first island
	280 - additional islands	1.24 additional islands
Swimming Pool	4 per swimmer	0.02 per swimmer
1 Modified OEPA suggested sewage flow guide is basis for EDU.		
2 EDU is equivalent to 175 gals/day - 1 EDU minimum for any service.		
3 Estimated sewage flow is based on 1990/1991 average water consumption for schools located within the service area.		

(Ord. 95-16. Passed 9-18-95.)



## **ORDINANCE 2022-19E**

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO PURCHASE A BACKUP ENGINE AND CONTROLLER FOR THE HONEY CREEK SANITARY SEWER LIFT STATION OPERATED AND MAINTAINED BY THE CITY OF NEW CARLISLE, AND DECLARING AN EMERGENCY

**WHEREAS**, the City currently operates and maintains the sanitary sewer lift station located at the Honey Creek Mobile Home Park; and

**WHEREAS**, the automatic backup engine and controller, which is necessary in the event of a power outage, at the Honey Creek Mobile Home Park has failed; and

**WHEREAS**, the backup engine and controller cannot be rebuilt in a cost-effective manner or within a reasonable timeframe without custom work because manufacturer parts are no longer available – in essence, the backup engine and controller has reached its end of life; and

**WHEREAS**, without a functional backup engine and controller, the City must manually operate the backup system on site whenever an outage exists; and

**WHEREAS**, this has put the City in an emergency situation because it is only a matter of time before the City will not be available to manually operate the backup system, which could cause sewer water to overflow and unsanitary conditions around the lift station; and

**WHEREAS**, Pelton Environmental Products has submitted a proposal that meets or exceeds the requirements of this project, including all materials for a new backup engine and controller, for a price of Forty-Nine Thousand Nine Hundred Ninety-Five and xx/100 Dollars (\$49,995); and

**WHEREAS**, the proposal from Pelton Environmental Products expires on May 4, 2022.

**NOW, THEREFORE, THE CITY OF NEW CARLISLE HEREBY ORDAINS** as follows:

Section 1. The City currently faces an emergency in which it must immediately replace equipment, specifically its nonfunctional backup engine and controller, in order to preserve Honey Creek Mobile Home Park's pumping operations to the City's sewer system.

Section 2. Pelton Environmental Products has submitted a proposal that meets or exceeds the wastewater requirements for this project and includes all materials for a price of Forty-Nine Thousand Nine Hundred Ninety-Five and xx/100 Dollars (\$49,995).

Section 4. Because this matter is an emergency due to the fact that City operations could be jeopardized without immediate action, the City accepts the proposal from Pelton Environmental Products.

Section 5. That the City Manager be, and he hereby is, authorized to enter into a contract and execute all related documents with Pelton Environmental Products for the purchase of a new backup engine and controller for a price not to exceed Forty-Nine Thousand Nine Hundred Ninety-Five and xx/100 Dollars (\$49,995).

Section 6. To best serve the health, safety and welfare of the community, and due to the need to ensure that the contract and all related documents are executed and delivered to Pelton Environmental Products by May 4, 2022, and the possibility of unforeseen price increases, this ordinance is declared an emergency and will become effective upon passage.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Mike Lowrey, MAYOR

\_\_\_\_\_  
Emily Berner, CLERK OF COUNCIL

APPROVED AS TO FORM:

\_\_\_\_\_  
JAKE JEFFRIES, DIRECTOR OF LAW

1st \_\_\_\_\_

2cd: \_\_\_\_\_

<b>Eggleston</b>	Y	N
<b>Bahun</b>	Y	N
<b>Lindsey</b>	Y	N
<b>Mayor Lowrey</b>	Y	N
<b>Vice Mayor Grimm</b>	Y	N
<b>Rodewald</b>	Y	N
<b>Cook</b>	Y	N

<b>Totals:</b>		
	<b>Pass</b>	<b>Fail</b>

Intro: 5/2/22  
Action: 5/2/22  
Effective: 5/2/22



Date: 4/19/2022  
 Quote # C4027-C2102-10.15.21-1456

**Customer:**

May, Kerri  
 New Carlisle, WWTP  
 937-845-0814  
 kmay@newcarlisle.net

**Quote is valid for 15 days**

Quote by: Frazier, Kevin  
 Customer PO #  
 PEP PO#  
 Fed Id:  
 Tax Exemption:

Qty	Part No.	Description	Unit Price	Total Price
1	95-475-AXH-R	Replacement Zenith Engine and Controller with Panel	43,762.50	43,762.50
1	NA	Service to remove and install new engine and controller	6,232.50	6,232.50

**Special Notes and Instructions**

Estimated Submittal 7-9 Weeks, Estimated Revision 3-5 Weeks, Estimated Production Time 7-9 Weeks. Any additional Service days will be billed at \$1,250.00 per day per technician. Freight Included.

**Freight:**  
**Freight Estimate: \$**  
**Total : \$49,995.00**

3% service fee applied to all credit card payments.

**Bill To:**

**Ship To:**

403 Garfield St, New Carlisle,  
 OH, 45344

**Ship VIA:**

**Ship Date:**

8638 Cotter Street  
 Lewis Center, Ohio 43035  
 Ph: (440) 838-1221, Fax (440) 838-1217  
 www.peltonenv.com



Date:  
Quote #

4/19/2022  
C4027-C2102-10.15.21-1456

## TERMS AND CONDITIONS PURCHASE ORDER

1. The Purchase Order consists of this Agreement and any Exhibits attached hereto. These documents represent the entire and integrated agreement between the parties hereto and supersede all prior negotiations, representations or agreements, either written or oral. Any provision in any invoice, acknowledgement or other writing furnished by the Buyer subsequent to the execution of this Agreement that conflicts with any provision of this Agreement shall be null and void and of no force or effect. This Agreement may not be supplemented, amended or modified other than by a writing executed by an authorized officer of the Buyer and Pelton Environmental Products, Inc. (PEP).
2. All claims, disputes and other matters in question arising out of, or relating to, this Purchase Order or the breach thereof, shall be decided by arbitration.
3. This item 2 shall not be deemed a limitation on any rights or remedies, which PEP may have under any Federal or State mechanics' lien laws or under any applicable material payment bonds unless such rights or remedies are expressly waived by PEP.
4. The scope of supply shall be limited to only those items specifically detailed in the proposal or exhibits.
5. PEP shall endeavor to furnish material per the original manufacturers projected delivery times. PEP shall not be responsible for manufacturer delivery times that exceed projected time or dates.
6. If submittals are required by PEP, submittals are 4-6 weeks from approved PO. Resubmittals will be 3-4 weeks from receipt of returned submittal.
7. If O&Ms are required, availability will be 4-6 weeks after submittal approval or equipment release date if submittals are not required.
8. This Purchase Order may not be sublet or assigned, in whole or in part (voluntarily or by operation of law), by the Buyer without the prior written consent of PEP.
9. PEP shall take reasonable safety precautions with respect to on site delivery of materials and shall comply with safety measures indicated by the Buyer and with all applicable laws, ordinances, rules, regulations and orders for the safety of persons or property. Without limiting the generality of the foregoing, PEP shall be responsible for insuring that all on site deliveries are performed in accordance with the regulations of the Occupational Safety and Health Administration and other government agencies with responsibility for health and safety. The Supplier shall report to the Buyer within three (3) days any injury to an employee or agent of the Supplier that occurs at the Project site. Buyer shall make supplier aware of any damaged or misplaced items within 24 hours of delivery to site.
10. If hazardous substances of a type of which an employer is required by law to notify its employees are being delivered to the Project site by PEP, or his agent, PEP or anyone directly or indirectly employed by them, shall, prior to harmful exposure of any employees on the Project site to such substance, give written notice of the chemical composition thereof. In order to comply with OSHA regulations and sufficient sets of MSDS reports
  - a. shall be furnished to the Buyer prior to delivery and in sufficient detail and time to permit compliance with such laws by the Buyer. Without limiting the generality of the foregoing, PEP shall furnish the Buyer with a Hazardous Materials Plan including Material Safety Data Sheets with respect to all such hazardous substances and take all precautions necessary to insure that containers of such substances are properly labeled.
11. Payment terms are 100% net 30 days upon delivery.
12. No start-up, training or installation assistance is provided unless specifically mentioned elsewhere in the documents.
13. Prices shown do not include any applicable taxes or fees.
14. Prices are valid for 15 days beyond proposal date.
15. Freight terms are prepay and add unless specifically mentioned elsewhere.
16. PEP adheres to affirmative action to comply with all current equal employment regulations, laws and executive orders of the Federal, State, and Local Governmental bodies which have made it unlawful to discriminate with respect to equal employment opportunity because of race, color, creed, sex, age, handicap, Vietnam Veteran status, or national origin, in accordance with, but not limited to PEP "Notice of EEO Policy" available upon request. This Company adheres to the State EEO Covenant Appendices A & B of the Governor's Executive Order of 1972
17. Pricing information contained here is a trade secret of Pelton Environmental Products. Pursuant to your state's public records law (including Ohio Revised Code § 149.43(A) (1) (v), Indiana Code § 5-14-3-4(a) (4), Kentucky Revised Statutes § 61.878(1) (c) (1)), these trade secrets shall not be disclosed for public inspection or in response to a public records request. You agree to notify Pelton of any request for public disclosure and provide Pelton sufficient opportunity to protect its information.
18. Place orders to Pelton Environmental Products, Inc. 8638 Cotter St., Lewis Center, OH 43035.

8638 Cotter Street  
Lewis Center, Ohio 43035  
Ph: (440) 838-1221, Fax (440) 838-1217  
www.peltonenv.com





**ORDINANCE 2022-20**

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AMENDED CONTRACT WITH WASTE MANAGEMENT FOR THE CURBSIDE COLLECTION AND DISPOSAL OF RESIDENTIAL GARBAGE, REFUSE, AND RECYCLABLES IN THE CITY OF NEW CARLISLE, OHIO

**WHEREAS**, Ordinance 2020-32 was passed by City Council on September 8, 2020, which authorized the City Manager to enter into a contract with Waste Management for a period of three years for the collection of garbage, refuse and recyclables; and

**WHEREAS**, on February 24, 2022, Waste Management sent a letter to the City requesting a public hearing for the purpose of the City approving or denying an increase to the contract price due to unforeseen inflationary costs; and

**WHEREAS**, the requested amount equates to a \$0.77 per month increase for Low Volume users and a \$0.93 per month increase for Standard Cart Service users, while those enrolled in the Senior Rate program would see no price increase; and

**WHEREAS**, City Council discussed many concerns relating to this request and inquired into what the cost increase would be if every week recycling was added as opposed to keeping the current arrangement of every other week recycling; and

**WHEREAS**, City Council held a public hearing on April 18, 2022 and granted the requested price increase in addition to agreeing to every week recycling; and

**WHEREAS**, effective June 1, 2022, the rate will increase by \$2.15 per month for Low Volume Cart Service, Standard Cart Service and Extra Cart – Recycling only, while the Senior Cart Service subscribers and Extra Cart – Trash, will see no rate increase.

**NOW, THEREFORE, THE CITY OF NEW CARLISLE HEREBY ORDAINS:**

**SECTION 1.** That the City Manager be, and he hereby is, authorized and empowered to enter into the attached Amendment to City of New Carlisle Municipal Solid Waste, Recycling, and Yard Waste Services Agreement.

Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Mike Lowrey, Mayor

\_\_\_\_\_  
Emily Berner, Clerk of Council

APPROVED AS TO FORM:

\_\_\_\_\_  
Jacob M. Jeffries, DIRECTOR OF LAW

Intro: 05/02/2022  
Action: 05/16/2022  
Effective: 05/31/2022

	1st	_____
	2cd:	_____
Eggleston	Y	N
Bahun	Y	N
Lindsey	Y	N
Mayor Lowrey	Y	N
Vice Mayor Grimm	Y	N
Rodewald	Y	N
Cook	Y	N
<b>Totals:</b>		
	<b>Pass</b>	<b>Fail</b>

**AMENDMENT TO CITY OF NEW CARLISLE MUNICIPAL SOLID WASTE, RECYCLING AND  
YARD WASTE SERVICES AGREEMENT**

This Amendment to the City of New Carlisle Municipal Solid Waste, Recycling and Yard Waste Services Agreement is hereby made and entered into as of the \_\_\_\_\_ day of May, 2022, by and between the City of New Carlisle, OH ("City"), and Waste Management of Ohio, Inc. ("WM").

**Recitals**

1. The City and WM executed a Municipal Solid Waste, Recycling and Yard Waste Services Agreement on November 3, 2020 (the "Agreement").
2. The City and WM now desire to amend the Agreement to increase the frequency of recycling collection.

**Amendments**

The City and WM hereby agree to amend the Agreement as follows:

1. **Collection Location, Frequency and Time.** As of June 1, 2022, Section 3(c)(ii) of the Agreement shall be deleted in its entirety and replaced with the following:
  - ii. Recyclables shall be collected from the curbside one time (1x) per week on the same day Refuse is collected from each Residential Unit. Collections shall occur during ordinary hours but in no instance earlier than 7 a.m. or later than 6 p.m.
2. **Rates.** Commencing on June 1, 2022, the WM Rates in Exhibit A for Year 2 and Year 3 will increase by \$2.15 per unit per month (\$6.45 per quarter) . This rate increase will apply to Low Volume Cart Service, Standard Cart Service subscribers and Extra Cart – Recycling only. The rates for Senior Cart Service subscribers and Extra Cart - Trash shall not change.
3. **No Other Changes.** Except as specifically amended herein, all other terms and conditions of the Agreement will continue in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed as of the day and year first written above.

**CITY OF NEW CARLISLE, OH**

**WASTE MANAGEMENT OF OHIO, INC.**

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Law Director, City of New Carlisle