

Title 5- Public Utilities

TITLE 5. PUBLIC UTILITIES

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§5.01.01. Taps; connections to the sanitary sewer, storm sewer and waterlines.

The rates to be charged for taps and connections to sanitary sewers, storm sewers and water lines within or without the corporate limits of the City of Nelsonville shall be as established by Nelsonville City Council.

§5.01.02. Water rates.

The water rates to be charged for the sale of water within or without the corporate limits of the City of Nelsonville shall be established by the Nelsonville City Manager. (*ORC §743.04*)

§5.01.03. Water service connection rates.

The fee to be charged for making a water service connection within or without the corporate limits of the City of Nelsonville shall be established by Nelsonville City Council.

Chapter 5.02. Refuse, Rubbish and Special Rubbish

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§5.02.01. Purpose and intent.

The purpose and intent of these Regulations is to insure that a sanitary and satisfactory method of preparation, storage, collection, transportation and disposition of refuse, rubbish and special rubbish be provided and that the provisions of *Chapter 5.02* be construed liberally so that the maintenance of public and private property, in a clean, orderly and sanitary condition, might be accomplished for the peace, health and safety of the community.

§5.02.02. Definitions.

Unless otherwise expressly stated, as used in this chapter, the following terms shall mean as follows:

A. "Commercial User" means all persons who own or operate stores, restaurants, industries, institutions, boarding houses, rooming houses with six (6) or more roomers, apartment or condominium complexes, apartment buildings containing four (4) or more units, and other similar places, public or private, charitable or non-charitable, and includes all responsible persons, other than Residential Householders, upon whose premises refuse, rubbish, special rubbish and/or yard waste is created.

B. "Container" for residential purposes means a leak-proof container with tight fitting lid of metal or rigid or flexible plastic construction or fabrication no larger than thirty-two (32) gallon capacity weighing no more than forty-five (45) pounds used to store refuse or bags of refuse or a container of up to ninety (90) gallons if furnished by a licensed contract hauler. For commercial purposes, it shall be a container determined by mutual agreement of the Commercial User and the Licensed Hauler as sufficient to serve the needs and demands of the Commercial User.

C. "Day of pick-up" means a period of time no earlier than 6:00 P.M. the day before and no later than 11:00 P.M. the day of scheduled collection by a Licensed Hauler where a Residential Householder or Commercial User places at the street curb or alley adjacent to the premises or at a public right-of-way location acceptable to the Licensed Hauler all rubbish, refuse, special rubbish and/or yard waste to be collected by the Licensed Hauler of the City. The City Manager may require the Licensed Hauler to provide special assistance to infirm or handicapped residents where he/she finds such assistance necessary. Containers shall be continuously stored in accordance with location and screening requirements of *Nelsonville City Code §5.02.03 (E)*.

D. "Residential Householder" means an individual, family or group family (rental) unit and includes owners, tenants and occupants of all premises containing no more than three (3) dwelling units or rooming houses with no more than five (5) rooming units. Householder shall also mean a non-profit (low volume) agency that is located in a residential area, provided application for said designation is made to the City Manager on a form supplied by the City, and provided the City Manager finds said agency to be non-profit and low volume. Nothing in this definition shall be construed to apply to Commercial Users as herein-after defined.

E. "Licensed Hauler" means any person who has purchased a license or obtained a franchise from the City for

the collection, transportation, and disposition of refuse, rubbish, special rubbish, yard waste and/or recyclables.

F. "Premises" shall be interpreted to mean land or buildings, or both, or parts of either or both, occupied by a Residential Householder or Commercial User.

G. "Recyclables" means materials otherwise considered to be refuse, rubbish or special rubbish or any other discarded material which can be recovered from the solid waste stream and converted into similar or new products.

H. "Refuse" means all wastes from the preparation, cooking and dispensation of food for human consumption; all fish, fowl, fruit, vegetable, animal or other matter which was intended to be used as food for human consumption, including condemned food, excess fruit from trees, excess vegetables from gardens, and items of a similar nature; and all wastes from the preparation, cooking, and dispensing of food for consumption by domestic animals, including dogs, cats and similar pets.

I. "Rubbish" means all household goods and refuse resulting from normal household activities. Rubbish does not include "Special Rubbish" or "Recyclable" as herein defined or as defined in *Nelsonville City Code Chapter 5.05*.

J. "Special Rubbish" means rubbish that is too large or otherwise unsuitable to fit easily into a normal packer truck, including, but not limited to, furniture, carpeting, springs, mattresses and bed frames; appliances, such as televisions, stereos, stoves, microwave ovens, refrigerators, freezers, dishwashers, air conditioners, washers, dryers, water boilers, hot water tanks or furnaces; feces; dirt, stones, asphalt, gravel, broken or whole bricks, concrete, and other rubbish from repairs and alterations of existing buildings or from new construction of buildings and sidewalks; or tree limbs, tree trunks or shrubbery over twenty-four (24) inches in length.

§5.02.03. Preparation and storage.

A. No Residential Householder or Commercial User shall permit to accumulate upon a premises any refuse or rubbish except in suitable covered containers provided by the Residential Householder or Commercial User and approved by the City Manager, except for the day of pick-up when plastic or paper bags may be appropriate. All refuse and rubbish shall be kept in leak proof containers. All refuse and rubbish shall be drained of liquids and stored in paper or plastic bags. All containers shall be washed and treated with a disinfectant as often as necessary to prevent nuisance by the Residential Householder or Commercial User to whom the same belongs. Grass clippings, tree trimmings, and other vegetative debris determined to be yard waste shall be bagged for pick-up in accordance with the terms of the franchise agreement or shall be considered as special rubbish.

B. No person having refuse, rubbish or special rubbish in the City shall deposit or place such upon any street, alley or public place or ground or private property in the City, nor may any person deposit or place the same into any stream bed or body of water in the City. While this section prohibits the burial of refuse, it is not intended to preclude composting if approved by the Athens City-County Health Department.

C. No person, Residential Householder or Commercial User shall place any refuse, rubbish or special rubbish in public trash containers except that which is normally generated in public places, such as candy and cigarette wrappers.

D. All persons, Residential Household and Commercial Users are hereby required to collect such refuse and rubbish in suitable receptacles on the premises in possession of the party responsible therefore and then dispose of it through services provided exclusively by the Licensed Hauler and in accordance with this chapter. The premises shall be cleared of refuse and rubbish as often as necessary, not in excess of every seven (7) days, so as to eliminate any nuisance to the public. Refuse and rubbish not removed from a premise at least every seven (7) days is declared a public nuisance.

E. Except for the scheduled day of pick-up or a day of pick-up rescheduled because of a holiday or other need for postponement, no person, resident, owner, or agent having care of any property within the City of Nelsonville shall store, cause or allow to be stored, deposit or permit any residential container as herein defined to be located between the front of a structure and the property line adjacent to the frontage street or public right-of-way. Containers stored on attached open front porches or decks or on the side of structures shall not be visible from the street or public right-of-way. Where these requirements are determined impracticable by the City Manager or his/her designee or where containers are located in a proper storage area and still visible, containers shall be positioned or screened as effectively as possible so as to minimize visibility from streets, alleys, secondary rights of-way and adjacent properties and premises.

§5.02.04. Collection.

A. On the day of collection, the Licensed Hauler shall collect all refuse, rubbish, special rubbish and recyclables that are properly prepared and placed at curb-side or garage-side for collection as per *Nelsonville City Code §5.02.03*.

B. Any person producing or having refuse or rubbish shall cause it to be removed by persons properly authorized in accordance with *Nelsonville City Code §5.02.06*.

C. Except in emergency situations, all refuse, rubbish and special rubbish transported by Licensed Haulers on the streets or public thoroughfares in the City shall be in packer trucks approved by the City Manager. The bodies of such vehicles shall be leak-proof, of easily cleanable construction and completely covered. Spillage or drippage from vehicles transporting refuse, rubbish or special rubbish shall not be permitted. The name and telephone number of the Licensed Hauler shall be easily visible on the side of the hauler's truck.

D. The Licensed Hauler must collect refuse and rubbish and at least once every seven (7) days, equipment failure or acts of God excepted. It shall be understood that this service has been rendered unless the Residential Householder or Commercial User notifies the Licensed Hauler or the City within five (5) days of failure to furnish such service.

E. The Licensed Hauler is responsible for providing suitable facilities for the sanitary storage of the collecting units in their possession when not in use, so as to be of no nuisance to the City.

F. No collection or transportation of residential refuse and rubbish by the Licensed Hauler or the City shall be permitted on Sunday except in emergency conditions.

G. Title to all waste shall be vested in the Licensed Hauler upon its being placed in the hauling vehicle.

§5.02.05. Compliance required.

No person shall contract for the collection or transportation of refuse or rubbish within the corporation limits except in accordance with the provisions of this chapter and the exclusive franchise agreement.

§5.02.06. License required.

All persons collecting or transporting refuse and rubbish in the City of Nelsonville shall have obtained a license pursuant to an approved franchise agreement entered into with the City. No person other than the Licensed Hauler shall remove refuse or rubbish from any premises within the City except small amounts of refuse or rubbish may be removed on an infrequent basis if authorized by the City Manager. The license holder is limited to the collection of Commercial Users and Residential Householders in accordance with the franchise agreement. The City of Nelsonville is exempted from the licensing fee and requirements but will obey the terms of licensing in all other respects.

§5.02.07. Issuance of licenses.

The City Manager shall issue a license to franchise hauler on behalf of the City in accordance with the terms of this chapter and the franchise agreement.

§5.02.08. Terms of licenses.

A. The Licensed Hauler shall agree to perform the obligations incurred by the license in accordance with the terms of this chapter and the franchise agreement.

B. It shall be the responsibility of the Licensed Hauler to see that the hauler's collections are conducted in a neat, workmanlike manner whereby no rubbish or refuse is spilled in yards or on streets as a result of collection operations.

C. In residential areas, unless otherwise permitted by the City Manager, collection of refuse and rubbish shall not commence before 6:00 A.M. and shall be completed by 6:00 P.M. on any single day of collection. No regular collection shall be made on Saturdays, Sundays or designated holidays. Exceptions by the City Manager can be made for days following holidays or acts of God when regular pick-ups cannot be conducted.

D. The City Manager shall have the authority, with the advice and consent of City Council, to approve or disapprove the transfer of any license after consideration of whether the City desires to take over the collection of the accounts to be transferred and after consideration of the reputability of the proposed new licensee. The City may also exercise the right of first refusal on the purchase of said hauler's equipment. Such consent does not release the Licensed Hauler from any obligations and/or liabilities under the license. Violation of this specification shall result in immediate forfeiture. The license shall be binding upon respective successors, executors, administrators and assigns, as the case may be, of the Licensed Hauler, who shall be responsible for the continuation of the same in the event of dissolution, merger and/or death of the licensee.

E. A local office or a published local telephone number shall be established by the Licensed Hauler. This office and the telephone number shall be listed with the Office of the City Manager and Office of Code Enforcement.

F. In order to provide service to the entire community, commercial accounts unable to find service will be assigned to a commercial hauler by the City Manager.

G. If a Licensed Hauler is adjudged bankrupt, either voluntarily or involuntarily, then this license shall terminate, effective on the day and at the time the bankruptcy petition is filed, and the City shall take over said hauler's routes and accounts in accordance with terms and conditions of the franchise agreement.

H. In the spirit of shared responsibilities, the City Manager will secure the assistance of the Licensed Hauler during Spring Cleanup, Christmas tree pick-up, and for other special occasions and events as identified in the franchise agreement.

§5.02.09. Sanitary landfill.

The Licensed Hauler shall dispose of collected refuse, rubbish, special rubbish and yard waste at a Municipal Solid Waste (MSW) landfill and/or Construction and Demolition Debris (C&DD) landfill licensed by the Ohio Environmental Protection Agency, Division of Materials and Waste Management.

§5.02.10. Application for license.

Applications for license under the provisions of this chapter shall be filed with the City Manager on such forms as the City Manager shall prescribe. At a minimum, such application shall contain:

A. a statement of the name, address and telephone number of the applicant; and

B. a list of those stockholders who own ten percent (10%) or more of any corporation making application or of all partners in a partnership; and

C. a description of the type and condition of the equipment to be used for collection, transportation and disposition; and

D. a statement that the method of disposition to be used is in agreement with National, State and Local health standards; and

E. such other facts or information as may be required by the City Manager or contained in franchise contract specifications or agreements.

§5.02.11. Rates.

A. Rates shall be determined as part of the terms of the franchise agreement. Special rubbish may be removed by any person or by the Licensed Hauler after purchase of a sticker from the City Manager's Office. Residential Householders or Commercial Users placing special rubbish at curb-side or garage-side without a sticker or without the consent of the franchisee shall be notified of the offense when it occurs.

B. Any other rates not specifically established by the schedules in this section may be established from time to time by City Council upon the recommendation of the City Manager.

C. Increases in rates during the term of the franchise agreement shall not be considered unless by application from the Licensed Hauler to City Council.

Evidence of the necessity to raise the rates must be presented by financial statements and whatever other documents are deemed appropriate by City Council. After receiving such

evidence, Nelsonville City Council, by ordinance, shall act upon such application.

§5.02.12. Uncollected refuse and rubbish: nuisance.

Putrefying or malodorous refuse within or without containers or if dumped in the open is declared a public nuisance. Refuse, rubbish or special rubbish stored in receptacles or containers or in piles on the premises in possession of the party responsible therefore for a period exceeding seven (7) days is declared a public nuisance. The person responsible for either or both types of nuisance shall be liable to prosecution under the provisions of this chapter.

§5.02.13. Complaints.

In the event that the Licensed Hauler shall breach any of the material provisions of this chapter or the franchise agreement and shall fail to remedy the same within a reasonable time after written notice from the City Manager to do so, or in the event of repeated breaches of minor matters, such as debris falling from trucks, missing customers or similar daily activities, leading to repeated complaints to the City, the City shall have the right to revoke the hauler's license in accordance with terms contained in the franchise agreement.

§5.02.14. Route lists and schedules.

A. It shall be the responsibility of the Licensed Hauler to establish routes and schedules for adequate performance under the terms of this license. Route lists shall be filed with the City Manager's Office annually. The Licensed Hauler shall notify each Residential Householder or Commercial User of their scheduled pick-up day.

B. Holiday scheduling shall be worked out in such a manner that all those Residential Household and Commercial Users scheduled for service on that day affected are notified of the change of schedule in advance of the particular holiday.

§5.02.15. Performance bond.

The Licensed Hauler shall furnish to the City a performance bond for the faithful performance of this agreement. It shall be a cash bond or other surety executed by a surety company licensed to do business in the State of Ohio and deposited with the City. Said bond shall indemnify the City against any loss resulting from or any failure of performance by the Licensed Hauler. The bond shall be established by the terms of the franchise agreement and shall not be less than the sum of four thousand dollars (\$4,000.00).

§5.02.16. Indemnity and insurance.

The Licensed Hauler shall indemnify and save harmless the City and all its executives, representatives, officers, agents, employees, successors and assigns, jointly and severally, from any and all manner of losses, suits, actions, payments, costs, charges, damages, judgments or claims, and demand of any character, name or description brought on account of any injuries or damages received or sustained by any person, persons or property by reason of any act, omission, neglect or misconduct of the Licensed Hauler or the hauler's agents or employees in the execution of the license.

In addition, the Licensed Hauler shall carry a minimum insurance policy providing complete third-party comprehensive bodily injury and property damage liability insurance, covering not only the Licensed Hauler but also the City, the limits of which shall not be less than three hundred thousand dollars/five hundred thousand dollars (\$300,000/\$500,000), for bodily injury and fifty thousand dollars (\$50,000), for property damage, with the City named as coinsured with the Licensed Hauler under the policy or in an amount identified in the contract specifications. The Licensed Hauler shall furnish the proper certificates of insurance coverage to the City.

§5.02.17. Regulations by the City Manager.

The City Manager shall promulgate such other and further rules and regulations relating to the collection, transportation and disposition of refuse, rubbish special rubbish and yard waste as are not inconsistent with the intent of this chapter or the franchise agreement and as may be necessary to the full exercise and control of the same.

§5.02.18. Exclusive franchise agreement

The City Manager of the City of Nelsonville is hereby authorized, with the advice and consent of Nelsonville City Council, to execute a consent to assignment by form and content presented by the City Manager.

§5.02.19. Franchise: terms.

The terms and conditions of the exclusive franchise agreement shall be contained in such agreement and shall not be changed, modified or amended without the permission of the City of Nelsonville. The following locations shall be collected at no charge to the City of Nelsonville, Ohio:

A. City Municipal Building/Police Station Complex including a container available to the public for deposit of recyclables.

B. Nelsonville Waste Water Treatment Plant with refuse and rubbish collected every other week plus a container available to the public for deposit of recyclables.

C. Nelsonville Water Treatment Plant collected every other week.

D. Nelsonville Aquatic Center during the swimming season.

E. Polly Field Recreational Park.

F. All public rubbish containers of the City of Nelsonville on and around the Public Square.

G. Refuse, rubbish and recyclables removal during the week of the Parade of the Hills at pick-up locations established by the City of Nelsonville and the Contractor.

H. Any future facilities of the City.

§5.02.99. Penalties.

Any person who shall violate any provisions of the chapter shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined in an amount not exceeding one hundred fifty dollars (\$150.00) for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

Any person violating any of the provisions of this chapter shall become liable to the City of Nelsonville for any expense, loss or damage occasioned the City of Nelsonville by reason of such violation.

Chapter 5.03. Water Regulations.

- §5.03.01. Title
- §5.03.02. Responsibility of property owner.
- §5.03.03. Service denied to delinquent users.
- §5.03.04. Wasted water charged for.
- §5.03.05. Water rates.
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- §5.03.07. Establishing a surcharge for water rates for capital improvements
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- §5.03.10. REPEALED
- §5.03.11. REPEALED
- §5.03.12. REPEALED
- §5.03.13. REPEALED
- §5.03.14. REPEALED
- §5.03.15. REPEALED
- §5.03.16. REPEALED
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- §5.03.18. REPEALED
- §5.03.19. REPEALED
- §5.03.20. Definitions for the City of Nelsonville Water Service Termination Policy.
- §5.03.21. Utility Service Termination Policy.
- §5.03.22. Notice Procedures.
- §5.03.23. Disconnection.
- §5.03.24. Voluntary Termination of Services.
- §5.03.24.01. Hearing Procedures.
- §5.03.24.02. Non-Discrimination against consumers.
- §5.03.99. Penalties

§5.03.01. Title.

Chapter 5.03 shall be known as, referred to, or cited as the "WATER RATES, CONNECTION COSTS AND SERVICE TERMINATION POLICY FOR THE CITY OF NELSONVILLE, ATHENS COUNTY, OHIO," and hereinafter referred to as "this code" or "this chapter" or *Chapter 5.03*.

§5.03.02. Responsibility of property owner.

A. When a person other than a property owner makes application for water service, the property owner shall sign the application along with the applicant and both parties shall be held jointly and severally responsible for the payment of water charges. Unless otherwise specified, bills will be rendered to the applicant only, but the property owner will be notified if a bill for water charges is delinquent.

(B) Where more than one (1) occupant or tenant is served through one (1) meter, the property owner will be held directly responsible for the payment of all bills pertaining to the use of water.

§5.03.03. Service denied to delinquent users.

No water shall be supplied to any applicant who is delinquent in the payment of water or sewer bills, or who is indebted to the water department for material, supplies or work done, or in any other manner, until such indebtedness has been paid, whether that indebtedness was incurred at the premises for which service is supplied or at any other place within or without the City; and the water department reserves to itself the right to shut off the water from the premises of

such applicant so delinquent upon forty-eight (48) hour notice. A delinquent water bill shall be defined as a water bill remaining unpaid for thirty (30) days or more after the billing date.

§5.03.04. Wasted water charged for.

All water that passes through a meter shall be charged for whether used, wasted or lost. The City Manager may grant relief to the requirement when a water line breaks between the meter and the serviced building. With a verifiable break, the water and sewer charges shall be assessed for that month based upon the average monthly usage of the previous six (6) months.

§5.03.05. Water rates.

The prices to be charged for water furnished by the City Water Works Department to all consumers situated within or without the City of Nelsonville, Ohio, on all billings payable after the regular meter reading during the month of October, 1984, be the same are hereby affixed as follows or established or amended by the City Manager.

SCHEDULE OF RATES: Effective on January 2, 2011, the product and services furnished by the municipal water works system of the City of Nelsonville shall be charged for at the following rates:

For service within the city limits, there is hereby established a monthly minimum bill of nine dollars and eight-nine cents (\$9.89) against which the first one thousand five hundred (1,500) gallons used shall be credited. Over the first one thousand five hundred (1,500) gallons used the cost shall be six dollars and fifty-eight cents (\$6.58) per one thousand (1,000) gallons. For service outside the city limits, there is hereby established a monthly minimum bill of fourteen dollars and eighty-three cents (\$14.83) against which the first one thousand five hundred (1,500) gallons used shall be credited. Over the first one thousand five hundred (1,500) gallons used the cost shall be nine dollars and eighty-eight cents (\$9.88) per one thousand (1,000) gallons.

SCHEDULE A- Metered service

Class 1 - Except as other provided in Class 2 of this Schedule A, the rates for metered service for public and private use shall be as follows:

For the first nine thousand (9,000) gallons per month - \$2.50 per one thousand (1,000) gallons or part thereof

For the next forty one thousand (41,000) gallons per month - \$1.87 per one thousand (1,000) gallons or part thereof

All over fifty thousand (50,000) gallons per month - \$1.14 per one thousand (1,000) gallons or part thereof

MINIMUM BILLS - The monthly minimum billings shall be based upon the size of the meter installed:

MULTIPLE MINIMUMS - where more than one (1) dwelling unit, or occupancy, is served by a single meter, the total bill shall be the average use per unit at the rates as set forth in Class 1 above, multiplied by the number of family units or occupancies served.

For a period of less than one (1) month, the minimum charge shall be determined on a per diem pro rata

basis in the proportion that the number of days of use bears to thirty (30) days.

Class 2 - The rates for water supplied pursuant to a special contract prescribing rates differing from those set forth in Class 1 of this Schedule A shall be determined in accordance with the terms of such contract until other provisions are made therefore.

SCHEDULE B - Non-metered service.

Class 1 - Public Fire Protection

A hydrant rental shall be paid to the City at the rate of fifty dollars (\$50.00) per year for each hydrant not in excess of fifty (50) and forty dollars (\$40.00) per year for each hydrant in the excess of fifty (50), payable semi-annually on June 1 and December 1.

A hydrant rental for all privately owned hydrants, or publicly owned outside the corporate limits, shall be paid by the owners thereof at the rate of fifty dollars (\$50.00) per year, payable semi-annually on June 1 and December 1.

Class 2 - Other non-metered service

The following rates for non-metered service shall be charged for the following specified uses:

For use in the construction of a frame dwelling not exceeding seven (7) rooms - \$12.25 per month.

For use in the construction of a frame dwelling exceeding seven (7) rooms \$12.25 plus \$1.75 for each room over in excess of seven (7) rooms per month

For use the construction of a stone brick or concrete dwelling not exceeding seven (7) rooms - \$22.50 per month.

For use in the construction of a stone brick or concrete dwelling exceeding seven (7) rooms - \$22.50 plus \$4.00 for each room over in excess of seven (7) rooms per month.

For filling tanks and tank trucks - \$3.50 for each one thousand (1,000) gallons or part thereof.

SCHEDULE C - Commencement and Discontinuance of Water

A charge of ten dollars (\$10.00) shall be made for shutting off water service at the time of its discontinuance and a similar charge shall be made for turning on such service at the time of the resumption whether or not such discontinuance of water service involves the physical shutting off the water service and subsequent turning it on.

§5.03.06. Cost of water connection.

The following charges to all consumers applying for connection to the municipal water works system shall be assessed for the cost of the meter, including installation thereof and for curb connect installed by the City unless the cost of such connection has been or 1st to be assessed;

METER SIZE

CURB CONNECTION CHARGE

Three-fourths (3/4) inch	\$1,300.00
One (1) inch	\$2,700.00

Meters in size greater than one (1) inch and curb connections therefore after shall be installed by the consumer at his own expense but under the supervision of the City Manager or his employee and a fee of thirty dollars (\$30.00) shall be paid for supervision and inspection of such installation and connection.

All rates may also be established or amended by separate Council ordinance.

§5.03.07. Establishing a surcharge for water rates for capital improvements.

A surcharge is hereby imposed for each month and for each water meter measuring water from the Nelsonville Water Treatment Plant or the Nelsonville Water Works System until this measure is modified or repealed.

§5.03.08. Meters required.

All properties shall be metered. So long as a meter is in service, whether in use or not, the customer and the property owner shall be liable for the minimum monthly charge.

§5.03.09. Conservation of water supply.

In the event of a serious fire or water shortage or when for any cause it is necessary, in the judgment of the City Manager, to conserve the water supply by limiting the use thereof, such order as shall be made by the City Manager or his authorized agent to that end shall be obeyed by all users of water affected by such order, and the City shall not be responsible for any damages resulting from any such limited use.

§5.03.10. REPEALED.

§5.03.11. REPEALED.

§5.03.12. REPEALED.

§5.03.13. REPEALED.

§5.03.14. REPEALED.

§5.03.15. REPEALED.

§5.03.16. REPEALED.

§5.03.17. REPEALED.

§5.03.18. REPEALED.

§5.03.19. REPEALED.

§5.03.20. Definitions for the City of Nelsonville Water Service Termination Policy.

The following definitions apply whenever said terms appear in these rules:

A. "Consumer": Any person who is the ultimate user of utility services provided by the Service City.

B. "Customer": Any person or entity who enters into a contractual agreement with the Service City to receive or to pay for utility services provided by the Service City. Customers may, but need not, be consumers of the services provided under such a contractual agreement.

C. "Consumer Household": Any service address in which the customer who is contractually liable for utility services furnished to that address does not reside.

D. "Customer Household": Any service address in which the customer who is contractually liable for utility services furnished to that address resides.

E. "Billing Address": The address at which the customer contractually liable for utility services furnished to a service address receives billing from the Service City. Billing addresses may, but need not, be the address at which said services are received.

F. "Service Address": Any individual address at which utility services are furnished a consumer or customer. The singular may include the plural. Most service addresses will be individually metered. However, in apartment buildings, apartment complexes, duplex apartments, etc., one (1) meter may supply more than one (1) household. In such circumstances, each individual apartment is a separate service address as that term is used herein.

G "City Manager": The City Manager shall be empowered and required (when good cause is shown) to cancel disconnection and/or order reconnection. This does not preclude the waiving of any turn on/disconnect administrative fees. The City Manager shall strive to arrange reasonable alternate methods of payment of the past due amount for payment, in order to preserve utility service, and shall maintain residential utility service, without discrimination. The City Manager, or his designated representative, shall preside at hearings held pursuant to these rules.

§5.03.21. Utility Service Termination Policy.

Utility service to customer or consumer households will be disconnected or terminated (hereinafter "disconnection") by the City only for the following reasons:

- A. Nonpayment;
- B. Emergencies, repairs and replacement of lines;

C. At customer request, provided that the approval of both the customer and consumer of services for that service address is necessary if any service address affected by the request is a consumer.

D. If, upon physical examination, the City obtains reasonable grounds for and has a good faith belief that, *Ohio Revised Code §4933.18* or *§4933.19* have been violated by use of a jumper or other by-pass mechanism:

- (1) Prior to installation of check valves or backflow protection; or
- (2) Which results in bypassing and negating such valves or protection.

While the City must otherwise satisfy the requirements of these rules, utility service may be terminated immediately upon that discovery, without notice or opportunity for hearing prior to termination. However, in such circumstances, if a customer or consumer household affected by such termination thereafter requests a hearing, and establishes that the offending condition has been remedied; utility service will be reinstated, conditioned on continuing good behavior, although the City does not thereby waive any right of prosecution otherwise granted under the law.

E. Water Service restoration shall only occur Monday thru Friday between the hours of 8:00 AM and 3:00 PM.

F. If it is determined that water service was restored at a service address by anyone other than City Water Department personnel, it will be immediately disconnected by City Water Department personnel, the meter locked-out, all past and current water bill amounts paid in full along with a

seventy-five dollar (\$75.00) reconnection fee before water service will be restored. Criminal prosecution may also be considered in accordance with City ordinances and *Ohio Revised Code §4933.22*.

G. If water service is disconnected at any address by the City and is discovered to have been reconnected by someone other than a City employee, water service will be immediately disconnected by the City, a lock placed upon the meter, a meter reading will be immediately taken and the service account will be adjusted to include all water registered on the meter since the last reading at shutoff. The service account must be then paid in full, plus the seventy-five dollar (\$75.00) reconnection fee, before water service can be restored to the account.

Except as set forth in (B) and (D) above, disconnections other than those with approval of both the customer and consumer of service may not occur without proper notice and adequate opportunity for hearing before termination. These rules shall be complied with by all utility department employees. No disconnection of service shall occur except after compliance with these rules.

§5.03.22. Notice procedures.

A. Written notice of proposed disconnection of service for non-payment, for any reason, other than voluntary disconnection where the customer asking for disconnection is also the only consumer at the address, must be sent by the City at least five (5) days, and no more than ten (10) days, prior to the date for proposed disconnection. Notices may be mailed with first class postage prepaid to reasonably assure delivery within that time. The date of the notice shall be the date of mailing, and a dated copy of any notice sent shall be retained by the City. The notice shall include:

- (1) Identifying information, including the service address to be affected, the account number, the customer's name and address, and the identity and address of the Provider;
- (2) The minimum amount due for payment to avoid disconnection.
- (3) The date proposed for disconnection if the account is not paid or hearing requested.

B. Notices shall clearly and conspicuously advise any recipient of his/her due process rights. The notice shall be given in a termination letter which will set forth the procedure for requesting a hearing. If a hearing is requested, the disconnection will not take place until the hearing process is completed. The notice in the termination letter shall include the following:

- (1) The reason for disconnection or termination of service;
- (2) The front of the envelope shall be stamped or printed in ink: FINAL NOTICE: FAILURE TO PAY WILL RESULT IN SHUT-OFF.
- (3) The letter shall also include the following statements: You may avoid termination by taking one or more of the following actions prior to the scheduled termination date:

- (a) If you personally owe utility service charges which are past due, you should pay the past due balance in full.
- (b) If you dispute the reason for the proposed termination, in whole or part, you may request a

hearing to contest termination. If a hearing is requested before the scheduled date for termination, termination will not take place until the hearing process is complete. If you request a hearing, you have the right to examine records concerning this service address; to bring a representative to help you at the hearing; and to bring witnesses to testify on your behalf;

(c) If water service is disconnected at any address by the City and is discovered to have been reconnected by someone other than a City employee, water service will be immediately disconnected by the City, a lock placed upon the meter, a meter reading will be immediately taken and the service account will be adjusted to include all water registered on the meter since the last reading at shutoff. The service account must be then paid in full, plus the seventy-five dollar (\$75.00) reconnection fee, before water service can be restored to the account.

(d) If you wish to avoid termination, or to request a hearing, or wish a more complete explanation of your hearing rights or your rights to assume responsibility for future utility charges, you should immediately contact the Nelsonville City Manager at the address and telephone number listed in this letter between the hours of 8:00 AM and 5:00 PM, Monday through Friday.

(e) The Notice specified herein shall state:
FINAL NOTICE IF YOU HAVE ANY QUESTIONS OR DISPUTES ABOUT THIS BILL, CALL THE CITY OF NELSONVILLE.

C. In the event any service address that would be disconnected is a consumer household, notice of disconnection of service, in the form and manner specified herein, must be delivered to each service address so affected, in addition to delivery to the customer household.

§5.03.23. Disconnection.

Pursuant to the provisions in *sub-sections (B) and (C)* above, if water service to a household is disconnected or terminated, and no hearing has been requested, at the time of disconnection a “NOTICE OF TERMINATION OF UTILITY SERVICE” will be left on the property by a City of Nelsonville representative. A copy of the Notice is designated hereto as *Exhibit 3* of the enabling ordinance. If disconnection or termination is due to the consumer or customer failing to prevail in a hearing, the termination notice will not be left at the property and service will only be restored by the payment due as determined by the hearing.

If, after a copy of the *Exhibit 3* disconnection notice is left on the property in a conspicuous place (at the front door if possible), the customer or consumer believes a mistake has been made and that the water service should not have been disconnected, the customer or consumer may contact the City of Nelsonville. After receiving the complaint, the City Manager shall direct the Utility Office to coordinate reconnecting the water service only if he/she believes, after reasonable inquiry, that a mistake has been made as to the following:

(1) The customer/consumer has not been mailed the final termination notice; or

(2) The customer/consumer has arranged a payment plan with the Utility Office which superseded the final termination notice.

In the case of (1) above, water service shall be reconnected and the final termination notice provided to the

customer/consumer. In the case of (2) above, water service shall be reconnected and a final termination notice sent to the customer/consumer if the person fails to make payment under the alternative payment plan agreed to. If the City Manager determines that a mistake has not been made as to the disconnection, that fact shall be communicated to the customer/consumer, and the City Manager shall also communicate to the customer/consumer that he/she has the right to a hearing.

§5.03.24. Voluntary termination of services.

Upon receiving a request for voluntary disconnection, if the City’s records reveal that the service address is different from the billing address for that account, or if there is other reason to believe disconnection may affect a service address comprised of a household other than, or in addition to, the customer’s household, the City shall:

(A) Send a copy of any final notice to the service address; and

(B) Send a copy of any customer’s voluntary termination of water service notice to the service address.

Both the customer requesting a voluntary disconnection and the resident living at the service address must complete the form designated as *Exhibit 1* attached to the enabling ordinance.

§5.03.24.01. Hearing procedures.

Persons who wish to contest a denial of utility service or the City’s decision as to billing or a proposed disconnection of utility services (hereafter “the person”) shall be afforded a due process opportunity to contest the Provider’s action or inaction prior to termination of service. Due process opportunity is the right to a face-to-face meeting with the City Manager, at which time a person may:

(A) Have the assistance of a representative; and

(B) May present documentary and/or oral information and/or the testimony of witnesses for the City Manager’s and Utility Office personnel consideration.

These persons shall be entitled to reasonable access to the City’s business records or Utility Office employees concerning the affected service address in order to prepare for the meeting, which right of access includes the right to obtain copies of documents found therein upon payment of the actual cost of copying. The City Manager shall make a written decision after the hearing and give the reasons for the decision. A copy of the decision shall be delivered to the person; a copy shall be retained in a special decisions file; and a copy retained in the business files kept by the City relating to any service address affected by the hearing.

Due process hearings shall be held within a reasonable time after a verbal or written hearing request has been made, but will not be held so quickly as to deny the person an adequate opportunity to seek assistance or to prepare for the hearing, in light of the person’s circumstances. The hearing decision shall be sent to the person within a reasonable time after the hearing. If a hearing has been requested prior to actual disconnection of service, no disconnection may occur until five (5) days after the hearing decision is delivered to the person who requested the hearing.

§5.03.24.02. Nondiscrimination against consumers.

A. If service is disconnected, or if disconnection is proposed, due to a customer’s nonpayment of service charges for a consumer household, an adult consumer of utility services in said household shall have the right to avoid disconnection, or obtain reconnection, if the consumer pays a seventy-five dollar (\$75.00) deposit and assumes written responsibility for timely payment of future charges for service provided the household at the service address. Consumer assumption does not relieve the customer of contractual liability for charges incurred. The assumption obligation shall terminate upon the consumer’s delivery to the City of a written notice canceling that assumption.

B. This section does not apply to any customer concerning any service address in which resides the customer obligated for payment of the account for that service address. However, in circumstances in which one (1) meter serves more than one (1) service address, consumer households will not be penalized in any way, or denied the benefit of this provision, because the defaulting customer’s benefited unit might also benefit from a continuation or restoration of service.

C. The City shall not refuse to furnish utility service and/or propose to or disconnect utility service to any customer or consumer household on account of arrearages due the City for utility services furnished to persons formerly receiving services at the same premises, provided the customers obligated on that delinquent account do not continue to reside at such premises. Applicants who are denied utility service shall be notified of that decision, and the reason for it, by use of the form attached as *Exhibit 2* to the enabling ordinance, at the time of the denial. No consumer of utility may be denied services because of, or billed for or required to pay for utility services furnished on the account of another individual, except to the extent of any assumption obligation previously assumed by that consumer pursuant to this paragraph.

§5.03.99. Penalties.

Any person who shall violate any provisions of the chapter shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined in an amount not exceeding one hundred fifty dollars (\$150.00) for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

Any person violating any of the provisions of this chapter shall become liable to the City of Nelsonville for any expense, loss or damage occasioned the City of Nelsonville by reason of such violation.

Chapter 5.04. Sewer Regulations.

- §5.04.01. Introduction.
- §5.04.02. Title.
- §5.04.03. Purpose and intent.
- §5.04.04. General discharge prohibitions.
- §5.04.05. Wastewater dischargers.
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- §5.04.38. Falsifying information.
- §5.04.39. Severability.
- §5.04.40. Conflict.
- §5.04.41. Definitions.

§5.04.01. Introduction.

Chapter 5.04 sets forth uniform requirements for dischargers into the City of Nelsonville wastewater collection and treatment systems and enables the City to protect public health in conformity with all applicable Local, State and Federal laws relating thereto.

§5.04.02. Title.

Chapter 5.04 shall be known as, referred to, or cited as the "*USER DISCHARGE AND SEWAGE CODE FOR THE CITY OF NELSONVILLE, ATHENS COUNTY, OHIO,*" and hereinafter referred to as "this code" or "this chapter" or *Chapter 5.04*.

§5.04.03. Purpose and intent.

The objectives of this code are as follows:

A. To regulate the use of public sewers, the discharge of waters and waste into public sewers and the construction of sewers and connections.

B. To prevent the introduction of pollutants into the City wastewater system which will interfere with the normal operation of the system or contaminate the resulting municipal sludge;

C. To prevent the introduction of pollutants into the City wastewater system which do not receive adequate treatment in the wastewater treatment plant, and which will pass through the system into receiving waters or the atmosphere or otherwise be incompatible with the system;

(D) To improve the opportunity to recycle and reclaim wastewater and sludge from the system.

Chapter 5.04 provides for the regulation of discharges into the City wastewater system through the enforcement of administrative regulations. This code provides for the recovery of operation, maintenance or replacement costs of the treatment works and the costs associated with the construction of collection and treatment systems used by all users, in proportion to their use of the treatment works.

Nothing in this code shall limit the right of the City to reject wastes, require the pretreatment of wastes, levy surcharge(s) for the treatment of wastes or to contract for a special agreement or arrangement for the treatment and disposal of wastes unless such actions are contrary to State and/or Federal laws and/or regulations.

§5.04.04. General discharge prohibitions.

A. No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage, cooling water or unpolluted industrial process waters to any sanitary sewer located within the City of Nelsonville, Ohio, or within any area under the jurisdiction of said City. Those connections to the sanitary sewer which are identified as clean water connections prohibited by this chapter must be removed at the expense of the property owner.

B. Storm 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 City Manager. Industrial cooling water or unpolluted process waters may be discharged, upon approval of the City Manager, to a storm sewer, combined sewer or natural outlet.

C. No discharger shall contribute or cause to be discharged, directly or indirectly, any of the following described substances into the wastewater disposal system or otherwise to the facilities of the City:

(1) Any gasoline, benzene, naphtha, fuel oil, mineral oil or other 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 any wastewater treatment plant or constitute a hazard to humans or animals;

(2) Any water or waste which contains grease, fats, wax or oil or other substances that will solidify or become discernibly viscous at temperatures between thirty-two (32) degrees and one hundred fifty (150) degrees Fahrenheit;

(3) Any wastewater having a pH less than six point zero (6.0) or higher than nine point zero (9.0) or having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel of the system;

(4) Any noxious or malodorous liquids, gases or solids which either singly or by interaction are capable of creating a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for their maintenance and repair;

(5) Any substance which may cause the wastewater treatment plant's effluent or treatment residues, sludge or scum to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the sewer system cause the wastewater treatment plant to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under *Section 405 of the Act*; any criteria, guidelines or regulations affecting sludge use or disposal

developed pursuant to the *Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act*, or State standards applicable to the sludge management method being used;

(6) Any substance which will cause the treatment works to violate its NPDES and/or other Disposal System Permits or otherwise interferes with the treatment works;

(7) Any substance with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions;

(8) Any wastewater having a temperature which will inhibit biological activity in the wastewater treatment plant resulting in interference; but in no case, wastewater with a temperature at the introduction into the treatment works which exceeds one hundred four degrees (104°) Fahrenheit;

(9) Any slugload, which shall mean any substance released in a discharge at a rate and/or concentration which causes interference to a POTW;

(10) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as exceed limits established by the City in compliance with applicable State or Federal regulations;

(11) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower or larger shall be subject to the review and approval of the City Manager;

(12) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure, hair and fleshing, entrails, lime slurry, lime residues, beer or distillery slops, chemical residues, paint residues, cannery waste bulk solids, or any other solid viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works; or

(13) Any wastewater which causes a hazard to human life or creates a public nuisance.

§5.04.05. Wastewater dischargers.

A. It shall be unlawful for any person to place, deposit or permit to be deposited in an unsanitary manner upon public or private property within the City of Nelsonville, Ohio, or in any area under the jurisdiction of said City, any human or animal excrement, garbage or other objectionable waste.

B. It shall be unlawful to discharge into any natural outlet within the City of Nelsonville, Ohio, or in any area under the jurisdiction of said City, any sanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with the provisions of this chapter.

Except as herein provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

C. The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purpose, situated within the City of Nelsonville 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 City, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly

with the proper public sewer in accordance with the provisions of this chapter, within sixty (60) days after date of official notice to do so, provided that said public sewer is within one hundred (100) feet of the property line of said house, building or property.

D. Grease, oil and sand interceptors shall be provided when, in the opinion of the City Manager, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand and other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the City Manager, and shall be so located as to be readily and easily accessible for cleaning and inspection.

E. Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight, and equipped with easily removable covers, which, when bolted in place, shall be gas tight and water tight.

F. Where installed, all grease, oil and sand interceptors shall be maintained by the owner, at his expense, in continuously efficient operation at all times. Where a public sanitary or combined sewer is not available under the provisions of §5.04.05, paragraph 4, the building sewer shall be connected to a private sewage disposal system complying with the Athens City-County Health Department Regulations.

§5.04.06. Building sewers and connections.

A. No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City Manager. City retains the right to limit new connections to the sewer system based upon the capacity of the treatment works.

B. There shall be two (2) classes of building sewer permits: (1) for residential and commercial service, and (2) for service to establishments producing industrial wastes. In either case, the owner or his agent shall make application on a special form furnished by the City of Nelsonville. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the City Manager. A permit and inspection fee shall be paid to the City of Nelsonville at the time the application is filed. A schedule of fees shall be determined by the City Manager for the above two (2) classes of sewer permits.

C. All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City of Nelsonville from loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

D. A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

E. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the City Manager, to meet all requirements of this chapter.

F. Building sewers shall use materials in accordance with the requirements of the Ohio EPA and the Athens City-County Health Department.

G. Wherever possible, the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to or within three (3) feet of any bearing wall, which might thereby be weakened. The depth shall be sufficient to afford protection from frost. The building sewer shall be laid at uniform grade and in straight alignment insofar as possible. Changes in direction shall be made only with properly curved pipe and fittings.

H. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer.

I. All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the City Manager. Pipe laying and backfill shall be performed in accordance with *ASTM specification C-12* except that no backfill shall be placed until the work has been inspected.

J. All joints and connections shall be made gas tight and water tight.

K. The connection of the building sewer into the public sewer shall be made at the "Y" branch, if such branch is available at a suitable location. If the public sewer is twelve (12) inches in diameter or less, and no properly located "Y" branch is available, the owner shall at his expense install a "Y" branch in the public sewer at the location specified by the City Manager. Where the public sewer is greater than twelve (12) inches in diameter, and no properly located "Y" branch is available, a neat hole may be cut into the public sewer to receive the building sewer, with entry in the downstream direction at an angle of about forty-five degrees (45°). A forty-five degree (45°) ell may be used to make such connection, with the spigot end cut so as not to extend past the inner surface of the public sewer. The invert of the building sewer at the point of connection shall be at the same or at a higher elevation than the invert of the public sewer. A smooth, neat joint shall be made, and the connection made secure and watertight by encasement in concrete. Special fittings may be used for the connection only when approved by the City Manager.

L. The applicant for the building sewer permit shall notify the City Manager when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the City Manager or his representative.

M. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other property disturbed in the course of the work, shall be restored in a manner satisfactory to the City of Nelsonville.

§5.04.07. Sewer service.

All users of the wastewater system shall be billed for sewer service. No user will be granted free service. Sewer service charges shall be collected and payment enforced in accordance with the applicable provisions of *Chapter 5.03*.

§5.04.08. Sewer rates.

Effective January 2, 2011, sewer rates for customers inside the City limits shall be eleven dollars and forty-six cents (\$11.46) for a minimum of the initial one thousand five hundred (1,500) gallons and six dollars and ninety-two cents (\$6.92) per one thousand (1,000) gallons over the initial one thousand five hundred (1,500) gallons.

Sewer rates for customers outside the City limits shall be seventeen dollars and twenty-one cents (\$17.21) for a minimum of the initial one thousand five hundred (1,500) gallons and ten dollars and thirty-eight cents (\$10.38) per one thousand (1,000) gallons over the initial one thousand five hundred (1,500) gallons.

All rates may be established or amended by separate Council ordinance.

§5.04.09. Sewer rate calculation.

An annual review of the user charge is required in order to evaluate the OM&R costs and OM&R revenues; and, if a rate increase or decrease is necessary, determine the amount. This annual review should also ensure that proportionality of the user charge system is maintained.

Each user is to be notified annually, in conjunction with a regular bill, of the sewer service charge and that portion of the sewer service charge that is attributable to OM&R costs of the wastewater treatment system.

The monthly sanitary sewer charge shall be calculated on the volume of wastewater discharged directly or indirectly into the sewage system and shall be measured by water used by each user as shown by the water meter readings. The sanitary sewer service charge shall consist of the sum of the OM&R charge, the surcharges for extra strength wastes, and the debt service/capital improvements charge calculated as follows:

OM&R charge: $OMR = (A/Q) \times M$, where

A = Total monthly operation, maintenance and replacement costs for the wastewater treatment plant and collection system;

Q = Total number of metered gallons of water sold to users connected to the sanitary sewer system;

M = Monthly metered water usage per user. There shall be a minimum charge per month per user of one thousand five hundred (1,500) gallons usage, regardless of actual consumption.

Extra strength waste surcharge (P):

$P = B \times BOD + C \times SS$, where

BOD = Pounds of biochemical oxygen demand per month in excess of 200 mg/l concentration in the waste water;

SS = Pounds of suspended solids per month in excess of 250 mg/l concentration in the waste water;

B = Total expenditures per pound of BOD to collect, convey and treat the wastewater;

C = Total expenditures per pound of SS to collect, convey and treat the wastewater.

Debt service/capital improvements charge:

$DSC = D / (N \times 12 \text{ months per year}) + I$, where

D = Total amortized annual debt service payments for the sewage disposal system;

N = Total number of users in the system;

I = Total charge for capital improvements to the sewage

disposal system.

The monthly sewer service charge shall be calculated as follows:

Charge = OMR + P + DSC

§5.04.10. Cost of sewer connection.

The sum of one hundred fifty dollars (\$150.00) shall be charged for installation of new sewer taps by the City of Nelsonville. The owner shall be responsible for all costs associated with the installation of new sewer taps, and shall be required to post a five hundred dollar (\$500.00) street bond. The street bond will be returned to the owner upon completion of construction if, in the City Manager's sole judgment, the street is restored to the same condition as existed prior to commencement of construction. The street bond will be forfeited by the owner if the City Manager determines that the street has not been satisfactorily restored.

§5.04.11. Limitations on wastewater strength.

National Categorical Pretreatment Standards as promulgated by the U.S. Environmental Protection Agency (EPA) pursuant to *the Act* shall be met by all Industrial Dischargers of the regulated industrial categories. An application for modification of the national categorical pretreatment standards may be considered for submittal to the Regional Administrator by the City of Nelsonville, when the City's wastewater treatment system achieves consistent removal of the pollutants as defined by *40 CFR 403.7*.

§5.04.12. State requirements.

State requirements and limitations on discharges to the treatment works shall be met by all Industrial Dischargers which are subject to such standards in any instance in which they are more stringent than federal requirements and limitations on those in this or any other applicable ordinance.

§5.04.13. Right of revision.

The City of Nelsonville reserves the right to amend this code to provide for more stringent limitations or requirements on discharges to the treatment works where deemed necessary to comply with the objectives set forth in *Section 5.04.03* of this code.

§5.04.14. Dilution.

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

§5.04.15. Accidental discharges.

Each Industrial Discharger shall provide protection from accidental discharge of prohibited or regulated materials or substances established by this chapter. Where necessary, facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the Industrial Discharger's cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the City Manager for review, and shall be approved by the City Manager before construction of the facility. Each existing Industrial Discharger shall complete its plan and submit same to the City Manager by June 1, 1985.

No Industrial Discharger who discharges to the treatment works after the aforesaid date shall be permitted to introduce pollutants into the system until Accidental Discharge Protection Procedures have been approved by the City Manager. Review and approval of such plans and operating procedures by the City Manager shall not relieve the Industrial Discharger from the responsibility to modify its facility as necessary to meet the requirements of this chapter.

Industrial Dischargers shall notify the City Manager immediately upon the occurrence of a "slugload" or accidental discharge of substances prohibited by this chapter. The notification shall include location of discharge, date and time thereof, type of waste, concentration and volume, and corrective actions. Any Industrial Discharger who discharges a slugload of prohibited materials shall be liable for any expense, loss or damage to the treatment works in addition to the amount of any fines imposed on the City on account thereof under State or Federal law.

Signs shall be permanently posted in conspicuous places on the Industrial Discharger's premises, advising employees whom to call in the event of a slugload or accidental discharge. Employers shall instruct all employees who may cause or discover such a discharge with respect to emergency notification procedure.

§5.04.16. General disclosure.

All Industrial Dischargers proposing to connect to or to discharge sewage, industrial wastes and other wastes to the treatment works shall comply with all terms of this chapter within ninety (90) days after the effective date of this chapter.

§5.04.17. Disclosure forms.

Industrial Dischargers shall complete and file with the City, a disclosure declaration in the form prescribed by the City, and accompanied by the appropriate fee. Existing Industrial Dischargers shall file disclosure forms within thirty (30) days after the effective date of this chapter, and proposed new Industrial Dischargers shall file their disclosure forms at least 90 days prior to connecting to the treatment works. The disclosure to be made by the Industrial Discharger shall be made on written forms provided by the City and shall cover:

(1) Disclosure of name, address and location of the Industrial Discharger;

(2) Disclosure of Standard Industrial Classification (SIC) number according to the *Standard Industrial Classification Manual, Bureau of the Budget, 1972*, as amended;

(3) Disclosure of wastewater constituents and characteristics including, but not limited to, those mentioned in this chapter as determined by bonafide chemical and biological analyses. Sampling and analysis shall be performed in accordance with procedures established by the U.S. EPA and contained in *40 CFR, Part 136*, as amended;

(4) Disclosure of time and duration of discharges;

(5) Disclosure of average daily and instantaneous peak wastewater flow rates, in gallons per day, including daily, monthly and seasonal variations, if any. All flows shall be measured unless other verifiable techniques are approved by the City Manager due to cost or nonfeasibility;

(6) Disclosure of site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer

connections, inspection manholes, sampling chambers and appurtenances by size, location and elevation;

(7) Description of activities, facilities and plant processes on the premises including all materials which are or may be discharged to the sewers or works of the City;

(8) Disclosure of the nature and concentration of any pollutants or materials prohibited by this chapter in the discharge, together with a statement regarding whether or not compliance is being achieved with the chapter on a consistent basis and if not, whether additional operation and maintenance activities and/or additional pretreatment is required for the Industrial Discharger to comply with this chapter;

(9) Where additional pretreatment and/or operation and maintenance activities will be required to comply with this chapter, the Industrial Discharger shall provide a declaration of the shortest schedule by which the Industrial Discharger will provide such additional pretreatment and/or implementation of additional operational and maintenance activities.

(a) The schedule shall contain milestone dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the Industrial Discharger to comply with the requirements of this chapter including, but not limited to, dates relating to hiring an engineer, hiring other appropriate personnel, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, and all other acts necessary to achieve compliance with this chapter,

(b) Under no circumstances shall the City permit a time increment for any single step directed toward compliance which exceeds nine (9) months.

(c) Not later than fourteen (14) days following each milestone date in the schedule and the final date for compliance, the Industrial Discharger shall submit a progress report to the City, including no less than a statement as to whether or not it complied with the increment of progress represented by that milestone date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the Industrial Discharger to return the construction to the approved schedule. In no event shall more than nine (9) months elapse between such progress reports to the City;

(10) Disclosure of each product produced by type, amount, process or processes and rate of production;

(11) Disclosure of the type and amount of raw materials utilized (average and maximum per day);

(12) All disclosure forms shall be signed by a principal executive officer of the Industrial Discharger, and a licensed professional engineer; and

(13) All sewers shall have an inspection and sampling manhole or structure with an opening of no less than twenty-four (24) inches diameter and an internal diameter of no less than thirty-six (36) inches containing flow measuring, recording and sampling equipment as required by the City to assure compliance with this chapter.

The City will evaluate the complete disclosure form and data furnished by the Industrial Discharger and may require additional information. Within thirty (30) days after full evaluation and acceptance of the data furnished, the City shall notify the Industrial Discharger of the City's acceptance thereof.

§5.04.18. Standards modification.

The City of Nelsonville reserves the right to amend this chapter and the terms and conditions hereof in order to assure compliance by the City with applicable laws and regulations. Within nine (9) months of the promulgation of a *National Categorical Pretreatment Standard*, this chapter shall be amended to require compliance by Industrial Dischargers with such standards within the time frame prescribed by such standards. All National Categorical Pretreatment Standards adopted after the promulgation of this chapter shall be adopted by the City as part of this chapter. Where an Industrial Discharger, subject to a *National Categorical Pretreatment Standard*, has not previously submitted a disclosure form as required by *Section 5.04.17*, the Industrial Discharger shall file a disclosure form with the City within one hundred eighty (180) days after the promulgation of the applicable *National Categorical Pretreatment Standard* by the U.S. EPA. In addition, any Industrial Discharger operating on the basis of a previous filing of a disclosure statement, shall submit to the City within one hundred eighty (180) days after the promulgation of an applicable *National Categorical Pretreatment Standard*, the additional information required by *§5.04.17, paragraphs (8) and (9)*. The Industrial Discharger shall be informed of any proposed changes in the chapter at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the chapter shall include a reasonable time schedule for compliance.

§5.04.19. Compliance date report.

Within ninety (90) days following the date for final compliance by the Industrial Discharger with applicable Pretreatment Standards set forth in this chapter or ninety (90) days following commencement of the introduction of wastewater into the treatment works by a New Industrial Discharger, any Industrial Discharger subject to this chapter shall submit to the City a report indicating the nature and concentration of all prohibited or regulated substances contained in its discharge, and the average and maximum daily flow in gallons. The report shall state whether the applicable Pretreatment Standards or Requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the Industrial Discharger into compliance with the applicable Pretreatment Standards or Requirements. This statement shall be signed by an authorized representative of the Industrial Discharger, and certified to by a licensed professional engineer.

§5.04.20. Periodic compliance reports.

A. Any Industrial Discharger subject to a Pretreatment Standard set forth in this chapter, after the compliance date of such Pretreatment Standard, or, in the case of a new discharger, after commencement of the discharge to the City, shall submit to the City during the months of June and December, unless required more frequently by the City, a report indicating the nature and concentration, of prohibited or regulated substances in the effluent which are limited by the Pretreatment Standards hereof. In addition, this report shall include a record of all measured or estimated average and maximum daily flows during the reporting period reported in *Section 5.04.17* hereof. Flows shall be reported on the basis of actual measurement, provided however, where cost or

feasibility considerations justify, the City may accept reports of average and maximum flows estimated by verifiable techniques. The City, for good cause shown, considering such factors as local high or low flow rates, holidays, budget cycles or other extenuating factors, may authorize the submission of said reports in months other than those specified above.

B. Reports of Industrial Dischargers shall contain all results of sampling and analysis of the discharge, including the flow and the nature of concentration, or production, where required by the City. The frequency of monitoring by the Industrial Discharger shall be as prescribed in the applicable Pretreatment Standard of this chapter. All analyses shall be performed in accordance with *40 CFR, Part 136* and amendments thereto. (Comment: *Where 40 CFR, Part 136* does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication, "*Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants, April, 1977*," and amendments thereto, or with any other sampling and analytical procedures approved by the Administrator of the U.S. EPA).

§5.04.21. Monitoring facilities.

Each Industrial Discharger shall provide and operate at the Industrial Discharger's own expense, a monitoring facility to allow inspection, sampling and flow measurement of each sewer discharge to the City. Each monitoring facility shall be situated on the Industrial Discharger's premises; except where such a location would be impractical or cause undue hardship on the Industrial Discharger, the City may concur with the facility being constructed in the public street or sidewalk area providing that the facility is located so that it will not be obstructed by landscaping or parked vehicles. There shall be ample room in or near such sampling facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling and measuring equipment shall be maintained at all times in safe and proper operating condition at the expense of the Industrial Discharger.

All monitoring facilities shall be constructed and maintained in accordance with all applicable local construction standards and specifications. Construction shall be completed within one hundred twenty (120) days of receipt of permit by the Industrial Discharger.

§5.04.22. Inspection and sampling.

The City of Nelsonville may inspect the monitoring facilities of any Industrial Discharger to determine compliance with the requirements of this chapter. The Industrial Discharger shall allow the City Manager and any other duly authorized employees of the City of Nelsonville, upon presentation of credentials and identification, to enter upon the premises of the Industrial Discharger at all reasonable hours, for the purposes of inspection, sampling, or records examination. The City shall have the right to set up on the Industrial Discharger's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations.

§5.04.23. Confidential information.

Information and data furnished to the City with respect to the nature and frequency of discharge shall be

available to the public or other governmental agency without restriction unless the Discharger specifically requests and is able to demonstrate to the satisfaction of the City that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets or proprietary information of the Industrial Discharger.

When requested by an Industrial Discharger furnishing a report, the portions of a report which may disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this chapter, the National Pollutant Discharge Elimination System (NPDES) Permit, State Disposal System permit and/or the Pretreatment Programs; provided, however, that such portions of a report shall be available for use by the State or any State agency in judicial review or enforcement proceedings involving the Industrial Discharger furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential, shall not be transmitted to any governmental agency or to the general public by the City until and unless a ten (10) day notification is given to the Industrial Discharger.

§5.04.24. Fees.

In addition to the fees provided in *Section 5.04.08*, it is the purpose of this section to provide for the payment of fees from Industrial Dischargers to the City's wastewater disposal system, to compensate the City for the cost of administration of the pretreatment program established herein.

The City shall adopt charges and fees which may include:

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

§5.04.25. Emergency suspension of service and discharge permits.

The City may, for good cause shown, suspend the wastewater treatment service to an Industrial Discharger when it appears to the City that an actual or threatened discharge presents or threatens an imminent or substantial danger to the health or welfare of persons, substantial danger to the environment, interferes with the operation of the treatment works, or violates any pretreatment limits imposed by this chapter. Any Industrial Discharger notified of the suspension of the City's wastewater treatment service shall, within a reasonable period of time, as determined by the City, cease all discharges. In the event of failure of the Industrial Discharger to comply voluntarily with the suspension order within the specified time, the City shall commence judicial proceedings immediately thereafter to compel the Industrial Discharger's compliance with such order. The City shall reinstate the wastewater treatment service and terminate judicial proceedings pending proof by the Industrial Discharger of the elimination of the non-complying discharge or conditions creating the threat of imminent or substantial danger as set forth above.

§5.04.26. Revocation of treatment services.

The City may seek to terminate the wastewater treatment services to any Industrial Discharger which fails to:

- (1) factually report the wastewater constituents and characteristic of its discharge; or
- (2) report significant changes in wastewater constituents or characteristics; or
- (3) refuses reasonable access to the Industrial Discharger's premises by representatives of the City for the purpose of inspection or monitoring; or
- (4) violates the conditions of this Chapter, or any final judicial order entered with respect thereto.

§5.04.27. Notification of violation: administrative adjustment.

Whenever the City finds that any Industrial Discharger has engaged in conduct which justifies termination of wastewater treatment services, pursuant to *Section 5.04.25* hereof, the City shall serve or cause to be served upon such Industrial Discharger, a written notice either personally or by certified or registered mail, return receipt requested, stating the nature of the alleged violation. Within thirty (30) days of the date of receipt of the notice, the Industrial Discharger shall respond personally or in writing to the City advising of its position with respect to the allegations. Thereafter, the parties shall meet to ascertain the veracity of the allegations and where necessary, establish a plan for the satisfactory correction thereof.

§5.04.28. Show cause hearing.

Where the violation of *Section 5.04.25* hereof is not corrected by timely compliance by means of Administrative Adjustment, the City may order any Industrial Discharger which causes or allows conduct prohibited by *Section 5.04.25* hereof, to show cause before the City or its duly authorized representative, why the proposed service termination action should not be taken. A written notice shall be served on the Industrial Discharger by personal service, certified or registered, return receipt requested, specifying the time and place of a hearing to be held by the City or its designee regarding the violation, the reasons why the enforcement action is to be taken, the proposed enforcement action, and directing the Industrial Discharger to show cause before the City or its designee why the proposed enforcement action should not be taken. The notice of the hearing shall be served no less than ten (10) days before the hearing. Service may be made on any agent, officer, or authorized representative of an Industrial Discharger. The proceedings at the hearing shall be considered by the City which shall then enter appropriate orders with respect to the alleged improper activities of the Industrial Discharger. Appeal of such orders may be taken by the Industrial Discharger in accordance with applicable local or State law.

§5.04.29. Judicial proceedings.

Following the entry of any order by the City with respect to the conduct of an Industrial Discharger contrary to the provisions of *Section 5.04.25* hereof, the Attorney for the City may, following the authorization of such action by the City, commence an action for appropriate legal and/or equitable relief in the appropriate local court.

§5.04.30. Right of appeal.

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

§5.04.31. Operating upsets.

Any Industrial Discharger which experiences an upset in operations which places the Industrial Discharger in a temporary state of noncompliance with this chapter shall inform the City thereof within twenty-four (24) hours of first awareness of the commencement of the upset. Where such information is given orally, a written follow-up report thereof shall be filed by the Industrial Discharger with the City within five (5) days. The report shall specify:

- (1) Description of the upset, the cause thereof, and the upset's impact on an Industrial Discharger's compliance status;
- (2) Duration of noncompliance, including exact dates and times of noncompliance, and if the noncompliance continues, the time by which compliance is reasonably expected to occur; and
- (3) All steps taken or to be taken to reduce, eliminate and prevent recurrence of such an upset or other conditions of noncompliance.

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

§5.04.32. Records retention.

All Industrial Dischargers subject to this chapter shall retain and preserve for no less than three (3) years, any records, books, documents, memoranda, reports, correspondence, and any and all summaries thereof, relating to monitoring, sampling and chemical analyses made by or in behalf of an Industrial Discharger in connection with its discharge. All records which pertain to matters which are the subject of Administrative Adjustment or any other enforcement or litigation activities brought by the City pursuant hereto shall be retained and preserved by the Industrial Discharger until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.

§5.04.33. Inspection rights.

Upon twenty-four (24) hours prior notice, any duly authorized employee or agent of the City bearing proper credentials and identification shall be permitted at any time to enter upon all properties within the jurisdiction of the City for the purpose of inspecting, observing, measuring, sampling and testing, as may be required in pursuance of the implementation and enforcement of the terms and provisions of this chapter.

In the case of an emergency, no advance notice shall be required for such inspections.

§5.04.34. Liability during inspections.

While performing the necessary work on private properties referred to in *Section 5.04.33*, the duly authorized employees of the City shall observe all safety rules applicable to the premises established by the commercial or industrial user, and the user shall be held harmless for injury or death to the City employees, and the City shall indemnify the user against loss or damage to its property by City employees and against liability claims and demands for personal injury or property damage asserted against the user and growing out of the gauging and sampling operation, except as may be caused by negligence or failure to maintain safe conditions.

§5.04.35. Notification of violation.

Any person found to be violating any provisions of this chapter except *Section 5.04.34* shall be served by the City of Nelsonville with written notice either personally or by one publication in a newspaper of general circulation if the violator's address is unknown, stating the nature of the violation. Within thirty (30) days of the date of receipt of the notice, the offender shall permanently cease all violations.

§5.04.36. Penalties.

Any person who shall continue any violation beyond the time limit provided for in *Section 5.04.33* shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined in an amount not exceeding one hundred fifty dollars (\$150.00) for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

Any person violating any of the provisions of this chapter shall become liable to the City of Nelsonville for any expense, loss or damage occasioned the City of Nelsonville by reason of such violation.

§5.04.37. Protection from damage.

No unauthorized person shall maliciously, willfully or negligently break damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the municipal sewage works. Any person violating this provision shall be subject to prosecution for disorderly conduct as provided in the *Ohio Revised Code*.

§5.04.38. Falsifying information.

Any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this chapter, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter, shall, upon conviction, be subject to a fine of not more than one hundred dollars (\$100.00). Each occurrence may be regarded as a separate offense.

§5.04.39. Severability.

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

§5.04.40. Conflict.

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this chapter are hereby repealed to the extent of such inconsistency or conflict.

§5.04.41. Definitions.

For the purpose of this chapter, the following definitions shall be used. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word "shall" is mandatory and not directory, while the word "may" is permissive.

A. "Approval authority" means the City Manager in a NPDES State with an approved State Pretreatment Program and the Administrator of the EPA in a non-NPDES State or NPDES State without an approved State Pretreatment Program.

B. "Authorized representative of Industrial Discharger" means an authorized representative of an Industrial Discharger and may be a:

(1) principal executive officer of at least the level of Vice-president, if the Industrial Discharger is a corporation; or

(2) general partner or proprietor if the Industrial Discharger is a partnership or proprietorship, respectively; or

(3) duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

C. "Average monthly discharge limitation" means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

D. "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.

E. "Beneficial uses" include, but are not limited to, domestic, municipal, agricultural and industrial use, power generation, recreation, aesthetic enjoyment, navigation, and the preservation and enhancement of fish, wildlife and other aquatic resources or reserves, and other uses, either tangible or intangible, as specified by State or Federal law.

F. "BOD" means Biochemical Oxygen Demand; see paragraph (1) under "Pollutant Parameters".

G. "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 the building and conveys it to the building sewer which shall begin three (3) feet outside the inner face of the building wall.

H. "Building sewer" means the extension from the building drain to the public sewer or other place of disposal.

I. "Capital replacement" means the expenditure of funds specifically to replace deteriorated infrastructure, buildings, pumping stations, vehicles etc., to assure continued efficient operation of the waste water collection, conveyance and treatment system.

J. "City Manager" means the City Manager of the City of Nelsonville, or his authorized deputy, agent or

representative. The term "director" or "manager" shall mean "City Manager."

K. "Commercial User" means retail or wholesale business establishments which discharge waste into the sewage system.

L. "Composite sample" should contain a minimum of eight discrete samples taken at equal time intervals over the compositing period or proportional to the flow rate over the compositing period. More than the minimum number of discrete samples will be required where the wastewater loading is highly variable.

M. "Cooling water" means the water discharged from any system of condensation, air conditioning, cooling, refrigeration, or other such system, but which shall be free from odor and oil. It shall contain no polluting substances which produce BOD or suspended solids each in excess of ten part per million by weight.

N. "Daily discharge" means discharge of a pollutant "measured during a calendar day or any twenty-four (24) hour period that reasonably represents the calendar for purposes of sampling."

O. "Debt service" means that portion of the billing directly attributed to the payment of principle and interest on accumulated debt.

P. "Easement" means an acquired legal right of the specific use of land owned by others.

Q. "EPA or U.S. EPA" means the United States Environmental Protection Agency, or where appropriate the term may also be used as a designation for the administrator or other duly authorized official of said agency.

R. "Garbage" means any solid wastes from the preparation, cooking or dispensing of food and from handling, storage, or sale of produce.

S. "Ground (shredded) garbage" means garbage that is shredded to such a degree that all particles will be carried freely in suspension under the conditions normally prevailing in the sewerage system, with no particle being greater than one-half (1/2) inch in dimension.

T. "Governmental" means all users that are under the direct control of City, Township, County or State agencies.

U. "Grab sample" is a sample which is taken from a waste stream on a one (1) time basis with no regard to the flow in the waste stream and without consideration of time.

V. "Indirect discharge" means the discharge or the introduction of non-domestic pollutants from a source regulated under *Section 307(b) or (c) of the Act*, into a treatment works.

W. "Industrial discharger" means any nonresidential user who discharges an industrial waste into a treatment works by means of pipes, conduits, pumping stations, force mains, constructed drainage ditches, surface water intercepting ditches, and all constructed devices and appliances appurtenant thereto.

X. "Industrial waste" means solid, liquid or gaseous waste resulting from any industrial, manufacturing, trade, or business process or from the development recovery or processing of natural resources.

Y. "Industrial waste permit" means a permit to deposit or discharge industrial waste into any sanitary sewer as issued by the treatment works.

Z. "Influent" means the water, together with any waste that maybe present, flowing into a drain, sewer, receptacle, or outlet.

AA. "Institutional" is the user class defined as schools, hospitals, churches, nursing home, etc.

BB. "Interference" means the inhibition or disruption of a treatment work's sewer system, treatment processes or operations which may contribute to a violation of any requirement of its NPDES permit.

CC. "Major contributor" means a contributor that:

(1) has a flow of more than twenty-five thousand (25,000) gallons per average workday;

(2) has in its waste a toxic pollutant in toxic amounts as defined in *Section 307 of the Federal Act*;

(3) has a flow greater than five percent (5%) of the flow carried by the municipal system receiving the waste;

(4) has in its waste toxic pollutants as defined pursuant to *Section 307 of the Act* or State Statutes and rules; or

(5) is found by the City, State or the U.S. EPA to have significant impact, either singly or in combination with other contributing industries, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or air emissions generated by the system.

DD. "Maximum daily discharge limitations" means the highest allowable daily discharge.

EE. "Natural outlet" means any outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater.

FF. "New source" means any source, the construction of which is commenced after the publication of proposed regulations prescribing a *Section 307(c) (33 U.S.C. 1317)* Categorical Pretreatment Standard which will be applicable to such source, if such standard is thereafter promulgated within one hundred twenty (120) days of proposal in the *Federal Register*. Where the standard is promulgated later than one hundred twenty (120) days after proposal, a new source means any source, the construction of which is commenced after the date of promulgation of the standard.

GG. "Normal domestic sewage" means wastewater of strength and characteristics as that discharged by average residential users of the system, and determined to be not higher than 200 mg/l (milligrams per liter) for biochemical oxygen demand (BOD) and 250 mg/l (milligrams per liter) for suspended solids (SS).

HH. "NPDES" means National Pollutant Discharge Elimination System permit program as administered by the U.S. EPA or State.

II. "O&M" means Operation and Maintenance.

JJ "OM&R" means Operation, Maintenance and Replacement

KK. "OM&R costs" means those costs directly related to the operation, maintenance and replacement of the treatment plant, collection system and conveyance of waste water. (Includes those items such as utilities, equipment repair and component replacement, personnel costs and laboratory expenses).

LL. "Person" means any individual, firm, company, association, society, corporation or group.

MM. "pH"; see paragraph (8) under "Pollutant parameters".

NN. "Pollutant" means any substance discharged into a treatment works or its collection system or any substance which upon exposure to or assimilation into any organism will cause adverse effects such as cancer, genetic mutations, or physiological manifestations as defined in standards issued pursuant to *Section 307(a) of the Act*.

OO. "Pollutant parameters" shall include the following:

(1) BOD (Biochemical Oxygen Demand). The quantity of dissolved oxygen in milligrams per liter required during stabilization of the decomposable organic matter by aerobic biochemical action under standard laboratory procedures for five (5) days at twenty degrees (20°) Centigrade. The laboratory determinations shall be made in accordance with procedures set forth in "*Standard Methods*."

(2) COD (Chemical Oxygen Demand). A measure of the oxygen equivalent of that portion of the organic matter in a sample that is susceptible to oxidation by a strong chemical oxidant. The laboratory determination shall be made in accordance with procedures set forth in "*Standard Methods*."

(3) Fecal Coliform. Any of a number of organisms common to the intestinal tract of man and animals, whose presence in sanitary sewage is an indicator of pollution.

(4) Floatable Oil. Oil, fat or grease in a physical state, such that will separate by gravity from wastewater by treatment in an approved pretreatment facility.

(5) Grease and Oil. 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*."

(6) Grease and Oil of Animal and Vegetable Origin. Substances that are of less readily biodegradable nature such as are discharged by meat packing, vegetable oil and fat industries, food processors, canneries and restaurants.

(7) Grease and Oil of Mineral Origin. Substances that are less readily degradable than grease and oil of animal or vegetable origin; and are derived from a petroleum source. Such substances include machinery lubricating oils, gasoline station waste, petroleum refinery wastes, and storage depot wastes.

(8) pH. The logarithm (to the base 10) of the reciprocal of the hydrogen ion concentration of a solution expressed in gram atoms per liter of solution.

(9) Suspended Solids. Solids which either float on the surface of or are in suspension in water, sewage, or other liquid and which are removable by laboratory filtration. Their concentration shall be expressed in milligrams per liter. Quantitative determination shall be made in accordance with procedures set forth in "*Standard Methods*."

(10) Total Solids. The sum of suspended and dissolved solids.

(11) Volatile Organic Matter. The material in the sewage solids transformed to gases or vapors when heated at 550 degrees (550°) centigrade for fifteen (15) to twenty (20) minutes.

(12) Any other pollutant parameter deemed appropriate.

PP. "Pollution" means an alteration of the quality of the waters of the State by waste to a degree which unreasonably affects such waters for beneficial uses or facilities which serve such beneficial uses. The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

QQ. "Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a sewer system.

RR. "Pretreatment standard or national categorical pretreatment standard" means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with *Section 307 (b) and (c) of the Act (33 U.S.C. 1347)* which applies to a specific category of Industrial Dischargers.

SS. "Applicable pretreatment standard" means any pretreatment limit or prohibitive standard (federal and/or local) contained in this chapter deemed to be the most restrictive.

TT. "Categorical pretreatment standards" means National Pretreatment Standards specifying quantities or concentrations of pollutants or pollutant properties which may be discharged or introduced into a sewer system by specific Industrial Dischargers.

UU. "Pretreatment requirements" means any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard imposed on an Industrial Discharger.

VV. "Receiving stream" means the watercourse, stream, or body of water receiving the waters finally discharged from the wastewater treatment plant.

WW. "Replacement" means the installation of a component of the treatment, collection or conveyance system which had been previously installed and which has fulfilled its useful life expectancy.

XX. "Residential user" means a principal family residence or habitation identified as a single family, multi-family, apartment or mobile home that discharges no greater than normal domestic strength waste into the sewerage system.

YY. "Sewage" means water-carried wastes or a combination of water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface, storm or other waters as may be present.

ZZ. "Sanitary sewage" means a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface and storm waters as may be present.

AAA. "Sewer service charge" means the total amount billed to users for wastewater treatment service. It consists of a user charge (for operation, maintenance and replacement, OM&R), debt service/capital improvements charge, surcharges for extra strength wastes (greater than normal domestic strength), and any other miscellaneous charges.

BBB. "Sewage treatment plant" means any arrangement of devices and structures used for treating sewage.

CCC. "Sewage works" means all facilities for collecting, pumping, treating and disposing of sewage.

DDD. "Sewer" means any pipe, conduit, ditch or other device used to collect and transport sewage or storm water from the generating source.

EEE. "Combined sewer" means a sewer receiving both surface runoff and sewage.

FFF. "Public sewer" means a sewer in which all owners of abutting properties have equal rights and which is controlled by public authority.

GGG. "Sanitary sewer" means a sewer which carries sewage and to which storm, surface and ground waters are not intentionally admitted.

HHH. "Storm sewer or storm drain" means a sewer which carries storm and surface waters and drainage but excludes sewage and polluted industrial wastes.

III. "Sludge" means any solid, semi-solid or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility or any other waste having similar characteristics and effects as defined in standards issued under *Sections 402 and 405 of the Federal Act* and in the applicable requirements under *Sections 3001, 3004, and 4004 of the Solid Waste Disposal Act PL 94-580*.

JJJ. "Slugload" means any substance released in a discharge at a rate and/or concentration which causes interference to a POTW.

KKK. "Standard Industrial Classification (SIC)" means a classification pursuant to *the Standard Industrial Classification Manual* issued by the Executive Office of the President, Office of Management and Budget, 1972.

LLL. "Standard methods" mean the laboratory procedures set forth in the latest edition, at the time of analysis, of *Standard Methods for the Examination of Water and Wastewater* prepared and published jointly by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation.

MMM. "Suspended solids"; see paragraph (9) under "Pollutant parameters".

NNN. "Treatment works" means any sewage treatment works and the sewers and conveyance appurtenances discharging thereto, owned and operated by the City.

OOO. "Toxic amount" means concentrations of any pollutant or combination of pollutants which upon exposure to or assimilation into any organism will cause adverse effects such as cancer, genetic mutations, and physiological manifestations, as defined in standards issued pursuant to *Section 307(a) of PL 92-500*.

PPP. "Toxic pollutant" is defined as those substances referred to in *Section 307(a) of the Act* as well as any other known potential substances capable of producing toxic effects.

QQQ. "Unpolluted water or waste" means any water or waste containing none of the following: Free or emulsified grease or oil; acid or alkali, phenols or other substance imparting tastes and odors in receiving waters; toxic or poisonous substances in suspension, colloidal state, or solution; and noxious odors or gases. It shall not contain more than ten thousand (10,000) parts per million by weight of dissolved solids, of which not more than two thousand five hundred (2,500) parts per million shall be as chloride, with permissible volume subject to review by the City and not more

than ten (10) parts per million each of suspended solids and BOD. Color shall not exceed fifty (50) parts per million.

RRR. "Upset" means an exceptional incident in which an Industrial Discharger unintentionally and temporarily is in a state of noncompliance with the standards set forth due to factors beyond the reasonable control of the Industrial Discharger, and excluding noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation thereof.

SSS. "U.S.C." means *United States Code*.

TTT. "User" means any person that discharges, causes or permits the discharge of wastewater into the sewerage system.

UUU. "User charges" mean the proportionate share, paid by the individual user, of all costs associated with operation, maintenance and replacement of the waste water system.

VVV. "Wastewater" means industrial waste, or sewage, or any other waste including that which may be combined with any groundwater, surface water or storm water, that may be discharged to the sewer system.

WWW. "Other wastes" means decayed wood, sawdust, shavings, bark, lime, refuse, ashes, garbage, offal, tar, chemicals and all other substances except sewage and industrial wastes.

XXX. "Wastewater constituents and characteristics" means the individual chemical, physical, bacteriological, and radiological parameters, including volume, flow rate and such other parameters that serve to define, classify, or measure the contents, quality, quantity, and strength of wastewater.

YYY. "Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently.

Chapter 5.05. Recycling and Anti-Scavenging Regulations.

- §5.05.01. Definitions.
- §5.05.02. Collection of recyclables.
- §5.05.03. Voluntary participation.
- §5.05.04. Prohibition against placing non-recyclables for collection.
- §5.05.05. Recyclable containers.
- §5.05.99. Penalties.

§5.05.01. Definitions.

"Recyclables" means any discarded materials which may be reclaimed before deposit in a sanitary landfill and which are considered saleable by the City of Nelsonville. They are defined in the following categories:

A. Paper, clean and unsoiled, including newsprint, all newspaper, and newspaper advertisements, supplements, comics and enclosures; and

B. Glass, bottles, aluminum cans and other aluminum products, including aluminum trays and foil; and

C. Plastic cups and containers #1-7, plastic bottles, jugs, jars, yogurt containers, cottage cheese containers, margarine and whipped topping tubs, plastic food containers and disposable plastic cups.

D. Corrugated cardboard boxes, dry food boxes such as cereal, cake mix and cracker containers, shoe boxes, pizza boxes, empty paper towel and toilet tissue tubes.

E. Any other material deemed recyclable by the City Manager of the City of Nelsonville.

§5.05.02. Collection of recyclables.

No person engaged in the business of hauling, transporting or moving of refuse, rubbish trash, garbage, industrial wastes or organic wastes within the City of Nelsonville, regardless of license for collection of refuse and rubbish, nor any independent citizen, resident, taxpayer or person who might engage in such practice for personal gain, shall pick up or procure any solid waste deemed recyclable which has been placed curb-side for collection under a plan to collect recyclable materials operated or authorized by the City of Nelsonville unless a license for such collection is first obtained from the City Manager.

§5.05.03. Voluntary participation.

Participation in the recycling program shall be voluntary. Any business, citizen, resident, taxpayer or person participating in the recycling program shall place recyclable materials in appropriate containers at curb-side on the day of collection as designated by the City Manager. No regular collection of recyclables shall be made on Saturdays, Sundays or holidays. Exceptions may be made for days following holidays or acts of God when regular pickups cannot be conducted.

§5.05.04. Prohibition against placing non-recyclables for collection.

No business, citizen, resident, taxpayer or person participating in an authorized recycling program shall place any materials that are not defined as recyclable under *Nelsonville City Code §5.05.01* herein at curb-side or garage-side for collection under the recycling program.

§5.05.05. Recyclable containers.

To conserve the vital resources through recycling, each household or business participating in the recycling program may be provided one (1) container by a licensed hauler for use for storage of recyclables. Replacements may be purchased at cost. From the time of curb-side placement for recycling, recyclables become the property of the City or a Licensed Hauler, pursuant to *Nelsonville City Code §5.05.02*.

§5.05.99. Penalties.

Any violation of *Chapter 5.05* shall be deemed a minor misdemeanor pursuant to *Ohio Revised Code Section 2929.21 (D)* and each day of continued violation is deemed a complete and separate offense.