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2014 Replacement

2007 Replacement

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- Art. 901. Street Excavations.
- Art. 903. Sidewalk and Curb Construction and Repair.
- Art. 905. Paving and Sewer Assessments.
- Art. 907. Curb Cuts and Driveways.
- Art. 909. Street Lighting.
- Art. 911. Bridges.
- Art. 912. Improvement Inspections.

ARTICLE 901 Street Excavations

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CROSS REFERENCES

- Street opening and maintenance - see 3rd Class §2901 et seq. (53 P.S. 37901 et seq.)
- Grading and paving - see 3rd Class §2930 et seq. (53 P.S. §37930 et seq.)
- Closed streets to have detours - see 3rd Class §2978 (53 P.S. §37978)
- Collections of costs of improvements - see 3rd Class §3301 et seq. (53 P.S. §38301 et seq.)
- Protection of trees during excavations - see S.U. & P.S. 913.08

901.01 DEFINITIONS.

The following words and phrases, when used in this article shall have the meanings ascribed to them in this section, except in those instances where the context clearly indicates otherwise:

- (a) "Applicant" means any person who makes application for a permit.
- (b) "Calendar year" means January 1 through December 31, inclusive.
- (c) "City" means the City of Erie, Pennsylvania.
- (d) "City Engineer" means the City Engineer or his designee(s).
- (e) "Cost" means actual expenditures incurred by the City for labor, equipment and materials, which include all fringe benefits and overhead.
- (f) "Degradation fee" means a fee paid by the permittee to the City to defray a percentage of the costs for resurfacing and reconstruction of City streets resulting from the depreciation of streets associated with street openings.
- (g) "Emergency" means any condition constituting a clear and present danger to life or property by reason of escaping gas, exposed wires or other breaks or defects in the user's line.
- (h) "Inspection fee" means a fee paid by the permittee to the City to defray street opening inspection costs.
- (i) "PennDOT" means the Commonwealth of Pennsylvania Department of Transportation.
- (j) "PennDOT highway" means any Pennsylvania State road located within the municipal boundaries of the City of Erie, Pennsylvania.
- (k) "Permit fee" means a fee paid by the permittee to the City to cover the cost of issuing, processing and filing the street excavation permit.
- (l) "Permittee" means any person who has been issued a permit and has agreed to fulfill all provisions of this article.
- (m) "Person" means any natural person, partnership, firm, association, utility or corporation.
- (n) "Public utility" means any utility company franchised by the Public Utility Commission of the Commonwealth of Pennsylvania or any corporate authorities of the City.
- (o) "Resurface" means a process which provides a new wearing surface in a certain paved street area between curbs with the same material that was existing prior to excavation.
- (p) "Sidewalk area" means that portion of the street right-of-way reserved for sidewalks.
- (q) "Street" means the entire right-of-way of a public street, public highway, public alley, public avenue, public road or public easement within the City limits.
- (r) "User" means the public utility, municipal corporation, municipal authority, or other person who or which, uses a line to provide service to one or more consumers.
- (s) "Work day" means normal business day for the City government including Monday through Friday, except designated holidays.
(Ord. 93-1994 §1. Passed 12-28-94.)

901.02 PERMIT REQUIRED AND EMERGENCY OPENINGS.

(a) No person, firm or corporation shall enter upon or occupy any public right-of-way within the City for the purpose of making an excavation or opening in or under any public right-of-way without first having obtained a permit from the City to do so. The permit shall be granted by the City Engineer and shall be conditioned upon the permittee agreeing to faithfully comply with each and every provision of the rules and regulations governing this type of work.

A City department or bureau making or causing an excavation or opening to be made in any public right-of-way will be required to obtain a feeless permit prior to such work. All applicable provisions of the rules and regulations governing this type of work shall apply.

(b) Any person working in the vicinity of a City street who in any manner disturbs or who in any manner causes damage to a street shall be required by this article to obtain a permit and correct this damage in accordance with the standards of the City Engineer. Street opening permits are not required from persons excavating adjacent to the curb for the purpose of installing or replacing sidewalks and/or curbs provided a curb and sidewalk permit has been obtained prior to such work.

(c) All contractors performing work under contract for the City or City corporate authorities shall obtain the street excavation permit for street opening work.

(d) If street openings are necessitated by emergencies, street opening permits shall be obtained on the first regular business day on which the office of the City is open for business and such permit shall be retroactive to the date when the work was begun. Emergency work shall not serve to relieve anyone from compliance with the rules and regulations governing this type of work.

(e) A person performing street openings for an emergency shall verify the emergency nature of the circumstance in writing to the City Engineer within five days after such emergency on the street cut opening application.

(f) For work on PennDOT highways within the City limits, no City street excavation permit is required, but a PennDOT permit is required. PennDOT permits shall be obtained through the City Engineer. All other fees except degradation fees shall apply. (Ord. 93-1994 §1. Passed 12-28-94.)

901.03 RULES AND REGULATIONS; AUTHORITY OF THE CITY ENGINEER.

It shall be the duty and responsibility of the City Engineer to prepare and administer the rules and regulations governing the making of openings in any right-of-way within the City. These rules and regulations shall contain all necessary provisions to provide for the safety of the public during execution of the work and for the expeditious and permanent restoration of all disturbed pavement, curb, sidewalk, driveway and lawn areas within the public right-of-way. The rules and regulations are incorporated herein by reference so as to become part of this article. (Ord. 93-1994 §1. Passed 12-28-94.)

901.04 PREREQUISITES TO OBTAINING PERMIT.

Street opening permits shall only be granted upon compliance with the following express provisions:

- (a) A written application shall be filed with the City Engineer for making all street openings or excavations and signed by the person desiring such permit. Such application shall set forth the purpose for which such excavation is to be made; the size and location of the same; the full scope of work to be included in the project; the date or dates during which such excavation is to be permitted; the date such excavation is to be backfilled and resurfaced in the manner hereinafter provided; and shall provide that the applicant will faithfully comply with each and every provision contained in this article. An applicant shall furnish a drawing of the proposed opening site upon request of the City Engineer. Items required on the drawing shall be specified at the time of request.
- (b) Where the street opening permit is required for sanitary or storm sewer service purposes, the application shall be countersigned by the City Plumbing Inspector or someone authorized by him before the permit will be granted.
- (c) No permit shall be granted to any applicant unless the applicant has paid to the City any and all money, then due to the City, for prior excavations made or for any loss, damage or expense in any manner occasioned by or arising from the work done by the applicant under the provisions of this article.
- (d) Agree to save the City, its officers, employees and agents from any and all costs, damages and liabilities which may accrue or be claimed to accrue by reason of such work to be done by the applicant under the provisions of this article. The acceptance of any permit under this article shall constitute such an agreement by the applicant whether the same is expressed or not.
- (e) Properly executed certificates of insurance shall be filed with the City Engineer and verify that the applicant is insured against claims for personal injury as well as against claims for property damages which may arise from or out of the performance of the excavation work, whether such performance be by the applicant or anyone directly or indirectly employed by him. Such insurance shall include protection against liability arising from completed operations, underground utility damage and collapse of any property. Liability insurance for bodily injury and property damage shall be an amount not less than five hundred thousand dollars (\$500,000) for each accident and one million dollars (\$1,000,000) in the aggregate. Failure of an applicant to file a certificate of insurance shall be a sufficient reason for denying a permit. The applicant shall save and hold harmless the City from any and all damages and liability by reason of personal injury or property damage arising from work done by the applicant under the provisions of this article. Liability insurance requirements for blasting may be obtained and blasting permits shall be obtained from the City Building Inspector.

(Ord. 93-1994 §1. Passed 12-28-94.)

901.05 BOND.

(a) All persons other than public utility companies, including contractors performing work for City corporate authorities, desiring to open a street shall furnish a properly executed corporate surety bond. Such bond shall be executed by a reputable surety company licensed to do business in the Commonwealth of Pennsylvania. All bonds obtained by contractors performing work under contract with City corporate authorities shall be countersigned by the director or chairman of the authority.
(Ord. 19-1995 §1. Passed 3-8-95.)

(b) The bond shall cover street opening work performed during one calendar year. The bond shall be in effect for a twelve month period but the work shall be guaranteed for a thirty-six month period in accordance with Section 901.16. The amount of the surety bond shall be five thousand dollars (\$5,000) per each additional cut unless any street excavation and restoration work for a single project exceeds such amount. In this case, a person shall secure additional bonding in an amount equal to the difference between the five thousand dollars (\$5,000) and twenty-five dollars (\$25.00) per square yard of actual size of excavation. The aggregate amount of individual bonds in a given year is not required to exceed twenty-five thousand dollars (\$25,000).
(Ord. 1-1996 §1. Passed 1-3-96; Ord. 71-1997 Sec. 1 Passed 11-19-97.)

901.06 FEES.

(a) A permit shall be paid to the City prior to permit issuing; the remaining inspection fee and degradation fee shall be paid when the work is completed, inspected and measured by the City Engineer. The City shall have the right to waive fees for contractors performing work under contract with the City.
(Ord. 93-1994 §1. Passed 12-28-94.)

(b) The permit fee shall be in the amount of ninety dollars (\$90.00). In the case of work having been completed or substantially commenced without a permit having been obtained the fee shall be doubled to one hundred eighty dollars (\$180.00) which, at the City's option, may substitute for a summary offense citation or be in addition to citation. The Penn DOT Occupation Permit Application fee shall be one hundred dollars (\$100.00).

(c) The degradation fee and inspection fee shall be calculated by actual measurement after the work is completed, which fees are shown in Tables 1 and 2 respectively of this article. Notes in accordance with Table 1 and Table 2 are as follows:

- (1) The degradation fee shall be waived for opening on streets maintained by the Pennsylvania Department of Transportation.
- (2) The number of square yards computed for the inspection fee will be used on the actual size of excavation including any pavement that shall be removed to provide one foot bench beyond the original trench wall.

Table 1 - Degradation Fee

<u>Location</u>	<u>Degradation Fee (Dollars per Square Yard)</u>
Within Cartway	\$ 45.00
Outside Cartway	20.00

NOTE: The number of square yards used in the computation of fees shall be based on the nearest whole square yard figure. Minimum fee shall be equal to the rate for one square yard.

Table 2 - Inspection Fee

<u>Total Square Yards To Be Excavated</u>	<u>Inspection Fee (Dollars)</u>
1 to 10	\$ 55.00
11 to 15	60.00
16 to 20	65.00
21 to 25	70.00
26 to 30	75.00
31 to 50	90.00
51 to 100	110.00
101 or greater	110.00 + (\$1.50 per square yard over 100)

NOTES:

1. The number of square yards of excavation shall be computed to the nearest whole square yard.
 2. Minimum fee shall be equal to the fee for one to ten square yards.
- (Ord. 77-2005. Passed 12-28-05.)

901.07 CANCELLATION OF PERMIT.

In all cases where a permit has been issued and the work set forth in such permit has not been completed within a period of twelve months, the permit becomes void, and the permit fee shall not be refunded.
(Ord. 93-1994 §1. Passed 12-28-94.)

901.08 REVOCATION OF PERMIT.

(a) All street opening permits are subject to revocation at any time by the City Engineer after written notice for:

- (1) Violation of any condition of the permit;
- (2) Violation of any provision of this article or any other applicable ordinance or law relating to the work;
- (3) The existence of any condition or the doing of any act constituting or creating a nuisance or endangering the lives or property of others.

(b) Written notice of such violation shall be served upon the person to whom the permit was granted, or his agent or employee engaged in the work. Such notice shall also contain a brief statement of the reasons for revoking such permit. Notice may be given either by personal delivery thereof to the person to be notified or by United States mail, addressed to such person to be notified.
(Ord. 93-1994 §1. Passed 12-28-94.)

901.09 TIME EXTENSION AND FEE.

(a) A permit shall remain in effect for a period of twelve months. If the work is not completed in this time period, a new permit shall be obtained, and an additional permit fee shall be required.

(b) No time extension shall be granted for a permit in which work has not started within this twelve month period. A new permit shall be obtained if the same project location work is rescheduled.

(c) Reasonable time extensions, but not longer than three months, for permitted work shall be granted when requested in writing and shall only be honored for those types of projects that commenced during the required twelve month permit period and are of a size and scope that support an extension of time to complete.
(Ord. 93-1994 §1. Passed 12-28-94.)

901.10 BACKFILLING, PAVING AND RESTORATION.

(a) The permittee shall be responsible for backfilling and paving the opening and restoring the street surface to its original condition prior to the street cut.

(b) It shall be the duty of the permittee to restore any area excavated to its original condition. This shall include, but not be limited to, the replacement of pavement, curb, sidewalks, driveways and landscaped areas.

(c) The City Engineer shall have the full authority to establish and update standards for paving the backfilled materials and associated procedures. Details specifying paving and backfill procedures and materials shall be obtained from the City Engineer prior to any street opening work.
(Ord. 93-1994 §1. Passed 12-28-94.)

901.11 BACKFILLING AND REPLACING SURFACE BY CITY.

In case the work has not been completed before the date of expiration as shown on the permit, which time shall be fixed when the permit and/or time extension is granted, the City Engineer may take steps to backfill the trench and replace the street surface over the opening for which the permit has been issued upon proper notification from the City Engineer to the applicant. The City shall invoice the permittee for all costs incurred by the City in the performance of this work. Payment not made within thirty days will be chargeable against the posted bond including all fees and costs involved in the collection of this payment.
(Ord. 93-1994 §1. Passed 12-28-94.)

901.12 RESPONSIBILITY; EXTRA INSPECTORS AND OTHER RULES.

(a) The permittee shall assume all responsibility for the excavation made by such party for backfilling and restoring the same and for all damages caused by the action of the permittee that may arise by reason of the excavating or such trenches or excavations. Whenever it is determined by the City Engineer, in the best interests of the City, it is necessary to assign additional street opening inspectors to supervise excavation, backfill or pavement restoration operations, such inspectors shall be paid by the permittee at a rate per day to be fixed by the City Engineer.

(b) The City Engineer is authorized to make such other rules and regulations for the excavation of streets which he may deem necessary for the proper maintenance of the street surface due to excavations, which rules and regulations shall be printed upon the permit granted or forwarded from the City Engineer in writing from time to time.

(c) The permittee shall be required to return the "Notice of Completion of Street Excavation Permit" when work is completed. This form is to be returned to the City Engineer. (Ord. 93-1994 §1. Passed 12-28-94.)

901.13 TEST HOLES.

A street opening permit shall be obtained for any test hole work. No test holes shall be made in or upon a greater surface of the street than as specified in such permit, and no excavation or test holes shall interfere with any of the water pipes, sewers or drains of the City, or any other underground utility service. Test holes shall be backfilled in accordance with the provisions set by the City Engineer. (Ord. 93-1994 §1. Passed 12-28-94.)

901.14 GUTTERS, LIGHTS AND IDENTIFICATION.

(a) All gutters shall be left open so as not to obstruct the free passage of water and all sidewalks and foot ways shall be kept in a safe and passable condition. All excavations or material from them shall have placed upon them sufficient lights, barricades, and fencing to secure them from all directions during both the day and night.

(b) If, for safety purposes, the City Engineer deems it necessary to install additional warning devices such as lights, barricades, signs, or fencing, the permittee shall be notified of the decision and shall receive instructions on the installation. In case of emergencies, the City may install all additional warning devices deemed necessary by the City Engineer. The City shall invoice the permittee for rental and installation costs incurred from the date of installation until the permittee installs warning devices.

(c) If the permittee fails to install such devices, the City shall invoice the permittee for rental and installation costs incurred from the date of removal. Payment not made by the permittee within thirty days of the invoice date will be chargeable against the posted bond including all fees and costs involved in the collection of this payment.

(d) In all cases, all lights, barricades, signs, fencing, traffic control, etc. shall conform to PennDOT Publication 203, latest revision.
(Ord. 93-1994 §1. Passed 12-28-94.)

901.15 ADDITIONAL WORK.

If the permittee determines during construction that an additional area of the street will have to be opened, he shall notify and secure permission from the City Engineer for the additional opening. Upon receipt of permission, the permittee shall file a supplementary application for the work no later than the next work day. Fee amounts specified in this article shall be followed for any subsequent fees associated with supplementary applications.
(Ord. 93-1994 §1. Passed 12-28-94.)

901.16 GUARANTEE OF WORK.

The permittee shall guarantee and maintain his work for thirty-six months from the completion of the restoration and replacement work. Within this thirty-six month period, upon notification from the City of necessary correction work required, the permittee shall correct or cause to be corrected all restoration work required within five working days of receipt of the notification. The City Engineer shall determine the extent of restoration required and the method of correction. Any and all work not completed within this five-day period may be completed by the City at the discretion of the City Engineer. The City shall invoice the permittee for all costs incurred by the City in performance of this work. Payment not made within thirty days of the invoice date will be chargeable against the posted bond including fees and costs involved in the collection of this payment.
(Ord. 93-1994 §1. Passed 12-28-94.)

901.99 PENALTY.

(a) Any person violating any provision of this article shall, upon conviction thereof, be fined not less than three hundred dollars (\$300.00) nor more than one thousand dollars (\$1,000) for each and every offense, together with costs, and in default of payment thereof, shall be imprisoned not more than thirty days. Each failure to obtain a permit or to comply with any of the requirements of this article, and each and every day during which such violation continues shall constitute a separate offense.

(b) The City Engineer reserves the right to deny the issuance of future street opening permits to any person who violates the provisions of this article. This provision in no way shall prohibit or limit the right of the City to bring legal action against the permittee.
(Ord. 93-1994 §1. Passed 12-28-94.)

ARTICLE 903
Sidewalk and Curb Construction and Repair

<p>903.01 Property owner to construct and maintain sidewalks.</p> <p>903.02 City may perform work; costs and penalties.</p> <p>903.03 Notice to construct or repair.</p> <p>903.04 Sidewalk line.</p> <p>903.05 Grade and fee.</p> <p>903.06 Permit term and expiration.</p> <p>903.07 Laying with improper grade or slope.</p> <p>903.08 Materials and methods.</p> <p>903.09 Permit fee for constructing or reconstructing sidewalk or curb.</p>	<p>903.10 Physically handicapped ramps required.</p> <p>903.11 Safety precautions; lights and barricades.</p> <p>903.12 Slope from curb to property line.</p> <p>903.13 Permit revocation.</p> <p>903.99 Penalty.</p>
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CROSS REFERENCES

Power to require construction and repair - see 3rd Class §3001 (53 P.S. §38001)
 Work done by City - see 3rd Class §3002 (53 P.S. §38002)
 Sidewalk obstructions - see GEN. OFF. 719.05 et seq.

903.01 PROPERTY OWNER TO CONSTRUCT AND MAINTAIN
SIDEWALKS.

On every street which now is or hereafter shall be laid out and opened to the public use in the City, it shall be the duty of the several owners of the lots or parcels of land abutting thereon, and they are hereby enjoined and required, at their own expense, to construct and maintain convenient sidewalks in front of and adjoining their respective lots or parcels of land, and to pave the same and keep in good faith and safe condition for the use of pedestrians. On every lot or parcel of land upon which a residence or other improvement is being constructed it shall be the concurrent duty of the contractor in charge of such construction to so construct such sidewalks as hereinbefore provided.
 (Ord. 98-1994 §1. Passed 12-28-94.)

903.02 CITY MAY PERFORM WORK; COSTS AND PENALTIES.

If the owners fail to construct such sidewalks, the City shall lay out and construct the same or cause the same to be done and charge the costs thereof against the property owners, together with such interest and penalties as may be authorized by law.
(Ord. 98-1994 §1. Passed 12-28-94.)

903.03 NOTICE TO CONSTRUCT OR REPAIR.

Whenever, in the judgment of the City Engineer, it shall become necessary to construct sidewalks or reconstruct or repair any sidewalk abutting any of the streets of the City, the City Engineer shall give notice in writing to the owners of any such lot or piece of ground, or to their duly authorized agent in charge of the same, to construct, reconstruct, or repair such sidewalk, and the time within which the same shall be commenced and finished. The notice shall designate the kind of material to be used in such construction, reconstruction and repair as is required by ordinance of the City.

If the owner or agent resides in the City, the notice as herein required shall be served on such owner or agent not less than ten days prior to the date fixed for the commencement of the work; if not a resident of the City, then such notice shall be given by registered letter to the owner or agent. The letter shall be deposited in the City post office not less than fifteen days prior to the time fixed for the commencement of such work.
(Ord. 98-1994 §1. Passed 12-28-94.)

903.04 SIDEWALK LINE.

All new sidewalks laid and all old sidewalks relaid under the provisions of this article shall be laid at the proper distance from the property line or curb line as determined by the City Engineer and when any part of the walk on one side of a city block has been properly laid in accordance with the provisions of this article, no person shall lay any part of the balance of the walk on such side of such city block otherwise than in line with the walk first above referred to, except as authorized by the written determinations of the City Engineer.
(Ord. 98-1994 §1. Passed 12-28-94.)

903.05 GRADE AND FEE.

Those proposed sidewalks fronting an unpaved street or street not to the proper grade shall require a grade order from the City Engineer at a fee of \$1.00 per lineal foot of property frontage. The City Engineer shall fix the proper grade, and give stakes for the same, whenever any sidewalk or curb is to be constructed or reconstructed on any unpaved street or street not to the proper grade. Such grade shall be fixed before the time for the commencement of the work.
(Ord. 98-1994 §1. Passed 12-28-94.)

903.06 PERMIT TERM AND EXPIRATION.

Permits are to be granted for a definite period, which is to be as short as the circumstances of the case permit, but in no event longer than sixty consecutive days. If, at the end of the period any further use of the highway is required, another permit shall be obtained in the same manner and under the same circumstances as to fees, periods, etc., as in the case of an original permit.
(Ord. 98-1994 §1. Passed 12-28-94.)

903.07 LAYING WITH IMPROPER GRADE OR SLOPE.

(a) Whenever any sidewalk shall be laid or relaid within the City the grade or slope of such sidewalk from property line to curb or gutter, shall not be greater than one-fourth inch per foot.

(b) Any sidewalk which is laid or relaid in disregard of or in nonconformity with such grade, is hereby declared to be a public nuisance, and shall be abated by the City Engineer who shall cause the sidewalk to be removed and relaid to the proper grade. The entire costs and expenses of such removal and relaying, with a penalty of ten percent of such cost and expenses added thereto, shall be recoverable from the owner of the property along which such sidewalk was removed and relaid, to be collected in like manner as similar debts are now by law collectible.

(Ord. 98-1994 §1. Passed 12-28-94.)

903.08 MATERIALS AND METHODS.

All new sidewalks on all streets or parts of streets in the City shall be constructed of Portland cement concrete, which shall be made and laid in accordance with the latest standard formula for work of that class and with a foundation of cinders, slag or such other material as the character of the soil and drainage may render necessary. All work shall conform to the specifications on file in the office of the City Engineer.

(Ord. 98-1994 §1. Passed 12-28-94.)

**903.09 PERMIT FEE FOR CONSTRUCTING OR RECONSTRUCTING
SIDEWALK OR CURB.**

All persons securing permits for the construction of cement sidewalks and curbing are required to pay a fee of twenty dollars (\$20.00) per permit. A separate permit shall be required for the laying of a curb and sidewalk unless constructed simultaneously.

(Ord. 98-1994 §1. Passed 12-28-94.)

903.10 PHYSICALLY HANDICAPPED RAMPS REQUIRED.

All curbs and sidewalks at intersections of streets or avenues in the City which are being constructed, reconstructed or altered for any reason shall provide curb cut ramps for the physically handicapped in accordance with the Design Requirements and Specifications for the Construction of Pedestrian Facilities at Intersections and any Americans with Disabilities Act requirements on file with the City Engineers, unless exempt therefrom by such standards. Any person constructing a physically handicapped ramp within the City of Erie shall be responsible for any additional costs and expenses to the City of Erie as a result of a failure to comply with this section. (Ord. 63-2004. Passed 8-4-04.)

903.11 SAFETY PRECAUTIONS; LIGHTS AND BARRICADES.

When any portion of any highway is used under any permit, a sufficient number of red lanterns or lights, conspicuously placed, shall be used from dark until sunrise every night, to render such highway perfectly safe. All excavations shall be protected by a sufficient guard rail or fence.

(Ord. 98-1994 §1. Passed 12-28-94.)

903.12 SLOPE FROM CURB TO PROPERTY LINE.

The slope of all sidewalks from curb to house line shall be at the rate of one-fourth inch to the foot, except at street corners, where a mitre of both street grades shall be made.
(Ord. 98-1994 §1. Passed 12-28-94.)

903.13 PERMIT REVOCATION.

Every permit issued hereunder shall be conditioned on faithful compliance with all of the provisions of this article. Any failure to so comply with such provisions shall be cause for revocation of such permit.
(Ord. 98-1994 §1. Passed 12-28-94.)

903.99 PENALTY.

(a) Any person violating any provision of this article shall, upon conviction thereof, be fined not less than three hundred dollars (\$300.00) nor more than one thousand dollars (\$1,000) for each and every offense, together with costs, and in default of payment thereof, shall be imprisoned not more than thirty days. Each failure to obtain a permit or to comply with any of the requirements of this article, and each and every day during which such violation continues shall constitute a separate offense.

(b) The City Engineer reserves the right to deny the issuance of future sidewalk and curb construction permits to any person who violates the provisions of this article. This provision in no way shall prohibit or limit the right of the City to bring legal action against the permittee.
(Ord. 98-1994 §1. Passed 12-28-94.)

ARTICLE 905
Paving and Sewer Assessments

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| <p>905.01 Property abutting on two streets;
reduction of assessments.</p> <p>905.02 Property less than 10,000 square
feet.</p> <p>905.03 Corner lots.</p> <p>905.04 Exceptions.</p> <p>905.05 Effective date.</p> <p>905.06 Refunds.</p> | <p>905.07 Engineer to compute reductions
and credit.</p> <p>905.08 Solicitor to credit reductions.</p> <p>905.09 Foot frontage assessment of
abutting property.</p> <p>905.10 City to pay in excess of seven-inch
thickness.</p> |
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CROSS REFERENCES

- Power to pave streets and assess costs - see 3rd Class §2930
et seq. (53 P.S. §37930 et seq.)
- Power to construct sewers and assess costs - see 3rd Class §3201
et seq. (53 P. S. §38201 et seq.)
- Erie Sewer Authority - see ADM. Art. 181

905.01 PROPERTY ABUTTING ON TWO STREETS; REDUCTION OF ASSESSMENTS.

Whenever a lot or piece of real estate is located at the intersection of two streets, or where an arc or a curve of property line extends along two different streets and where paving or sewer improvements exist along the frontages facing both of such streets, the owners of such property shall be entitled to a reduction of the assessments for one of the sides computed in accordance with the following formula:

- (a) Where the assessment for one of the sides has been paid in full, at any time, by the present owner or by his predecessors in title, the present owner shall be entitled to a credit in the payment of the second side to the extent of number of feet for which the shorter of the two sides has been assessed, but in no case to exceed fifty feet.
- (b) In the event that both sides of the property are of equal length, the property owner shall be entitled to a credit in the payment of the assessment of one of the sides to the extent of the front footage assessed on one of the sides, but in no event to exceed fifty feet. (Ord. 134-1957 §1. Passed 11-8-57.)

905.02 PROPERTY LESS THAN 10,000 SQUARE FEET.

On all properties not located at the intersection of two intersecting streets which do abut or have frontages upon two adjacent streets, where the total area of the property is less than 10,000 square feet, the owner shall be entitled to the same credit for paving or sewer assessments for the two sides of the property so improved, as is provided for corner lots in Section 905.01. (Ord. 134-1957 §2. Passed 11-8-57.)

905.03 CORNER LOTS.

On all properties located at the corner of two intersecting streets where the inside angle is sixty degrees or less, and where the area of the lot is less than 10,000 square feet, the owner shall be allowed a credit against paving or sewer improvement assessments of all front footage in excess of the number of feet which is produced by multiplying the total square feet of the area of the lot by a factor of two percent, but in no case shall the credit exceed the footage of the shorter of the two sides of the property involved.

(Ord. 134-1957 §3. Passed 11-8-57.)

905.04 EXCEPTIONS.

The above credits and reductions shall not apply to any corner property situate at the intersection of two streets forming an inside angle of 120 degrees or more.

(Ord. 134-1957 §4. Passed 11-8-57.)

905.05 EFFECTIVE DATE.

Such credits and exemptions shall be allowed on all assessments for paving and sewer improvements made since January 1, 1957, and to all such assessments made or to be made thereafter. (Ord. 134-1957 §5. Passed 11-8-57.)

905.06 REFUNDS.

Where assessments entitled to such reductions have already been paid in full for any paving or sewer improvements assessed since January 1, 1957, the present owners of the properties so affected shall, upon application therefor to the City, be granted a refund of the face amount of the reduction computed according to the formula set forth herein.

(Ord. 134-1957 §6. Passed 11-8-57.)

905.07 ENGINEER TO COMPUTE REDUCTIONS AND CREDIT.

It shall hereafter be the duty of the City Engineer, in preparing the assessments of the costs and expenses for paving and sewer installations to be assessed by the front foot rule, to compute the amount of the reduction or credit to any property which may be entitled under this article and to credit same against the foot frontage of the property so affected.

(Ord. 134-1957 §7. Passed 11-8-57.)

905.08 SOLICITOR TO CREDIT REDUCTIONS.

Where assessments for paving or sewer have already been made to any property entitled to any reduction or credit under the terms of this article, it shall be the duty of the City Solicitor to compute the amount of the credit to which the property is entitled and to credit such amount against the unpaid balance of such assessments.

(Ord. 134-1957 §8. Passed 11-8-57.)

905.09 FOOT FRONTAGE ASSESSMENT OF ABUTTING PROPERTY.

Hereafter, whenever Council shall enact any ordinance providing for the construction of any pavement having a concrete base exceeding seven inches in thickness, and providing for the assessment of the cost and expenses of construction of such pavement upon the property abutting such pavement, such ordinance shall provide that the cost and expenses of construction of the pavement, insofar as the thickness of the concrete base is concerned, shall be assessed against the abutting property according to the foot frontage of such property, on the basis of the cost of construction of a pavement having a concrete base of seven inches in thickness. (Ord. 8650 §1. Passed 6-12-51.)

905.10 CITY TO PAY IN EXCESS OF SEVEN-INCH THICKNESS.

The cost and expenses of construction hereafter of any pavement having a concrete base exceeding seven inches in thickness shall, as to such excess of thickness of base, be paid by the City out of the general revenues of the City or out of special funds raised by the City for the purpose of construction of such pavement or pavements.
(Ord. 8650 §2. Passed 6-12-51.)

ARTICLE 907
Curb Cuts and Driveways

<p>907.01 Definitions. 907.02 Permit required. 907.03 Application. 907.04 Fees. 907.05 Standards for issuance of permits. 907.06 Expiration of permit. 907.07 Number and size of driveways and curb cuts regulated.</p>	<p>907.08 Unlawful methods of curb removal. 907.09 Supervision and enforcement. 907.10 Order to alter curb cut. 907.11 Maintenance. 907.99 Penalty.</p>
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CROSS REFERENCES

Municipal curb control - see 53 P.S. §1721
Curb laying and repair - see 53 P.S. §1891
Permit fee for new curb construction - see S.U. & P.S. 903.07

907.01 DEFINITIONS.

The following words when used in this article shall have, unless the context clearly indicates otherwise, the meaning given to them in this section:

- (a) "Curb or curbing" means an edging of concrete, sandstone, or granite, built along a street to form a part of a gutter. New curb construction shall be of concrete, and constructed according to the standard specifications of the City.
- (b) "Driveway" means a private road giving access from a public way to abutting grounds.
- (c) "Driveway apron" means that portion of the driveway from the sidewalk to and including the curb.
- (d) "Sidewalk" means a walk used by pedestrians at the side of a public way.
- (e) "Person" means any person, firm, partnership, association, corporation, company or organization of any kind.
(Ord. 95-1994 §1. Passed 12-28-94.)

907.02 PERMIT REQUIRED.

No person shall begin to construct, reconstruct, establish any driveway apron or any driveway, over, across or upon any portion of the public sidewalk, or shall cut or alter any curb on any street without first having obtained a written permit to do so from the City Engineer.
(Ord. 95-1994 §1. Passed 12-28-94.)

907.03 APPLICATION.

An application for a permit under this article must be made in writing upon forms furnished by the City Engineer and shall set forth the following:

- (a) Name and address of the owner of the property abutting the work area.
 - (b) Name and address of the person doing the work.
 - (c) Nature of the work to be done.
 - (d) Location of the work area.
 - (e) Attached sketch of plans setting forth details of the proposed work.
 - (f) Such other information as the City Engineer shall find reasonably necessary to the determination of whether a permit should be issued hereunder.
- (Ord. 95-1994 §1. Passed 12-28-94.)

907.04 FEES.

The following fees for curb cuts or driveways shall accompany an application for a permit hereunder:

<u>Type of Property</u>	<u>Fee</u>
Residential	\$5.00 per lineal ft.
Commercial	\$10.00 per lineal ft.

(Ord. 72-2002. Passed 12-27-02.)

907.05 STANDARDS FOR ISSUANCE OF PERMITS.

The City Engineer shall issue a permit hereunder when he finds the following:

- (a) That the work shall be done according to the standard specifications of the City for public work of like character.
- (b) That the operation will not unreasonably interfere with vehicular and pedestrian traffic, the demand and necessity for parking spaces, and the means of egress to and from the property affected and adjacent properties.
- (c) That the health, welfare and safety of the public will not be unreasonably impaired.

(Ord. 95-1994 §1. Passed 12-28-94.)

907.06 EXPIRATION OF PERMIT.

Any permit issued hereunder shall become invalid and ineffective one year after the date of its issuance.

(Ord. 95-1994 §1. Passed 12-28-94.)

907.07 NUMBER AND SIZE OF DRIVEWAYS AND CURB CUTS REGULATED.

- (a) Driveways on Residential Property.
 - (1) For residential lots of the width of fifty feet or less, only one driveway and curb cut is permitted.
 - (2) For residential lots of the width of more than fifty feet, two driveways and curb cuts may be allowed for circular driveways if an area of fifteen feet is provided between the driveways.
 - (3) The width of the driveways for residential or dwelling houses shall not be less than nine feet nor greater than twelve feet at the apron of the driveway or curb opening.

(b) Driveways on Property Other Than Residential.

- (1) The width of driveways for property other than residential or dwelling houses shall not exceed thirty feet at the apron or the driveway or curb opening.
- (2) Not more than two such driveways or curb openings shall be allowed to any one owner for any one piece of property for each 100 feet of continuous frontage.
- (3) A variance may be granted for such curb openings in excess of thirty feet on the following conditions:
 - A. Peculiar conditions not ordinarily existing in similar districts of the nature of the operation.
 - B. That the exception or variance is not against the public interest, safety, convenience or welfare.

(c) Curb Openings. All curb openings shall be constructed in accordance with the following regulations. Minimum distances from:

- (1) Intersection - 15 feet from end of curb circle.
- (2) Fire hydrants - 5 feet.
- (3) Other driveways - 15 feet.

(d) Minimum angle of driveway to street - 45 degrees.
(Ord. 95-1994 §1. Passed 12-28-94.)

907.08 UNLAWFUL METHOD OF CURB REMOVAL.

No person shall remove any curb by smashing, breaking or destroying it with a sledge hammer, air hammer or any other tool or instrument and no person shall remove any curb in any manner other than that set forth in rules and specifications of the City for public work of like character.

(Ord. 95-1994 §1. Passed 12-28-94.)

907.09 SUPERVISION AND ENFORCEMENT.

The City Engineer shall enforce all the provisions of this article. It shall receive applications, issue permits, inspect the premises for which permits have been issued and enforce compliance with notices or orders to remove illegal or unsafe conditions and to require the necessary safeguards during construction.

(Ord. 95-1994 §1. Passed 12-28-94.)

907.10 ORDER TO ALTER CURB CUT.

Where the use, convenience and necessity of the public require, the City Engineer shall have the authority to order the owners or agents in charge of the property adjacent to which curb cuts are maintained, to alter the curb cut in such manner as he shall find reasonably necessary under the circumstances.

The notice required by this section shall require compliance by permittee within thirty days of the notice, be in writing and be served by certified mail or personally with return receipt required.

(Ord. 95-1994 §1. Passed 12-28-94.)

907.11 MAINTENANCE.

It shall be the duty of the property owner and/or his tenant to maintain the curb, driveway, driveway apron and sidewalk abutting his property in a good and safe condition and upon failure to do so after thirty days written notice served personally or by certified mail from the City Engineer, shall be subject to the penalties provided in this article.
(Ord. 95-1994 §1. Passed 12-28-94.)

907.99 PENALTY.

Whoever violates any provision of this article or fails to comply with any of the requirements thereof, or who installs, widens or repairs any driveway or cuts any curb or opening in violation of an approved plan or directive of the City Engineer or of a permit or certificate issued under the provisions of this article shall be fined not less than three hundred dollars (\$300.00) nor more than one thousand dollars (\$1,000) for each and every offense, together with costs, and in default of payment thereof, shall be imprisoned not more than thirty days. Each failure to obtain a permit or to comply with any of the requirements of this article, and each and every day during which such violation continues shall constitute a separate offense.
(Ord. 95-1994 §1. Passed 12-28-94.)

ARTICLE 909
Street Lighting

909.01 Installation required.

CROSS REFERENCES

Power to provide for and regulate - see 3rd Class §3576
(53 P. S. §38576)

909.01 INSTALLATION REQUIRED.

Anyone who develops or subdivides an area in the City, which area is presently without street lights, shall be required to install street lights in such area.
(Ord. 112-1979 §1. Passed 12-19-79.)

ARTICLE 911
Bridges

911.01 Posting clearances.

CROSS REFERENCES
Construction and maintenance - see 3rd Class §3101
(53 P. S. §38101)

911.01 POSTING CLEARANCES.

The Traffic Engineer of the City shall post a sign or signs as in his judgement are required at railroad bridges and/or overpasses in the City designating the height of the clearance between such bridge and/or overpass and the street passing beneath such bridge and/or overpass. (Ord. 24-1982 §1. Passed 3-17-82.)

ARTICLE 912
Improvement Inspections

- 912.01 Review of sewer and paving plans.
912.02 Inspection of construction completion.
- 912.03 Review and inspection fees.

912.01 REVIEW OF SEWER AND PAVING PLANS.

The City Engineer's office shall review all plans submitted relative to the private construction of both sanitary, storm sewers, and stormwater management, as well as any plans for paving.

(Ord. 72-1997 Sec. 1. Passed 11-19-97.)

912.02 INSPECTION OF CONSTRUCTION COMPLETION.

The construction of sanitary sewers, storm sewers and pavement shall be inspected by the City Engineer's office once completed.

(Ord. 96-1994 §1. Passed 12-28-94.)

912.03 REVIEW AND INSPECTION FEES.

The following fees shall be payable to the City of Erie for all plans reviewed and sewers inspected hereunder.

<u>Service</u>	<u>Fees</u>
Plan review	\$ 50.00 per hour
Sanitary and storm sewer and paving inspections	250.00 per day.

(Ord. 77-2005. Passed 12-28-05.)

TITLE THREE - Utilities
Art. 921. Electric Power Lines.
Art. 923. Pipes and Mains.
Art. 925. Poles and Wires.
Art. 926. Alarm Systems

ARTICLE 921
Electric Power Lines

- | | |
|---|---|
| 921.01 Council to authorize utility lines in residential areas. | 921.05 Utility companies to maintain streets, curbs, etc. |
| 921.02 Lines on district boundary streets. | 921.06 Effect on existing laws. |
| 921.03 Permit application; granting. | 921.99 Penalty. |
| 921.04 Power lines interfering with City construction. | |

CROSS REFERENCES

- Requiring wires to be placed underground - see 3rd Class §2403 (50) (53 P. S. §37403 (50))
Signs on poles prohibited - see GEN. OFF. 713.01

921.01 COUNCIL TO AUTHORIZE UTILITY LINES IN RESIDENTIAL AREAS.
No public utility corporation shall construct, maintain or use electric power transmission lines having a capacity in excess of 50,000 volts (fifty K.V.) overhead, along, through and across any public highway, street or alley in any area of the City classified as residential under the Zoning Code now in force or any future enactment or amendment of same, unless specifically authorized by resolution of Council in accordance with the provisions of this article. (Ord. 97-1959 §1. Passed 10-6-59.)

921.02 LINES ON DISTRICT BOUNDARY STREETS.
Where a street forms a boundary between an area zoned as residential and an area of other classification, the terms of this article shall not apply to any such electric power transmission line located entirely on the side of such street which is classified as other than residential. (Ord. 97-1959 §2. Passed 10-6-59.)

921.03 PERMIT APPLICATION; GRANTING.
Application for authorization to construct, maintain or use such electric power transmission line shall be made in writing to Council by the public utility corporation desiring to maintain the same, accompanied by detailed plans showing the type and manner of construction, materials and location of same. Upon receipt of such application, the same

shall be referred to the City Engineer and the City Electrician for their report and recommendations thereon. The City Electrician and the City Engineer shall report their recommendations on the application to Council within twenty days of the action of Council referring the same to them.

Thereafter, Council, by resolution, may authorize the construction, maintenance or use of such line under such terms, provisions, restrictions, guarantees and assurances as Council may require. Any such authorization shall be subject to such continuing and further regulation as Council may provide. (Ord. 97-1959 §3. Passed 10-6-59.)

921.04 POWER LINES INTERFERING WITH CITY CONSTRUCTION.

Any authorization granted by Council under the terms of this article for the construction, maintenance or use of such electric power transmission lines shall be subject to the condition that where the City shall change the grade or width of any highway, street, alley or public way or where the City, in the construction, laying repair or replacement of any pavement, street, curb, water pipe, sewer pipe or any other municipal works, finds it necessary to change the location of any such electric power transmission line maintained or constructed under the terms of this article, the electric power transmission line, its poles, supports and other appurtenant structures shall be shifted, moved or altered, at the cost or expense of the owners thereof, to such places as shall be directed by the City Engineer. (Ord. 97-1959 §4. Passed 10-6-59.)

921.05 UTILITY COMPANIES TO MAINTAIN STREETS, CURBS, ETC.

All public utility corporations authorized to construct, maintain and use electric power transmission lines under the provisions of this article shall, in the installation, maintenance and repair thereof, replace, resurface and repair in good order the sidewalks, curbs, paving and streets in such locations under the direction of and to the satisfaction of the City Engineer. (Ord. 97-1959 §5. Passed 10-6-59.)

921.06 EFFECT ON EXISTING LAWS.

Nothing in this article shall be deemed to repeal any prior ordinance of the City or any provision of such ordinance requiring the installation of electric wires and cables in the underground conduits of the City where such conduits are available for transmission lines of the type and capacity subject to this article. (Ord. 97-1959 §6. Passed 10-6-59.)

921.99 PENALTY.

Whoever violates any of the provisions of this article shall be fined not more than three hundred dollars (\$300.00). Each day's continued violation shall constitute a separate offense. (Ord. 97-1959 §8. Passed 10-6-59.)

ARTICLE 925
Poles and Wires

<p>925.01 Permission to erect required. 925.02 Conditions of permission. 925.03 Rights reserved by City. 925.04 Permission revocable. 925.05 Removal of poles and wires erected without permission. 925.06 Previous authority invalid; license renewal. 925.07 Place and manner of erecting. 925.08 Maintenance; liability for damages. 925.09 Protection of fire alarm telegraph. 925.10 Placing wires on fire alarm poles. 925.11 Private use of fire alarm poles. 925.12 Regulations while moving buildings. 925.13 Poles to be designated and numbered.</p>	<p>925.14 Location; inspection; record. 925.15 Use of brackets prohibited. 925.16 Notice to correct violation. 925.17 Poles not designated may be removed. 925.18 Height of wires regulated. 925.19 Height of guy wires regulated. 925.20 Signs on wire-supporting poles prohibited. 925.21 Signs on City poles prohibited; exceptions. 925.22 Maintenance of City alarm systems. 925.99 Penalty.</p>
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CROSS REFERENCES

Requiring wires to be placed underground - see 3rd Class
§2403 (50) (53 P.S. §37403 (50))
Community Antenna Television System - see BUS. REG. Art. 343
Signs on poles prohibited - see GEN. OFF. 713.01
Underground conduits - see S.U. & P.S. 921.06

925.01 PERMISSION TO ERECT REQUIRED.

No person shall erect in the streets of the City poles of any kind to be used for supporting telegraph wires, or wires used for any other purpose, or extend such wires across any streets in any manner without first having obtained the permission of Council.
(Ord. 42 §1. Passed 10-23-1882.)

925.02 CONDITIONS OF PERMISSION.

Permission to erect such poles and wires shall be granted only by ordinance. Unless when such an ordinance is passed it shall be provided to the contrary, the right to erect poles and wires shall be considered as granted and, by the party applying therefor, accepted subject to the terms and conditions of this article. (Ord. 42 §2. Passed 10-23-1882.)

925.03 RIGHTS RESERVED BY CITY.

The right is reserved by the City to place one wire on any pole so erected, and maintain the same there without charge or expense to the City. Such wire shall be placed in such place as the City Electrician may elect, but when reasonably practicable on the top of the poles.
(Ord. 42 §2. Passed 10-23-1882.)

925.04 PERMISSION REVOCABLE.

The license granted to use the streets for the purposes aforesaid may be revoked at any time and, when revoked, the poles and wires shall be immediately removed from the streets. (Ord. 42 §2. Passed 10-23-1882.)

925.05 REMOVAL OF POLES AND WIRES ERECTED WITHOUT PERMISSION.

If any person has heretofore erected any poles or wires in the streets without the permission of Council, such poles and wires shall be immediately removed by the parties erecting them. In default of compliance with notice to do so, it shall be the duty of the Chief of the Bureau of Streets to remove the same without delay. (Ord. 42 § 6. Passed 10-23-1882.)

925.06 PREVIOUS AUTHORITY INVALID; LICENSE RENEWAL.

All licenses heretofore granted to any person to erect poles and wires in the streets are hereby revoked, but nothing herein shall be construed to prevent a renewal of the license heretofore granted to such person upon application duly made, as provided for in this article, and subject to its conditions. (Ord. 42 §7. Passed 10-23-1882.)

925.07 PLACE AND MANNER OF ERECTING.

Such poles and wires shall be erected in such manner and in such places as the proper municipal authorities shall direct, and particularly in such manner that the wires shall not come in contact with those of the fire alarm telegraph. (Ord. 42 §2. Passed 10-23-1882.)

925.08 MAINTENANCE; LIABILITY FOR DAMAGES.

The person erecting such poles and wires shall at all times keep the same in safe condition, and be responsible to the City, for all damages it may be made liable for arising from the same. (Ord. 42 §2. Passed 10-23-1882.)

925.09 PROTECTION OF FIRE ALARM TELEGRAPH.

Whenever any wires erected for any purpose whatsoever shall intersect or cross those of the fire alarm telegraph, the person erecting such wires shall set a post or pole with crossarms at least two feet apart at the point of intersection or crossing, and properly attach such wires to the crossarms in such manner that the wires cannot possibly come in contact with each other, always when practicable placing the wires of the fire alarm telegraph on the highest arm. (Ord. 42 §3. Passed 10-23-1882.)

925.10 PLACING WIRES ON FIRE ALARM POLES.

No person shall place any wires on the poles erected by the City for the use of the fire alarm telegraph without the consent, in writing, of the City Electrician, which license may be revoked at the pleasure of Council. When such permission is granted, the wires shall be placed on the poles in such manner as the City Electrician shall direct. (Ord. 42 §4. Passed 10-23-1882.)

925.11 PRIVATE USE OF FIRE ALARM POLES.

If any person has heretofore placed any wires on any poles erected for the use of the fire alarm telegraph, such person shall immediately remove the same from the poles if so

directed by the City Electrician, or with his consent in writing, attach the wires to the poles in such manner as he shall direct. (Ord. 42 §6. Passed 10-23-1882.)

925.12 REGULATIONS WHILE MOVING BUILDINGS.

No person in moving any building or other thing shall cause the same to come in contact with the wires of the fire alarm telegraph without first having given notice to the City Electrician of the fact that such building or other thing will come in contact with the wire, so that the City Electrician may be present, and the fire alarm telegraph wire shall not be cut under any circumstances except by the express direction of the City Electrician. (Ord. 42 §5. Passed 10-23-1882,)

925.13 POLES TO BE DESIGNATED AND NUMBERED.

All telegraph, telephone and electric light poles and all other poles now erected or hereafter to be erected for the support of electric wires upon any street or other City property, which are or shall be owned by any person other than the City itself, shall be designated by the name of such owner, and each of such poles shall have a distinct number which, together with the name, shall be legibly marked and so maintained, open to public view, upon the poles so designated, not higher than ten feet from the grade of street. (Ord. 2010 §1. Passed 12-18-02.)

925.14 LOCATION; INSPECTION; RECORD.

Such poles shall be placed, replaced, erected or maintained only at such points as may be designated by the City Electrician, who shall keep in his office an accurate record of the location of each pole as designated and permitted by him. It shall be the duty of the City Electrician at least once a year to cause a thorough count, inspection and record of all telegraph, telephone and electric light poles, and all other poles erected within the limits of the City, also count and record the number of crossarms thereon, and the distance between the crossarms, and count and report to the Mayor the number of brackets thereon, if any. If any pole shall be found to be defective, unsuitable or unsound, he shall notify the owner of the pole to forthwith replace the same with a sound pole. It shall be the duty of such owner to replace such defective, unsuitable or unsound pole within forty-eight hours after receiving such notice. (Ord. 2010 §1. Passed 12-18-02.)

925.15 USE OF BRACKETS PROHIBITED.

No person shall place or use a bracket on any pole for the purpose of supporting, attaching or carrying a wire. (Ord. 2010 §1. Passed 12-18-02.)

925.16 NOTICE TO CORRECT VIOLATION.

If any person shall violate the provisions of this article, it shall be the duty of the City Electrician to report such violation to the Mayor, who shall notify such person of such violation, and it shall then be the duty of the person to correct the violation within ten days from receipt of the notice. (Ord. 2010 §1. Passed 12-18-02.)

925.17 POLES NOT DESIGNATED MAY BE REMOVED.

Any pole not lettered and numbered as provided for in this article shall be considered a "dead" or unused pole, and it may be removed by the City or its officers as an obstruction of the highway, without liability therefor and at the expense of the owner of such pole. (Ord. 2010 §1. Passed 12-18-02.)

925.18 HEIGHT OF WIRES REGULATED.

No person who may be authorized to put up wires in the streets for telegraphic or other purposes shall place such wires less than eighteen feet above the roadways of the streets. (Ord. of 6-11-1879.)

925.19 HEIGHT OF GUY WIRES REGULATED.

No person shall erect or maintain a guy wire in the streets or public grounds of the City unless the lowest part of such wire shall be at least twelve feet above the grade. (Ord. 2218 §1. Passed 8-17-03.)

925.20 SIGNS ON WIRE-SUPPORTING POLES PROHIBITED.

No person shall paste, tack or affix any advertisement or sign on any pole in the City which is used or intended to be used for carrying or supporting wires. (Ord. 2205 §1, 2. Passed 7-17-03.)

925.21 SIGNS ON CITY POLES PROHIBITED; EXCEPTIONS.

No person shall paste or otherwise affix any advertisement or sign on any ornamental or other lighting poles owned by the City. However, Council may, by resolution duly approved, authorize the placing of temporary signs of an approved type, in connection with any civic or community project. Council may also give permission by resolution to place direction and information signs of a design and type to be approved by it, to bus line companies operating within the City. (Ord. 7120 §1, 2. Passed 8-31-28.)

925.22 MAINTENANCE OF CITY ALARM SYSTEMS.

It shall be the duty of the City Electrician to care for and maintain the wires and boxes of the fire alarm system of the City, under such reasonable rules and regulations as may be made for that purpose by the Chief of the Bureau of Fire. However, such rules and regulations shall in no way interfere with the present duty of the City Electrician in caring for the wires and boxes of the police call system. (Ord. 1045 §1. Passed 2-14-1895.)

925.99 PENALTY.

(a) Any person violating any of the provisions of Sections 925.01 to 925.12 shall be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00). (Ord. 42 §8. Passed 10-23-1882.)

(b) Any person violating any of the provisions of Sections 925.13 to 925.17 or 925.23 shall be fined not more than one hundred dollars (\$100.00) for each offense. The erection or maintenance of any single pole or crossarm in violation of the provisions of this article shall constitute a distinct and separate offense. (Ord. 2010 §1. Passed 12-18-02.)

(c) Any person violating any of the provisions of Section 925.18 shall be fined ten dollars (\$10.00). For each day that such wire or wires are permitted to remain in violation of this section, after notice to raise the same, there shall be an additional penalty of five dollars (\$5.00) per day. (Ord. of 6-11-1879.)

(d) Any person violating any of the provisions of Sections 925.19, 925.20 or 925.21 shall be fined not more than fifty dollars (\$50.00) for each offense and, in default of payment of fine and costs shall be imprisoned for not more than thirty days. (Ord. 2218 §1, 2. Passed 8-17-03; Ord. 2205 §1, 2. Passed 7-17-03; Ord. 7120 §1, 2. Passed 8-31-28.)

ARTICLE 926
Alarm Systems

926.01 Direct access license fee.

926.99 Penalty.

926.01 DIRECT ACCESS LICENSE FEE.

Any individual or business that maintains a direct electrical hook-up to the City of Erie fire control center and/or the City of Erie Police Department shall be liable for a two hundred forty dollar (\$240.00) annual license fee for each service. Application for the license shall be made with the City Electrician no later than December 31 for the succeeding year's service. (Ord. 1-1991 § 1. Passed 1-9-91.)

926.99 PENALTY.

Whoever violates any provision of this article shall be fined not more than three hundred dollars (\$300.00). (Ord. 65-1986 §1. Passed 7-23-86.)

TITLE FIVE - Sewers and Water

- Art. 931. Sanitary Sewerage System.
- Art. 933. Sewer Rental.
- Art. 934. Sewage and Industrial Waste Surcharges.
- Art. 935. Sewer and Utility Connections.
- Art. 936. Cross Connection Control.
- Art. 937. Water Rates. (Repealed)
- Art. 939. Water Regulations.
- Art. 941. Liens.
- Art. 945. Floodplain Management Regulations.
- Art. 946. Stormwater Quality Management.
- Art. 947. Non-Use Aquifers.

ARTICLE 931

Sanitary Sewerage System

- | | | | |
|--------|--|--------|--|
| 931.01 | Definitions. | 931.11 | Industrial waste questionnaire.
(Repealed) |
| 931.02 | Connection to sanitary sewerage system required; privies, etc., prohibited. | 931.12 | Special agreements for industrial wastes. (Repealed) |
| 931.03 | Storm water runoff prohibited in sanitary sewers. | 931.13 | Surcharge for extra-strength wastes. (Repealed) |
| 931.04 | Certain industrial wastes permitted in sewers; cost of treatment. (Repealed) | 931.14 | Chlorine requirement surcharge rate. (Repealed) |
| 931.05 | Discharge of unpolluted water; cost reduction. | 931.15 | Review of surcharge rates.
(Repealed) |
| 931.06 | Garbage prohibited in system; exception. | 931.16 | Surcharge refund when pretreatment facilities provided. (Repealed) |
| 931.07 | Industrial waste pretreatment facilities; submission of plans. (Repealed) | 931.17 | Billing of surcharges. |
| 931.08 | Determination of harmful industrial wastes. (Repealed) | 931.18 | No rate reduction for low-strength wastes. |
| 931.09 | Manholes for sampling industrial wastes. | 931.19 | Determination of amount of sewage discharged; rate reduction. |
| 931.10 | Prohibited industrial wastes. (Repealed) | 931.20 | Regulation by Bureau of Sewers. |
| | | 931.99 | Penalty. |

CROSS REFERENCES

- Sewers - see 3rd Class §3201 et seq. (53 P.S. §38201 et seq.)
- Bureau of Sewers - see ADM. 117.04(d)
- Erie Sewer Authority - see ADM. Art. 181
- Sewer permit fee - see S.U. & P.S. 901.03
- Sewer assessments - see S.U. & P.S. Art. 905
- Sewage and industrial waste - see S.U. & P.S. Art. 934
- Sewage from boats - see S.U. & P.S. 975.02
- Wells and springs near privy, cesspool - see HLTH. 1115.08

931.01 DEFINITIONS.

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

- (a) "City" means the City of Erie, Pennsylvania.
- (b) (EDITOR'S NOTE: This subsection was repealed by Ordinance 32-1996, passed May 22, 1996.)
- (c) (EDITOR'S NOTE: This subsection was repealed by Ordinance 32-1996, passed May 22, 1996.)
- (d) "Sanitary sewage" means the normal water-carried household and toilet wastes from residences, business buildings, institutions, industries and commercial establishments, exclusive of storm water runoff, surface water or ground water.
- (e) "Industrial wastes" means any liquid, gaseous or water-borne wastes from industrial processes or commercial establishments, as distinct from sanitary sewage.
- (f) "Garbage" means solid wastes from the preparation, cooking and dispensing of food and from the handling, storage and sale of produce.
- (g) "Properly shredded garbage" means the wastes from the preparation, cooking and dispensing of food that has been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.
- (h) "Storm water runoff" means that portion of the rainfall which reaches a drain.
- (i) "Sewer" means a pipe or conduit for carrying sewage or other waste liquids.
- (j) "Combined sewer" means a sewer designed to receive both sewage and storm water runoff.
- (k) "Sanitary sewer" means a sewer which carries sewage, and to which storm, surface and ground waters are not intentionally admitted.
- (l) "Storm sewer" means a sewer which is intended to carry storm water runoff, surface water, ground water drainage, etc., but which is not intended to carry any sanitary sewage or polluted industrial waste.
- (m) "Public sanitary sewerage system" means all separate sanitary sewers, all combined sewers, all sewage pump stations, all sewage treatment works and all other facilities provided and owned by the City for the collection and treatment of sanitary sewage and industrial wastes with their appurtenances, and any additions, extensions or improvements that hereinafter may be made thereto by the City. It also includes all sewers inside or outside the City limits which discharge into the City sanitary sewerage system, even though those sewers may not have been constructed by City funds. It does not include separate storm sewers, culverts or other drains which have been constructed for the sole purpose of carrying storm and surface runoff, the discharge from which is not, and does not, become tributary to the City's sewage treatment facilities.
- (n) "Occupied building" means any structure erected and intended for continuous or periodic habitation, occupancy or use by human beings or animals, and from which structure sanitary sewage and industrial wastes, or either thereof, are or may be discharged.
- (o) "Premises accessible to the sanitary sewerage system" means any real estate which adjoins, abuts or is adjacent to the public sanitary sewerage system, or

any real estate which might be connected to that system by construction of a private sewer of not more than 100 feet in length, this length to be measured from the nearest margin of real estate in question.

- (p) "Person" means any individual, partnership, association or corporation.
- (q) "pH" means the logarithm to the base ten of the reciprocal of the hydrogen ion concentration expressed in moles per liter. It shall be determined by one of the acceptable methods described in the latest edition of Standard Methods for the Examination of Water and Sewage, published by the American Public Health Association.
- (r) "Suspended solids" means solids that either float on the surface of or are in suspension in water, sewage, industrial waste or other liquids, and which are removable by laboratory filtration. The quantity of suspended solids shall be determined by one of the acceptable methods described in the latest edition of Standard Methods for the Examination of Water and Sewage, published by the American Public Health Association.
- (s) "B.O.D." of sewage or industrial wastes designates its biochemical oxygen demand and means the quantity of oxygen utilized in the biochemical oxidation of the organic matter of such sewage or industrial wastes under standard laboratory procedure in five days at twenty degrees centigrade expressed in parts per million by weight. It shall be determined by one of the acceptable methods described in the latest edition of Standard Methods for the Examination of Water and Sewage, published by the American Public Health Association.
- (t) "Abnormal industrial waste" means any industrial waste having a suspended solids content or B.O.D. in excess of that normally found in municipal sewage. For the purposes of this article, an industrial waste containing more than 300 parts per million of suspended solids, or having a B.O.D. in excess of 250 parts per million, shall be considered an abnormal industrial waste regardless of whether or not it contains other substances in concentrations differing appreciably from those normally found in municipal sewage.
- (u) "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 substances imparting taste and odor to receiving waters; toxic or poisonous substances in suspension, colloidal state or solution; obnoxious or odorous gases. It shall contain not more than 10,000 parts per million by weight of dissolved solids, of which not more than 2,500 parts per million shall be as chloride and not more than ten parts per million each of suspended solids and B.O.D. The color shall not exceed fifty parts per million. Analyses for any of the above mentioned substances shall be made in accordance with the latest edition of Standard Methods for the Examination of Water and Sewage, published by the American Public Health Association.
- (v) "Shall" is mandatory; "may" is permissive. (Ord. 10-1966 §1. Passed 3-16-66.)

931.02 CONNECTION TO SANITARY SEWERAGE SYSTEM REQUIRED;
PRIVIES, ETC., PROHIBITED.

- (a) All persons owning any occupied building now erected within the City upon premises accessible to the public sanitary sewerage system shall, if not already connected,

at their own expense, make connection with the sanitary sewerage system within three months after the effective date of this section (Ordinance 10-1966, passed March 16, 1966).

(b) All persons owning any premises within the City accessible to the public sanitary sewerage system upon which a building is hereafter erected shall, at the time of erection of such building, and at their own expense, make the connection with the public sanitary sewerage system.

(c) All persons owning any occupied building within the City upon premises which hereafter become accessible to the public sanitary sewerage system shall, at their own expense, make the connection with the public sanitary sewerage system within thirty days after notice to do so from the Bureau of Sewers or its authorized representative.

(d) All connections to the public sanitary sewerage system shall be in full accord with the Plumbing Code or other applicable ordinances of the City.

(e) No person owning any occupied building within the City, on premises accessible to the public sanitary sewerage system, shall erect, construct, use or maintain, or cause to be erected, constructed, used or maintained, any privy, cesspool, sinkhole, septic tank or other receptacle on such premises for receiving sanitary sewage.

(f) Any person who erects, constructs or maintains a privy, cesspool, sinkhole or septic tank or other receptacle for receiving sanitary sewage on any property within the City accessible to the public sewerage system in violation of this article shall be deemed and shall be declared to be erecting, constructing and maintaining a nuisance, which nuisance the City is hereby authorized and directed to abate in a manner provided by law.
(Ord. 10-1966 §2. Passed 3-16-66.)

931.03 STORM WATER RUNOFF PROHIBITED IN SANITARY SEWERS.

(a) The discharge of storm water runoff to separate sanitary sewers is hereby prohibited. Persons presently discharging storm water runoff to separate sanitary sewers shall cease and desist such practice within three months after the effective date of this section (Ord. 10-1966, Passed March 16, 1966).

(b) All persons connecting to the public sanitary sewerage system shall provide adequate means for excluding storm water runoff in event connection is made to separate sanitary sewers.

(c) Provisions of this article do not prohibit the present or future discharge of storm water runoff to combined sewers or directly to natural watercourses within the City.
(Ord. 10-1966 §3. Passed 3-16-66.)

931.04 CERTAIN INDUSTRIAL WASTES PERMITTED IN SEWERS;
COST OF TREATMENT.

(EDITOR'S NOTE: This section was repealed by Ordinance 32-1996, passed May 22, 1996. See Article 934 for relevant provisions.)

931.05 DISCHARGE OF UNPOLLUTED WATER; COST REDUCTION.

The discharge of excessive amounts of unpolluted water or waste to a separate sanitary sewer is expressly prohibited. Although such discharge to combined sewers will be permitted where such sewers are of adequate capacity, it is discouraged. It is deemed preferable that, wherever possible, unpolluted water or waste be discharged directly to natural watercourses or storm sewers. In order to encourage such exclusion of unpolluted water from the public sanitary sewerage system, producers of unpolluted wastes, so excluded, will be entitled to a reduction in their sewer bills providing they comply with the requirements of Section 931.19 hereinafter set forth. (Ord. 10-1966 §4.02. Passed 3-16-66.)

931.06 GARBAGE PROHIBITED IN SYSTEM; EXCEPTION.

The discharge of garbage to the public sanitary sewerage system is expressly prohibited unless such garbage is properly shredded. (See Section 931.01(g).) (Ord. 10-1966 §4.03. Passed 3-16-66.)

931.07 INDUSTRIAL WASTE PRETREATMENT FACILITIES;
SUBMISSION OF PLANS.

(EDITOR'S NOTE: This section was repealed by Ordinance 32-1996, passed May 22, 1996. See Article 934 for relevant provisions.)

931.08 DETERMINATION OF HARMFUL INDUSTRIAL WASTES.

(EDITOR'S NOTE: This section was repealed by Ordinance 32-1996, passed May 22, 1996. See Article 934 for relevant provisions.)

931.09 MANHOLES FOR SAMPLING INDUSTRIAL WASTES.

When required by the City, any person, industry or commercial establishment discharging industrial wastes to the public sanitary sewerage system, or industrial wastes in combination with sanitary sewage, shall install a suitable manhole or manholes on the sewer or sewers conveying the discharges of such wastes to facilitate observation, sampling and measurement of the combined flow of waste discharges. Such manholes shall be accessible and shall be provided with the necessary safety provisions and constructed in accordance with plans approved by the Bureau of Sewers. The manholes shall be installed at the expense of the person, industry or commercial establishment which discharges the wastes into the public sanitary sewer system. (Ord. 10-1966 §4.06. Passed 3-16-66.)

931.10 PROHIBITED INDUSTRIAL WASTES.

(EDITOR'S NOTE: This section was repealed by Ordinance 32-1996, passed May 22, 1996. See Article 934 for relevant provisions.)

931.11 INDUSTRIAL WASTE QUESTIONNAIRE.

(EDITOR'S NOTE: This section was repealed by Ordinance 32-1996, passed May 22, 1996. See Article 934 for relevant provisions.)

931.12 SPECIAL AGREEMENTS FOR INDUSTRIAL WASTES.

(EDITOR'S NOTE: This section was repealed by Ordinance 32-1996, passed May 22, 1996. See Article 934 for relevant provisions.)

931.13 SURCHARGE FOR EXTRA-STRENGTH WASTES.

(EDITOR'S NOTE: This section was repealed by Ordinance 32-1996, passed May 22, 1996. See Article 934 for relevant provisions.)

931.14 CHLORINE REQUIREMENT SURCHARGE RATE.

(EDITOR'S NOTE: This section was repealed by Ordinance 32-1996, passed May 22, 1996. See Article 934 for relevant provisions.)

931.15 REVIEW OF SURCHARGE RATES.

(EDITOR'S NOTE: This section was repealed by Ordinance 32-1996, passed May 22, 1996. See Article 934 for relevant provisions.)

931.16 SURCHARGE REFUND WHEN PRETREATMENT FACILITIES PROVIDED.

(EDITOR'S NOTE: This section was repealed by Ordinance 32-1996, passed May 22, 1996. See Article 934 for relevant provisions.)

931.17 BILLING OF SURCHARGES.

The surcharges provided for in this article will be added to the sewage bill and shall be subject to the same penalties as set forth in regard to normal sanitary sewage. They will be computed monthly, bi-monthly or quarterly, depending on whether the sewage bills are rendered monthly, bi-monthly or quarterly.
(Ord. 10-1966 §4.14. Passed 3-16-66.)

931.18 NO RATE REDUCTION FOR LOW-STRENGTH WASTES.

No reduction in sewage charges will be permitted because of the fact that certain industrial wastes discharged to the public sanitary sewage system contain less than 300 milligrams per liter of suspended solids or less than 250 milligrams per liter of B.O.D. or less than twenty milligrams per liter of chlorine requirement.
(Ord. 10-1966 §4.15. Passed 3-16-66.)

931.19 DETERMINATION OF AMOUNT OF SEWAGE DISCHARGED;
RATE REDUCTION.

(a) In event it is established to the satisfaction of the Bureau of Sewers that a portion of the water used by a person does not and cannot enter the public sanitary sewerage system, then the Bureau may permit the installation of additional meters at the owner's or interested party's expense in such a manner as to measure either the quantity of water actually excluded from the public sanitary sewerage system, or the actual quantity of water discharged thereto.

In the event it is desired to meter the water excluded or diverted from the public sanitary sewerage system, then all outlets for such water shall be consolidated and measured by one single meter. In the event it is desired to meter the actual flow to the public sanitary sewerage system, the meter shall be installed in a suitable manhole and shall be approved by the Bureau. All such meters or measuring devices shall be under the control of the City and may be tested, inspected or repaired by the Bureau whenever the Bureau deems it necessary. All repairs thereto shall be made at the expense of the person owning the meter.

(b) In event that the Bureau of Sewers finds it is not practical to measure either the actual sewage and industrial waste flow, or the flow of diverted water, it may, at its discretion, approve some other manner of computing or estimating the amount of water diverted from the public sanitary sewerage system.

Likewise, in the event it is not practical to make an actual measurement of the waste discharged from the premises of the water consumer into the sewerage system of the City, the Bureau may, at its discretion, accept as the volume of waste discharged from the premises the actual volume of water delivered into the consumer's premises as shown by meters of the Bureau through which water is sold to the consumer, or the volume determined by some other method of measurement approved by the Bureau of Sewers.

(c) When requested in writing, persons complying with the terms of this section will be granted a suitable reduction in their sewage bills. Such reduction shall be calculated on that portion of the sewage consumption diverted and excluded from the public sanitary sewerage system.

(d) Persons requesting consideration for a reduction in sewage rates because of water excluded from the public sanitary sewerage system shall make written application to the Bureau of Sewers for such consideration giving their name, address and supporting data fully describing other sources of water, if any, as well as disposition of water alleged not to be entering the sewerage system. The application shall be accompanied by a sketch to approximate scale showing the plan of the property, water distribution system, sewer layout, existing meters and proposed meters in the scheme proposed for determining the quantity of water entering, and not entering, the sewerage system.

(Ord. 10-1966 §5. Passed 3-16-66.)

931.20 REGULATION BY BUREAU OF SEWERS.

The Bureau of Sewers and the Chief thereof are authorized and directed to promulgate and enforce such rules and regulations deemed necessary for the enforcement of this article and for the safe, economical and efficient management, control and protection of the City's public sanitary sewerage system. Such rules and regulations shall be consistent with the intent and objectives of this article.

(Ord. 10-1966 §6. Passed 3-16-66.)

931.99 PENALTY.

(a) Whoever violates any of the provisions of this article shall, upon conviction, be fined not more than three hundred dollars (\$300.00), together with the cost of prosecution. Each day during which a violation continues shall be a separate offense.

(b) All prosecutions for violation of this article shall be by summary proceedings, brought in the name and for the use of the City before an alderman, justice of the peace, or magistrate of Erie County. All fines and penalties shall be paid to the Treasurer of the City to apply to the General Fund. In default of the payment of any fine or penalty, under the provisions of this article, the person so offending shall be committed to the County prison for a period not exceeding thirty days. In addition to such prosecution, the City may, in the enforcement of this article, apply to the Court of Common Pleas for injunctive relief against any violation. (Ord. 10-1966 §7. Passed 3-16-66.)

(NOTE: The next printed page is page 35.)

ARTICLE 933
Sewer Rental

<p>933.01 Sewer rental charge imposed. 933.011 Definitions. 933.02 Sewer rates; rate changes. 933.021 Rate increase termination. 933.03 Payment schedule; late penalty. 933.04 Properties using other than City water. 933.05 Water not discharged into City sewers.</p>	<p>933.06 Apportionment. 933.07 Administration. 933.08 Director of Administration and Finance to list unpaid sewer bills. (Repealed) 933.09 Delinquency liens. 933.10 Sewer Revenue Fund. 933.11 Properties not affected.</p>
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CROSS REFERENCES

Power to impose and collect sewer rental - see 3rd Class §3211 et seq.
(53 P.S. §38211 et seq.)
Bureau of Sewers - see ADM. 117.04(d)
Erie Sewer Authority - see ADM. Art. 181
Surcharge for extra-strength wastes - see S.U. & P.S. 931.13 et seq.

933.01 SEWER RENTAL CHARGE IMPOSED.

There is imposed an annual sewer rental or charge for the use of the sewers, sewerage system and sewage treatment works of the City upon the owners of property served thereby, at the rates hereinafter set forth.
(Ord. 104-1952 §1. Passed 12-30-52.)

933.011 DEFINITIONS.

(a) "Domestic user" means an owner of a single family dwelling, flat, duplex, or multi-unit dwelling of four units or less.

(b) "Nondomestic user" means any user other than a domestic user.
(Ord. 15-1996 §1. Passed 3-6-96.)

933.02 SEWER RATES; RATE CHANGES.

(a) The sewer meter rate schedule applicable to all users, in addition to a service charge, shall be as follows: seventeen dollars and forty-five cents (\$17.45) per bill

Meter Quantity Charges 100 Cubic Feet	Rate Per 100 Cubic Feet
First 70	\$2.65
Next 4,930	2.52
All Over 5,000	2.38

Large Volume User Charges (100 Cubic Feet Per Month)	Rate Per 100 Cubic Feet
First 23	\$2.65
Next 1,644	2.52
All Over 1,667	2.38

(Ord. 6-2014. Passed 2-5-14.)

* Large Volume Users shall be designated by the Chief of the Bureau of Sewers and shall be billed on a monthly basis.

(b) A Billing System Transition Charge of four consecutive quarterly payments of \$8.50 (\$34.00 total) shall be applicable to each user, beginning first quarter 2004.

* The Billing System Transition Charge will be a separate line item that will appear a total of four times on each user's bill. The Billing System Transition Charge will be eliminated from each user's future bill after receipt of four \$8.50 payments (\$34.00 total).

(c) Council may, upon recommendation of the Director of Public Works or the Erie Sewer Authority, increase or decrease the rate set forth in subsections (a), (b), (c) and (d) hereof as they deem necessary.

(d) The terms for the use of sewer rentals shall be as follows:

- (1) The due date for payment of all sewer rental bills, shall be twenty days from the date the bills are issued. Payments mailed as evidence by the United States Post Office mark, on or previous to the end of the twenty day period, shall be deemed to be payment within such period.
(Ord. 66-2003. Passed 11-5-03.)

(e) Construction Period Rates. A residential property owner may receive a construction period sewer flat rate in the amount of ten dollars (\$10.00) per quarter, provided the following criteria are satisfied:

- (1) An application for the construction period rate must be submitted by the residential property owner to the Sewer Billing Office;
- (2) The property for which the flat rate is requested shall be uninhabited for the entirety of the period of construction;
- (3) The residential property owner must undertake major renovation to qualify for, and obtain from the City, a building/construction permit covering all planned construction in order to establish eligibility for the flat rate; and
- (4) All building/construction permits, along with required inspections, for the construction property shall remain current throughout construction.

The construction period flat rate will apply for six months from the date of permit issue; however, a six month extension is available upon completion of an application provided by the Sewer Billing Office. The application must be reviewed and approved by the appropriate City officials, provided below, prior to the extension of the flat rate period. Failure to maintain all inspections and permits will be grounds for rejecting an application for extension.

Compliance with this section will be determined by the appropriate City officials from the Code Enforcement Office and the Director of Finance. For purposes of enforcing this section, all residential properties meeting the above criteria as of the effective date of this section, after obtaining a valid permit, shall be assessed the amended construction period flat rate. Any existing sewer charges for residential property approved for the flat rate will be adjusted accordingly by the Sewer Billing Office to reflect the construction flat rate as provided in this section. (Ord. 53-2002. Passed 9-4-02.)

933.021 RATE INCREASE TERMINATION.

The increase for Sewer Rates applicable for the 2014 budget shall be in effect only for 2014 unless extended by City Council. (Ord. 6-2014. Passed 2-5-14.)

933.03 PAYMENT SCHEDULE; LATE PENALTY.

(a) Payment Schedule. The Erie City Water Authority shall establish a payment schedule whereby sewer charges collected by the City shall be paid quarterly, except that nondomestic large volume users may be billed monthly.

(b) Late Charge. A late charge in an amount to be determined by the Erie City Water Authority shall be imposed on any sewer bill remaining unpaid after due date. In addition, interest of one and one-quarter percent (1.25%) per month, due and payable to the Sewer Revenue Fund, shall be charged on the overdue portions of the delinquent sewer bills and all penalties accrued. The Erie City Water Authority will impose the late payment charges according to its rules and policies. In no event shall the interests charged exceed more than fifteen percent (15%) annually.

(c) Discontinuance of Service. Service shall be discontinued on any account remaining unpaid for a period after the due date to be determined by the rules, regulations or policies of the Erie City Water Authority by termination of water service to the property upon such written notice as provided by the rules and policies of the Water Authority. An administrative fee in an amount determined by the Authority will be charged to the account for discontinuance of water service and the same will be charged to reinstate water service to be administered by the Erie City Water Authority. Discontinuance of service shall be carried out in compliance with the requirements of Act of April 14, 1949, as amended and the Pennsylvania Public Utilities Law and further subject to any defenses provided therein.

(d) Penalty Abatement. The penalties provided in subsection (b) above shall be abated for residential customers who apply for and meet hardship criteria established by the Erie City Water Authority. In addition, all penalties provided in subsection (b) for residential properties that meet the criteria for the constructing period flat rate, provided in Section 933.02(f), shall be waived if the penalty was imposed while the property was vacated for construction. The penalty abatement for the construction period flat rate is available for all residential construction that qualify for the reduced rate under Section 933.02. (Ord. 53-2002. Passed 9-4-02; Ord. 4-2006. Passed 1-25-06.)

933.04 PROPERTIES USING OTHER THAN CITY WATER.

For a property which uses water, all or part of which is from a source or sources other than the City's water supply system, there shall be a sewer rental, separate from and in addition to any sewer rental based on the consumption of water from the City's water supply system. Such separate or additional sewer rental shall be measured by the quantity of water from the source or sources other than the City's water supply system which is discharged into the City's sewers from such property.

The owner of such property shall install, without cost to the City, a meter or meters to measure the quantity of water received from other than the City's water supply system and deposited into the City's sewers. No meter shall be installed or used for such purpose without the approval of the Chief of the Bureau of Sewers, and the sewer rental based upon water received from other than the City's water supply system shall be the same in amount as is required to be paid by the owner of a metered property receiving the same quantity of water from the City's water supply system.

If the owner of the property fails to install an approved meter or meters, the Chief of the Bureau of Sewers shall make an estimate of the amount of water from sources other than the City's water supply system which is discharged into the City's sewers from the property, and the property owner shall pay the applicable rate of sewer rental based upon such estimate. (Ord. 104-1952 §5. Passed 12-30-52; Ord. 65-2000. Passed 11-22-00.)

933.05 WATER NOT DISCHARGED INTO CITY SEWERS.

Whenever a property upon which a sewer rental is hereby imposed uses water from the City's water supply system for an industrial or commercial purpose, such that the water so used is not discharged into the sewerage system of the City, the quantity of water so used and not discharged into the City's sewers shall be measured by a device approved by the Chief of the Bureau of Sewers and installed without cost to the City, provided, however, that where in the opinion of the Chief it is not practical to install a measuring device to continuously determine the quantity of water not discharged into the City sewers, the Chief shall determine periodically, in such manner and by such method as he may prescribe, the percentage of water from the City water supply system discharged into the City sewers, and the quantity of water used to determine the sewerage rental shall be the percentage of City water so used.
(Ord. 104-1952 §6. Passed 12-30-52; Ord. 65-2000. Passed 11-22-00.)

933.06 APPORTIONMENT.

Whenever sewer service to any property begins after the first day or terminates before the last day of any year, the sewer rental for such property for such year shall be for that portion of the year during which the property is served. However, in making such apportionment, a fraction of a month amounting to more than one-half of a month shall be counted a full month, and a fraction of a month amounting to less than one-half shall be disregarded. (Ord. 104-1952 §9. Passed 12-30-52; Ord. 65-2000. Passed 11-22-00.)

933.07 ADMINISTRATION.

The Erie City Water Authority is charged with the duty of collecting all sewer charges and is authorized to adopt such regulations with respect thereto as may be deemed fit and proper.
(Ord. 4-2006. Passed 1-25-06.)

933.08 DIRECTOR OF ADMINISTRATION AND FINANCE TO LIST UNPAID SEWER BILLS. (REPEALED)

(EDITOR'S NOTE: Former Section 933.08 was deleted by Ordinance 4-2006, passed January 25, 2006.)

933.09 DELINQUENCY LIENS.

The Erie City Water Authority is authorized to file liens against the properties of the aforesaid delinquent sewer rental accounts.
(Ord. 4-2006. Passed 1-25-06.)

933.10 SEWER REVENUE FUND.

All monies received as a result of sewer rentals imposed by this article shall be deposited in a special fund known as the Sewer Revenue Fund.
(Ord. 57-1954 §7. Passed 6-1-54; Ord. 65-2000. Passed 11-22-00.)

933.11 PROPERTIES NOT AFFECTED.

No sewer rental is imposed on properties outside the City from which sewage and other liquidated wastes are discharged into the sewers of the City under the agreement between the City and other political subdivisions of the Commonwealth, nor upon any properties within the City not receiving sewer services from the City's facilities.
(Ord. 104-1952 §12. Passed 12-30-52; Ord. 65-2000. Passed 11-22-00.)

ARTICLE 934
Sewage and Industrial Waste Surcharges

934.01	Purpose and policy.	934.11	Publication of users in significant noncompliance.
934.02	Administration.	934.12	Enforcement.
934.03	Abbreviations and definitions.	934.13	Fees.
934.04	General discharge prohibitions.	934.14	Affirmative defenses to discharge application violations.
934.05	Pretreatment of wastewater.	934.15	Staff accessibility.
934.06	Wastewater discharge permit	934.99	Penalty.
934.07	Wastewater discharge permit	Appendix A	The Civil Penalty Assessment Policy
934.08	Reporting requirements.	Appendix B	Daily Penalty Assessment Guidance Table
934.09	Compliance monitoring.		
934.10	Confidential information.		

CROSS REFERENCES

Power to furnish sewerage facilities outside City - see 3rd Class §3250 (53 P.S. §38250)
Waste water treatment - see 25 Pa. Code Ch. 95; S.U. & P.S. 931.07
Sewage pollution - see 35 P.S. §691.201 et seq.
Industrial wastes - see 35 P.S. §691.301 et seq.; 25 Pa. Code Ch. 97; S.U. & P.S. 931.04 et seq.
Sewage Facilities Act - see 35 P.S. §750.1 et seq.; 25 Pa. Code Ch. 71
Sewage disposal facilities standards - see 25 Pa. Code Ch. 73
Sewer service rental - see S.U. & P.S. Art. 933

934.01 PURPOSE AND POLICY.

(a) This article sets forth uniform requirements for users of the Publicly Owned Treatment Works for the City and enables the City to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code §1251 et seq.), the General Pretreatment Regulations (40 Code of Federal Regulations Part 403), the Pennsylvania Clean Streams Law (35 P.S. § 69.1 et seq.), and the Standards For Discharges of Industrial Wastes To POTWs (25 Pa. § 97.91 et seq.). The objectives of this article are:

- (1) To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will interfere with its operation;
- (2) To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will pass through the Publicly Owned Treatment Works, inadequately treated, into receiving waters, or otherwise be incompatible with the Publicly Owned Treatment Works;
- (3) To protect both Publicly Owned Treatment Works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- (4) To promote reuse and recycling of industrial wastewater and sludge from the Publicly Owned Treatment Works;
- (5) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the Publicly Owned Treatment Works; and
- (6) To enable the City to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the Publicly Owned Treatment Works is subject.

(b) This article shall apply to all users of the Publicly Owned Treatment Works. The article authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.
(Ord. 85-1993 §1. Passed 11-3-93.)

934.02 ADMINISTRATION.

Except as otherwise provided herein, the Superintendent shall administer, implement, and enforce the provisions of this article. Any powers granted to or duties imposed upon the Superintendent may be delegated by the Superintendent to other City personnel.
(Ord. 85-1993 §1. Passed 11-3-93.)

934.03 ABBREVIATIONS AND DEFINITIONS.

(a) Abbreviations. The following abbreviations, when used in this article, shall have the designated meanings:

- BOD - Biochemical Oxygen Demand
- BMP - Best Management Practices
- CFR - Code of Federal Regulations
- COD - Chemical Oxygen Demand
- EPA - U.S. Environmental Protection Agency
- gpd - gallons per day
- mg/l - milligrams per liter
- NPDES - National Pollutant Discharge Elimination System
- POTW - Publicly Owned Treatment Works
- RCRA - Resource Conservation and Recovery Act
- SIC - Standard Industrial Classification
- TSS - Total Suspended Solids
- U.S.C. - United States Code

(b) Definitions. Unless a provision explicitly states otherwise, the following terms and phrases, as used in this article, shall have the meanings hereinafter designated.

- (1) "Act" or "the Act" means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. §1251 et seq.
- (2) "Approval authority" means the Regional Administrator of EPA Region III.
- (3) "Authorized representative of the user" means:
 - A. If the user is a corporation:
 1. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 2. The manager of one or more manufacturing, production, or operation facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 - B. If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.
 - C. If the user is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
 - D. The individuals described in subsections (b)(3)A through D hereof, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City.
- (4) "Best Management Practices" or "BMP" means the schedule of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Sections 934.04(1) and (2) and 40 CFR 403.5(a)(1) and (b). BMP's include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.
- (5) "Biochemical oxygen demand" or "BOD" means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20° centigrade, usually expressed as a concentration (e.g.,mg/l).

- (6) “Categorical Pretreatment Standard” or “Categorical Standard” means any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. § 1317) which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N. Parts 405-471.
- (7) “City” means the City of Erie and/or the City Council of Erie.
- (8) “Daily maximum” means the arithmetic average of all effluent samples for a pollutant collected during a calendar day or 24-hour period.
- (9) “Daily maximum limit” means the maximum allowable discharge limit of a pollutant during a calendar day or 24-hour period. Where daily maximum limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where daily maximum limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.
- (10) “Environmental Protection Agency” or “EPA” means the U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, or other duly authorized official of said agency.
- (11) “Existing source” means any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.
- (12) “Grab sample” means a sample which is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen minutes.
- (13) “Indirect discharge” or “discharge” means the introduction of pollutants into the POTW from any nondomestic source regulated under Section 307(b), (c), or (d) of the Act.
- (14) “Instantaneous maximum allowable discharge limit” means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.
- (15) “Interference” means a discharge, which alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the City’s NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.
- (16) “Local limit” means specific discharge limits developed and enforced by the City upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).

- (17) “Medical waste” means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.
- (18) “Monthly average” means the sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month.
- (19) “Monthly average limit” 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.
- (20) “New source” means:
- A. Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
 1. The building, structure, facility, or installation is constructed at a site at which no other source is located; or
 2. The building, structure, facility, or installation totally replaced the process or production equipment that causes the discharge of pollutants at an existing source; or
 3. The production of wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
 - B. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of subsection (b)(14)A.2. or 3. hereof but otherwise alters, replaces, or adds to existing process or production equipment.
 - C. Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
 1. Begun, or caused to begin, as part of a continuous onsite construction program:
 - a. Any placement, assembly, or installation of facilities or equipment; or
 - b. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment: or

2. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.
- (21) “Noncontact cooling water” means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.
- (22) “Pass through” means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the City's NPDES permit, including an increase in the magnitude or duration of a violation.
- (23) “Person” means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.
- (24) “pH” means a measure of the acidity or alkalinity of a solution, expressed in standard units.
- (25) “Pollutant” means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewerage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).
- (26) “Pretreatment” means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.
- (27) “Pretreatment requirements” means any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.
- (28) “Pretreatment standards” or “standards” means prohibited discharge standards, categorical pretreatment standards, and local limits.
- (29) “Prohibited discharge standards” or “prohibited discharges” means absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 934.04(a).
- (30) “Publicly Owned Treatment Works” or “POTW” means a “treatment works,” as defined by Section 212 of the Act (33 U.S.C. §1292) which is owned and/or operated by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.
- (31) “Septic tank wastes” means any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

- (32) “Sewage” means human excrement and gray water (household showers, dishwashing operations, etc.).
- (33) “Significant industrial user” means:
- A. A user subject to categorical pretreatment standards; or
 - B. A user that:
 - 1. Discharges an average of 25,000 gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);
 - 2. Contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
 - 3. Is designated as such by the City on the basis that it has a reasonable potential for adversely affecting the POTW’s operation or for violating any pretreatment standard or requirement.
 - C. Upon a finding that a user meeting the criteria in subsection (b)(27)B hereof has no reasonable potential for adversely affecting the POTW’s operation or for violating any pretreatment standard or requirement, the City may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant user.
- (34) “Slug load” or “slug” means any discharge of a nonroutine, episodic nature or at a flow rate or concentration which would cause a violation of the prohibited discharge standards in Section 934.04(a) of this ordinance, or has the reasonable potential to cause interference or pass through, or may in any other way violate the POTW’s regulations, local limits or permit conditions.
- (35) “Standard Industrial Classification (SIC) Code” means a classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.
- (36) “Storm water” means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.
- (37) “Superintendent” means the person designated by the City to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this article, or a duly authorized representative.
- (38) “Suspended solids” means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.
- (39) “User” or “industrial user” means a source of indirect discharge.
- (40) “Wastewater” means liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which are contributed to the POTW.
- (41) “Wastewater Treatment Plant” or “Treatment Plant” means that portion of the POTW which is designated to provide treatment, including recycling and reclamation, of municipal sewage and industrial waste.
(Ord. 85-1993 §1. Passed 11-3-93; Ord. 28-2009. Passed 6-3-09.)

934.04 GENERAL DISCHARGE PROHIBITIONS.

(a) Prohibited Discharge Standards.

- (1) General prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other National, State, or local pretreatment standards or requirements.
- (2) Specific prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:
 - A. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140°F(60°C) using the test methods specified in 40 CFR 261.21;
(Ord. 85-1993 §2. Passed 11-3-93.)
 - B. Wastewater having a pH less than 5.0 or more than 12.0, or as more stringently designated by the Superintendent for the purpose of protecting the POTW;
(Ord. 32-1996 §1. Passed 5-22-96.)
 - C. Solids or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than one-half inch in any dimension;
 - D. Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;
 - E. Wastewater which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F(40°C);
 - F. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
 - G. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
 - H. Trucked or hauled pollutants, except at discharge points designated by the Superintendent in accordance with Section 934.05(d);
 - I. Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
 - J. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations;
(Ord. 85-1993 §2. Passed 11-3-93.)
 - K. Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the Superintendent;
(Ord. 32-1996 §1. Passed 5-22-96.)
 - L. Sludge, screenings, or other residues from the pretreatment of industrial wastes;

- M. Medical wastes, except as specifically authorized by the Superintendent in a wastewater discharge permit;
- N. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
- O. Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;
(Ord. 85-1993 §2. Passed 11-3-93.)
- P. Fats, oils, or greases of animal or vegetable origin in concentrations having a negative impact on the POTW; or
(Ord. 32-1996 §1. Passed 5-22-96.)
- Q. Wastewater causing two readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than five percent (5%) or any single reading over ten percent (10%) of the Lower Explosive Limit of the meter.

Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

(b) National Categorical Pretreatment Standards. Upon the promulgation of the Federal Categorical Pretreatment Standards for a particular industrial subcategory, found at 40 CFR Chapter I, Subchapter N, the Federal Standard, if more stringent than limitations imposed under this article for sources in that subcategory, shall immediately supersede the limitations imposed under this article.

- (1) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Superintendent may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
- (2) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Superintendent shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).
- (3) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.
- (4) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

(c) State Requirements. State requirements on discharges shall apply in any case where they are more stringent than Federal requirements and limitations, or those in this article.
(Ord. 85-1993 §2. Passed 11-3-93.)

(d) Local Limits. The following pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following instantaneous maximum allowable discharge limits:

<u>Parameter</u>	<u>Limit</u>
Arsenic (As)	2.1 mg/l
Cadmium (Cd)	1.2 mg/l
Chromium (Cr)	8.0 mg/l
Copper (Cu)	1.9 mg/l
Cyanide (CN)	1.7 mg/l
Lead (Pb)	1.2 mg/l
Mercury (Hg)	0.0003 mg/l
Nickel (Ni)	7.0 mg/l
Silver (Ag)	1.9 mg/l
Zinc (Zn)	5.0 mg/l
Phosphorus (P)	25.0 mg/l
Oil & Grease	250 mg/l
pH	5.0/ 12.0

The above limits apply at the point where the wastewater is discharged to the POTW. The Superintendent may impose a more stringent limit for oil and grease, on a case by case basis, for the purpose of protecting the POTW. All concentrations for metallic substances are for "total" metal unless indicated otherwise. The Superintendent may impose mass limitations in addition to, or in place of, the concentration-based limitations above.
(Ord. 85-1993 §2. Passed 11-3-93; Ord. 32-1996 §1. Passed 5-22-96; Ord. 61-1999. Passed 10-13-99.)

(e) City's Right of Revision. The City reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW.

(f) Dilution. No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Superintendent may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.
(Ord. 85-1993 §2. Passed 11-3-93.)

934.05 PRETREATMENT OF WASTEWATER.

(a) Pretreatment Facilities. Users shall provide wastewater treatment as necessary to comply with this article and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in Section 934.04(a) within the limitations specified by EPA, the State, or the Superintendent, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Superintendent for review, and shall be acceptable to the Superintendent before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the City under the provisions of this article.

(b) Additional Pretreatment Measures.

- (1) Whenever deemed necessary, the Superintendent may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this article.
- (2) The Superintendent may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.
- (3) Grease, oil, and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interception shall not be required for residential users. All interceptor units shall be of type and capacity approved by the Superintendent and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense.
- (4) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(c) Accidental/Slug Discharges and Control Plans.

- (1) Each user shall provide protection from any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load, of prohibited materials or other substances regulated by this article, or that may cause potential problems for the POTW. Facilities to prevent these discharges shall be provided and maintained at the owner or user's own cost and expense.
 - (2) In the case of such a discharge, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.
 - (3) Within five days following such a discharge, the user shall submit to the Superintendent a detailed written report describing the cause of the discharge and the measures to be taken to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law.

- (4) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of such a discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur, are advised of the emergency notification procedures.
- (5) At least once every two years, the Superintendent shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The Superintendent may require any user to develop, submit for approval, and implement such a plan. Alternatively, the Superintendent may develop such a plan for any user. An accidental discharge/slug control plan shall address, at a minimum, the following:
- A. Description of discharge practices, including nonroutine batch discharges;
 - B. Description of stored chemicals;
 - C. Procedures for immediately notifying the Superintendent of any accidental or slug discharge; and
 - D. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response. (Ord. 85-1993. Passed 11-3-93.)
 - E. Significant industrial users are required to notify the Superintendent immediately of any changes at their facility affecting the potential for a slug discharge. (Ord. 28-2009. Passed 6-3-09.)
- (d) Hauled Wastewater.
- (1) Septic tank waste may be introduced into the POTW only at locations designated by the Superintendent, and at such times as are established by the Superintendent. Such waste shall not violate Section 934.04 or any other requirements established by the City. The Superintendent may require septic tank waste haulers to obtain wastewater discharge permits.
 - (2) The Superintendent shall require haulers of industrial waste to obtain wastewater discharge permits. The Superintendent may require generators of hauled industrial waste to obtain wastewater discharge permits. The Superintendent also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this article.
 - (3) Industrial waste haulers may discharge loads only at locations designated by the Superintendent. No load may be discharged without prior consent of the Superintendent. The Superintendent may collect samples of each hauled load to ensure compliance with applicable standards. The Superintendent may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

- (4) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes. (Ord. 85-1993 §3. Passed 11-3-93.)

934.06 WASTEWATER DISCHARGE PERMIT APPLICATION.

(a) Wastewater Analysis. When requested by the Superintendent, a user must submit information on the nature and characteristics of its wastewater within thirty days of the request. The Superintendent is authorized to prepare a form for this purpose and may periodically require users to update this information. (Ord. 85-1993 §4. Passed 11-3-93; Ord. 32-1996 §1. Passed 5-22-96.)

(b) Wastewater Discharge Permit Requirement.

- (1) No significant industrial user shall discharge wastewater into POTW without first obtaining a wastewater discharge permit from the Superintendent, except that a significant industrial user that has filed a timely application pursuant to subsection (c) hereof may continue to discharge for the time period specified therein.
- (2) The Superintendent may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this article.
- (3) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this article and subjects the wastewater discharge permitted to the sanctions set out in Section 934.12 and 934.99. Obtaining a wastewater discharge permit does not relieve a permitter of its obligation to comply with all Federal and State pretreatment standards or requirements or with any other requirements of Federal, State, and local law.

(c) Wastewater Discharge Permitting: Existing Connections. Any user required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this article and who wishes to continue such discharges in the future, shall, within thirty days after said date, apply to the Superintendent for a wastewater discharge permit in accordance with subsection (e) hereof, and shall not cause or allow discharges to the POTW to continue after ninety days of the effective date of this article except in accordance with a wastewater discharge permit issued by the Superintendent.

(d) Wastewater Discharge Permitting: New Connections. Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with subsection (e) hereof, must be filed at least sixty days prior to the date upon which any discharge will begin or recommence.

(e) Wastewater Discharge Permit Application Contents.

- (1) All users required to obtain a wastewater discharge permit must submit a permit application. The Superintendent may require all users to submit as part of an application the following information:
 - A. All information required by Section 934.08(a)(2);
 - B. Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
 - C. Number and type of employees, hours of operation, and proposed or actual hours of operation;
 - D. Each product produced by type, amount, process or processes, and rate of production;
 - E. Type and amount of raw materials processed (average and maximum per day);
 - F. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;
 - G. Time and duration of discharges; and
 - H. Any other information as may be deemed necessary by the Superintendent to evaluate the wastewater discharge permit application.
- (2) Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

(f) Application Signatories and Certification. All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designated to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(Ord. 85-1993 §4. Passed 11-3-93.)

(g) Wastewater Discharge Permit Decisions. The Superintendent will evaluate the data furnished by the user and may require additional information. Within sixty days of receipt of a complete wastewater discharge permit application, the Superintendent will determine whether or not to issue a wastewater discharge permit. The Superintendent may deny, for cause, any application for a wastewater discharge permit.

(Ord. 85-1993 §4. Passed 11-3-93; Ord. 32-1996 §1. Passed 5-22-96.)

934.07 WASTEWATER DISCHARGE PERMIT ISSUANCE PROCESS.

(a) Wastewater Discharge Permit Duration. A wastewater discharge permit shall be issued for a specified time period, not to exceed five years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five years, at the discretion of the Superintendent. Each wastewater discharge permit will indicate a specific date upon which it will expire.

(b) Wastewater Discharge Permit Contents.

- (1) A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Superintendent to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.
- A. Wastewater discharge permits must contain:
1. A statement that indicates wastewater discharge permit duration, which in no event shall exceed five years;
 2. A statement that the wastewater discharge permit is nontransferable without prior notification to the Superintendent in accordance with subsection (e) hereof, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit; (Ord. 85-1993. Passed 11-3-93.)
 3. Effluent limits, including best management practices, based on applicable pretreatment standards; (Ord. 28-2009. Passed 6-3-09.)
 4. Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State and local law; and
 5. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law. (Ord. 85-1993. Passed 11-3-93.)
 6. Requirements to control slug discharge, if determined by the Superintendent to be necessary. (Ord. 28-2009. Passed 6-3-09.)
- B. Wastewater discharge permits may contain, but need not be limited to, the following conditions:
1. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
 2. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

3. Requirements for the development and implementation of spill control plans or other conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;
4. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
5. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;
6. Requirements for installation and maintenance of inspection and sampling facilities and equipment;
7. A statement that compliance with the wastewater discharge permit does not relieve the permitted of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and
8. Other conditions as deemed appropriate by the Superintendent to ensure compliance with this article, and State and Federal laws, rules, and regulations.
(Ord. 85-1993 §5. Passed 11-3-93.)

(c) Wastewater Discharge Permit Appeals.

- (1) The user, may petition the Superintendent to reconsider the terms of a wastewater discharge permit, or permit modification, within thirty days of its issuance.
- A. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
 - B. In its petition, the user must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
 - C. The effectiveness of this wastewater discharge permit shall not be stayed pending the appeal.
 - D. If the Superintendent fails to act within thirty days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final.
(Ord. 85-1993 §5. Passed 11-3-93; Ord. 32-1996 §1. Passed 5-22-96.)

(d) Wastewater Discharge Permit Modification.

- (1) The Superintendent may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:
- A. To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;
 - B. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;

- C. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
 - D. Information indicating that the permitted discharge poses a threat to the POTW, its personnel, or the receiving waters;
 - E. Violation of any terms or conditions of the wastewater discharge permit;
 - F. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
 - G. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
 - H. To correct typographical or other errors in the wastewater discharge permit; or
 - I. To reflect a transfer of the facility ownership or operation to a new owner or operator.
(Ord. 85-1993 §5. Passed 11-3-93.)
- (e) Wastewater Discharge Permit Transfer.
- (1) Wastewater discharge permits may be transferred to a new owner or operator only if the permitter gives at least thirty days advance notice to the Superintendent and the Superintendent approves the wastewater discharge permit transfer. The notice to the Superintendent must include a written certification by the new owner or operator which:
 - A. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
 - B. Identifies the specific date on which the transfer is to occur; and
 - C. Acknowledges full responsibility for complying with the existing wastewater discharge permit.
 - (2) Failure to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer.
(Ord. 85-1993 §5. Passed 11-3-93; Ord. 32-1996 §1. Passed 5-22-96.)
- (f) Wastewater Discharge Permit Revocation.
- (1) The Superintendent may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:
 - A. Failure to notify the Superintendent of significant changes to the wastewater prior to the changed discharge;
 - B. Failure to provide prior notification to the Superintendent of changed conditions pursuant to Section 934.08(e);
 - C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
 - D. Falsifying self-monitoring reports;
 - E. Tampering with monitoring equipment;
 - F. Refusing to allow the Superintendent timely access to the facility premises and records;
 - G. Failure to meet effluent limitations;
 - H. Failure to pay fines;

- I. Failure to pay sewer charges;
 - J. Failure to meet compliance schedules;
 - K. Failure to complete a wastewater survey or the wastewater discharge permit application;
 - L. Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
 - M. Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this article.
- (2) Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

(g) Wastewater Discharge Permit Reissuance. A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Section 934.06(e), a minimum of sixty days prior to the expiration of the user's existing wastewater discharge permit.

(h) Regulation of Waste Received from Other Jurisdictions.

- (1) If another municipality, or user located within another municipality, contributes wastewater to the POTW, the Superintendent shall enter into an interjurisdictional agreement with the contributing municipality.
- (2) Prior to entering into an agreement required by subsection (h)(1) hereof, the Superintendent shall request the following information from the contributing municipality:
- A. A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;
 - B. An inventory of all users located within the contributing municipality that are discharging to the POTW; and
 - C. Such other information as the Superintendent may deem necessary.
- (3) An interjurisdictional agreement, as required by subsection (h)(1) hereof, shall contain the following conditions:
- A. A requirement for the contributing municipality to adopt a sewer use ordinance which is substantially identical and no less stringent as this article and local limits which are at least as stringent as those set out in Section 934.04(d). The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the City's ordinance or local limits;
 - B. A requirement for the contributing municipality to submit a revised user inventory on at least an annual basis;
 - C. A requirement for the contributing municipality to designate employees or agents of the City as representatives of the contributing municipality with the same authority as employees or agents of the contributing municipality for the purpose of administration, implementation, and enforcement of the pretreatment program;

- D. A requirement that the terms of the agreement may be amended only by written agreement between the City and municipality;
- E. A requirement that any disputes arising out of this agreement shall be submitted to binding arbitration performed in accordance with the rules of the American Arbitration Association.
(Ord. 85-1993 §5. Passed 11-3-93.)

934.08 REPORTING REQUIREMENTS.

(a) Baseline Monitoring Reports.

- (1) Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the Superintendent a report which contains the information listed in subsection (a)(2) hereof. A least ninety days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the Superintendent a report which contains the information listed in subsection (a)(2) hereof. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.
- (2) Users described above shall submit the information set forth below.
 - A. Identifying Information. The name and address of the facility, including the name of the operator and owner.
 - B. Environmental Permits. A list of any environmental control permits held by or for the facility.
 - C. Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
 - D. Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).
 - E. Measurement of Pollutants.
 - 1. The categorical pretreatment standards applicable to each regulated process. (Ord. 85-1993. Passed 11-3-93.)
 - 2. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the Superintendent, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in subsection (j) hereof. In the cases where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the Superintendent or the applicable standard to determine compliance with the standard. (Ord. 28-2009. Passed 6-3-09.)

3. Sampling must be performed in accordance with procedures set out in subsection (k) hereof.
- F. Certification. A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
- G. Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest scheduled by which the user will provide such additional pretreatment and/or O&H. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in subsection (b) hereof.
- H. Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with Section 934.06(f).

(b) Compliance Schedule Progress Reports. The following conditions shall apply to the compliance schedule required by subsection (a)(2)G. hereof:

- (1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- (2) No increment referred to above shall exceed nine months;
- (3) The user shall submit a progress report to the Superintendent no later than fourteen days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and
- (4) In no event shall more than nine months elapse between such progress reports to the Superintendent.

(c) Reports on Compliance with Categorical Pretreatment Standard Deadline. Within ninety days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the Superintendent a report containing the information described in subsection (a)(2)D. to F. hereof. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 934.06(f).

(Ord. 85-1993. Passed 11-3-93.)

(d) Periodic Compliance Reports.

- (1) All significant industrial users shall, at a frequency determined by the Superintendent but in no case less than twice per year (April and October), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the user must submit documentation required by the Superintendent or pretreatment standard necessary to determine the compliance status of the user. All periodic compliance reports must be signed and certified in accordance with Section 934.06(f).
- (2) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
- (3) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the Superintendent, using the procedures prescribed in subsection (k) hereof, the results of this monitoring shall be included in the report.
(Ord. 85-1993 §6. Passed 11-3-93; Ord. 28-2009. Passed 6-3-09.)

(e) Reports of Changed Conditions. Each user must notify the Superintendent of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least fifteen days before the change.

- (1) The Superintendent may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 934.06 (e).
- (2) The Superintendent may issue a wastewater discharge permit under Section 934.06 (g) or modify an existing wastewater discharge permit under Section 934.07(d) in response to changed conditions or anticipated changed conditions.
- (3) For purposes of this requirement, significant changes include, but are not limited to, flow increases over daily flow measurements reported by the user in its baseline monitoring report of twenty percent (20%) or greater, which are not associated with normally occurring process fluctuations and the discharge of any previously unreported pollutants.
(Ord. 85-1993 §6. Passed 11-3-93; Ord. 32-1996 §1. Passed 5-22-96.)

(f) Reports of Potential Problems. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall follow the reporting procedures located in Section 934.05(c).

(g) Reports from Unpermitted Users. All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the Superintendent as the Superintendent may require. (Ord. 85-1993. Passed 11-3-93.)

(h) Notice of Violation/Repeat Sampling and Reporting. If sampling performed by a user indicates a violation, the user must notify the Superintendent within twenty-four hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Superintendent within thirty days after becoming aware of the violation. The user is not required to resample if the Superintendent monitors at the user's facility at least once a month, or if the Superintendent samples between the user's initial sampling and when the user receives the results of this sampling. If the City performed the sampling and analysis in lieu of the industrial user, the City will perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform the repeat sampling and analysis. (Ord. 28-2009. Passed 6-3-09.)

(i) Notification of the Discharge of Hazardous Waste.

- (1) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve months. All notifications must take place no later than 180 days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharge. However, notifications of changed conditions must be submitted under subsection (e) hereof. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of subsections (a), (c) and (d) hereof.
- (2) Dischargers are exempt from the requirements of subsection (i)(1) hereof, during a calendar month in which they discharge no, more than fifteen kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 Con 261.30(d) and 261.33(e). Discharge of more than fifteen kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.
- (3) In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the Superintendent, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety days of the effective date of such regulations.

- (4) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
- (5) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this article, a permit issued thereunder, or any applicable Federal or State law.

(j) Analytical Requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA. (Ord. 85-1993. Passed 11-3-93.)

(k) Sample Collection.

- (1) Except as indicated in subsection (k)(2) hereof, the user must collect wastewater samples using 24-hour flow proportional composite collection techniques unless time proportional composite sampling or grab sampling is authorized by the Superintendent. Where time proportional composite sampling or grab sampling is authorized by the Superintendent the user must demonstrate that this will provide a representative sample of the effluent being discharge. In addition, grab samples may be required to show compliance with instantaneous discharge limits.
- (2) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques. (Ord. 85-1993. Passed 11-3-93.)
- (3) For sampling required in support of baseline monitoring and 90-day compliance reports required in Sections 934.08(a) and (c) of this ordinance (40 CFR 403.12(b) and (d)), a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil & grease, sulfide and volatile organic compounds for facilities for which historical data are available. The superintendent may authorize a lower minimum. For the reports required by subsection (d) hereof (40 CFR 403.12(e) and 403.12(h)) the industrial user is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.

(l) Timing. Written reports will be deemed to have been submitted on the date posted. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

(m) Record Keeping. Users subject to the reporting requirements of this article shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this article including documentation associated with BMP's and any additional records of such information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the

analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three years. The period shall be automatically extended for the duration of any litigation concerning the user or the City, or where the user has been specifically notified of a longer retention period by the Superintendent.
(Ord. 85-1993 §6. Passed 11-3-93; Ord. 28-2009. Passed 6-3-09.)

934.09 COMPLIANCE MONITORING.

(a) Right of Entry: Inspection and Sampling. The Superintendent shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this article and any wastewater discharge permit or order issued hereunder. Users shall allow the Superintendent ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

- (1) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Superintendent will be permitted to enter without delay for the purposes of performing specific responsibilities.
- (2) The Superintendent shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.
- (3) The Superintendent may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated to ensure their accuracy.
- (4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the Superintendent and shall not be replaced. The costs of clearing such access shall be born by the user.
- (5) Unreasonable delays in allowing the Superintendent access to the user's premises shall be a violation of this article.
(Ord. 85-1993 §7. Passed 11-3-93.)

(b) Search Warrants. If the Superintendent has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City, designed to verify compliance with this article or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Superintendent may seek issuance of a search warrant from a District Justice or the Court of Common Pleas of Erie County.
(Ord. 85-1993 §7. Passed 11-3-93; Ord. 32-1996 §1. Passed 5-22-96.)

934.10 CONFIDENTIAL INFORMATION.

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the Superintendent's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the Superintendent, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction. (Ord. 85-1993 §8. Passed 11-3-93.)

934.11 PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE.

The Superintendent shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdiction served by the POTW, a list of the users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall mean:

- (a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more, all measurements taken for the same pollutant parameter taken during a six (6) month period exceed by any magnitude a numeric pretreatment standard or requirement, including instantaneous limits as defined in Section 934.03 of this ordinance;
- (b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits as defined in Section 934.03 of this ordinance multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
- (c) Any other violation of a pretreatment standard or requirement as defined by Section 934.03 of this ordinance (daily maximum, long-term average, instantaneous limits or narrative standard) that the Superintendent believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public; (Ord. 28-2009. Passed 6-3-09.)
- (d) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the Superintendent's exercise of its emergency authority to halt or prevent such a discharge;
- (e) Failure to meet, within ninety days of the schedule date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance; (Ord. 85-1993. Passed 11-3-93.)
- (f) Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

- (g) Failure to accurately report noncompliance; or
(Ord. 85-1993 §9. Passed 11-3-93.)
- (h) Any other violation(s), which may include a violation of best management practices (BMP's), which the Superintendent determines will adversely affect the operation or implementation of the local pretreatment program.
(Ord. 28-2009. Passed 6-3-09.)

934.12 ENFORCEMENT.

(a) Harmful Contributions. The Superintendent may suspend the wastewater treatment service and/or a wastewater contribution permit when such suspension is necessary, in the opinion of the Superintendent in order to stop an actual or threatened discharge which presents, or may present, an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes interference to the POTW, or causes the POTW to violate any condition of its NPDES permit.

Any person notified of a suspension of the wastewater treatment service and/or the wastewater contribution permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the Superintendent shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The Superintendent shall reinstate the wastewater treatment service and/or the wastewater contribution permit upon proof of the elimination of the noncomplying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the Superintendent within fifteen days of the date of occurrence.
(Ord. 85-1993 §10. Passed 11-3-93.)

(b) Revocation of Permit. Wastewater discharge permits may be revoked in accordance with Section 934.07(f).
(Ord. 32-1996 §1. Passed 5-22-96.)

(c) Notification of Violation. When the Superintendent finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Superintendent may serve upon that user a written Notice of Violation. Within thirty days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Superintendent. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the Superintendent to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

(d) Show Cause Hearing. The Superintendent may order a user which has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the Superintendent and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

(e) Legal Action. If any person has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Superintendent may commence an action for appropriate legal and/or equitable relief in a Court of competent jurisdiction, including, but not limited to injunctive relief, civil penalties, fines, and imprisonment.
(Ord. 85-1993 §10. Passed 11-3-93.)

(f) Consent Orders. The Superintendent may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to subsections (g) and (h) hereof and shall be judicially enforceable.

(g) Compliance Orders. When the Superintendent finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Superintendent may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutant discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(h) Cease and Desist Orders. When the Superintendent finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Superintendent may issue an order to the user directing it to:

- (1) Cease and desist all such violations; and
- (2) Immediately comply with all requirements; and
- (3) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(Ord. 32-1996 §2. Passed 5-22-96.)

(i) Remedies Nonexclusive. The remedies provided for in this article are not exclusive. The Superintendent may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the POTW enforcement response plan. However, the Superintendent may take other action against any user when the circumstances warrant. Further, the Superintendent is empowered to take more than one enforcement action against any noncompliant user.
(Ord. 85-1993 §10. Passed 11-3-93.)

934.13 FEES.

(a) Purpose. It is the purpose of this article to provide for the recovery of costs from users of the POTW for the implementation of the program established herein. The applicable charges or fees shall be set forth by the Superintendent.

(b) Surcharge Fees. In the event any user discharges industrial wastes to the POTW in excess of 300 milligrams per liter of suspended solids, and/or an average five-day BOD in excess of 250 milligrams per liter, they shall pay a surcharge based upon the excess strength of their wastes. The amount of the surcharge shall be determined by using the following formulas:

Biological Oxygen Demand

(BOD - 250 mg/l x 8.34 x MGD x Treatment Cost per lbs. =)

Suspended Solids

(TSS - 300 mg/l x 8.34 x MGD x Treatment Cost per lbs. =)

Surcharge

The cost per lb. for treatment will be determined by the Superintendent of the POTW, and will be based on actual cost of treatment.

(c) Pretreatment Program Charges and Fees. The Superintendent may adopt charges and fees which may include:

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

These fees relate solely to the matters covered by this article and are separate from all other fees chargeable by the City.
(Ord. 85-1993 §11. Passed 11-3-93.)

934.14 AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS.

(a) Upset. For the purpose of this section, "upset" means an exceptional incidence in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

- (1) An upset shall continue an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subsection (a)(2) hereof, below, are met.

- (2) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
- A. An upset occurred and the user can identify the cause(s) of the upset;
 - B. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
 - C. The user has submitted the following information to the Superintendent within twenty-four hours of becoming aware of the upset. If this information is provided orally, a written submission must be provided within five days:
 1. A description of the indirect discharge and cause of noncompliance.
 2. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue, and
 3. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

- (3) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

(4) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(5) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

(b) Prohibited Discharge Standards. A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Section 934.04(a) of this article or the specific prohibitions in Sections 934.04(a)(2)C through G and 934.04(a)(2)I through Q, if it can prove that it did not know, or have reason to know, that its discharge, along or in conjunction with discharges from other sources, would cause pass through or interference and that either:

(1) A local limit exists for each pollutant discharges and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or

(2) No local limit exists, but the discharge did not change substantially in nature of consituece from the user's prior discharge when the POTW was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

(c) Bypass. For the purposes of this section, "bypass" means the intentional diversion of wastestreams from any portion of a user's treatment facility.

"Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(1) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of subsection (c)(2) and (3) hereof.

(2) If a user knows in advance of the need for a bypass, it shall submit prior notice to the Superintendent, at least ten days before the date of the bypass, if possible.

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

(4) Bypass is prohibited, and the Superintendent may take an enforcement action against a user for a bypass, unless:

A. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

B. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and

C. The user submitted notices as required under subsection (c)(3) hereof.

(5) The Superintendent may approve an anticipated bypass, after considering its adverse effects, if the Superintendent determines that it will meet the three conditions listed in subsection (c)(4) hereof.

(Ord. 32-1996 §2. Passed 5-22-96.)

934.15 SEVERABILITY.

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

(Ord. 85-1993 §12. Passed 11-3-93.)

934.99 PENALTY.

(a) Civil Penalties. Any user who is found to have violated, or continues to violate, one or more of the provisions of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, may be assessed a civil penalty. The penalty may be assessed whether or not the violation was willful or negligent. The civil penalty shall not exceed twenty-five thousand dollars (\$25,000) per day for each violation. Each violation for each separate day shall constitute a separate and distinct offense.

For purposes of this section, a single operational upset which leads to simultaneous, multiple violations, shall be treated as a single violation as required by the Federal Water Pollution Control Act, 33 U.S.C. § 1252 et seq.

In addition to penalties provided herein, the Superintendent may recover interest, damages, costs, reasonable attorney's fees, expert witness fees, court costs, court reporter's fees, and other expenses of litigation by appropriate suit at law or equity against the person or user found in violation.

(b) Falsifying Information. Any person who knowingly makes any false statements, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this article or wastewater contribution permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this article shall, upon conviction by a Court of competent jurisdiction be punished by a fine of not more than one thousand dollars (\$1,000), and in default of payment, by imprisonment for not more than thirty days.

(Ord. 85-1993 §10. Passed 11-3-93.)

APPENDIX A

THE CIVIL PENALTY ASSESSMENT POLICY

Introduction:

Pursuant to the provisions of the Publicly Owned Treatment Works Penalty Law of the Commonwealth of Pennsylvania, 35 P.S. 75 et seq. and consistent with the pretreatment ordinance of the City of Erie, the Council of the City of Erie adopts and issues this policy for the assessment of civil penalties for violations of the City of Erie's pretreatment ordinance.

Purpose:

In 1985, the City of Erie received approval of its Industrial Pretreatment Program from the United States Environmental Protection Agency. This program, mandated by the provisions of the Federal Clean Water Act, is a regulatory system by which the City of Erie, Bureau of Sewers, monitors and controls the quantity and quality of discharges to its sewage collection system from industrial users (as defined by the City of Erie Pretreatment Ordinance). The purpose of this program is to protect the public, municipal workers, the City of Erie Wastewater Treatment System, and the environment from the unlawful release of potentially harmful industrial waste. A key to the success of this program is swift and meaningful enforcement of federal and local pretreatment regulations governing the discharge of industrial waste into the City of Erie sewage collection system.

It is the purpose of this policy to establish procedures by which the City of Erie, Bureau of Sewers, may levy civil penalties in a manner consistent with the Publicly Owned Treatment Works Penalty Law, as well as impose any other order consistent with the purposes of the City of Erie Pretreatment Ordinance. This enforcement capability is necessary to maintain compliance with the Federal Clean Water Act as well as to enhance the effectiveness of the pretreatment program.

Nothing in this policy is to be construed as precluding any other action or remedy available, in equity or at law, to any person, legal entity, or governmental entity.

Procedure for Assessing Civil Penalties:

Violations of the pretreatment ordinance are discovered through a variety of mechanisms. These include industrial users' self-monitoring compliance reports; City of Erie, Bureau of Sewers, sampling; City of Erie, Bureau of Sewers, field inspections; reports from other governmental agencies; and reports from employees or citizens. When a violation has occurred, the category of violations shall be determined from the City of Erie Enforcement Response Plan. When the staff of the City of Erie, Bureau of Sewers, determines that a civil penalty is warranted, an investigation is initiated to determine the appropriate level of penalty. The purpose of the investigation is to evaluate the factors used to determine the amount of the civil penalty. The factors to be evaluated are the damage to air, water, land or other natural resources of the Commonwealth and their uses; costs of restoration and abatement; savings resulting to the user in consequence of the violation; history of past violations; deterrence of future violations; and other relevant factors. The results of the investigation shall be documented and the appropriate penalty derived from the "Daily Penalty Assessment Guidance Table" which is attached hereto as Appendix B.

Once the staff of the City of Erie, Bureau of Sewers, has prepared a recommended penalty assessment, a Show Cause Order is prepared by the Process Superintendent. The Show Cause Order shall contain the name and address of the user committing the violation; specific violation or violations for which the penalty is sought with a brief description of the circumstances surrounding the violation or violations sufficient to provide notice to the user; an explanation of the factors selected to determine the penalty; the penalty proposed; and any other enforcement actions to be taken in addition to the penalty. The Process Superintendent shall attach to the Order to Show Cause: copies of the regulation or regulations violated; notice of the City of Erie's civil penalty assessment policy; and documentation of the violation (i.e. laboratory analysis, field investigation reports, etc.).

The Show Cause Order and attachments shall be submitted to the Chief of the City of Erie's Bureau of Sewers. If the Show Cause Order facially states a violation, the Chief of the Bureau of Sewers shall sign the Show Cause Order and direct the user to appear before him for a Show Cause Hearing on a date no sooner than fifteen days from the issuance of the Show Cause Order. The Chief of the Bureau of Sewers shall direct that the Show Cause Order be served upon the user. Upon service of the Show Cause Order, the Chief of the Bureau shall advise the user that: the user has the right to be represented by counsel; a court reporter will be present to record the Show Cause Hearing; the user is entitled to present witnesses and offer evidence on his own behalf; the user will have the right to cross examine any witness of the Bureau of Sewers; and any testimony presented at the Show Cause Hearing will be under oath or affirmation.

The Chief of the Bureau of Sewers shall preside over the Show Cause Hearing. At the Show Cause Hearing the Process Superintendent with the assistance of the City Solicitor's Office shall present all testimony and evidence in support of the proposed Order. The user, with the assistance of his own counsel, shall have the opportunity to defend his actions and to challenge the assessment of the penalty or other enforcement action. At the conclusion of the Show Cause Hearing, the Chief of the Bureau of Sewers shall direct his staff and the industrial user, with the assistance of their respective counsels, to prepare proposed findings and orders. After consideration and review of the proposed findings and orders submitted, the Chief of the Bureau of Sewers, with the assistance of the Solicitor for the Erie Sewer Authority, shall prepare a final order which is supported by findings of fact. This final order may be appealed to the Common Pleas Court of Erie County within thirty days of its issuance pursuant to 42 Pa. C.S.A. Section 933 and Section 5571 (b).

Appealing a penalty or negotiating a compliance agreement shall not relieve a user of a duty to mitigate and/or correct any violation of any federal, state or local pretreatment regulation. Penalties shall continue to accrue for existing or new violations during the negotiation or appeal process until the issues involved with such violations are resolved.

Consent Penalties:

In addition to the unilateral penalty assessment just described, the Process Superintendent may negotiate consent penalties in lieu of assessments.

Procedure for Obtaining Consent Penalties:

The procedures established herein for discovery and classifying violations as well as determining the appropriate penalties shall be used for obtaining consent penalties. In addition to the information required to be included in the Show Cause Order, the Industrial Coordinator shall also include a brief description of the circumstances which justify a negotiated penalty. Negotiated penalties may be less than guideline penalties with justification, but the initial penalties sought must fall within guideline values as determined from the penalty factor table. As with assessed penalties, proposed consent penalties must be reviewed and approved by the Chief of the Bureau of Sewers for the City of Erie.

Factors to be considered in determining whether to seek a consent penalty include the nature and severity of the violation, compliance history, recalcitrance of the user, undue economic distress caused by assessment of the penalty according to the guidelines, and the negative impact which the penalty would have upon the users ability to achieve compliance. Consent penalties shall be incorporated into binding and enforceable compliance agreements negotiated to achieve timely and effective correction of the violation. All compliance agreements shall stipulate further penalties for breach of any terms of the agreement.
(Ord. 85-1993. Passed 11-3-93.)

APPENDIX B

CITY OF ERIE
BUREAU OF SEWERS
DAILY PENALTY ASSESSMENT GUIDANCE TABLE

The daily penalty assessment for discharge and compliance activity violations shall be calculated using the following formula:

$$\text{Daily Penalty} = \text{Base}(A + B + C) + \text{Benefit}$$

DEFINITIONS

Base: the base penalty assessment established for a category of violations. For the purposes of calculating penalties, violations shall fall into three broad categories:

Discharge Violations: including (but not limited to) violations of permit limits; unauthorized or illegal discharge

Compliance Activity Violations: failure to properly execute any required activities pursuant to compliance schedules, orders or other directives issued under the auspices of the Pretreatment Program.

Reporting Violations: failure to submit any required report, notice, or laboratory analysis in time, manner, format, or to the location specified by the Bureau of Sewers under the auspices of the Pretreatment Program.

The base penalty for each category shall be determined by the Bureau of Sewers from consideration of the relative severity of each category of violation, the need for deterrence of such violations, and the administrative costs associated with taking enforcement actions. The base penalty to be established shall be a fixed value for all violations within a given category and serve as the basis for the particular penalty to be imposed upon consideration of the additive factors to be defined herein and as incorporated into the relevant Daily Penalty Formula.

<u>Factor</u>	<u>Cause of Violation</u>	<u>Value</u>
A	Improper operation and maintenance of the production facility or treatment system	1.0
	Inadequate treatment due to improper design or a change in production resulting in a discharge violation	2.0
	Failure to provide treatment where required to meet discharge limits	4.0
	Illegal dumping	8.0
B	Magnitude of violation	1+(result-limit)/limit

<u>Factor</u>	<u>Cause of Violation</u>	<u>Value</u>
C	Successive violations of different Successive violations of the same	$\frac{X^* - 1}{X^*}$
	* X = number of violations within the previous fifteen months (the SNC year)	
HARM	The cost associated with the abatement, remediation, damage, penalties, injury to persons and/or property and/or the environment accruing as a direct or indirect result of an illegal discharge by any person to the sewage collection system.	determined case by case
BENEFIT	The economic benefit derived by the violator as a result of the violation as determined by the Economic Benefit Estimation guidance document published by the USEPA.	determined case by case

The penalty assessment for reporting violations shall be determined using the following formula:

$$\text{Penalty} = \text{Base} + (0.25 \times \text{Base}) \times (\text{number of days of violation})$$

Any penalties assessed for reporting violations shall be applied in addition to any concurrent discharge or compliance activity penalties.
(Ord. 85-1993. Passed 11-3-93.)

ARTICLE 935
Sewer and Utility Connections

935.01	Sewer connection; permit required.	935.06	Change in grade; notice.
935.02	Application to City Engineer.	935.07	City Engineer to set grade.
935.03	Sewer permit fees.	935.08	Streets to be restored to former condition.
935.04	Connections to be made prior to paving.	935.99	Penalty.
935.05	City may order connections.		

CROSS REFERENCES

Sewer tapping fees - see 3rd Class §3202, 3215 (53 P.S. §38202, 38214.1)

Water supply - see 3rd Class §3501 et seq. (53 P.S. §38501 et seq.)

Bureau of Sewers - see ADM. 117.04(d)

Erie Sewer Authority - see ADM. Art. 181

Street openings - see S.U. & P.S. 901.01 et seq.

Connection to sanitary sewer required - see S.U. & P.S. 931.02

935.01 SEWER CONNECTION; PERMIT REQUIRED.

No person shall make or attempt to make a connection, with any public sewer, sanitary, storm or combination, for any purpose whatever, until written permission therefor has been granted by the City Engineer, which permit shall be exhibited at all times by the holder thereof to the proper City official upon demand.
(Ord. 94-1994 §1. Passed 12-28-94.)

935.02 APPLICATION TO CITY ENGINEER.

Any person requiring a connection to any sewer of the City shall make application to the City Engineer.
(Ord. 94-1994 §1. Passed 12-28-94.)

935.03 SEWER PERMIT FEES.

Applicants for sanitary, storm or combination sewer connection permits shall pay to the City a fee in accordance with the schedule below for each permit. In the case of the sewer construction requiring the opening of a City street, alley, or easement, a separate Street Excavation Permit shall be obtained from the City Engineer for each location. In the case of the sewer construction requiring the opening of a state highway, a Pennsylvania Department of Transportation Occupancy Permit must be obtained through the City Engineer.

Sanitary and Combination Sewer Connection Fees

Fee = \$385.00/EDU

1 EDU (Equivalent Dwelling Unit) = Single Residential Unit
= 350 gpd (gallons per day)

Each connection fee shall be equal to a minimum of 1 EDU.

Commercial connection fees shall be based on the number of EDU's determined from the expected flow rate rounded to the nearest whole EDU.

Storm Sewer Connection Fees*

<u>Size (inches in diameter)</u>	<u>Fee</u>
Up to 4	\$ 55.00
6	110.00
8	220.00
10	440.00
12	660.00
Over 12	660.00 + \$150.00 per inch diameter in excess of 12 inches.

*In the case of multiple connections from the same property, pipe sizes shall be totaled to determine tap in fees. Sanitary and storm shall be treated as separate connections, even if both are connected to the same combination sewer.
(Ord. 77-2005. Passed 12-28-05.)

935.04 CONNECTIONS TO BE MADE PRIOR TO PAVING.

Whenever any street is about to be paved, it shall be the duty of the various utilities and City corporate authorities to tap in all connections from its mains, and extend such connections to beyond the curb. Each and every owner of real estate, whether developed or undeveloped, owning property fronting on a street about to be paved, in which there is a sanitary or combination sewer, shall cause house connections to be made with such sewer or shall extend a connection from the sewer to beyond the curb.
(Ord. 94-1994 §1. Passed 12-28-94.)

935.05 CITY MAY ORDER CONNECTIONS.

(a) Whenever the City is contemplating the paving of any street in which there is a sanitary, storm or combination sewer, or other utility(s), the City Engineer may require all parties to put in all house connections with such sewers, or other utility(s), and extend the same to beyond the curb lines as provided for in Section 935.04.

(b) If any party shall neglect or refuse to do so for five days after written notice from the City Engineer to make such connections, it shall be the duty of the City Engineer to immediately enter into a contract for the construction of such connections. The cost thereof plus ten percent (10%) shall be assessed upon the lot or parcels of land for the accommodation of which such connections may be constructed.
(Ord. 94-1994 §1. Passed 12-28-94.)

935.06 CHANGE IN GRADE; NOTICE.

The City Engineer shall give thirty days notice to all utilities and City corporate authorities to change the grade of any street or sidewalk so that the utilities and authorities may lower their lines. If such lines need not be lowered, the utilities or authorities shall notify the City Engineer of such fact within one week after receipt of the notice and the work may proceed immediately.
(Ord. 94-1994 §1. Passed 12-28-94.)

935.07 CITY ENGINEER TO SET GRADE.

Whenever a utility or City corporate authority desires to lay a service line in any such street, it shall be the duty of the City Engineer, on application of the utility or authority, to give, within one week after such application, the established grade of any such street along or across which it is proposed to lay the line.
(Ord. 94-1994 §1. Passed 12-28-94.)

935.08 STREETS TO BE RESTORED TO FORMER CONDITION.

(a) It shall be the duty of the permittee to restore any excavated or damaged streets to the satisfaction of the City Engineer as in accordance with Section 901.10.

(b) If any party shall neglect or refuse to do so for five days after written notice from the City Engineer to make such restoration(s), it shall be the duty of the City Engineer to immediately enter into a contract for the construction of such connections. The cost thereof plus ten percent (10%) shall be assessed upon the lot or parcels of land for the accommodation of which such connections may be constructed.
(Ord. 94-1994 §1. Passed 12-28-94.)

935.99 PENALTY.

Whoever violates any of the provisions of this article, upon conviction, shall be fined a minimum of three hundred dollars (\$300.00) but not more than one thousand dollars (\$1,000) or imprisoned not more than ninety days, or both. Each failure to obtain a permit or to comply with any of the requirements of this article, and each and every day during which such violation continues, shall constitute a separate offense.
(Ord. 94-1994 §1. Passed 12-28-94.)

ARTICLE 936
Cross Connection Control

936.01	Cross Connection Control Division.	936.04	Responsibility.
936.02	Definitions.	936.05	Excerpts from ordinances.
936.03	Unsafe connections.	936.99	Penalty.

CROSS REFERENCES

Cross connection prohibition - see 25 Pa. Code §109.71
 Backflow prevention - see 25 Pa. Code §109.73
 Air gap alternative - see 25 Pa. Code § 109.74
 Interconnections - see S.U. & P.S. 939.11(n)

936.01 CROSS CONNECTION CONTROL DIVISION.

(a) There is established, within the Bureau of Water, a Cross Connection Control Division to implement regulations, ordinances and procedures as outlined herein, with full cooperation of all related City agencies; namely, Health, Water, Utilities, Plumbing, Council, and also related agencies of County, State and Federal governments.

(b) The Division shall protect the potable water supply of the City of Erie from the possibility of contaminants or pollutants entering the potable water supply by:

- (1) Isolating within its customers' private water systems such contaminants or pollutants which could under adverse conditions flow uncontrolled through cross connections into the public water supply;
- (2) Eliminating or controlling existing cross connections actual or potential in the potable water system;
- (3) Providing for the maintenance of a continuing cross connection program for systematically and effectively controlling all actual potential cross connections which may be installed in the future.
(Ord. 86-1974. Passed 11-6-74.)

936.02 DEFINITIONS.

The following words and terms shall have the following meanings, unless the context clearly indicates otherwise:

- (a) "Air gap" means the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture or other device and the flood level rim of the receptacle.
- (b) "Backflow" means the flow of water or other liquids, mixtures or substances into the distributing pipes of a potable supply of water from any sources other than the approved source.
- (c) "Bypass" means a piping arrangement whereby water may be diverted around any feature of the treatment process of a water supply.
- (d) "Cross connection" means any physical connection or arrangements between two otherwise separate piping systems, one of which contains potable water and other

steam, gas, a chemical or water of unknown or questionable safety, whereby there may be a flow from one system to the other, the direction depending on the pressure differential between the two systems.

- (e) "Department" means the Department of Environmental Resources of the Commonwealth.
- (f) "Ground water" means the accumulation of water which exists in the ground and is used as a source of water supply through openings such as wells, springs and infiltration galleries.
- (g) "Interconnection" means the connection of two or more water supplies, each approved by the Department.
- (h) "Water supply" means a source or sources of water, as well as any and all water treatment, storage, transmission and distribution facilities.
- (i) "Hazard" means an actual or potential threat or contamination or pollution of a toxic nature or physical nature to a public potable water system or consumer's potable water system as to be dangerous to health.
- (j) "Contamination" means the impairment of the quality of water to a degree that creates a hazard to public health through poisoning or spread of disease.
- (k) "Pollution" means the impairment of the quality of water to a degree not creating a hazard to public health, but does adversely affect such waters for domestic use. (Ord. 86-1974. Passed 11-6-74.)

936.03 UNSAFE CONNECTIONS.

- (a) Cross Connection.
 - (1) Cross connections shall be prohibited.
 - (2) A cross connection shall be considered broken if a minimum air gap of two pipe diameters of the supply pipe is provided between the public water and any unapproved supply.
- (b) Interconnections; Approved by Inspection. Interconnections shall be permitted by the Department only after they have been approved by inspection.
- (c) Backflow Prevention.
 - (1) Backflow shall be prohibited.
 - (2) A water supply pipe shall be considered as protected against backflow from any plumbing fixture or other piece of equipment or appliance capable of affecting the quality of the water in the public water supply if an air gap of at least twice the diameter of the water supply pipe has been provided.
 - (3) Where it is not practicable to provide this minimum air gap, the connection to the fixture, equipment or appliance shall be equipped with a backflow preventer assembly of a type and in a location approved by the Department.
 - (4) The Department may require that a backflow preventer assembly of a type and location approved by the Department be installed at any fixed water outlet to which a hose may be connected and used in contact with liquids or other substances.
- (d) Air Gap Alternative. Where it is impracticable to provide the required minimum air gap, a "swing-joint" swivel device or a four-way, four port valve of a design such that

the distribution piping may be fed by either water supply individually, but not simultaneously, may be considered by the Department for approval.

(e) Emergency Intakes. No water supply shall have emergency connections or intakes where water from an unapproved source may be admitted to the water supply.

(f) Bypasses. Bypasses around any treatment facility shall be approved by the Department. (Ord. 86-1974. Passed 11-6-74.)

936.04 RESPONSIBILITY.

(a) The obligation of adhering to the Cross Connection Control Article is the responsibility of any person engaged in the installation of public potable water facilities.

(b) The Plumbing Inspection Department of the City shall insure proper installation of consumer's building plumbing including the connection line to the public potable water supply.

(c) The water purveyor shall exercise reasonable vigilance to insure that the consumer has taken proper steps to protect the potable water supply system against pollution or contamination through cross connections in new installments as well as in existing facilities.

(d) All plumbing, pipes and fixtures using water that is supplied by the City Bureau of Water, shall conform to the rules and regulations set forth in this article.

(e) No plumbing, pipes or fixtures shall be installed which in any way shall be an actual or potential impairment of the quality of water supplied by the Bureau of Water.

(f) Connections or extensions to the public potable water supply which are questionable must have the approval of the Cross Connection Division or the Bureau of Water before they are installed.

(g) The consumer of Erie potable water supply has the primary responsibility for preventing pollutants and contaminants from entering the public potable water supply system.

(h) The Cross Connection Control Division shall make inspections of the potable water supply system and insure proper installation of backflow prevention devices herein outlined.

(i) The expense and maintenance of all backflow prevention will be the sole responsibility of the customer being supplied with water.

(j) The Cross Connection Control Division will make periodic checks to test capability and operational effectiveness of the backflow prevention devices.

(k) All testing and maintenance will be conducted by a certified backflow prevention device tester.

- (l) When employed by the consumer to test backflow prevention, a backflow prevention device tester will:
- (1) Be responsible for making all tests and report of the results of such tests to the consumer on forms approved by the agency having jurisdiction.
 - (2) Be equipped with and be competent to use all the necessary tools, gauges and testing equipment necessary to properly test backflow prevention devices.
 - (3) Perform the work and be responsible for the competency and accuracy of all tests and reports.
- (m) A certified backflow prevention device tester who is a licensed plumber is also certified to repair backflow prevention devices. In repairing backflow prevention devices he will:
- (1) Insure that the parts replaced are equal to those of the manufacturer of the device being used, as to quality and specifications.
 - (2) Not change the design, material or operational characteristics of a device during repair or maintenance without prior approval of the responsible agency.
- (n) All work performed by an assistant shall be performed in the presence of the backflow prevention device tester and under his jurisdiction.
- (o) To be a certified backflow prevention device tester, a person must complete a school and pass an examination for this. (Ord. 86-1974. Passed 11-6-74.)
- (p) Renewal of the back flow prevention license shall be after December 1, but before December 31 of each year.
- (q) Annual renewal cost of the back flow prevention license shall be ten dollars (\$10.00). Checks shall be made payable to the Bureau of Water, City of Erie.
- (r) Testing of back flow preventers is the responsibility of the property owner and shall be done every year within the month of the anniversary date of the valve installation. The back flow preventer valves shall be rebuilt and tested at the five year anniversary date. Results of tests and rebuilding shall be logged by the tester and kept in a neat readable ledger and a copy of the test results furnished to the property owner and the Cross Connection Control Department within ten days of the date of the test and signature of the tester noted on the tag attached to the valve. The tag shall be furnished and attached to the back flow preventer by the Cross Connection Department.
- (s) The cost of testing and maintaining the back flow preventers shall be incurred by the property owner.
- (t) All businesses involved with handling radioactive materials shall have their back flow preventers tested more often as required by the Cross Connection Control Department. (Ord. 35-1988 §1. Passed 4-27-88.)

(u) All residential water services one inch or larger shall have an approved back flow preventer installed inside of the building down stream of the water meter. The type of containment required will depend on the degree of hazard and shall be approved by the Cross Connection Control Department.

(v) All commercial and nonresidential water services shall have an approved back flow preventer installed inside of the building down stream of the water meter. The type of containment required will depend on the degree of hazard and shall be approved by the Cross Connection Control Department.

(w) All buildings with three or more dwelling units shall have an approved back flow preventer installed inside of the building down stream of the water meter. The type of containment required will depend on the degree of hazard and shall be approved by the Cross Connection Control Department. (Ord. 17-1990 §1. Passed 4-11-90.)

936.05 EXCERPTS FROM ORDINANCES.

(a) Waterworks Ordinance. Reserved rights to enter upon or into any premises where City water is taken, for the purpose of inspection of pipes and fixtures, setting, reading and repairing meters, turning water off and on and enforcing rules generally. Each and every denial of this right will render the offending party liable to penalties prescribed for violation of the rules, i. e. water turn off or fine.

- (1) The definition of a cross connection, as based upon the U. S Department of Health, Education and Public Welfare's Public Health Service Publication No. 525, is any physical connection or arrangement of pipes between two otherwise separate water supply systems, one of which contains potable water and the other water of unknown or questionable safety, whereby water may flow from one system to the other, the direction of flow depending on pressure differential between the two systems.
- (2) No cross connection shall be permitted to be made between any system of piping supplied by water from the mains of the Water Bureau and any other source of supply, either public or private; or any secondary supplies known to be unsafe for drinking water, such as shallow wells, reused industrial supplies, raw surface water or swimming pools.
- (3) Where City water is used as an auxiliary supply to a roof or suction tank, which is also supplied by water from any other source, such tank shall not be of the pressure type but open. The delivery of City water shall be above the tank flow line and controlled by some type of automatic valve.
- (4) It shall be unlawful, also, to maintain storage tanks supplied only with City

water, unless the tanks are satisfactorily built, and covered so as to prevent the entrance of contamination. They shall also be subject to periodical inspection by the Water Bureau and maintained in a manner wholly satisfactory to the standards and requirements of the State Department of Health. Pumps taking suction from the City supply, serving such building storage, shall be installed or operated only upon permit from the Water Bureau subject to their approval as to size, capacity and valving arrangements.

- (5) It shall be unlawful for anyone to interconnect private supplies, including deep well systems, with the waterworks system except as hereinafter provided:
 - A. Correction and maintenance, in a manner satisfactory to the State Department of Health and the City Water Bureau of all existing sanitary defects in and around the private supply system.
 - B. Provisions to be made for complete bacteriological analysis by the Water Bureau of the supply involved, in accordance with the standard methods of water analysis of the American Public Health Association. This requirement means not less than four years analyses, conducted each month on two standard samples or more often if the analysis warrants.
 - C. Provision by the owner of the private system involved to pay an equitable pro rata part of the cost of all inspections and testing herein required. The rates and method of paying for the same shall be determined by the Water Bureau subject to the approval of Council.
 - (6) Should any system supplied by City water be operated in violation of any provisions of this article, it shall be the duty of the Water Bureau to completely disconnect all service lines serving such system until this section is properly complied with. Any cost of such disconnection and the estimated cost of reconnection must be paid by the consumer before service shall be restored.
- (b) Plumbing Code; Protection of Potable Water Supply.
- (1) Cross connections. Potable and nonpotable water supplies shall be distributed through systems entirely independent of each other, and any cross connection between such supplies is prohibited. Further, no connections shall be made between pipes containing City water and any other pipes, whether or not such other pipes contain water considered potable.
 - (2) Back-flow. Each fixture supply pipe shall be protected from back-flow by having all outlets from which potable water flows spaced a sufficient distance above the flood level rim of the receptacle into which the water flows to provide a "minimum required air gap" except that where it is not possible to provide a minimum air gap, the fixture shall be equipped with an accessibly located back-flow preventer (see Cross Connection Information Hand Book) installed beyond the manual control valve. Vacuum breakers on aspirators shall be at least twelve inches above waste materials; in funeral homes eighteen inches above top of table. The distance for the vacuum breaker on a bed pan sterilizer shall be twenty-four inches above overflow rim of the fixture. A vacuum breaker shall be installed on all yard hydrants within fifty feet of a swimming pool or any hydrants used for purposes of filling or cleaning pools.

On certain installations such as hospitals, clinics, plating shops, chemical plants, embalming establishments and multi-storied buildings or other buildings or other buildings discharging hazardous materials, back-flow preventors, of a type approved by the Cross Connection Control Chief and the Water Bureau, shall be installed on the building side of the meter.

(c) Color Coding. In building or industrial plants where multiple piping systems are used for water, extreme care should be taken not to interconnect the systems. If water from the potable system is used to service systems of lesser quality such as fire protection, plumbing, fixtures, vats, tanks, boilers, sewer ejectors, pumps and numerous other hazardous items, the potable water system must be separated or protected from these dangerous cross connections by an air gap, vacuum breakers, reduced pressure back-flow preventors or double check valves.

Where controlled cross connections are permitted, pipes should be labeled to identify their contents. Each outlet on the nonpotable water line, which may be inadvertently used for drinking water should be posted "Danger Unsafe Water". Other pipes should be painted or banded at appropriate intervals and stenciled to identify their contents and direction of flow. A system that could be used:

		<u>Color</u>	<u>Stenciled</u>
(1)	Potable water	Green	"Potable Water"
(2)	Nonpotable water	Brown	"Nonpotable Water"
(3)	Fire protection	Red	"Fire"
(4)	Chemical	Orange	"Chemical"
(5)	Gas	Black	"Gas"

Colored plastic bands could be used instead of paint i.e., Dymo Tape with legends, so long as labels or bands are permanently fastened to pipes and checked periodically to see that they are not removed.

(d) OSHA: Federal Safety and Health Act of 1970. There shall be no cross connection between a potable and nonpotable source of water within the premises or plant which can be a potential hazard to employees.

(e) Enforcement. Any customer not complying with the Authority's request to install and maintain back-flow prevention devices will be subject to immediate termination of water service by the Water Authority. In addition to Erie's Water Authority regulations on cross connection control, all customers are required to conform to all definitions hereinafter mentioned. (Ord. 86-1974. Passed 11-6-74.)

936.99 PENALTY.

Persons making any connections to the public potable water supply system which do not comply with this article are subject to a fine of five hundred dollars (\$500.00) and the cost of removing the violation. (Ord. 86-1974. Passed 11-6-74.)

ARTICLE 937
Water Rates

(EDITOR'S NOTE: Former Article 937 was repealed by Ordinance 28-2000, passed June 7, 2000.)

ARTICLE 939
Water Regulations

939.01	Reserved.	939.08	Reserved.
939.02	Reserved.	939.09	Water mains constructed by private contractors.
939.03	Reserved.	939.10	Requirements for plumbers.
939.04	Fire hydrants and fire lines.	939.11	General.
939.05	Fountains.	939.12	Reserved.
939.06	Reserved.	939.13	Lease of Water Bureau.
939.07	Reserved.		

CROSS REFERENCES

Water works - see 25 Pa. Code §109.1 et seq.

Cross connection control - see S.U. & P.S. Art. 936

939.01 RESERVED.

EDITOR'S NOTE: This section is reserved for future legislation.

939.02 RESERVED.

EDITOR'S NOTE: This section is reserved for future legislation.

939.03 RESERVED.

EDITOR'S NOTE: This section is reserved for future legislation.

939.04 FIRE HYDRANTS AND FIRE LINES,

- (a) (1) Pipes for fire protection shall only be fitted with such fixtures as are needed for fire protection. Each fixture shall be sealed by the Bureau of Water.
- (2) Whenever practicable the hose shall be kept attached to the fixtures, suspended conveniently for use in case of fire. Parties who use fire protection fixtures for other than fire protection purposes, may be held liable to violation of the rules of the Bureau of Water.

- (3) Parties having connections used for fire protection, can test their fire apparatus at any time under the following conditions:
 - A. Written notice to be given at the office of the Bureau of Water that such test is desired, a date and hour will then be assigned to applicant when test can begin.
 - B. All tests must be made in the presence of the proper employee of the Bureau of Water whose sole and only duty consists in removing and replacing the seals of the Bureau of Water used on the fire apparatus, and note the time required for his presence.
 - (4) Seals must not be removed except in case of fire, written notice of which is to be given at the office of the Bureau of Water within twenty-four hours after its occurrence.
- (b) Fire hydrants may be used only by those authorized members of fire departments outside the City within the areas of service of the Bureau of Water while performing their duties at actual conflagrations or at actual times shall not be carted away for any purpose whatsoever. All fire companies shall notify the Bureau of Water in advance of any hydrant use for fire drills.
- (c) The Bureau shall be notified within twenty-four hours after the use of any hydrant by any fire bureau, department or volunteer fire agency of the City water system.
- (d) Wrenches other than regulation hydrant wrenches shall not be used for the operation of the hydrants.
- (e) No person shall obstruct access to any fire hydrant in any manner whatsoever.
- (f) No private hydrant will be allowed on the sidewalk, nor in a front yard within twelve feet of the line of the street, unless the yard is enclosed by a front fence, in which case the hydrant shall not be nearer the fence than four feet.
- (g) All fire hydrants, hydrant branches and valves on public rights of way outside the corporate limits of the City which are attached to City water mains shall be installed by the municipality or township at proper locations at their discretion in accordance with the material specifications and requirements, methods, supervision and approval of the Bureau, however, they shall become subject to all the requirements of this article and they will be maintained by the Bureau.
- (h) All fire hydrants which are attached to City mains shall be subject to all provisions of this article and/or the penalties contained in the article.
- (i) No charge shall be made for actual use of water for fire protection purposes only whether it be taken from a hydrant, through sprinklers or by any other means; however, stand-by fees shall be charged for availability of water according to the schedule contained in the schedule of rates.

(j) The requirements that meters shall be installed on all service branches will be waived in the case of service branches intended for fire protection only including sprinkling systems.

(k) Water may not be used off the service for any other purpose except for the intended protection.

(l) A detector check valve to indicate when water has been used is required on services which at the discretion of the Bureau of Water are at a distance from the main connection so as to permit a leak to go undetected.

(m) Plans for fire protection installations in multiple dwellings must be approved by the Underwriters Board Building Commission and the Fire Department of the city, municipality or township in whose jurisdiction the protection is to be installed before approval by the Bureau of Water in writing from the Bureau Chief.

(n) All fire protection branches must be provided with a valve between the street main and the building or private fire line supplied with the water. Maintenance of the fire protection branch shall be the liability of the property owner. All costs for material, equipment and labor which may be incurred for any emergency repairs by the Bureau, will be billed for at actual cost to the Bureau.

(o) Bulk water through fire hydrants shall be sold at the Chestnut Street Plant. If a governmental body outside the City requires hydrant water for municipal purposes, they shall first make application at the Business Office of the Bureau of Water at the foot of Chestnut Street and receive a permit. These hydrants can only be operated by duly authorized personnel such as firemen or Water Bureau employees. In any other bulk water sales where a hydrant may be required such as for demolition and/or construction, the hydrants shall be operated by Water Bureau personnel with a Water Bureau truck parked near the hydrant. All labor charges and a daily truck charge will be paid for by the contractor. Charges will be at five dollars (\$5.00) per hour for labor charges, ten dollars (\$10.00) per working day or any part of a working day for truck, and five dollars (\$5.00) per working day or any part of a working day for water. Double time will be charged for labor for any time other than working hours and Saturdays, Sundays and holidays.

(Ord. 70-1974 §21-34, 105. Passed 8-21-74.)

939.05 FOUNTAINS.

(a) The supply pipe to each outdoor drinking fountain shall be furnished with a special stop cock, at the curb if practicable, which shall always be under the control of the Bureau of Water.

(b) Outdoor drinking fountains will only be allowed to flow between May 15 and October 15 of each year.

(c) Faucets to public drinking fountains, shall be self-closing, of a style approved by the Bureau of Water, and the supply to all such fountains shall be controlled by them.

(Ord. 70-1974 §35-37. Passed 8-21-74.)

939.06 RESERVED.

EDITOR'S NOTE: This section is reserved for future legislation.

939.07 RESERVED.

EDITOR'S NOTE: This section is reserved for future legislation.

939.08 RESERVED.

EDITOR'S NOTE: This section is reserved for future legislation.

939.09 WATER MAINS CONSTRUCTED BY PRIVATE CONTRACTORS.

(a) All construction and materials utilized shall be in accordance with and conform to the specifications set forth by the City Bureau of Water.

(b) All mains constructed by private contractors shall be supervised by a Water Bureau Inspector at the expense of the contractor or customer.

(c) The contractor shall be liable for maintenance of any main constructed by him for twelve months after completion date of the main constructed.

(d) No water line extension shall be approved for construction unless the pipe is extended in such a manner as to connect to the main pipe at the opposite intersection so as to prevent a "dead end" termination.

(e) No main construction work shall be performed by the Bureau of Water from December 1 to May 1 of the following year.

(f) Service connections less than two inches in size shall be attached to the water mains by means of a corporation cock at a point not to exceed above the 45° angle point of the water main between the horizontal and the vertical. The service branch from the water main to a point behind the street curb line shall be of type "K" annealed copper tubing.

(g) All service branches larger than two inches shall be of Ductile Iron Class 4.

(h) No person shall by means of false keys or other means cause or suffer any premises to be supplied with water after the water supply has been disconnected by the Bureau when such act is contrary to the true intent and meaning of these regulations.

(i) All water services after pressure testing to 150 lbs. per square inch for a minimum of four hours shall be chlorinated by the Bureau. The plumber or contractor shall cooperate with the Bureau in regard to the time and place of such chlorination. Points for the application of chlorine and subsequent drainage shall be determined by the Bureau and provided by the plumber or contractor. No water shall be provided through such service until results of chlorination have been approved by the Bureau chemist in writing.
(Ord. 70-1974 §64-72. Passed 8-21-74.)

939.10 REQUIREMENTS FOR PLUMBERS.

(a) No person other than a duly licensed plumber shall do any plumbing in connection with any attachment to the water mains of the Bureau without the written permission of the Bureau.

(b) Any attachment to the Bureau mains shall comply with the rules and regulations of the Bureau and the Plumbing Code of the City.

(c) Curb boxes and valve boxes on services shall be kept uncovered and readily accessible during construction or repair work.

(d) When plumbing work is completed in any new building, a space suitable for the installation of a water meter must be provided and the water must be shut off.

(e) No person shall break a Bureau seal nor disconnect or remove a water meter without permission of the Bureau.

(f) No licensed plumber nor any other person shall make any attachment to an old pipe or other fixture through which the supply of water has been discontinued or which is out of use until written permission has been obtained from the Bureau.

(g) No plumber or any other person shall alter in any way the service branch pipes attached to the Bureau mains without written permission of the Bureau.

(h) No plumber or any other person shall make an attachment to any service branch or other pipe, in such a manner that the water passing through such an attachment is not possible to be registered by the water meter, which is already installed or will be installed. (Ord. 70-1974 §73-80. Passed 8-21-74.)

939.11 GENERAL.

(a) The water may, after due notice, be shut off from a customer failing to comply with these rules and will not be again turned on until satisfactory assurance is given that these rules will be complied with and all proper and necessary expense incurred in shutting off and turning on the water, are paid in full.

(b) A reasonable cash deposit, as indicated below will be required from all customers who do not own property within the district served by the Bureau of Water.

- (1) Deposits may be required from customers taking service for a period of less than thirty days, in an amount equal to the estimated gross bill for such temporary period. Deposits may be required from all other customers provided that, in no instance, will deposits be required in excess of the estimated gross bill for any single billing period plus one month, the maximum period not to exceed four months with a minimum of ten dollars (\$10.00).

- (2) Deposits shall be returned to the depositor when he shall have paid undisputed bills for service over a period of twelve consecutive months, beginning at any time subsequently to June 1, 1974; and any customer having secured the return of a deposit will not be required to make a new deposit unless the service has been discontinued and the customer's credit standing impaired through failure to comply with tariff provisions.
- (3) The payment of any undisputed bill, within the meaning of these rules shall be payment of the bill with or without discount or penalty, within thirty days following the period for which the bill was rendered or payment within thirty days following presentation of the bill, or the payment of any contested bill, payment of which is withheld beyond the period herein mentioned if the dispute is terminated substantially in favor of the customer and if payment is made by the customer within ten days thereafter.
- (4) Interest on deposits will be paid at the rate of six percent per annum without deduction for any taxes thereon. Upon deposits held for more than a year, the Bureau of Water will pay to the depositor, at the end of each calendar year, the interest accrued thereon.
- (5) Any customer having a deposit shall pay bills for water service as rendered in accordance with the rules of the Bureau of Water and the deposit shall not be considered as payment on account of a bill during the time the customer is receiving water service.

(c) All waste of water is prohibited. A customer shall keep his faucets, valves, hydrants, service lines and hose in good order and condition at his own expense.

(d) The water may, after due notice, be shut off from a customer allowing it to run to prevent freezing, or allowing it to run to waste, and will not be again turned on until satisfactory assurance is given that the practice will be discontinued and all proper and necessary expense incurred in shutting off and turning on the water is paid in full.

(e) When premises will be temporarily unoccupied, the customer shall notify the Bureau of Water in writing and the water will be turned off and all charges will cease from that date. When the property is again occupied the customer shall again notify the Bureau of Water in writing and the water will be turned on. No refund or allowance will be made for unoccupied property when written notice, both at the time of vacancy and at the time of occupancy, has not been given as above provided. No refund will be allowed for property unoccupied for a period of time less than one month. The customer requesting temporary shut off and turn on shall pay a turn-off, turn-on charge of ten dollars (\$10.00).

(f) In cases of vacancy of a customer's property, the customer must notify the Bureau of Water of such vacancy, and upon his failure to do so he will become responsible for any damage to the property of the Bureau of Water, arising from such failure.

(g) Water shall not be turned into any premises by any person not an agent of the Bureau of Water, except temporarily by a plumber to enable him to test his work, provided it shall be turned off again immediately after the test is made.

(h) The authorized agents of the Bureau of Water shall have the right of access, at all reasonable hours, to the premises supplied with water for the purpose of reading meters, examining pipes and fixtures, observing manner of using water, and for any other purpose which is proper and necessary in the conduct of the Bureau of Water business, and will carry with them proper credentials denoting their employment by the Bureau of Water.

(i) The Bureau of Water will not be liable for any claim or damages arising from a shortage of water, the breaking of machinery or other facilities or any other cause beyond its control.

(j) As necessity may arise in case of break, emergency or other unavoidable cause, the Bureau of Water shall have the right to temporarily cut off the water supply in order to make necessary repairs, connections, etc.; but the Bureau of Water will use all reasonable and practicable measures to notify the customer, in advance, of such discontinuance of service. In such case, the Bureau of Water shall not be liable for any damage or inconvenience suffered by the customer, nor in any case for any claim against it at any time for interruption in service, lessening of supply, inadequate pressure, poor quality of water or any cause beyond its control. The Bureau of Water shall have the right to reserve a sufficient supply of water at all times in its reservoirs to provide for fire or any other emergencies and may restrict or regulate the quantity of water used by customers in case of scarcity, or whenever the public welfare may require it. (Ord. 70-1974 §81-100. Passed 8-21-74.)

(k) All single unit domestic services having a swimming pool with a capacity of 750 gallons or more shall be billed annually at the following rates:

<u>Capacity (Gallons)</u>	<u>Annual Rate (Per Year)</u>
750 - 5,000	\$ 7.58
5,001 - 10,000	15.15
10,001- 15,000	22.73
15,001- 20,000	26.53
20,001 - 25,000	30.31
Over 25,001	37.88

The terms for the use and/or consumption of water for these pools shall be as follows:
The due date for payment of these flat rate charges, shall be twenty days from the date the bills are mailed. Payments mailed as evidenced by the United States Post Office mark, on/or previous to the end of the twenty day period, shall be deemed to be payment within such period.

A late charge or penalty of one and a quarter percent (1.25%) shall be imposed, due and payable to the Bureau of Water, which shall be calculated on the overdue portion of delinquent bills when payments for water service are received in person at the Bureau's Office or at the Office of an authorized Collection Agent after the due date. The Bureau shall impose a late payment charge or penalty for remittance received by mail more than five days after the due date. Such penalties shall be calculated monthly thereafter only on the over-due portions of the bills, and in no event shall the penalty charge exceed more than fifteen percent (15%) annually. (Ord. 95-1982 §1, 2. Passed 11-10-82.)

(l) No pool, designed to be supplied with water direct from the City water supply, shall have any water inlet thereto below the extreme overflow level of the pool.

(m) There shall be no direct connection between any domestic water supply line and any circulating pump, filter, water softener or other apparatus or device that comes in contact with the water in or from the pool.

(n) Whenever the new service is to interconnect in any manner with an existing supply of water, either potable or nonpotable a separate detail of such interconnection shall be clearly shown. Such interconnection must comply with the requirements of the Bureau for backflow prevention as recommended by the Pennsylvania Department of Environmental Resources and the American Water Works Associations Specifications (A.W.W.A.)

(o) All garden services and other seasonal services where there is no year around occupancy shall be metered. The charge for service will be based upon the regular schedule of meter rates. Meters for such seasonal services will be handled as for new house service and shall be subject to the same regulations as set forth in the foregoing sections. Such meters will be installed in the spring of the year and removed in the fall upon written request by the owner and upon receipt of ten dollars (\$10.00) for each installation and ten dollars (\$10.00) for each removal. The fee will be payable to the Bureau of Water Business Office. These meters will be read when installed and when removed. The consumption shown thereon shall be charged for at the regular meter rates.

(p) Any water utilized in air conditioning systems must be recirculated and/or approved cooling towers be installed to eliminate water waste.

(q) No water use shall be in conflict with regulations provided herein.

(r) No customer, unless specially authorized to do so, shall open or close any of the Bureau of Water's stop cocks or valves in any public or private line.

(s) No agent or employee of the Bureau of Water shall have the right or authority to bind it by any promise, agreement or representation contrary to the letter or intent of these rules and regulations.

(t) The Bureau of Water reserves the right to alter or amend these rules and regulations in the manner provided by law. (Ord. 70-1974 §81-100. Passed 8-21-74.)

939.12 RESERVED.

EDITOR'S NOTE: This section is reserved for future legislation.

939.13 LEASE OF WATER BUREAU.

The lease of the Water Bureau of the Department of Public Works to the Erie City Water Authority is hereby approved. (Ord. 91- 1990 § 1. Passed 12-26-90.)

ARTICLE 941
Liens

941.01	Interest from improvement	completed	941.03	Water and sewer rentals
941.02	Interest involving bond issue.			

CROSS REFERENCES

Municipal claims and tax liens - see 53 P.S. Chap. 25
Validation and filing of liens for improvements - see 53
P. S. §7440 et seq.

941.01 INTEREST FROM IMPROVEMENT COMPLETION.

Interest at a rate of ten percent (10%) per annum shall be collectible on all City liens from the date of the completion of the work after it is filed as a lien. Such liens shall consist of those arising from street openings, sidewalk and curb construction and repair, paving and sewer assessments, curb cuts and driveway openings. (Ord. 26-1982 §1. Passed 3-31-82.)

941.02 INTEREST INVOLVING BOND ISSUE.

After the effective date of this section, where the Municipal lien arises out of a Municipal project which required the issuance of bonds to finance the project, the interest shall be collectible on such claims at the rate of interest of the bond issue or at the rate of twelve percent (12%) per annum, whichever is less. (Ord. 26-1982 §2. Passed 3-31-82.)

941.03 WATER AND SEWER RENTALS UNAFFECTED.

This article shall not affect the rate of interest as established by the City for late payment of water or sewer rental obligations. (Ord. 26-1982 §3. Passed 3-31-82.)

ARTICLE 945
Floodplain Management Regulations

945.01	Statutory authorization.	945.06	Activities requiring special permits.
945.02	General provisions.	945.07	Existing structures in identified floodplain areas.
945.03	Administration.	945.08	Variances.
945.04	Identification of floodplain areas.	945.09	Definitions.
945.05	Technical provisions.		

945.01 STATUTORY AUTHORIZATION.

The Legislature of the Commonwealth of Pennsylvania has, by the passage of the Pennsylvania Flood Plain Management Act of 1978, delegated the responsibility to local governmental units to adopt floodplain management regulations to promote public health, safety, and the general welfare of its citizenry. Therefore, the City Council of the City of Erie does hereby enact as follows. (Ord. 2-2014. Passed 1-8-14.)

945.02 GENERAL PROVISIONS.

- (a) Intent. The intent of this article is to:
- (1) Promote the general health, welfare, and safety of the community.
 - (2) Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
 - (3) Minimize danger to public health by protecting water supply and natural drainage.
 - (4) Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing excessive development in areas subject to flooding.
 - (5) Comply with federal and state floodplain management requirements.
- (b) Applicability.
- (1) It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere within the City of Erie unless a Permit has been obtained from the Floodplain Administrator.
 - (2) A Permit shall not be required for minor repairs to existing buildings or structures.

(c) Abrogation and Greater Restrictions. This article supersedes any other conflicting provisions which may be in effect in identified floodplain areas. However, any other ordinance provisions shall remain in full force and effect to the extent that those provisions are more restrictive. If there is any conflict between any of the provisions of this article, the more restrictive shall apply. All ordinances and parts thereof in conflict therewith are hereby repealed.

(d) Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this article shall be declared invalid for any reason whatsoever, such a decision shall not affect the remaining portions of the article, which shall remain in full force and effect, and for this purpose the provisions of this article are hereby declared to be severable.

(e) Warning and Disclaimer of Liability.

- (1) The degree of flood protection sought by the provisions of this article is considered reasonable for regulatory purposes and is based on accepted engineering methods of study. Larger floods may occur or flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This article does not imply that areas outside any identified floodplain areas, or that land uses permitted within such areas will be free from flooding or flood damages.
- (2) This article shall not create liability on the part of the City of Erie or any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder. (Ord. 2-2014. Passed 1-8-14.)

945.03 ADMINISTRATION.

(a) Designation of the Floodplain Administrator.

- (1) The City Engineer within the Department of Public Works, Property & Parks, Bureau of Engineering is hereby appointed to administer and enforce this article and is referred to herein as the Floodplain Administrator. The Floodplain Administrator may:
 - A. Fulfill the duties and responsibilities set forth in these regulations,
 - B. Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees, or
 - C. Enter into a written agreement or written contract with another agency or private sector entity to administer specific provisions of these regulations. Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.
- (2) In the absence of a designated Floodplain Administrator, the Floodplain Administrator duties are to be fulfilled by the Mayor.

(b) Permits Required. A Permit shall be required before any construction or development is undertaken within any area of the City of Erie.

- (c) Duties and Responsibilities of the Floodplain Administrator.
- (1) The Floodplain Administrator shall issue a Permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and ordinances.
 - (2) Prior to the issuance of any permit, the Floodplain Administrator shall review the application for the permit to determine if all other necessary government permits required by state and federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended); the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended); the Pennsylvania Clean Streams Act (Act 1937-394, as amended); and the U.S. Clean Water Act, Section 404, 33, U.S.C. 1344. No permit shall be issued until this determination has been made.
 - (3) During the construction period, the Floodplain Administrator or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable municipal laws and ordinances. He/she shall make as many inspections during and upon completion of the work as are necessary.
 - (4) In the discharge of his/her duties, the Floodplain Administrator shall have the authority to enter any building, structure, premises or development in the identified floodplain area, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this article.
 - (5) In the event the Floodplain Administrator discovers that the work does not comply with the permit application or any applicable laws and ordinances, or that there has been a false statement or misrepresentation by any applicant, the Floodplain Administrator shall revoke the Permit and report such fact to the Office of the City Solicitor for whatever action it considers necessary.
 - (6) The Floodplain Administrator shall maintain in perpetuity all records associated with the requirements of this article including, but not limited to, finished construction elevation data, permitting, inspection and enforcement.
 - (7) The Floodplain Administrator is the official responsible for submitting a biennial report to FEMA concerning community participation in the National Flood Insurance Program.
 - (8) The responsibility, authority and means to implement the commitments of the Floodplain Administrator can be delegated from the person identified. However, the ultimate responsibility lies with the person identified in the Floodplain Ordinance as the Floodplain Administrator/Manager.
 - (9) The Floodplain Administrator shall consider the requirements of the 34 PA Code and the 2009 IBC and the 2009 IRC or latest revisions thereof.
- (d) Application Procedures and Requirements.
- (1) Application for such a Permit shall be made, in writing, to the Floodplain Administrator on forms supplied by the City of Erie. Such application shall contain the following:

- A. Name and address of applicant.
 - B. Name and address of owner of land on which proposed construction is to occur.
 - C. Name and address of contractor.
 - D. Site location including address.
 - E. Listing of other permits required.
 - F. Brief description of proposed work and estimated cost, including a breakout of flood-related cost and the market value of the building before the flood damage occurred where appropriate.
 - G. A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.
- (2) If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for Permits shall provide all the necessary information in sufficient detail and clarity to enable the Floodplain Administrator to determine that:
- A. All such proposals are consistent with the need to minimize flood damage and conform with the requirements of this and all other applicable codes and ordinances;
 - B. All utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage;
 - C. Adequate drainage is provided so as to reduce exposure to flood hazards;
 - D. Structures will be anchored to prevent floatation, collapse, or lateral movement;
 - E. Building materials are flood-resistant;
 - F. Appropriate practices that minimize flood damage have been used; and
 - G. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities have been designed and located to prevent water entry or accumulation.
- (3) Applicants shall file the following minimum information plus any other pertinent information as may be required by the Floodplain Administrator to make the above determination:
- A. A completed Permit Application Form.
 - B. A plan of the entire site, clearly and legibly drawn at a scale of one (1) inch being equal to one hundred (100) feet or less, showing the following:
 - 1. North arrow, scale, and date;
 - 2. Topographic contour lines, if available;
 - 3. The location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and development;
 - 4. The location of all existing streets, drives, and other access ways; and
 - 5. The location of any existing bodies of water or watercourses, identified floodplain areas, and, if available, information pertaining to the floodway; and the flow of water including direction and velocities.

- C. Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:
1. The proposed lowest floor elevation of any proposed building based upon North American Vertical Datum of 1988;
 2. The elevation of the base flood;
 3. Supplemental information as may be necessary under 34 PA Code, the 2009 IBC or the 2009 IRC.
- D. The following data and documentation:
1. Detailed information concerning any proposed floodproofing measures and corresponding elevations.
 2. If available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood; and Floodway Area (See Section 945.04(b)(1)) when combined with all other existing and anticipated development, will not increase the base flood elevation at any point.
 3. Documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within an AE Area/District without floodway (See Section 945.04(b)(2)) when combined with all other existing and anticipated development, will not increase the base flood elevation more than one (1) foot at any point within the community.
 4. A document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the base flood.
Such statement shall include a description of the type and extent of flood proofing measures which have been incorporated into the design of the structure and/or the development.
 5. Detailed information needed to determine compliance with Section 945.05(c)(6), Storage, and Section 945.05(d), Development Which May Endanger Human Life, including:
 - a. The amount, location and purpose of any materials or substances referred to in Sections 945.05(c)(6) and 945.05(d) which are intended to be used, produced, stored or otherwise maintained on site.
 - b. A description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in Section 945.05(d) during a base flood.
 6. The appropriate component of the Department of Environmental Protection's "Planning Module for Land Development."

7. Where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection, to implement and maintain erosion and sedimentation control.
- (4) Applications for Permits shall be accompanied by a fee, payable to the Municipality based upon the estimated cost of the proposed construction as determined by the Floodplain Administrator.
- (e) Review by County Conservation District. A copy of all applications and plans for any proposed construction or development in any identified floodplain area to be considered for approval shall be submitted by the Floodplain Administrator to the County Conservation District for review and consent prior to the issuance of a Permit. The recommendations of the Conservation District shall be considered by the Floodplain Administrator for possible incorporation into the proposed plan.
 - (f) Review of Application by Others. A copy of all plans and applications for any proposed construction or development in any identified floodplain area to be considered for approval may be submitted by the Floodplain Administrator to any other appropriate agencies and/or individuals (e.g. Planning Commission, Municipal Engineer, etc.) for review and consent.
 - (g) Changes. After the issuance of a Permit by the Floodplain Administrator, no changes of any kind shall be made to the application, permit or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Floodplain Administrator. Requests for any such change shall be in writing, and shall be submitted by the applicant to Floodplain Administrator for consideration.
 - (h) Placards. In addition to the Permit, the Floodplain Administrator shall issue a placard which shall be displayed on the premises during the time construction is in progress. This placard shall show the number of the Permit, the date of its issuance, and be signed by the Floodplain Administrator.
 - (i) Start of Construction.
 - (1) Work on the proposed construction or development shall begin within 180 days after the date of issuance of the development permit. Work shall also be completed within twelve (12) months after the date of issuance of the permit or the permit shall expire unless a time extension is granted, in writing, by the Floodplain Administrator. The issuance of development permit does not refer to the zoning approval.
 - (2) The actual start of construction means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as

- dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- (3) Time extensions shall be granted only if a written request is submitted by the applicant, who sets forth sufficient and reasonable cause for the Floodplain Administrator to approve such a request and the original permit is compliant with the article and FIRM/FIS in effect at the time the extension is granted.
- (j) Enforcement.
- (1) Notices. Whenever the Floodplain Administrator or other authorized municipal representative determines that there are reasonable grounds to believe that there has been a violation of any provisions of this article, or of any regulations adopted pursuant thereto, the Floodplain Administrator shall give notice of such alleged violation as hereinafter provided. Such notice shall:
- A. Be in writing;
 - B. Include a statement of the reasons for its issuance;
 - C. Allow a reasonable time not to exceed a period of thirty (30) days for the performance of any act it requires;
 - D. Be served upon the property owner or his agent as the case may require; provided, however, that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been served with such notice by any other method authorized or required by the laws of this State;
 - E. Contain an outline of remedial actions which, if taken, will effect compliance with the provisions of this article.
- (2) Penalties. Any person who fails to comply with any or all of the requirements or provisions of this article or who fails or refuses to comply with any notice, order or direction of the Floodplain Administrator or any other authorized employee of the Municipality shall be guilty of a summary offense and upon conviction shall pay a fine to City of Erie, of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1000.00) plus costs of prosecution. In default of payment there shall be imposed a period of imprisonment for a period not to exceed ninety (90) days. In addition to the above penalties all other actions are hereby reserved including an action in equity for the proper enforcement of this article. The imposition of a fine or penalty for any violation of, or noncompliance with this article shall not excuse the violation or noncompliance or permit it to continue. All such persons shall be required to correct or remedy such violations and noncompliance within a reasonable time. Any development initiated or any structure or building constructed, reconstructed, enlarged, altered, or relocated, in noncompliance with this article may be declared by the Floodplain Administrator to be a public nuisance and abatable as such.

- (k) Appeals.
- (1) Any person aggrieved by any action or decision of the Floodplain Administrator concerning the administration of the provisions of this article, may appeal to the Zoning Hearing Board. Such appeal must be filed, in writing, within thirty (30) days after the decision, determination or action of the Floodplain Administrator.
 - (2) Upon receipt of such appeal the Zoning Hearing Board shall consider the appeal in accordance with the Municipal Planning Code and any other local ordinance.
 - (3) Any person aggrieved by any decision of the Zoning Hearing Board may seek relief therefrom by appeal to Court of Common Pleas, as provided by the laws of this State including the Pennsylvania Flood Plain Management Act.
(Ord. 2-2014. Passed 1-8-14.)

945.04 IDENTIFICATION OF FLOODPLAIN AREAS.

(a) Identification. The identified floodplain area shall be any areas of City of Erie, classified as Special Flood Hazard Areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated February 19, 2014 and issued by the Federal Emergency Management Agency (FEMA) or the most recent revision thereof, including all digital data developed as part of the Flood Insurance Study and,

The above referenced FIS and FIRMs, and any subsequent revisions and amendments are hereby adopted by City of Erie and declared to be a part of this article.

(b) Description and Special Requirements of Identified Floodplain Areas. The identified floodplain area shall consist of the following specific areas:

- (1) The Floodway Area shall be those areas identified in the FIS and the FIRM as floodway and which represent the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without increasing the water surface elevation by more than one (1) foot at any point. This term shall also include floodway areas which have been identified in other available studies or sources of information for those Special Flood Hazard Areas where no floodway has been identified in the FIS and FIRM.
 - A. Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
 - B. Within any floodway area, no new construction or development shall be allowed, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.
- (2) The AE Area/District shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided.
 - A. The AE Area adjacent to the floodway shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided and a floodway has been delineated.

- B. AE Area without floodway shall be those areas identified as an AE zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided but no floodway has been determined.
1. No permit shall be granted for any construction, development, use, or activity within any AE Area/District without floodway unless it is demonstrated that the cumulative effect of the proposed development would not, together with all other existing and anticipated development, increase the BFE more than one (1) foot at any point.
 2. No new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.
- (3) The A Area/District shall be those areas identified as an A Zone on the FIRM included in the FIS prepared by FEMA and for which no base flood elevations have been provided. For these areas, elevation and floodway information from other Federal, State, or other acceptable sources shall be used when available. Where other acceptable information is not available, the base flood elevation shall be determined by using the elevation of a point on the boundary of the identified floodplain area which is nearest the construction site.
- In lieu of the above, the Municipality may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the Municipality.
- (4) The AO and AH Area/District shall be those areas identified as Zones AO and AH on the FIRM and in the FIS. These areas are subject to inundation by 1-percent-annual chance shallow flooding where average depths are between one and three feet. In Zones AO and AH, drainage paths shall be established to guide floodwaters around and away from structures on slopes.

(c) Changes in Identification of Area. The Identified Floodplain Area may be revised or modified by the City Council where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change to the Special Flood Hazard Area, approval must be obtained from FEMA. Additionally, as soon as practicable, but not later than six (6) months after the date such information becomes available, a community shall notify FEMA of the changes to the Special Flood Hazard Area by submitting technical or scientific data. See Section 945.05(a)(2) for situations where FEMA notification is required.

(d) Boundary Disputes. Should a dispute concerning any identified floodplain boundary arise, an initial determination shall be made by the Floodplain Administrator and any party aggrieved by this decision or determination may appeal to the Zoning Hearing Board. The burden of proof shall be on the appellant.

(e) Jurisdictional Boundary Changes. Prior to development occurring in areas where annexation or other corporate boundary changes are proposed or have occurred, the community shall review flood hazard data affecting the lands subject to boundary changes. The community shall adopt and enforce floodplain regulations in areas subject to annexation or corporate boundary changes which meet or exceed those in CFR 44 60.3.
(Ord. 2-2014. Passed 1-8-14.)

945.05 TECHNICAL PROVISIONS.

(a) General.

(1) Alteration or Relocation of Watercourse.

- A. No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the Municipality, and until all required permits or approvals have first been obtained from the Department of Environmental Protection Regional Office.
- B. No encroachment, alteration, or improvement of any kind shall be made to any watercourse unless it can be shown that the activity will not reduce or impede the flood carrying capacity of the watercourse in any way.
- C. In addition, FEMA and the Pennsylvania Department of Community and Economic Development, shall be notified prior to any alteration or relocation of any watercourse.

(2) A. When a community proposes to permit the following encroachments:

- 1. Any development that causes a rise in the base flood elevations within the floodway; or
- 2. Any development occurring in Zone AI-30 and Zone AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation; or
- 3. Alteration or relocation of a stream (including but not limited to installing culverts and bridges).

B. The applicant shall (as per 44 CFR Part 65.12):

- 1. Apply to FEMA for conditional approval of such action prior to permitting the encroachments to occur.
- 2. Upon receipt of the Administrator's conditional approval of map change and prior to approving the proposed encroachments, a community shall provide evidence to FEMA of the adoption of floodplain management ordinances incorporating the increased base flood elevations and/or revised floodway reflecting the post-project condition.

3. Upon completion of the proposed encroachments, a community shall provide as-built certifications. FEMA will initiate a final map revision upon receipt of such certifications in accordance with 44 CFR Part 67.
- (3) Any new construction, development, uses or activities allowed within any identified floodplain area shall be undertaken in strict compliance with the provisions contained in this article and any other applicable codes, ordinances and regulations.
- (b) Elevation and Floodproofing Requirements.
- (1) Residential Structures.
 - A. In AE, AI-30, and AH Zones, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation.
 - B. In A Zones, where there are no Base Flood Elevations specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation determined in accordance with Section 945.04(b)(3).
 - C. In AO Zones, any new construction or substantial improvement shall have the lowest floor (including basement) at or above the highest adjacent grade at least as high as the depth number specified on the FIRM.
 - D. The design and construction standards and specifications contained in the 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC) or the most recent revisions thereof and ASCE 24 and 34 PA Code (Chapters 401-405 as amended) shall be utilized, where they are more restrictive.
 - (2) Non-residential Structures.
 - A. In AE, AI-30 and AH Zones, any new construction or substantial improvement of a non-residential structure shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation, or be designed and constructed so that the space enclosed below the regulatory flood elevation:
 1. Is floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water and,
 2. Has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy:
 - B. In A Zones, where no Base Flood Elevations are specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated or completely floodproofed up to, or above, the regulatory flood elevation determined in accordance with Section 945.04(b)(3).
 - C. In AO Zones, any new construction or substantial improvement shall have their lowest floor elevated or completely floodproofed above the highest adjacent grade to at least as high as the depth number specified on the FIRM.

- D. Any non-residential structure, or part thereof, made watertight below the regulatory flood elevation shall be floodproofed in accordance with the WI or W2 space classification standards contained in the publication entitled "Flood-Proofing Regulations" published by the U.S. Army Corps of Engineers (June 1972, as amended March 1992) or with some other equivalent standard. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the above referenced standards.
- E. The design and construction standards and specifications contained in the 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC) or the most recent revisions thereof and ASCE 24 and 34 PA Code (Chapters 401-405 as amended) shall be utilized, where they are more restrictive.
- (3) Space below the lowest floor.
- A. Fully enclosed space below the lowest floor (excluding basements) which will be used solely for the parking of a vehicle, building access, or incidental storage in an area other than a basement, shall be designed and constructed to allow for the automatic entry and exit of flood waters for the purpose of equalizing hydrostatic forces on exterior walls. The term "fully enclosed space" also includes crawl spaces.
- B. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
1. A minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.
 2. The bottom of all openings shall be no higher than one (1) foot above grade.
 3. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (4) Historic Structures. Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined in this article, must comply with all article requirements that do not preclude the structure's continued designation as a historic structure. Documentation that a specific article requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic Places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from article requirements will be the minimum necessary to preserve the historic character and design of the structure.
- (5) Accessory structures. Structures accessory to a principal building need not be elevated or floodproofed to remain dry, but shall comply, at a minimum, with the following requirements:

- A. The structure shall not be designed or used for human habitation, but shall be limited to the parking of vehicles, or to the storage of tools, material, and equipment related to the principal use or activity.
- B. Floor area shall not exceed 600 square feet.
- C. The structure will have a low damage potential.
- D. The structure will be located on the site so as to cause the least obstruction to the flow of flood waters.
- E. Power lines, wiring, and outlets will be elevated to the regulatory flood elevation.
- F. Permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, etc. are prohibited.
- G. Sanitary facilities are prohibited.
- H. The structure shall be adequately anchored to prevent flotation, collapse, and lateral movement and shall be designed to automatically provide for the entry and exit of floodwater for the purpose of equalizing hydrostatic forces on the walls. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
 - 1. A minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.
 - 2. The bottom of all openings shall be no higher than one (1) foot above grade.
 - 3. Openings may be equipped with screens, louvers, etc. or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

(c) Design and Construction Standards. The following minimum standards shall apply for all construction and development proposed within any identified floodplain area:

- (1) Fill. If fill is used, it shall:
 - A. Extend laterally at least fifteen (15) feet beyond the building line from all points;
 - B. Consist of soil or small rock materials only - Sanitary Landfills shall not be permitted;
 - C. Be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling;
 - D. Be no steeper than one (1) vertical to two (2) horizontal feet unless substantiated data justifying steeper slopes are submitted to, and approved by the Floodplain Administrator; and
 - E. Be used to the extent to which it does not adversely affect adjacent properties.
- (2) Drainage Facilities. Storm drainage facilities shall be designed to convey the flow of storm water runoff in a safe and efficient manner. The system shall ensure proper drainage along streets, and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.

- (3) Water and Sanitary Sewer Facilities and Systems.
- A. All new or replacement water supply and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of flood waters.
 - B. Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into flood waters.
 - C. No part of any on-site waste disposal system shall be located within any identified floodplain area except in strict compliance with all State and local regulations for such systems. If any such system is permitted, it shall be located so as to avoid impairment to it, or contamination from it, during a flood.
 - D. The design and construction provisions of the UCC and FEMA #348, "Protecting Building Utilities From Flood Damages" and "The International Private Sewage Disposal Code" shall be utilized.
- (4) Other Utilities. All other utilities such as gas lines, electrical and telephone systems shall be located, elevated (where possible) and constructed to minimize the chance of impairment during a flood.
- (5) Streets. The finished elevation of all new streets shall be no more than one (1) foot below the Regulatory Flood Elevation.
- (6) Storage. All materials that are buoyant, flammable, explosive, or in times of flooding, could be injurious to human, animal, or plant life, and not listed in subsection (d), Development Which May Endanger Human Life, shall be stored at or above the Regulatory Flood Elevation or floodproofed to the maximum extent possible.
- (7) Placement of Buildings and Structures. All buildings and structures shall be designed, located, and constructed so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of flood water.
- (8) Anchoring.
- A. All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
 - B. All air ducts, large pipes, storage tanks, and other similar objects or components located below the regulatory flood elevation shall be securely anchored or affixed to prevent flotation.
- (9) Floors, Walls and Ceilings.
- A. Wood flooring used at or below the Regulatory Flood Elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain without causing structural damage to the building.
 - B. Plywood used at or below the regulatory flood elevation shall be of a "marine" or "water-resistant" variety.
 - C. Walls and ceilings at or below the regulatory flood elevation shall be designed and constructed of materials that are "water-resistant" and will withstand inundation.
 - D. Windows, doors, and other components at or below the regulatory flood elevation shall be made of metal or other "water-resistant" material.

- (10) Paints and Adhesives.
- A. Paints and other finishes used at or below the regulatory flood elevation shall be of "marine" or "water-resistant" quality.
 - B. Adhesives used at or below the regulatory flood elevation shall be of a "marine" or "water-resistant" variety.
 - C. All wooden components (doors, trim, cabinets, etc.) used at or below the regulatory flood elevation shall be finished with a "marine" or "water-resistant" paint or other finishing material.
- (11) Electrical Components.
- A. Electrical distribution parcels shall be at least three (3) feet above the base flood elevation.
 - B. Separate electrical circuits shall serve lower levels and shall be dropped from above.
- (12) Equipment. Water heaters, furnaces, air conditioning and ventilating units, and other electrical, mechanical or utility equipment or apparatus shall not be located below the regulatory flood elevation.
- (13) Fuel Supply Systems. All gas and oil supply systems shall be designed to prevent the infiltration of flood waters into the system and discharges from the system into flood waters. Additional provisions shall be made for the drainage of these systems in the event that flood water infiltration occurs.
- (14) Uniform Construction Code Coordination.
- A. The Standards and Specifications contained 34 PA Code (Chapters 401-405), as amended and not limited to the following provisions shall apply to the above and other sections and subsections of this article, to the extent that they are more restrictive and supplement the requirements of this article.
 - B. International Building Code (IBC) 2009 or the latest edition thereof:
Secs. 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G.
 - C. International Residential Building Code (IRC) 2009 or the latest edition thereof:
Sees. R104, R105, R109, R322, Appendix E, and Appendix J.
- (d) Development Which May Endanger Human Life.
- (1) In accordance with the Pennsylvania Flood Plain Management Act, and the regulations adopted by the Department of Community and Economic Development as required by the Act, any new or substantially improved structure which:
- A. Will be used for the production or storage of any of the following dangerous materials or substances; or,
 - B. Will be used for any activity requiring the maintenance of a supply of more than 550 gallons, or other comparable volume, of any of the following dangerous materials or substances on the premises; or,
 - C. Will involve the production, storage, or use of any amount of radioactive substances;

shall be subject to the provisions of this section, in addition to all other applicable provisions. The following list of materials and substances are considered dangerous to human life:

- Acetone
- Ammonia
- Benzene
- Calcium carbide
- Carbon disulfide
- Celluloid
- Chlorine
- Hydrochloric acid
- Hydrocyanic acid
- Magnesium
- Nitric acid and oxides of nitrogen
- Petroleum products (gasoline, fuel oil, etc.)
- Phosphorus
- Potassium
- Sodium
- Sulphur and sulphur products
- Pesticides (including insecticides, fungicides, and rodenticides)
- Radioactive substances, insofar as such substances are not otherwise regulated.

- (2) Within any Identified Floodplain Area, any new or substantially improved structure of the kind described in subsection (d)(1) hereof, shall be prohibited within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.
- (3) Within any Floodway Area, any structure of the kind described in subsection (d)(1) hereof, shall be prohibited. Where permitted within any Identified Floodplain Area, any new or substantially improved residential structure of the kind described in subsection (d)(1) above, shall be elevated to remain completely dry up to at least one and one-half (1 1/2) feet above base flood elevation and built in accordance with subsections (a), (b) and (c).
- (4) Where permitted within any Identified Floodplain Area, any new or substantially improved non-residential structure of the kind described in subsection (d)(1) above, shall be built in accordance with subsections (a), (b) and (c) including:
 - A. Elevated, or designed and constructed to remain completely dry up to at least one and one-half (1 1/2) feet above base flood elevation, and
 - B. Designed to prevent pollution from the structure or activity during the course of a base flood.

Any such structure, or part thereof, that will be built below the regulatory flood elevation shall be designed and constructed in accordance with the standards for completely dry floodproofing contained in the publication "Flood-Proofing Regulations (U.S. Army Corps of Engineers, June 1972 as amended March 1992), or with some other equivalent watertight standard.

(e) Special Requirements for Subdivisions and Development. All subdivision proposals and development proposals containing at least 50 lots or at least 5 acres, whichever is the lesser, in Identified Floodplain Areas where base flood elevation data are not available, shall be supported by hydrologic and hydraulic engineering analyses that determine base flood elevations and floodway information. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a Conditional Letter of Map Revision and Letter of Map Revision. Submittal requirements and processing fees shall be the responsibility of the applicant.

(f) Special Requirements for Manufactured Homes.

- (1) Within any Floodway Area/District, manufactured homes shall be prohibited.
- (2) Within any Identified Floodplain Area manufactured homes shall be prohibited within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.
- (3) Where permitted within any Identified Floodplain Area, all manufactured homes, and any improvements thereto, shall be:
 - A. Placed on a permanent foundation;
 - B. Elevated so that the lowest floor of the manufactured home is at least one and one-half (1 1/2) feet above base flood elevation;
 - C. Anchored to resist flotation, collapse, or lateral movement.
- (4) Installation of manufactured homes shall be done in accordance with the manufacturers' installation instructions as provided by the manufacturer. Where the applicant cannot provide the above information, the requirements of Appendix E of the 2009 "International Residential Building Code" or the "U.S. Department of Housing and Urban Development's Permanent Foundations for Manufactured Housing," 1984 Edition, draft or latest revision thereto and 34 PA Code Chapter 401-405 shall apply.
- (5) Consideration shall be given to the installation requirements of the 2009 IBC, and the 2009 IRC or the most recent revisions thereto and 34 PA Code, as amended where appropriate and/or applicable to units where the manufacturers' standards for anchoring cannot be provided or were not established for the proposed unit(s) installation.

(g) Special Requirements for Recreational Vehicles. Recreational vehicles in Zones A, A1-30, AH and AE must either:

- (1) Be on the site for fewer than 180 consecutive days, and
- (2) Be fully licensed and ready for highway use, or
- (3) Meet the permit requirements for manufactured homes in subsection (f) hereof. (Ord. 2-2014. Passed 1-8-14.)

945.06 ACTIVITIES REQUIRING SPECIAL PERMITS.

(a) General. In accordance with the administrative regulations promulgated by the Department of Community and Economic Development to implement the Pennsylvania Flood Plain Management Act, the following activities shall be prohibited within any Identified Floodplain Area unless a Special Permit has been issued by the City of Erie:

- (1) The commencement of any of the following activities; or the construction, enlargement, or expansion of any structure used, or intended to be used, for any of the following activities:

- A. Hospitals.
- B. Nursing homes
- C. Jails or prisons
- (2) The commencement of, or any construction of, a new manufactured home park or manufactured home subdivision, or substantial improvement to an existing manufactured home park or manufactured home subdivision.

(b) Application Requirements for Special Permits. Applicants for Special Permits shall provide five copies of the following items:

- (1) A written request including a completed Permit Application Form.
- (2) A small scale map showing the vicinity in which the proposed site is located.
- (3) A plan of the entire site, clearly and legibly drawn at a scale of one (1) inch being equal to one hundred (100) feet or less, showing the following:
 - A. North arrow, scale and date;
 - B. Topography based upon the North American Vertical Datum (NAVD) of 1988, showing existing and proposed contours at intervals of two (2) feet;
 - C. All property and lot lines including dimensions, and the size of the site expressed in acres or square feet;
 - D. The location of all existing streets, drives, other accessways; and parking areas, with information concerning widths; pavement types and construction, and elevations;
 - E. The location of any existing bodies of water or watercourses, buildings, structures and other public or private facilities, including railroad tracks and facilities, and any other natural and man-made features affecting, or affected by, the proposed activity or development;
 - F. The location of the floodplain boundary line, information and spot elevations concerning the base flood elevation, and information concerning the flow of water including direction and velocities;
 - G. The location of all proposed buildings, structures, utilities; and any other improvements; and
 - H. Any other information which the Municipality considers necessary for adequate review of the application.
- (4) Plans of all proposed buildings, structures and other improvements, clearly and legibly drawn at suitable scale showing the following:
 - A. Sufficiently detailed architectural or engineering drawings, including floor plans, sections, and exterior building elevations, as appropriate;
 - B. For any proposed building, the elevation of the lowest floor (including basement) and, as required, the elevation of any other floor;
 - C. Complete information concerning flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the base flood;

- D. Detailed information concerning any proposed floodproofing measures;
 - E. Cross section drawings for all proposed streets, drives, other accessways, and parking areas, showing all rights-of-way and pavement widths;
 - F. Profile drawings for all proposed streets, drives, and vehicular accessways including existing and proposed grades; and
 - G. Plans and profiles of all proposed sanitary and storm sewer systems, water supply systems, and any other utilities and facilities.
- (5) The following data and documentation:
- A. Certification from the applicant that the site upon which the activity or development is proposed is an existing separate and single parcel, owned by the applicant or the client he represents;
 - B. Certification from a registered professional engineer, architect, or landscape architect that the proposed construction has been adequately designed to protect against damage from the base flood;
 - C. A statement, certified by a registered professional engineer, architect, landscape architect, or other qualified person which contains a complete and accurate description of the nature and extent of pollution that might possibly occur from the development during the course of a base flood, including a statement concerning the effects such pollution may have on human life;
 - D. A statement certified by a registered professional engineer, architect, or landscape architect, which contains a complete and accurate description of the effects the proposed development will have on base flood elevation and flows;
 - E. A statement, certified by a registered professional engineer, architect, or landscape architect, which contains a complete and accurate description of the kinds and amounts of any loose buoyant materials or debris that may possibly exist or be located on the site below the base flood elevation and the effects such materials and debris may have on base flood elevation and flows;
 - F. The appropriate component of the Department of Environmental Protection's "Planning Module for Land Development;"
 - G. Where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection to implement and maintain erosion and sedimentation control;
 - H. Any other applicable permits such as, but not limited to, a permit for any activity regulated by the Department of Environmental Protection under Section 302 of Act 1978-166; and
 - I. An evacuation plan which fully explains the manner in which the site will be safely evacuated before or during the course of a base flood.

(c) Application Review Procedures. Upon receipt of an application for a Special Permit by the City of Erie the following procedures shall apply in addition to those of Section 945.03:

- (1) Within three (3) working days following receipt of the application, a complete copy of the application and all accompanying documentation shall be forwarded to the County Planning Commission by registered or certified mail for its review and recommendations. Copies of the application shall also be forwarded to the City of Erie Planning Commission and the Floodplain Administrator for review and comment.
- (2) If an application is received that is incomplete, the City of Erie shall notify the applicant in writing, stating in what respect the application is deficient.
- (3) If the City of Erie decides to disapprove an application, it shall notify the applicant, in writing, of the reasons for the disapproval.
- (4) If the City of Erie approves an application, it shall file written notification, together with the application and all pertinent information, with the Department of Community and Economic Development, by registered or certified mail, within five (5) working days after the date of approval.
- (5) Before issuing the Special Permit, the City of Erie shall allow the Department of Community and Economic Development thirty (30) days, after receipt of the notification by the Department, to review the application and decision made by the City of Erie.
- (6) If the City of Erie does not receive any communication from the Department of Community and Economic Development during the thirty (30) day review period, it may issue a Special Permit to the applicant.
- (7) If the Department of Community and Economic Development should decide to disapprove an application, it shall notify the City of Erie and the applicant, in writing, of the reasons for the disapproval, and the City of Erie shall not issue the Special Permit.

(d) Special Technical Requirements.

- (1) In addition to the requirements of Section 945.05, the following minimum requirements shall also apply to any proposed development requiring a Special Permit. If there is any conflict between any of the following requirements and these in Section 945.05 or in any other code, ordinance, or regulation, the more restrictive provision shall apply.
- (2) No application for a Special Permit shall be approved unless it can be determined that the structure or activity will be located, constructed and maintained in a manner which will:
 - A. Fully protect the health and safety of the general public and any occupants of the structure. At a minimum, all new structures shall be designed, located, and constructed so that:
 1. The structure will survive inundation by waters of the base flood without any lateral movement or damage to either the structure itself, or to any of its equipment or contents below the BFE.

2. The lowest floor (including basement) will be elevated to at least one and one-half (1 1/2) feet above base flood elevation.
 3. The occupants of the structure can remain inside for an indefinite period of time and be safely evacuated at any time during the base flood.
- B. Prevent any significant possibility of pollution, increased flood levels or flows, or debris endangering life and property.

All hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc. shall be submitted in sufficient detail to allow a thorough technical review by the City of Erie and the Department of Community and Economic Development.
(Ord. 2-2014. Passed 1-8-14.)

945.07 EXISTING STRUCTURES IN IDENTIFIED FLOODPLAIN AREAS.

(a) Existing Structures. The provisions of this article do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to any existing structure, the provisions of subsection (b) shall apply.

(b) Improvements. The following provisions shall apply whenever any improvement is made to an existing structure located within any Identified Floodplain Area:

- (1) No expansion or enlargement of an existing structure shall be allowed within any Floodway Area/District that would cause any increase in BFE.
- (2) No expansion or enlargement of an existing structure shall be allowed within AE Area/District without floodway that would, together with all other existing and anticipated development, increase the BFE more than one (1) foot at any point.
- (3) Any modification, alteration, reconstruction, or improvement of any kind to an existing structure to an extent or amount of fifty (50) percent or more of its market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this article.
- (4) The above activity shall also address the requirements of the 34 PA Code, as amended and the 2009 IBC and the 2009 IRC.
- (5) Within any Floodway Area/District (See Section 945.04(b)(1)), no new construction or development shall be allowed, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.
- (6) Within any AE Area/District without Floodway (See Section 945.04(b)(2)), no new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.
(Ord. 2-2014. Passed 1-8-14.)

945.08 VARIANCES.

(a) General. If compliance with any of the requirements of this article would result in an exceptional hardship to a prospective builder, developer or landowner, the Zoning Hearing Board may, upon request, grant relief from the strict application of the requirements.

(b) Variance Procedures and Conditions. Requests for variances shall be considered by the Zoning Hearing Board in accordance with the procedures contained in Section 945.03(k) and the following:

- (1) No variance shall be granted for any construction, development, use, or activity within any Floodway Area/District that would cause any increase in the BFE.
- (2) No variance shall be granted for any construction, development, use, or activity within any AE Area/District without floodway that would, together with all other existing and anticipated development, increase the BFE more than one (1) foot at any point.
- (3) Except for a possible modification of the regulatory flood elevation requirement involved, no variance shall be granted for any of the other requirements pertaining specifically to development regulated by Special Permit or to Development Which May Endanger Human Life.
- (4) If granted, a variance shall involve only the least modification necessary to provide relief.
- (5) In granting any variance, the Zoning Hearing Board shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of this article.
- (6) Whenever a variance is granted, the Zoning Hearing Board shall notify the applicant in writing that:
 - A. The granting of the variance may result in increased premium rates for flood insurance.
 - B. Such variances may increase the risks to life and property.
- (7) In reviewing any request for a variance, the Zoning Hearing Board shall consider, at a minimum, the following:
 - A. That there is good and sufficient cause.
 - B. That failure to grant the variance would result in exceptional hardship to the applicant.
 - C. That the granting of the variance will:
 1. Neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense,
 2. Nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.
- (8) A complete record of all variance requests and related actions shall be maintained by the City of Erie. In addition, a report of all variances granted during the year shall be included in the annual report to the FEMA.

Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the one percent (1%) annual chance flood. (Ord. 2-2014. Passed 1-8-14.)

945.09 DEFINITIONS.

(a) General. Unless specifically defined below, words and phrases used in this article shall be interpreted so as to give this article its most reasonable application.

(b) Specific Definitions.

- (1) Accessory use or structure - a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.
- (2) Base flood- a flood which has a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood" or one-percent (1%) annual chance flood).
- (3) Base flood discharge - the volume of water resulting from a Base Flood as it passes a given location within a given time, usually expressed in cubic feet per second (cfs).
- (4) Base flood elevation (BFE) - the elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-30 that indicates the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.
- (5) Basement- any area of the building having its floor below ground level on all sides.
- (6) Building- a combination of materials to form a permanent structure having walls and a roof. Included shall be all manufactured homes and trailers to be used for human habitation.
- (7) Development - any man-made change to improved or unimproved real estate, including but not limited to the construction, reconstruction, renovation, repair, expansion, or alteration of buildings or other structures; the placement of manufactured homes; streets, and other paving; utilities; filling, grading and excavation; mining; dredging; drilling operations; storage of equipment or materials; and the subdivision of land.
- (8) Existing manufactured home park or subdivision - a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.
- (9) Expansion to an existing manufactured home park or subdivision - the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
- (10) Flood- a temporary inundation of normally dry land areas.
- (11) Flood Insurance Rate Map (FIRM) - the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
- (12) Flood Insurance Study (FIS) - the official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

- (13) Floodplain area- a relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse; and/or any area subject to the unusual and rapid accumulation of surface waters from any source.
- (14) Floodproofing - any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
- (15) Floodway- the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
- (16) Highest Adjacent Grade: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- (17) Historic structures- any structure that is:
- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - C. Individually listed on a state inventory of historic places in states which have been approved by the Secretary of the Interior; or
 - D. Individually listed on a local inventory of historic places in communities with historic preservation that have been certified either:
 1. By an approved state program as determined by the Secretary of the Interior or
 2. Directly by the Secretary of the Interior in states without approved programs.
- (18) Identified Floodplain Area - this term is an umbrella term that includes all of the areas within which the community has selected to enforce floodplain regulations. It will always include the area identified as the Special Flood Hazard Area on the Flood Insurance Rate Maps and Flood Insurance Study, but may include additional areas identified by the community. See Section 945.04(a) and (b) for the specifics on what areas the community has included in the Identified Floodplain Area.
- (19) Lowest floor - the lowest floor of the lowest fully enclosed area (including basement). An unfinished, flood resistant partially enclosed area, used solely for parking of vehicles, building access, and incidental storage, in an area other than a basement area is not considered the lowest floor of a building, provided that such space is not designed and built so that the structure is in violation of the applicable non-elevation design requirements of this article.

- (20) Manufactured home - a structure, transportable in one or more sections, which is built on a permanent chassis, and is designed for use with or without a permanent foundation when attached to the required utilities. The term includes park trailers, travel trailers, recreational and other similar vehicles which are placed on a site for more than 180 consecutive days.
- (21) Manufactured home park or subdivision - a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- (22) Minor repair - the replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but not including the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the exitway requirements; nor shall minor repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, oil, waste, vent, or similar piping, electric wiring, mechanical or other work affecting public health or general safety.
- (23) New construction - structures for which the start of construction commenced on or after February 19, 2014 and includes any subsequent improvements to such structures. Any construction started after March 1, 1979 and before February 19, 2014 is subject to the ordinance in effect at the time the permit was issued, provided the start of construction was within 180 days of permit issuance.
- (24) New manufactured home park or subdivision - a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.
- (25) Person - an individual, partnership, public or private association or corporation, firm, trust, estate, municipality, governmental unit, public utility or any other legal entity whatsoever, which is recognized by law as the subject of rights and duties.
- (26) Post-FIRM Structure - is a structure for which construction or substantial improvement occurred after December 31, 1974 or on or after the community's initial Flood Insurance Rate Map (FIRM) dated March 1, 1979, whichever is later, and, as such, would be required to be compliant with the regulations of the National Flood Insurance Program.
- (27) Pre-FIRM Structure - is a structure for which construction or substantial improvement occurred on or before December 31, 1974 or before the community's initial Flood Insurance Rate Map (FIRM) dated March 1, 1979, whichever is later, and, as such, would not be required to be compliant with the regulations of the National Flood Insurance Program.
- (28) Recreational vehicle - a vehicle which is:
- A. Built on a single chassis;

- B. Not more than 400 square feet, measured at the largest horizontal projections;
 - C. Designed to be self-propelled or permanently towable by a light-duty truck,
 - D. Not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- (29) Regulatory flood elevation - the base flood elevation (BFE) or estimated flood height as determined using simplified methods plus a freeboard safety factor of one and one-half (1 1/2) feet.
- (30) Special permit- a special approval which is required for hospitals, nursing homes, jails, and new manufactured home parks/subdivisions and substantial improvements to such existing parks, when such development is located in all, or a designated portion of a floodplain.
- (31) Special flood hazard area (SFHA) - means an area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone A, AO, A1-A30, AE, A99, or, AH.
- (32) Start of construction - includes substantial improvement and other proposed new development and means the date the Permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days after the date of the permit and shall be completed within twelve (12) months after the date of issuance of the permit unless a time extension is granted, in writing, by the Floodplain Administrator. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings; such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- (33) Structure - a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.
- (34) Subdivision- the division or re-division of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs, or devisees, transfer of ownership or building or lot development: Provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

- (35) Substantial damage - damage from any cause sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50) percent or more of the market value of the structure before the damage occurred.
- (36) Substantial improvement - any reconstruction, rehabilitation, addition, or other improvement of a structure, of which the cost equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage" regardless of the actual repair work performed. The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
- (37) Uniform Construction Code (UCC) - The statewide building code adopted by The Pennsylvania General Assembly in 1999 applicable to new construction in all municipalities whether administered by the municipality, a third party or the Department of Labor and Industry. Applicable to residential and commercial buildings, The Code adopted The International Residential Code (IRC) and the International Building Code (IBC), by reference, as the construction standard applicable with the State floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC.
- (38) Variance - A grant of relief by a community from the terms of a floodplain management regulation.
- (39) Violation - means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR §60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided. (Ord. 2-2014. Passed 1-8-14.)

ARTICLE 946
Stormwater Quality Management

- 946.01 Short title.
- 946.02 Statement of findings.
- 946.03 Purpose.
- 946.04 Statutory authority.
- 946.05 Applicability.
- 946.06 Repealer.
- 946.07 Severability.
- 946.08 Compatibility with other requirements.
- 946.09 Definitions.
- 946.10 Stormwater management for water quality.
- 946.11 Stormwater BMP Operations and Maintenance Plan requirements.
- 946.12 Inspections and right of entry.
- 946.13 Fees and expenses.
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- 946.15 Enforcement and penalties.
- 946.16 Penalties.
- 946.17 Appeals.
- Appendix A
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946.01 SHORT TITLE.

This Article shall be known and may be cited as the "City of Erie Stormwater Quality Management Ordinance." (Ord. 20-2004. Passed 3-10-04.)

946.02 STATEMENT OF FINDINGS.

The governing body of the Municipality finds that:

- (a) Stormwater runoff from lands modified by human activities threatens public health and safety by causing decreased infiltration of rainwater and increased runoff flows and velocities, which overtax the carrying capacity of existing streams and storm sewers, and greatly increases the cost to the public to manage stormwater.
- (b) Inadequate planning and management of stormwater runoff resulting from land development and redevelopment throughout a watershed can also harm surface water resources by changing the natural hydrologic patterns, accelerating stream flows (which increase scour and erosion of stream-beds and stream-banks thereby elevating sedimentation), destroying aquatic habitat and elevating aquatic pollutant concentrations and loadings such as sediments, nutrients, heavy metals and pathogens. Groundwater resources are also impacted through loss of recharge.

- (c) A program of stormwater management, including reasonable regulation of land development and redevelopment causing loss of natural infiltration, is fundamental to the public health, safety, welfare, and the protection of the people of the Municipality and all the people of the Commonwealth, their resources, and the environment.
- (d) Stormwater can be an important water resource by providing groundwater recharge for water supplies and base flow of streams, which also protects and maintains surface water quality.
- (e) Public education on the control of pollution from stormwater is an essential component in successfully addressing stormwater.
- (f) Federal and state regulations require certain municipalities to implement a program of stormwater controls. These municipalities are required to obtain a permit for stormwater discharges from their separate storm sewer systems under the National Pollutant Discharge Elimination System (NPDES).
- (g) Non-stormwater discharges to municipal separate storm sewer systems can contribute to pollution of waters of the Commonwealth by the Municipality. (Ord. 20-2004. Passed 3-10-04.)

946.03 PURPOSE.

The purpose of this article is to promote health, safety, and welfare within the Municipality and its watershed by minimizing the harms and maximizing the benefits described in Section 946.02, through provisions designed to:

- (a) Manage stormwater runoff impacts at their source by regulating activities that cause the problems.
- (b) Provide review procedures and performance standards for stormwater planning and management.
- (c) Utilize and preserve the existing natural drainage systems as much as possible.
- (d) Manage stormwater impacts close to the runoff source, which requires a minimum of structures and relies on natural processes.
- (e) Focus on infiltration of stormwater, to maintain groundwater recharge, to prevent degradation of surface and groundwater quality and to otherwise protect water resources.
- (f) Maintain existing flows and quality of streams and watercourses.
- (g) Meet legal water quality requirements under state law, including regulations at 25 Pa. Code Chapter 93.4a to protect and maintain "existing uses" and maintain the level of water quality to support those uses in all streams, and to protect and maintain water quality in "special protection" streams.
- (h) Prevent scour and erosion of stream banks and streambeds.
- (i) Provide for proper operations and maintenance of all permanent stormwater management BMPs that are implemented in the Municipality.
- (j) Provide a mechanism to identify controls necessary to meet the NPDES permit requirements.
- (k) Implement an illegal discharge detection and elimination program to address non-stormwater discharges into the Municipality's separate storm sewer system. (Ord. 20-2004. Passed 3-10-04.)

946.04 STATUTORY AUTHORITY.

The Municipality is empowered to regulate land use activities that affect stormwater impacts by the authority of the Optional Third Class City Charter Law, 53 P.S. § 41401 et seq., by the Third Class City Code, 53 P.S. § 535101 et seq., by the Stormwater Management Act, 32 P.S. § 680.1 et seq., and by the Pennsylvania Municipal Planning Code, 53 P.S. § 10101 et seq. (Ord. 20-2004. Passed 3-10-04.)

946.05 APPLICABILITY.

(a) This article applies to any Regulated Earth Disturbance activities within the Municipality, and all stormwater runoff entering into the Municipality's separate storm sewer system from lands within the boundaries of the Municipality.

(b) Earth Disturbance activities and associated stormwater management controls are also regulated under existing state law and implementing regulations. This article shall operate in coordination with those parallel requirements; the requirements of this article shall be no less restrictive in meeting the purposes of this article than state law. (Ord. 20-2004. Passed 3-10-04.)

946.06 REPEALER.

Any other ordinance provision(s) or regulation of the Municipality inconsistent with any of the provisions of this article is hereby repealed to the extent of the inconsistency only. (Ord. 20-2004. Passed 3-10-04.)

946.07 SEVERABILITY.

In the event that any section or provision of this article is declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of any of the remaining provisions of this article. (Ord. 20-2004. Passed 3-10-04.)

946.08 COMPATIBILITY WITH OTHER REQUIREMENTS.

(a) Approvals issued and actions taken under this article do not relieve the Applicant of the responsibility to secure required permits or approvals for activities regulated by any other code, law, regulation or ordinance. To the extent that this article imposes more rigorous or stringent requirements for stormwater management, the specific requirements contained in this article shall be followed.

(b) Nothing in this article shall be construed to affect any of the Municipality's requirements regarding stormwater matters which do not conflict with the provisions of this article, such as local stormwater management design criteria (e.g. inlet spacing, inlet type, collection system design and details, outlet structure design, etc.). Conflicting provisions in other municipal ordinances or regulations shall be construed to retain the requirements of this ordinance addressing State Water Quality Requirements. (Ord. 20-2004. Passed 3-10-04.)

946.09 DEFINITIONS.

For the purposes of this article, certain terms and words used herein shall be interpreted as follows:

- (a) Words used in the present tense include the future tense; the singular number includes the plural, and the plural number includes the singular; words of masculine gender include feminine gender; and words of feminine gender include masculine gender.
- (b) The word "includes" or "including" shall not limit the term to the specific example but is intended to extend its meaning to all other instances of like kind and character.
- (c) The words "shall" and "must" are mandatory; the words "may" and "should" are permissive.
- (d) Accelerated Erosion - The removal of the surface of the land through the combined action of human activities and the natural processes, at a rate greater than would occur because of the natural process alone.
- (e) Applicant - A landowner, developer or other person who has filed an application for approval to engage in any Regulated Earth Disturbance activity at a project site in the Municipality.
- (f) BMP (Best Management Practice) - Activities, facilities, designs, measures or procedures used to manage stormwater impacts from Regulated Earth Disturbance activities, to meet State Water Quality Requirements, to promote groundwater recharge and to otherwise meet the purposes of this article.
- (g) BMPs include but are not limited to infiltration, filter strips, low impact design, bioretention, wet ponds, permeable paving, grassed swales, forested buffers, sand filters, detention basins and sedimentation oil, grit separators.
- (h) Conservation District - The Erie County Conservation District.
- (i) DEP - The Pennsylvania Department of Environmental Protection
- (j) Developer - A person that seeks to undertake any Regulated Earth Disturbance activities at a project site in the Municipality.
- (k) Development - See "Earth Disturbance Activity." The term includes redevelopment.
- (l) Development Site - The specific tract of land where any Earth Disturbance activities in the Municipality are planned, conducted or maintained.
- (m) Earth Disturbance Activity - A construction or other human activity which disturbs the surface of the land, including but not limited to, clearing and grubbing, grading, excavations, embankments, road maintenance, building construction and the moving, depositing, stockpiling, or storing of soil, rock or earth materials.
- (n) Erosion - The process by which the surface of the land, including channels, is worn away by water, wind, or chemical action.
- (o) Erosion and Sediment Control Plan - A plan for a project site which identifies BMPs to stop or minimize accelerated erosion and sedimentation.
- (p) Groundwater Recharge - Replenishment of existing natural underground water supplies.
- (q) Impervious Surface - A surface that prevents the infiltration of water into the ground. Impervious surface includes, but is not limited to, any roof, parking or driveway areas, and any new streets and sidewalks. Any surface areas designed to initially be gravel or crushed stone shall be assumed to be impervious surfaces.
- (r) Municipality - City of Erie, Erie County, Pennsylvania

- (s) NPDES - National Pollutant Discharge Elimination System, the federal government's system for issuance of permits under the Clean Water Act, which is delegated to DEP in Pennsylvania
- (t) Outfall - "Point Source" as described in 40 CER § 122.2 at the point where the Municipality's storm sewer system discharges to surface waters of the Commonwealth.
- (u) Person - An individual, partnership, public or private association or corporation, or a governmental unit, public utility or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.
- (v) Point Source - any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, or conduit from which stormwater is or may be discharged, as defined in State regulations at 25 Pa. Code § 92.1.
- (w) Project Site - The specific area of land where any Regulated Earth Disturbance activities in the Municipality are planned, conducted or maintained.
- (x) Redevelopment - Earth Disturbance activities on land, which has previously been disturbed or developed.
- (y) Regulated Earth Disturbance Activity - Earth disturbance activity one acre or more with a point source discharge to surface waters or the Municipality's storm sewer system, or five acres or more regardless of the planned runoff. This includes earth disturbance on any portion of, part, or during any stage of, a larger common plan of development. This only includes road maintenance activities involving 25 acres or more or earth disturbance.
- (z) Road Maintenance - earth disturbance activities within the existing road cross-section, such as grading and repairing existing unpaved road surfaces, cutting road banks, cleaning or clearing drainage ditches and other similar activities.
- (aa) Separate Storm Sewer System - A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels or storm drains) primarily used for collecting and conveying stormwater runoff.
- (bb) State Water Quality Requirements - As defined under state regulations -- protection of designated and existing uses (See 25 Pa. Code Chapters 93 and 96)-- including:
 - (1) Each stream segment in Pennsylvania has a "designated use," such as "cold water fishery" or "potable water supply," which are listed in Chapter 93. These uses must be protected and maintained, under state regulations.
 - (2) "Existing uses" are those attained as of November 1975, regardless whether they have been designated in Chapter 93. Regulated Earth Disturbance activities must be designed to protect and maintain existing uses and maintain the level of water quality necessary to protect those uses in all streams, and to protect and maintain water quality in special protection streams.
 - (3) Water quality involves the chemical, biological and physical characteristics of surface water bodies. After Regulated Earth Disturbance activities are complete, these characteristics can be impacted by addition of pollutants such as sediment, and changes in habitat through increased flow volumes and/or rates as a result of changes in land surface area from those activities. Therefore, permanent discharges to surface waters must be managed to protect the stream bank, streambed and structural integrity of the waterway, to prevent these impacts.

- (cc) Stormwater - The surface runoff generated by precipitation reaching the ground surface.
- (dd) Surface Waters of the Commonwealth - Any and all rivers, streams, creeks, rivulets, impoundments, ditches, watercourses, storm sewers, lakes, dammed water, wetlands, ponds, springs, and all other bodies or channels of conveyance of surface water, or parts thereof, whether natural or artificial, within or on the boundaries of this Commonwealth.
- (ee) Watercourse - A channel or conveyance of surface water, such as a stream or creek, having defined bed and banks, whether natural or artificial, with perennial or intermittent flow.
- (ff) Watershed - Region or area drained by a river, watercourse or other body of water, whether natural or artificial. (Ord. 20-2004. Passed 3-10-04.)

946.10 STORMWATER MANAGEMENT FOR WATER QUALITY.

(a) General Requirements for Stormwater Management.

- (1) All Regulated Earth Disturbance activities within the Municipality shall be designed, implemented, operated and maintained to meet the purposes of this article, through these two elements:
 - A. Erosion and Sediment control during the earth disturbance activities (e.g., during construction), and
 - B. Water quality protection measures after completion of earth disturbance activities (e.g., after construction), including operations and maintenance.
- (2) No Regulated Earth Disturbance activities within the Municipality shall commence until the requirements of this article are met.
- (3) All construction activity shall utilize BMPs (Best Management Practices) to the greatest extent feasible. BMPs include: activities, facilities, designs, measures or procedures used to manage stormwater impacts from Regulated Earth Disturbance activities, to meet State Water Quality Requirements, to promote groundwater recharge and to otherwise meet the purposes of this article.
- (4) Erosion and sediment control during Regulated Earth Disturbance activities shall be addressed as required by subsection (c) hereof.
- (5) Post-construction water quality protection shall be addressed as required by subsection (d) hereof. Operations and maintenance of permanent stormwater BMPs shall be addressed as required by Article IV.
- (6) All Best Management Practices (BMPs) used to meet the requirements of this article shall conform to the State Water Quality Requirements, and any more stringent requirements as determined by the Municipality.
- (7) Techniques described in Appendix A (Low Impact Development) of this article are encouraged, because they reduce the costs of complying with the requirements of this article and the State Water Quality Requirements.

(b) Permit Requirements by Other Government Entities. The following permit requirements may apply to certain Regulated Earth Disturbance activities, and must be met prior to commencement of Regulated Earth Disturbance activities, as applicable:

- (1) All Regulated Earth Disturbance activities subject to permit requirements by DEP under regulations at 25 Pa. Code Chapter 102.
- (2) Work within natural drainageways subject to permit by DEP under 25 Pa. Code Chapter 105.
- (3) Any stormwater management facility that would be located in or adjacent to surface waters of the Commonwealth, including wetlands, subject to permit by DEP under 25 Pa. Code Chapter 105.
- (4) Any stormwater management facility that would be located on a State highway right-of-way, or require access from a state highway, shall be subject to approval by the Pennsylvania Department of Transportation (PENNDOT).
- (5) Culverts, bridges, storm sewers or any other facilities which must pass or convey flows from the tributary area and any facility which may constitute a dam subject to permit by DEP under 25 Pa. Code Chapter 105.

(c) Erosion and Sediment Control During Regulated Earth Disturbance Activities.

- (1) No Regulated Earth Disturbance activities within the Municipality shall commence until approval by the Municipality of an Erosion and Sediment Control Plan for construction, maintenance or other excavation activities.
- (2) DEP has regulations that require an Erosion and Sediment Control Plan for any earth disturbance activity of 5,000 square feet or more, under 25 Pa. Code § 102.4(b). For disturbances less than 5,000 square feet, the earth disturbance activity shall be governed by the rules and regulations of the City of Erie Bureau of Engineering.
- (3) In addition, under 25 Pa. Code Chapter 92, a DEP "NPDES Construction Activities" permit is required for Regulated Earth Disturbance activities.
- (4) Evidence of any necessary permit(s) for Regulated Earth Disturbance activities from the appropriate DEP regional office or County Conservation District must be provided to the Municipality. The issuance of an NPDES Construction Permit (or permit coverage under the statewide General Permit (PAG-2) satisfies the requirements subsection (c)(1).
- (5) A copy of the Erosion and Sediment Control plan and any required permit, as required by DEP regulations, shall be available at the project site at all times.

(d) Water Quality Requirements After Regulated Earth Disturbance Activities Are Complete.

- (1) No Regulated Earth Disturbance activities within the Municipality shall commence until approval by the Municipality of a plan which demonstrates compliance with State Water Quality Requirements after construction is complete.
- (2) The BMPs must be designed, implemented and maintained to meet State Water Quality Requirements, and any other more stringent requirements as determined by the Municipality.

- (3) To control post-construction stormwater impacts from Regulated Earth Disturbance activities, State Water Quality Requirements can be met by BMPs, including site design, which provide for replication of pre-construction stormwater infiltration and runoff conditions, so that post construction stormwater discharges do not degrade the physical, chemical or biological characteristics of the receiving waters. As described in the DEP Comprehensive Stormwater Management Policy (#392-0300-002, September 28, 2002), this may be achieved by the following:
 - A. Infiltration: replication of pre-construction stormwater infiltration conditions;
 - B. Treatment: use of water quality treatment BMP's to ensure filtering out of the chemical and physical pollutants from the stormwater runoff; and
 - C. Streambank and Streambed Protection: management of volume and rate of postconstruction stormwater discharges to prevent physical degradation of receiving; waters (e.g., from scouring).
- (4) DEP has regulations that require municipalities to ensure design, implementation and maintenance of Best Management Practices ("BMPs") that control runoff from new development and redevelopment after Regulated Earth Disturbance activities are complete. These requirements include the need to implement post-construction stormwater BMPs with assurance of long-term operations and maintenance of those BMPs.
- (5) Evidence of any necessary permit(s) for Regulated Earth Disturbance activities from the appropriate DEP regional office must be provided to the Municipality. The issuance of an NPDES Construction Permit (or permit coverage under the statewide General Permit (PAG-2)) satisfies the requirements of subsection 304.A.
- (6) BMP operations and maintenance requirements are described in Article IV of this article. (Ord. 20-2004. Passed 3-10-04.)

946.11 STORMWATER BMP OPERATIONS AND MAINTENANCE PLAN REQUIREMENTS.

(a) General Requirements.

- (1) No Regulated Earth Disturbance activities within the Municipality shall commence until approval by the Municipality of BMP Operations and Maintenance plan which describes how the permanent (e.g., post-construction) stormwater BMPs will be properly operated and maintained.
- (2) The following items shall be included in the BMP Operations and Maintenance Plan:
 - A. Map(s) of the project area, in a form that meets the requirements for recording at the offices of the Recorder of Deeds of Erie County, and shall be submitted on 24-inch x 36- inch or 30-inch x 42-inch sheets. The contents of the map(s) shall include, but not be limited to:
 1. Clear identification of the location and nature of permanent stormwater BMPs,
 2. The location of the project site relative to highways, municipal boundaries or other identifiable landmarks,

3. Existing and final contours at intervals of two feet, or others as appropriate,
 4. Existing streams, lakes, ponds, or other bodies of water within the project site area,
 5. Other physical features including flood hazard boundaries, sinkholes, streams, existing drainage courses, and areas of natural vegetation to be preserved,
 6. The locations of all existing and proposed utilities, sanitary sewers, storm sewers and waterlines within 50 feet of property lines of the project site,
 7. Proposed final changes to the land surface and vegetative cover, including the type and amount of impervious area that would be added,
 8. Proposed final structures, roads, paved areas, and buildings, and
 9. A fifteen-foot wide access easement around all stormwater BMPs that would provide ingress to and egress from a public right-of-way.
- B. A description of how each permanent stormwater BMP will be operated and maintained, and the identity of the person(s) responsible for operations and maintenance,
 - C. The name of the project site, the name and address of the owner of the property, and the name of the individual or firm preparing the Plan, and
 - D. A statement, signed by the landowner, acknowledging that the stormwater BMPs are fixtures that can be altered or removed only after approval by the Municipality.
- (b) Responsibilities for Operations and Maintenance of BMPs.
- (1) The BMP Operations and Maintenance Plan for the project site shall establish responsibilities for the continuing operation and maintenance of all permanent stormwater BMPs, as follows:
 - A. If a Plan includes structures or lots which are to be separately owned and in which streets, sewers and other public improvements are to be dedicated to the Municipality, stormwater BMPs may also be dedicated to and maintained by the Municipality at the option of the municipality;
 - B. If a Plan includes operations and maintenance by a single ownership, or if sewers and other public improvements are to be privately owned and maintained, then the operation and maintenance of stormwater BMPs shall be the responsibility of the owner or private management entity.
 - (2) The Municipality shall make the final determination on the continuing operations and maintenance responsibilities. The Municipality reserves the right to accept or reject the operations and maintenance responsibility for any or all of the stormwater BMPs.

- (c) Municipality Review of BMP Operations and Maintenance Plan.
- (1) The Municipality shall review the BMP Operations and Maintenance Plan for consistency with the purposes and requirements of this article, and any permits issued by DEP.
 - (2) The Municipality shall notify the Applicant in writing whether the BMP Operations and Maintenance Plan is approved.
 - (3) The Municipality shall require an "As-Built Survey" of all stormwater BMPs, and an explanation of any discrepancies with the Operations and Maintenance Plan.
- (d) Adherence to Approved BMP Operations and Maintenance Plan. It shall be unlawful to alter or remove any permanent stormwater BMP required by an approved BMP Operations and Maintenance Plan, or to allow the property to remain in a condition which does not conform to an approved BMP Operations and Maintenance Plan, unless an exception is granted in writing by the Municipality.
- (e) Operations and Maintenance Agreement for Privately Owned Stormwater BMPs.
- (1) The property owner shall sign an operations and maintenance agreement with the Municipality covering all stormwater BMPs that are to be privately owned. The agreement shall be substantially the same as the agreement Appendix B of this article.
 - (2) Other items may be included in the agreement where determined necessary to guarantee the satisfactory operation and maintenance of all permanent stormwater BMPs. The agreement shall be subject to the review and approval of the Municipality.
- (f) Stormwater Management Easements.
- (1) Stormwater management easements are required for all areas used for off site stormwater control, unless a waiver is granted by the Municipal Engineer.
 - (2) Stormwater management easements shall be provided by the property owner if necessary for (1) access for inspections and maintenance, or (2) preservation of stormwater runoff conveyance, infiltration, and detention areas and other BMPs, by persons other than the property owner. The purpose of the easement shall be specified in any agreement under subsection (e).
- (g) Recording of Approved BMP Operations and Maintenance Plan and Related Agreements.
- (1) The owner of any land upon which permanent BMPs will be placed, constructed or implemented, as described in the BMP Operations and Maintenance Plan, shall record the following documents in the Office of the Recorder of Deeds for Erie County, within 15 days of approval of the BMP Operations Plan by the Municipality:
 - A. The Operations and Maintenance Plan, or a summary thereof
 - B. Operations and Maintenance Agreements under Section 405, and
 - C. Easements under subsection (f).

- (2) The Municipality may suspend or revoke any approvals granted for the project site upon discovery of the failure of the owner to comply with this Section.
- (h) Municipal Stormwater BMP Operation and Maintenance Fund.
- (1) If stormwater BMPs are accepted by the municipality for dedication, the Municipality shall require persons installing stormwater BMPs to pay a specified amount to the Municipal Stormwater BMP Operation and Maintenance Fund, to help defray costs of operations and maintenance activities. The amount may be determined as follows:
 - A. If the BMP is to be owned and maintained by the Municipality, the amount shall cover the estimated costs for operations and maintenance for ten (10) years, as determined by the Municipality.
 - B. The amount shall then be converted to present worth of the annual series values.
 - (2) If a BMP is proposed that also serves as a recreation facility (e.g. ball field, lake), the Municipality may adjust the amount due accordingly. (Ord. 20-2004. Passed 3-10-04.)

946.12 INSPECTIONS AND RIGHT OF ENTRY.

- (a) Inspections.
- (1) DEP or its designees (e.g., County Conservation Districts) normally ensure compliance with any permits issued, including those for stormwater management. In addition to DEP compliance programs, the Municipality or its designee may inspect all phases of the construction, operations, maintenance and any other implementation of stormwater BMPs.
 - (2) During any stage of the Regulated Earth Disturbance activities, if the Municipality or its designee determines that any BMPs are not being implemented in accordance with this article, the Municipality may suspend or revoke any existing permits or other approvals until the deficiencies are corrected.
- (b) Right of Entry.
- (1) Upon presentation of proper credentials, duly authorized representatives of the Municipality may enter at reasonable times upon any property within the Municipality to inspect the implementation, condition, or operation and maintenance of the stormwater BMPs in regard to any aspect governed by this article.
 - (2) BMP owners and operators shall allow persons working on behalf of the Municipality ready access to all parts of the premises for the purposes of determining compliance with this article.
 - (3) Persons working on behalf of the Municipality shall have the right to temporarily locate on any BMP in the Municipality such devices as are necessary to conduct monitoring and/or sampling of the discharges from such BMP.
 - (4) Unreasonable delays in allowing the Municipality access to a BMP is a violation of this article. (Ord. 20-2004. Passed 3-10-04.)

946.13 FEES AND EXPENSES.

(a) General. The Municipality may charge a reasonable fee for review of BMP Operations and Maintenance Plans to defray review costs incurred by the Municipality. The Applicant shall pay all such fees.

(b) Expenses Covered by Fees. The fees required by this article may cover:

- (1) Administrative/clerical Costs.
- (2) The review of the BMP Operations and Maintenance Plan by the Municipal Engineer.
- (3) The site inspections including, but not limited to, pre-construction meetings, inspections during construction of stormwater BMPs, and final inspection upon completion of the stormwater BMPs.
- (4) Any additional work required to monitor and enforce any provisions of this article, correct violations, and assure proper completion of stipulated remedial actions. (Ord. 20-2004. Passed 3-10-04.)

946.14 PROHIBITIONS.

(a) Prohibited Discharges.

- (1) No person in the Municipality shall allow, or cause to allow, stormwater discharges into the Municipality's separate storm sewer system which are not composed entirely of stormwater, except as provided in subsection (a)(2) below, and discharges allowed under a state or federal permit.
- (2) Discharges which may be allowed, based on a finding by the Municipality that the discharge(s) do not significantly contribute to pollution to surface waters of the Commonwealth, are:
 - Discharges from fire fighting activities
 - Potable water sources including dechlorinated water line and fire hydrant flushings
 - Irrigation drainage
 - Routine external building washdown (which does not use detergents or other compounds)
 - Air conditioning condensate
 - Water from individual residential car washing
 - Springs
 - Water from crawl space pumps
 - Uncontaminated water from foundation or from footing drains
 - Flows from riparian habitats and wetlands
 - Lawn watering
 - Pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred (unless all spill material has been removed) and where detergents are not used
 - Dechlorinated swimming pool discharges
 - Uncontaminated groundwater
- (3) In the event that the Municipality determines that any of the discharges identified in subsection (a)(2) significantly contribute to pollution of waters of the Commonwealth, or is so notified by DEP, the Municipality will notify the responsible person to cease the discharge.

- (4) Upon notice provided by the Municipality under subsection (a)(3), the discharger will have a reasonable time, as determined by the Municipality, to cease the discharge consistent with the degree of pollution caused by the discharge.
 - (5) Nothing in this section shall affect a discharger's responsibilities under state law.
- (b) Prohibited Connections. The following connections are prohibited, except as provided in subsection (a)(2) above:
- (1) Any drain or conveyance, whether on the surface or subsurface, which allows any non-storm water discharge including sewage, process wastewater, and wash water, to enter the separate storm sewer system, and any connections to the storm drain system from indoor drains and sinks; and
 - (2) Any drain or conveyance connected from a commercial or industrial land use to the separate storm sewer system which has not been documented in plans, maps, or equivalent records, and approved by the Municipality.
- (c) Roof Drains.
- (1) Roof drains shall not be connected to streets, sanitary or storm sewers or roadside ditches, except as provided in subsection (c)(2).
 - (2) The City Engineer is authorized to permit or to require connections of roof drains to streets, storm sewers or roadside ditches if in his opinion such connection is necessary to prevent detrimental impact to the property, health, or safety of the owners and occupants of the property involved or of the general public.
 - (3) Roof drains shall discharge to infiltration areas or vegetative BMPs to the maximum extent practicable.
- (d) Alteration of BMPs.
- (1) No person shall modify, remove, fill, landscape or alter any existing stormwater BMP, unless it is part of an approved maintenance program, without the written approval of the Municipality.
 - (2) No person shall place any structure, fill, landscaping or vegetation into a stormwater BMP or within a drainage easement, which would limit or alter the functioning of the BMP, without the written approval of the Municipality. (Ord. 20-2004. Passed 3-10-04.)

946.15 ENFORCEMENT AND PENALTIES.

- (a) Public Nuisance.
- (1) The violation of any provision of this article is hereby deemed a Public Nuisance.
 - (2) Each day that a violation continues shall constitute a separate violation.

(b) Enforcement Generally.

- (1) Whenever the Municipality finds that a person has violated a prohibition or failed to meet a requirement of this article, the Municipality may order compliance by written notice to the responsible person. Such notice may require without limitation:
 - A. The performance of monitoring, analyses, and reporting;
 - B. The elimination of prohibited connections or discharges;
 - C. Cessation of any violating discharges, practices, or operations;
 - D. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
 - E. Payment of a fine to cover administrative and remediation costs;
 - F. The implementation of stormwater BMPs; and
 - G. Operation and maintenance of stormwater BMPs.
- (2) Such notification shall set forth the nature of the violation(s) and establish a time limit for correction of these violations(s). Said notice may further advise that, if applicable, should the violator fail to take the required action within the established deadline, the work will be done by the Municipality or designee and the expense thereof shall be charged to the violator.
- (3) Failure to comply within the time specified shall also subject such person to the penalty provisions of this article. All such penalties shall be deemed cumulative and shall not prevent the Municipality from pursuing any and all other remedies available in law or equity.

(c) Suspension and Revocation of Permits and Approvals.

- (1) Any building, land development or other permit or approval issued by the Municipality may be suspended or revoked by the Municipality for:
 - A. Non-compliance with or failure to implement any provision of the permit;
 - B. A violation of any provision of this article; or
 - C. The creation of any condition or the commission of any act during construction or development which constitutes or creates a hazard or nuisance, pollution or which endangers the life or property of others.
- (2) A suspended permit or approval shall be reinstated by the Municipality when:
 - A. The Municipal Engineer or designee has inspected and approved the corrections to the stormwater BMPs, or the elimination of the hazard or nuisance, and/or;
 - B. The Municipality is satisfied that the violation of this article, law, or rule and regulation has been corrected.
- (3) A permit or approval which has been revoked by the Municipality cannot be reinstated. The applicant may apply for a new permit under the procedures outlined in this article
(Ord. 20-2004. Passed 3-10-04.)

946.16 PENALTIES.

(a) Any person violating the provisions of this article shall be guilty of a summary offense, and upon conviction shall be subject to a fine of not more than one thousand dollars (\$1,000.00) for each violation, recoverable with costs, or imprisonment of not more than ninety (90) days, or both. Each day the violation continues shall be a separate offense.

(b) In addition, the Municipality, through its solicitor, may institute injunctive, mandamus or any other appropriate action or proceeding at law or in equity for the enforcement of this article. (Ord. 20-2004. Passed 3-10-04.)

946.17 APPEALS.

Any person aggrieved by any action of the Municipality or its designee, relevant to the provisions of this article, may appeal to the relevant judicial or administrative body according to law, within the time period involved. (Ord. 20-2004. Passed 3-10-04.)

**APPENDIX A
LOW IMPACT DEVELOPMENT PRACTICES
ALTERNATIVE APPROACH FOR
MANAGING STORMWATER RUNOFF**

Natural hydrologic conditions may be altered radically by poorly planned development practices, such as introducing unneeded impervious surfaces, destroying existing drainage swales, constructing unnecessary storm sewers, and changing local topography. A traditional drainage approach of development has been to remove runoff from a site as quickly as possible and capture it in a detention basin. This approach leads ultimately to the degradation of water quality as well as expenditure of additional resources for detaining and managing concentrated runoff at some downstream location.

The recommended alternative approach is to promote practices that will minimize post-development runoff rates and volumes, which will minimize needs for artificial conveyance and storage facilities. To simulate pre-development hydrologic conditions, forced infiltration is often necessary to offset the loss of infiltration by creation of impervious surfaces. The ability of the ground to infiltrate depends upon the soil types and its conditions.

Preserving natural hydrologic conditions requires careful alternative site design considerations. Site design practices include preserving natural drainage features, minimizing impervious surface area, reducing the hydraulic connectivity of impervious surfaces, and protecting natural depression storage. A well-designed site will contain a mix of all those features. The following describes various techniques to achieve the alternative approach:

- **Preserving Natural Drainage Features.** Protecting natural drainage features, particularly vegetated drainage swales and channels, is desirable because of their ability to infiltrate and attenuate flows and to filter pollutants. However, this objective is often not accomplished in land development. In fact, commonly held drainage philosophy encourages just the opposite pattern -- streets and adjacent storm sewers typically are located in the natural headwater valleys and swales, thereby replacing natural drainage functions with a completely impervious system. As a result, runoff and pollutants generated from impervious surfaces flow directly into storm sewers with no opportunity for attenuation, infiltration, or filtration. Developments designed to fit site topography also minimize the amount of grading on site.
- **Protecting Natural Depression Storage Areas.** Depressional storage areas have no surface outlet, or drain very slowly following a storm event. They can be commonly seen as ponded areas in farm fields during the wet season or after large runoff events. Traditional development practices eliminate these depressions by filling or draining, thereby obliterating their ability to reduce surface runoff volumes and trap pollutants. The volume and release-rate characteristics of depressions should be protected in the design of the development site. The depressions can be protected by simply avoiding the depression or by incorporating its storage as additional capacity in required detention facilities.

- Avoiding introduction of impervious areas. Careful site planning should consider reducing impervious coverage to the maximum extent possible. Building footprints, sidewalks, driveways and other features producing impervious surfaces should be evaluated to minimize impacts on runoff.
- Reducing the Hydraulic Connectivity of Impervious Surfaces. Impervious surfaces are - significantly less of a problem if they are not directly connected to an impervious conveyance system (such as storm sewer). Two basic ways to reduce hydraulic connectivity are routing of roof runoff over lawns and reducing the use of storm sewers. Site grading should promote increasing travel time of stormwater runoff, and should help reduce concentration of runoff to a single point in the development.
- Routing Roof Runoff Over Lawns. Roof runoff can be easily routed over lawns in most site designs. The practice discourages direct connections of downspouts to storm sewers or parking lots. The practice also discourages sloping driveways and parking lots to the street. By routing roof drains and crowning the driveway to run off to the lawn, the lawn is essentially used as a filter strip.
- Reducing the Use of Storm Sewers. By reducing use of storm sewers for draining streets, parking lots, and back yards, the potential for accelerating runoff from the development can be greatly reduced. The practice requires greater use of swales and may not be practical for some development sites, especially if there are concerns for areas that do not drain in a "reasonable" time. The practice requires educating local citizens and public works officials, who expect runoff to disappear shortly after a rainfall event.
- Reducing Street Widths. Street widths can be reduced by either eliminating on-street parking or by reducing roadway widths. Municipal planners and traffic designers should encourage narrower neighborhood streets which ultimately could lower maintenance.
- Limiting Sidewalks to One Side of the Street. A sidewalk on one side of the street may suffice in low-traffic neighborhoods. The lost sidewalk could be replaced with bicycle/recreational trails that follow back-of-lot lines. Where appropriate, backyard trails should be constructed using pervious materials.
- Using Permeable Paving Materials. These materials include permeable interlocking concrete paving blocks or porous bituminous concrete. Such materials should be considered as alternatives to conventional pavement surfaces, especially for low use surfaces such as driveways, overflow parking lots, and emergency access roads.
- Reducing Building Setbacks. Reducing building setbacks reduces driveway and entry walks and is most readily accomplished along low-traffic streets where traffic noise is not a problem.

- Constructing Cluster Developments. Cluster developments can also reduce the amount of impervious area for a given number of lots. The biggest savings is in street length, which also will reduce costs of the development. Cluster development clusters the construction activity onto less-sensitive areas without substantially affecting the gross density of development.

**APPENDIX B
STORMWATER BEST MANAGEMENT PRACTICES OPERATIONS AND
MAINTENANCE AGREEMENT**

THIS AGREEMENT, made and entered into this _____ day of _____, 200, by and between _____, (hereinafter the "Landowner"), and

_____ County,
Pennsylvania, (hereinafter "Municipality");

WITNESSETH

WHEREAS, the Landowner is the owner of certain real property as recorded by deed in the land records of _____ County, Pennsylvania, Deed Book _____ at Page _____, (hereinafter "Property").

WHEREAS, the Landowner is proceeding to build and develop the Property, and WHEREAS, the stormwater management BMP Operations and Maintenance Plan approved by the Municipality (hereinafter referred to as the "Plan") for the property identified herein, which is attached hereto as Appendix A and made part hereof as approved by the Municipality, provides for management of stormwater within the confines of the Property through the use of Best Management Practices (BMP's); and

WHEREAS, the Municipality, and the Landowner, his successors and assigns, agree that the health, safety, and welfare of the residents of the Municipality and the protection and maintenance of water quality require that on-site stormwater Best Management Practices be constructed and maintained on the Property; and

WHEREAS, for the purposes of this agreement, the following definitions shall apply.

- BMP - "Best Management Practice;" activities, facilities, designs, measures or procedures used to manage stormwater impacts from land development, to protect and maintain water quality and groundwater recharge and to otherwise meet the purposes of the Municipal Stormwater Management Ordinance, including but not limited to infiltration trenches, seepage pits, filter strips, bioretention, wet ponds, permeable paving, rain gardens, grassed swales, forested buffers, sand filters and detention basins.
- Infiltration Trench - A BMP surface structure designed, constructed, and maintained for the purpose of providing infiltration or recharge of stormwater into the soil and/or groundwater aquifer,
- Seepage Pit - An underground BMP structure designed, constructed, and maintained for the purpose of providing infiltration or recharge of stormwater into the soil and/or groundwater aquifer,
- Rain Garden - A BMP overlain with appropriate mulch and suitable vegetation designed, constructed, and maintained for the purpose of providing infiltration or recharge of stormwater into the soil and/or underground aquifer, and

WHEREAS, the Municipality requires, through the implementation of the Plan, that stormwater management BMP's as required by said Plan and the Municipal Stormwater Management Ordinance be constructed and adequately operated and maintained by the Landowner, his successors and assigns. and

NOW, THEREFORE, in consideration of the foregoing promises, the mutual covenants contained herein, and the following terms and conditions, the parties hereto agree as follows:

1. The BMPs shall be constructed by the Landowner in accordance with the plans and specifications identified in the Plan.
2. The Landowner shall operate and maintain the BMP(s) as shown on the Plan in good working order acceptable to the Municipality and in accordance with the specific maintenance requirements noted on the Plan.
3. The Landowner hereby grants permission to the Municipality, its authorized agents and employees, to enter upon the property, at reasonable times and upon presentation of proper identification, to inspect the BMP(s) whenever it deems necessary. Whenever possible, the Municipality shall notify the Landowner prior to entering the property.
4. In the event the Landowner fails to operate and maintain the BMP(s) as shown on the Plan in good working order acceptable to the Municipality, the Municipality or its representatives may enter upon the Property and take whatever action is deemed necessary to maintain said BMP(s). This provision shall not be construed to allow the Municipality to erect any permanent structure.

ARTICLE 947
Non-Use Aquifers

947.01	Title.	947.06	Regulations.
947.02	Purpose.	947.07	Amendments.
947.03	Background.	947.08	Administration and enforcement.
947.04	Conflicts with other provisions.	947.99	Violations and penalties.
947.05	Terminology and definitions.		

947.01 TITLE.

This article shall be known as the "Non-Use Aquifer Ordinance of the City of Erie, Pennsylvania," in accordance with and exercising the authority of the Pennsylvania Land Recycling and Environmental Remediation Standards Act (Act 2 of 1995), Pennsylvania Code 25 Chapters 109 (Safe Drinking Water) and 250 (Administration of the Land Recycling Program), Section 301.4 of the International Plumbing Code of 2003, the City of Erie Ordinance 30-2004 enforcing the Pennsylvania Construction Code (Act 45 of 1999), and Chapter 2 of the Pennsylvania Department of Environmental Protection Technical Guidance Manual, among others, to prohibit, regulate, restrict and determine the use of groundwater for drinking or agricultural purposes within the City. (Ord. 33-2007. Passed 6-6-07.)

947.02 PURPOSE.

This article shall have as its general purposes:

- (a) To establish the prohibition of the use of groundwater for drinking or agricultural purposes within the City of Erie.
- (b) To require all properties in the City of Erie to connect to a community water supply for drinking water and agricultural purposes, and prohibit the use of groundwater for said purposes.
- (c) To promote, protect, and facilitate public health, safety, and welfare of the general public within the City of Erie through the implementation of appropriate procedures to implement and regulate the above purposes.
(Ord. 33-2007. Passed 6-6-07.)

947.03 BACKGROUND.

(a) The Pennsylvania Land Recycling and Environmental Remediation Standards Act (Act 2 of 1995), as part of the effort to eliminate public health and environmental hazards on existing commercial and industrial land across the Commonwealth, establishes conditions and responsibilities for the use and reuse of those lands as sources of employment, housing, recreation and open-space areas as a means to prevent the needless development of prime farmland, open-pace areas, and natural areas and reduce public costs for installing new water, sewer, and highway infrastructure.

(b) The Act recognizes that cleanup plans should be based on the actual risk that contamination on a site may pose to public health and the environment and take into consideration its current and future use. As such, the Act does not require that every site be returned to a pristine condition.

(c) The Act further establishes environmental responsibilities and economic incentives for the redevelopment of the aforementioned land and designates the Pennsylvania Department of Environmental Protection (PADEP) as the overseeing agency for any environmental cleanup effort associated with the Act.

(d) The Pennsylvania Department of Environmental Protection has, accordingly, established its Land Recycling Program which provides background information and guidance relative to remediation of sites possessing contaminated groundwater.

(e) The Act 2 program provides options available to the remediator of those sites and options and responsibilities of the municipalities and authorities having jurisdictional control over those sites.

(f) One of the proactive institutional control options available to a municipality for the protection of its citizens is the establishment of an ordinance prohibiting groundwater use for drinking or agricultural purposes. This option, which is known as "Request for Certification of a Non-use Aquifer Area Initiated by a Local Government," is used by municipal authorities and political subdivisions which desire to receive certification that a given geographic area meets the conditions of Act 2, Section 250.303(c) (i.e., non-use aquifer area conditions) where no specific property to be remediated has been identified. These conditions are based on Section 250.303(f) of Act 2 of 1995 which requires an ordinance prohibiting groundwater use for drinking or agricultural purposes and which requires every property to be connected to the public water supply.

(g) By a 1940 ordinance, the City of Erie provided that no well or spring was to be maintained where City water was available. This ordinance was repealed in 2000 by Ordinance No. 28-2000.

(h) By Ordinance No. 30-2004, The City of Erie adopted the Uniform Construction Code and provided that where a public water supply was available a building or premises must be connected to the public water supply; however, this ordinance did not prohibit the use of groundwater sources for drinking or agricultural purposes.
(Ord. 33-2007. Passed 6-6-07.)

947.04 CONFLICTS WITH OTHER PROVISIONS.

It is not intended by this article to repeal, abrogate, annul or interfere with any existing ordinances or enactment, or with any rule, regulation or permit adopted or issued there under, except insofar as the same may be inconsistent or in conflict with any of the provisions of this article, provided that where this article imposes greater restrictions upon the use of groundwater than are required by the provisions of such ordinance, enactment, rule, regulation or permit, then the provisions of this article shall control.

(Ord. 33-2007. Passed 6-6-07.)

947.05 TERMINOLOGY AND DEFINITIONS.

(a) Rules of Construction. For the purpose of this article, certain terms or words used herein are defined as follows, using these rules of construction.

- (1) The present tense includes the future tense.
- (2) The singular number includes the plural and the plural number includes the singular.
- (3) The word "shall" is mandatory and the term "may" is permissive.

(b) Definitions.

- (1) "Agricultural purposes." Commercial agricultural activities, including, but not limited to, irrigation of crops, watering of livestock, and food production, processing or packaging.
- (2) "Aquifer." A geological formation, group of formations or part of a formation capable of a sustainable yield of significant amount of water to a well or spring.
- (3) "Cleanup or remediation." To clean up, mitigate, correct, abate, minimize, eliminate, control, or prevent a release of a regulated substance into the environment, in order to protect the present or future health, safety, welfare or the environment, including preliminary actions to study or assess the release.
- (4) "Control." To apply engineering measures, such as capping or treatment or institutional measures, such as deed restrictions to sites with contaminated media.
- (5) "Groundwater." Water below the land surface in a zone of saturation.
- (6) "Municipality." A township, borough, city, incorporated village or home rule municipality. This term shall not include a county.
- (7) "Site." The extent of contamination originating within the property boundaries and all areas in close proximity to the contamination necessary for the implementation of remediation activities to be conducted under Pennsylvania Act 2 of 1995.
(Ord. 33-2007. Passed 6-6-07.)

947.06 REGULATIONS.

(a) Restrictions. All real estate located within the boundaries of the City of Erie shall be subject to the following restrictions:

- (1) No well or spring located on a property shall be used as a groundwater source for drinking water or agricultural purposes.
- (2) No owner, lessee or other person shall use any groundwater source for drinking water or agricultural purposes.
- (3) In accordance with the City's adoption of the 2003 International Plumbing Code and as further required by this article, all buildings located within the boundaries of the City of Erie are mandated to connect to the public drinking water system servicing the area.
- (4) No building permit shall be issued by the City without verification of the availability of public drinking water service to the building.
- (5) No building may be occupied without verification that the building has connected to the public drinking water system and there are no other water supply sources connected to the building for use in supplying water for drinking water or agricultural purposes to the building, including but not limited to, groundwater sources.

(b) Appeals. Any person or persons, or any board, taxpayer, department or bureau of the City aggrieved by any decision of the City official appointed to enforce this article may seek review by the Court of Common Pleas pursuant to the Local Agency Law. (Ord. 33-2007. Passed 6-6-07.)

947.07 AMENDMENTS.

This article may only be amended in accordance with the requirements set forth hereinafter:

- (a) Any amendment shall be effective thirty (30) days after written notice has been given to the Commonwealth of Pennsylvania Department of Environmental Protection together with a copy of the proposed amendment.
- (b) Upon adoption of any amendment to this article, notice shall be given to the public water supplier. (Ord. 33-2007. Passed 6-6-07.)

947.08 ADMINISTRATION AND ENFORCEMENT.

(a) Duties. The government officer responsible for the issuance of building permits and enforcement of building codes shall administer and enforce this article to include the proposal of amendments to the prohibition throughout the City of Erie of the use of water wells for drinking or agricultural purposes, and notification of the public water supplier and the Land Recycling Program Manager of the Northwest Regional Office of the PADEP of any changes in status or requirements. If the government officer finds that any provisions of this article are being violated, he shall notify, in writing, the person responsible and he shall order the discontinuance of the illegal use of aquifer water supplies and shall take any other action authorized by this article to ensure compliance with or to prevent violation of its provisions. (Ord. 33-2007. Passed 6-6-07.)

947.99 VIOLATIONS AND PENALTIES.

(a) Violation of the provisions of this article or failure to comply with any and all of its requirements shall be grounds for a civil proceeding. Any property owner or lessee of land situated in the City of Erie who has violated or permitted the violation of the provisions of this article shall, upon being found liable therefore in a civil proceeding commenced by the City, pay a judgment of not more than five hundred dollars (\$500.00), plus all court costs, including reasonable attorney fees incurred by the City as a result thereof. No judgments shall commence or be imposed, levied, or payable until the date of the determination of the violation by the Magisterial District Judge. Each day that a violation continues shall constitute a separate violation although the District Justice may, at his discretion, determine that the first day of violation is the fifth day after his decision if he believes the violator was unaware of the violation prior to being charged. All judgments, costs, and reasonable attorney fees collected shall be paid to the City.

(b) Nothing contained herein shall be construed or interpreted to grant to any person or entity other than the City the right to commence any action for enforcement pursuant to this section, nor prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation, or to bring an action to enjoin any violation of this article.

(c) In addition, an action may be instituted to compel a user to cease using the well or spring for drinking water or agricultural purposes. (Ord. 33-2007. Passed 6-6-07.)

TITLE SEVEN - Other Public Services
 Art. 951. Residential Refuse.
 Art. 953. Numbering Buildings.
 Art. 955. Parks and Playground Areas.
 Art. 957. Landfills.
 Art. 958. Separation of Recyclables.

ARTICLE 951
 Residential Refuse

951.01	Definitions.	951.09	Garbage and refuse collection fee.
951.02	Administration.	951.091	Fee increase termination.
951.03	Conveyance in public places prohibited; exceptions.	951.10	Collection of fee.
951.04	Approved receptacles required; storage methods.	951.11	Payment schedule; late penalty; delinquency liens.
951.05	Interference with receptacles.	951.12	Responsible party.
951.06	Deposit in public places prohibited.	951.13	Collection of leaves.
951.07	Enforcement.	951.14	Composting program.
951.08	Conflicting regulations.	951.15	Establishment of regulations.
		951.99	Penalty.

CROSS REFERENCES

Power to provide for garbage collection - see 3rd Class Sec. 2403(6)
 (53 P.S. Sec. 37403(6))
 Rubbish hauling contractors - see BUS. REG. Art. 315
 Garbage prohibited in sanitary sewer - see S.U. & P.S. 931.06
 Garbage deposit in City waters prohibited - see S.U. & P.S. 975.01

951.01 DEFINITIONS.

(a) "Residential refuse" includes the common definition of garbage and rubbish produced in the ordinary conduct of housekeeping. Commercial and industrial wastes are not included in the definition, and shall not be collected by the City. Residential buildings with more than four units in a building may be served by the City's refuse-collection system upon recommendation of the Department of Public Works, Property and Parks. No residential building of four units or fewer may be served by a private refuse collection service outside of the City collection system. Furthermore, the following types of refuse shall not be collected as residential refuse: (Ord. 6-2003. Passed 1-8-03.)

- (1) Appliances other than small, hand-held items;
- (2) Carpeting, unless cut into small parts and bagged;
- (3) Flammable items and liquids;
- (4) Furniture;
- (5) Glass, nonrecycled types, whether broken or whole unless securely wrapped in cloth or paper to prevent injury;
- (6) Mattresses, box springs;
- (7) Metals, other than foils or thin sheet metals incorporated into small items discarded;
- (8) Paint, gasoline or other types of cans containing hazardous or caustic substances;
- (9) Recyclables, as defined in Article 958, which are separately collected, including newspapers and compost items;
- (10) Automotive tires and parts;
- (11) Unbagged items;
- (12) Excessively heavy or hazardous items, such as exposed needles and other sharp objects, and any bags in excess of fifty pounds;
- (13) Dead animals other than insects and very small birds, fish, mice, etc.;
- (14) Construction and demolition waste other than small amounts of nonhazardous materials from homeowners; and
- (15) All other types of waste excluded from the definition of "household refuse" set forth in Section 958.02(a)(10).

(b) Other terms defined in Article 958 are so defined in this article by reference.
(Ord. 15-1994 Sec. 2. Passed 2-16-94.)

951.02 ADMINISTRATION.

The residential refuse of the City, along with recyclables and compost items, are collected under the direction of the Department of Public Works, Property and Parks by the Bureau of Refuse and Recycling.

(Ord. 15-1994 Sec. 3. Passed 2-16-94.)

951.03 CONVEYANCE IN PUBLIC PLACES PROHIBITED; EXCEPTIONS.

No person shall remove or convey, or cause or permit to be removed or conveyed any residential refuse, recyclables or compost upon or along any public street or other public place in the City. However, the provisions of this section shall not apply to any person in the employ of the City who shall be assigned the work of collection and disposal of any residential refuse, recyclables or compost, or to any person with whom the City has entered into a contract for the collection, removal and disposal of any residential refuse, recyclables or compost, or to any employee of such contractor, during such time as such contract shall be in force.

(Ord. 15-1994 Sec. 4. Passed 2-16-94.)

951.04 APPROVED RECEPTACLES REQUIRED; STORAGE METHODS.

(a) It shall be the duty of every owner, tenant, occupant or other householder of a residential property, or apartment within a residential building of four units or less, to provide and keep, or cause to be provided and kept, receptacles for holding refuse as provided in this article, as well as Articles 1115 and 1125 of the Codified Ordinances.

(b) Each receptacle shall be a rigid container, constructed of rust-resistant metal or plastic, shall be watertight, shall contain not less than three nor more than thirty-five gallons, and shall be provided with outside handles and a tight fitting cover. The cover shall not be removed except for the deposit or removal of refuse.

(c) All householders shall drain garbage or other residential refuse of all liquids, and place it in paper or plastic bags, which shall be stored in the receptacles previously described until the designated day of refuse collection.

(d) On the designated weekly collection day, all householders shall deposit at the curbside or edge of the street either the receptacles containing securely bagged refuse, or securely bagged refuse itself. Each householder shall make all reasonable efforts to insure that the refuse to be collected does not become waterlogged, or that the bags are not torn or disintegrated before collection. Loose or spilled refuse shall not be collected, and, if left more than one day after the collection day, shall be considered a violation of this article as well as any other littering or housing ordinance provisions.

(Ord. 15-1994 Sec. 5. Passed 2-16-94.)

951.05 INTERFERENCE WITH RECEPTACLES.

No person other than the owner or an officer or employee of the City, or an employee of the person holding a contract with the City for the collection, removal and disposal of refuse, shall interfere in any manner with any such can or plastic bag, or the contents thereof, or remove any such can or plastic bag from the location where the same was placed by the owner thereof, or remove the contents of any such plastic bag or rigid container.

(Ord. 15-1994 Sec. 6. Passed 2-16-94.)

951.06 DEPOSIT IN PUBLIC PLACES PROHIBITED.

No person shall cause or permit to be deposited any refuse upon or in any public street, alley, vacant lot or other public places in the City. However, garbage and rubbish in approved containers or bags should be placed alongside the curb or paved portion of the street, without obstructing traffic, at any time during the regular collection day for such property. Placement of such garbage, rubbish or other refuse prior to 24 hours before the end of the collection day shall be punishable under the penalty provision of this Article.

(Ord.12-1998. Passed 4-22-98.)

951.07 ENFORCEMENT.

The Housing Inspector or any other officer or employee of the Division of Housing Inspection shall enforce the provisions of Section 951.06 and shall institute the prosecution of all persons violating any of the provisions of same. The Housing Inspector may designate and promulgate such rules and regulations as may be necessary to carry out the provisions of Section 951.06. Not more than one warning of a violation to any offender in one year may be issued before a citation must be written.

(Ord. 58-1997 Sec. 2. Passed 9-17-97.)

951.08 CONFLICTING REGULATIONS.

Nothing in this article shall be deemed to conflict with or repeal any portion of any ordinance regulating the removal, disposal or conveyance of market refuse, dead animals, or rubbish, but any such ordinance shall be so construed as to give effect to every provision thereof, and each shall be deemed to be independent of the other.

(Ord. 7592 Sec. 8. Passed 8-23-32; Ord. 41-1991 Sec. 2. Passed 5-22-91.)

951.09 GARBAGE AND REFUSE COLLECTION FEE.

(a) There is hereby imposed a garbage and refuse collection fee of two hundred twenty dollars (\$220.00) per year for each dwelling containing not more than four dwelling units. The two hundred twenty dollars (\$220.00) collection fee shall be assessed against each dwelling unit. (Ord. 5-2014. Passed 2-5-14.)

(b) A discount of ten percent (10%) on the refuse collection fee, on their primary residence, shall be established for all senior citizens who are eligible for prescription drug discounts under the P.A.C.E. program of the Commonwealth of Pennsylvania, and for any person age sixty-five or older who owns his or her own home in the City and has a Medical Assistance Card. The Department of Administration and Finance shall verify the eligibility of all applicants for this discount. (Ord. 6-2003. Passed 1-8-03.)

951.091 FEE INCREASE TERMINATION.

The increase in the Garbage and Refuse Collection Fee applicable for the 2014 budget shall be in effect only for 2014 unless extended by City Council. (Ord. 5-2014. Passed 2-5-14.)

951.10 COLLECTION OF FEE.

Collection of the garbage and refuse fee shall be by the Erie City Water Authority. No rebates or credits shall be given for vacant dwelling units, other than for owner-occupied dwellings whose owners leave the residence vacant for at least three months, and have shut off water service to their residence for such period. This provision is intended to apply only to the temporary absences for extended vacations or seasonal relocations by owners with a principal residence in the City. Property owners who intend to obtain this credit shall notify the Erie City Water Authority at the time of leaving and terminate water service. An administrative service fee in an amount determined by the Water Authority shall be payable at the beginning of the suspension period. (Ord. 5-2006. Passed 1-25-06.)

951.11 PAYMENT SCHEDULE; LATE PENALTY; DELINQUENCY LIENS.

(a) Payment Schedule. The Erie City Water Authority shall establish a payment schedule whereby refuse charges collected by the City shall be paid quarterly.

(b) Late Penalty. Failure to make payment on the applicable due date shall result in a penalty and interest in an amount determined by the Erie City Water Authority added to the bill for each month of delinquency. The Erie City Water Authority shall impose the late payment penalties for remittance received after their prescribed grace period, if any. (Ord. 5-2006. Passed 1-25-06.)

(c) Delinquency Liens. Failure to make payment on the applicable due date will result in a lien being filed against the subject real property. (Ord. 65-2000. Passed 11-22-00.)

951.12 RESPONSIBLE PARTY.

The person(s) responsible for making payment of the garbage and refuse collection fee shall be the owner(s) of record. (Ord. 111-1989 Sec. 1. Passed 12-27-89; Ord. 41-1991 Sec. 2. Passed 5-22-91.)

951.13 COLLECTION OF LEAVES.

On every premises from which garbage and rubbish are collected, there shall also be a collection of leaves. Such leaves shall be placed in open rigid containers and deposited at curbside. (Ord. 36-1991 Sec. 2. Passed 5-1-91.)

951.14 COMPOSTING PROGRAM.

The Bureau of Refuse and Recycling, under and subject to regulations established by the Directors of the Department of Public Works, Property and Parks, shall operate a composting program throughout the City. Grass clippings, lawn and leaf waste and hedge trimmings are included in this program. The manner of collection, types of bags or containers or other aspects of this program may be altered from time to time by administrative regulations to provide the most efficient and cost-effective program possible.

(Ord. 15-1994 Sec. 9. Passed 2-16-94.)

951.15 ESTABLISHMENT OF REGULATIONS.

The Director of the Department of Public Works, Property and Parks is hereby authorized and empowered to establish and promulgate regulations including but not limited to, the manner, days and times of collections of refuse and the bundling, handling, location and time of placement of such refuse or collection. The Director is empowered to make changes to the program regulations as necessary. Any material changes may be made by the Mayor and public notice and notification shall be made by appropriate news releases, cable television government access channel notices, or other means to effect the widest public information.

(Ord. 15-1994 Sec. 10. Passed 2-16-94.)

951.99 PENALTY.

Whoever violates any provision of this article, except for Section 951.06, shall be fined not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000) and imprisoned not more than ninety days. Each day's continued violation shall constitute a separate offense. Both fine and imprisonment may be concurrently imposed. Whoever violates the provisions of Section 951.06 shall be subject only to penalty by fine. Any person or persons responsible for information and testimony leading to the conviction of violators of this article shall be issued a reward in the sum of one hundred dollars (\$100.00) to be obtained from the fine levied against such violators.

(Ord. 45-1996 Sec. 1. Passed 7-17-96.)

ARTICLE 953
Numbering Buildings

953.01	Assignment of numbers; violation.	953.03	House and lot number map.
953.02	Information to property owner.	953.99	Penalty.

CROSS REFERENCE

Power to regulate - see 3rd Class §2403(19) (53 P.S. §37403(19))

953.01 ASSIGNMENT OF NUMBERS; VIOLATION.

The buildings on the several streets in the City shall be numbered in plain and legible figures, beginning on Front Street on the north, and extending to the City limits on the south. The numbers shall be placed on each separate dwelling and business place, and shall begin at Front Street with number 101; all even numbers shall be placed on the west side, and all odd numbers on the east side of streets running north and south; each square on a street shall include 100 numbers, so that the first number on each square on a street shall be the beginning of hundreds corresponding to the number of the street on the north side of the square or block. For the purpose of numbering, twenty feet and seven and one-half inches shall be considered a lot on all the streets in the City, except as shown on the map attached hereto and declared to be a part of this article.

All the buildings on streets running east and west shall be numbered beginning at State Street and numbering east and west therefrom to the limits of the City. Even numbers shall be placed on the north side, and odd numbers on the south side of such street, and shall begin at State Street with number one; each square shall include 100 numbers, except as shown on the map.

The numbers, including centers of the principal entrances to dwellings or business places, shall be the numbers attaching to such premises. The numbers in all cases shall be placed on some conspicuous place over or near the front door entrance of each place numbered so as to be plainly visible from roadway or street. The cost of the numbering shall be paid by the owners of the premises. (Ord. 8133 §1. Passed 11-24-42.)

953.02 INFORMATION TO PROPERTY OWNER.

The office of City Planning and Zoning, upon request of the owner or his agent, will furnish free of cost the correct number or numbers of any lot of parcel of land. (Ord. 8133 §2. Passed 11-24-42.)

953.03 HOUSE AND LOT NUMBER MAP.

The map hereto attached and made a part of this article is declared to be the official house and lot number map of the City, and all owners shall correct and maintain such numbers in accordance with this map. (Ord. 8133 §3. Passed 11-24-42.)

953.99 PENALTY.

Whoever violates any provision of this article upon conviction shall be fined five dollars (\$5.00) for each offense. (Ord. 8133 §1. Passed 11-24-42.)

ARTICLE 955
Parks and Playground Areas

955.01	Definitions.	955.07	Behavior.
955.02	Designations and locations.	955.08	Merchandising, advertising and signs.
955.03	Park property.	955.09	Operating policy.
955.04	Sanitation.	955.10	Enforcement.
955.05	Traffic.	955.99	Penalty.
955.06	Recreational activities.		

CROSS REFERENCES

Parks, playgrounds, recreation centers - see 3rd Class §3701 et seq.
(53 P.S. §38701 et seq.)

Department of Parks and Public Property - see ADM. 117.05

Erie Municipal Park Authority - see ADM. Art. 186

955.01 DEFINITIONS.

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

- (a) "City" means the City of Erie.
- (b) "Director" means the Director of Parks and Public Property.
- (c) "Park" means a park, reservation, playground, recreation center or any other area in the City or in the County of Erie, owned or used by the City, and devoted to active or passive recreation.
- (d) "Person" means any person, firm, partnership, association, corporation, company or organization of any kind.
- (e) "Vehicle" means any wheeled conveyance, whether motor powered, animal-drawn or self-propelled. Exception is made for baby carriages and vehicles in the service of the City Parks.
- (f) "Passive Park" means an area developed for quiet leisure with landscaped paths and walks, benches and monuments.
(Ord. 53-1976 §1. Passed 7-14-76.)

955.02 DESIGNATIONS AND LOCATIONS.

(a) The following tracts of land owned by the City are officially named, designated, established and located as public parks, public parks and playgrounds, and public playgrounds of the City:

(1) First Ward.			
Parks	Name	City Index No.	Location
	Chautauqua Park	1129-102	Lakeside and Chautauqua
	Cranch Park	1114-106	Lakeside and Cranch
	Euclid Park	1125-105	Lakeside and Euclid
	Lake Park	1120-108	Lakeside and Park Way
		1119-205	
	Land Lighthouse Park	1041-400	Foot of Dunn. Blvd.
		1045-700	
	Perry Square-East	1001-300	6th and State St.
	Wayne Park	1035-400	E. 6th and East Ave.
	Lake Front Drive Park	1045-226-250	Lake Front Dr. and Lighthouse St.
Parks and Playgrounds			
	Franklin Park and Playground	1115-201 1115-300	E. 7th to E. 10th on Marne Rd.
Playgrounds			
	McCarty Playground	1041-200 1041-201 1041-300	E. 2nd and Pennsylvania Ave.
	Ted Amendola Memorial Field	1053-101 1053-102 1054-101	Front and Wallace
(2) Second Ward.			
Parks	Name	City Index No.	Location
Parks and Playgrounds			
	Roman Błaszczyk Field	2040-104	E. 12th and Wayne
	Pulaski Park and Playground	Part of 2050-100	E. 12th and Brandes
	Brutcher Softball Field		Southwestern portion of Pulaski Park
	Joseph Wronek Memorial Field	Part of 2050-100	E. 10th and Brandes
Playgrounds			
	Viaduct Playground	2131-114 2131-115	E. 17th and Franklin

(3) Third Ward.			
<u>Parks</u>	<u>Name</u>	<u>City Index No.</u>	<u>Location</u>
	Griswold Park	3008-100	W. 13th and Peach
	Woodland Park	3105-100	Woodland and Grove,
		3105 -500	Kahkwa to Delaware
		3109-200	
		3113-200	
<u>Parks and Playgrounds</u>			
	Columbus Park and Playground	3023-103	W. 16th and Poplar St.
<u>Playgrounds</u>			
	Attorney Richard D. Agresti Baseball Field at Victory Playground (Ord. 62-2003. Passed 10-8-03.)	3107-300	W. 13th and Lincoln
	Pontiac Field (Ord. 45-2008. Passed 10-1-08.)	4040-100(west)	Bayview Park - W. 2nd and Cherry St.
(4) Fourth Ward.			
<u>Parks</u>	<u>Name</u>	<u>City Index No.</u>	<u>Location</u>
	Frontier Park	4110-100	W. 8th and Seminole
	Gridley Park	4022-300	W. 6th and Liberty
		4025-300	
	Perry Square-West	4001-300	6th and State St.
	Ravine Park	4121-207	Yacht Club Rd.
		4122-100	
		4125-200	
	<u>Parks and Playgrounds</u>	---	----
<u>Playgrounds</u>			
	Allen-Hetico Memorial Field	4040-100	W. 2nd and Walnut St.
	Barbara Nitkiewicz Field		W. 3rd and Cascade St.
(5) Fifth Ward.			
<u>Parks</u>	<u>Name</u>	<u>City Index No.</u>	<u>Location</u>
	Joseph C. Martin Golf Course	Part of 5324-100	
	Glenwood Park	Part of 5324-100	W. 38th and Cherry
		5333-101	
		5333-215	
		5335-400	
		5340 -200	
		5340-300	
		5384-108	
	Kuschinski Family Horseshoe Courts		W. 38th and Shunpike

<u>Parks</u>	<u>Name</u>	<u>City Index No.</u>	<u>Location</u>
	Roma Park	5117-101	E. 35th and Zimmerman
	Garden Park	5336-121	Sassafras and Norman Way
	McClelland Park	5138-100, 5168-100, 5169-100, 101, 109, 110, 5170-100, 101, 102, 5171-100, 5172-107, 108, 109	East 26 th St. to East 33 rd St.
<u>Parks and Playgrounds</u>			
	Burton Park and Playground	5215-200 & 209	E. 38th St. between Burton Ave. and Brandes St.
	John G. Carney Park	5128-408-414 5128-423	Woodlawn Ave. and E. 26th and Cameron Rd.
	Joseph A. Walczak, Sr. Park	5239-102 & 306	E. Grandview Blvd. and Alan Dr.
<u>Playgrounds</u>			
	Garden Heights Playground	5256-129	E. 40th and Brewer
	Hillside Playground	5359-201 5360 -305	
(6) <u>Sixth Ward.</u>			
<u>Parks</u>	<u>Name</u>	<u>City Index No.</u>	<u>Location</u>
	Larry Fabrizi Park	6233-200	W. 27th and Harvard
	Orush Park	6233-107	W. 27th and W. 29th near Harvard
		6234-109	
		6235-208	
	Washington Park	6031-100	W. 24th and Raspberry
		6235-100	
	C Francis Hagerty Park	6243-300	West 32nd St. and Schaper Ave. if extended northward
		6245-109, 110, 111, 112	
		6246-109, 115, 116, 117, 118, 119, 120	
	Gregory Stuart Baldwin Park	6211-109, 110, 200	W. 25th and Geist
	George "Pat" Brabender Memorial Field		Baur Ave. and W. 21st St.
<u>Parks and Playgrounds</u>			

<u>Playgrounds</u>			
	Lohse Playground	6242-100	W. 27th and Gerry
		6242-400	
	Ruby Schaaf Park	6009-103	W. 19th and Myrtle
	Pebble Lake Playground	6224-400	Washington and Coldspring

(7) Outside City.

Avalon Park

Erie Golf Course

Millcreek Twp.

Millcreek Twp.

W. 6th and Pittsburgh

Golf Club Rd. near
Edinboro Rd.

Downing Golf Course

Harborcreek Twp.

Throop Rd. and East
Lake Rd.

(b) In the event of the acquisition, dedication and acceptance of lands for public parks and public playgrounds, Council shall proceed to name, designate and locate such park or playground by amendment to this article.

(Ord. 53-1976 §2. Passed 7-14-76; Ord. 67-1980 §1. Passed 7-23-80. Ord. 100-1981 §1. Passed 12-16-81; Ord. 60-1982 §1. Passed 8-25-82; Ord. 75-1982 §1. Passed 9-22-82; Ord. 37-1983 §1. Passed 7-13-83; Ord. 38-1983 §1. Passed 7-13-83; Ord. 69-1984 §1. Passed 10-24-84; Ord. 70-1984 §1. Passed 10-24-84; Ord. 34-1985 §1. Passed 6-26-85; Ord. 41-1987 §1. Passed 6-24-87.)

955.03 PARK PROPERTY.

(a) Buildings and Other Property. No person in a park shall:

- (1) Disfiguration and removal. Willfully mark, deface, disfigure, injure, tamper with, or displace or remove, any building, bridges, tables, benches, fireplaces, railings, paving or paving material, water lines or other public utilities, parts or appurtenances thereof, signs, notices or placards whether temporary or permanent, monuments, stakes, posts or other boundary markers, or other structures, equipment, facilities, park property or appurtenances whatsoever, either real or personal.
- (2) Restrooms and washrooms. Fail to cooperate in maintaining restrooms and washrooms in a neat and sanitary condition. No person shall use the restrooms and washrooms designated for the opposite sex.
- (3) Removal of natural resources. Dig or remove any beach sand, whether submerged or not, or any soil, rock, stones, trees, shrubs or plants, down-timber or other wood or materials, or make any excavation by tool, equipment, blasting or other means or agency.
- (4) Erection of structures. Construct or erect any building or structure of whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon or across such lands, except on special written permit issued hereunder.

(b) Trees, Shrubbery and Lawns. No person in a park shall:

- (1) Injury and removal. Damage, cut, carve, transplant or remove any tree or plant or injure the bark, or pick the flowers or seeds, of any tree or plant. Nor shall any person attach any rope, wire or other contrivance to any tree or plant. No person shall dig in or otherwise disturb grass areas, or in any other way injure or impair the natural beauty or usefulness of any area.
- (2) Climbing trees, etc. Climb any tree or walk, stand or sit upon monuments, vases, fountains, railing, fences or gun carriages or upon any other property not designated or customarily used for such purposes.

- (c) Wild Animals, Birds, Etc. No person in a park shall:
- (1) Hunting. Hunt, molest, harm, frighten, kill, trap, chase, tease, shoot or throw missiles at any animal, reptile or bird; nor shall he remove or have in his possession the young of any wild animal, or the eggs, nest or young of any reptile or bird; nor shall he collect, remove, have in his possession, give away, sell or offer to sell, buy or offer to buy or accept as a gift, any specimen alive or dead of any of the group of tree snails.
 - (2) Feedings. Give or offer, or attempt to give to any animal or bird any tobacco, alcohol or other known noxious substances.
(Ord. 53-1976 §3. Passed 7-14-76.)

955.04 SANITATION.

No person in a park shall:

- (a) Pollution of Waters. Throw, discharge or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream, bay or other body of water in or adjacent to any park or any tributary, stream, storm sewer, or drain flowing into such waters, any substance, matter or thing, liquid or solid, which shall or may result in the pollution of such waters.
- (b) Refuse and Trash. Have brought in or dump, deposit or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage, refuse or other trash. No such refuse or trash shall be placed in any waters in or contiguous to any park, or left anywhere on the grounds thereof, but shall be placed in the proper receptacles where these are provided; where receptacles are not so provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence, and properly disposed of elsewhere. (Ord. 53-1976 §4. Passed 7-14-76.)

955.05 TRAFFIC.

No person in a park shall:

- (a) Enforcement of Traffic Regulations. Fail to obey all traffic officers and park employees, such persons being hereby authorized and instructed to direct traffic whenever and wherever needed in the parks and on the highways, streets or roads immediately adjacent thereto in accordance with the provisions of these regulations and such supplementary regulations as may be issued subsequently by the Director of Parks and Public Property.
- (b) Obey Traffic Signs. Fail to observe carefully all traffic signs indicating speed, direction, caution, stopping or parking, and all others posted for proper control and to safeguard life and property.
- (c) Operation Confined to Roads. Drive any vehicle on any area except the paved park roads, parking areas or such other areas as may on occasion be specifically designated as parking areas by the Director.

- (d) Parking. Park a vehicle in other than an established or designated parking area, and such use shall be in accordance with the posted directions there at and with the instructions of any attendant who may be present.
- (e) Bicycles.
- (1) Confined to roads. Ride a bicycle on other than a paved vehicular road or path designated for that purpose. A bicyclist shall be permitted to wheel or push a bicycle by hand over any grassy area or wooded trail or any paved area reserved for pedestrian use.
 - (2) Operation. Ride a bicycle other than on the right-hand side of the road paving as close as conditions permit, and bicycles shall be kept in single file when two or more are operating as a group. Bicyclists shall, at all times, operate their machines with reasonable regard to the safety of others, signal all turns, pass to the right of any vehicle they are overtaking, and pass to the right of any vehicles they may be meeting.
 - (3) Rider prohibited. Ride any other person on a bicycle.
 - (4) Designated racks. Leave a bicycle in a place other than a bicycle rack when such is provided and there is a space available.
 - (5) Immobile. Leave a bicycle lying on the ground or paving, or set against trees or in any place or position where other persons may trip over or be injured by such bicycle. (Ord. 53-1976 §5. Passed 7-14-76.)

955.06 RECREATIONAL ACTIVITIES.

- (a) Bathing and Swimming. No person in a park shall:
- (1) Designated areas. Swim, bath or wade in any waters or water-ways in or adjacent to any park, except in such waters and at such places as are provided therefor, and in compliance with such regulations as are herein set forth or may be hereafter adopted. Nor shall any person frequent any waters or places customarily designated for the purpose of swimming or bathing, or congregate thereat when such activity is prohibited by the Director of Parks and Public Places upon a finding that such use of the water would be dangerous or otherwise inadvisable.
 - (2) Certain hours. Frequent any waters or places designated for the purpose of swimming or bathing, or congregate thereat, except between such hours of the day as shall be designated by the Director for such purposes for each individual use.
 - (3) Structure on bathing area. Erect, maintain, use or occupy on or in any bathing area any tent, shelter or structure of any kind.
 - (4) Bath houses or any bathing area. Dress or undress on any beach, in any vehicle, toilet or other place, except in such bathing houses or structures as may be provided for that purpose.
- (b) Hunting and Firearms. No person in a park shall hunt, trap or pursue wild life at any time. No person shall use, carry or possess firearms of any descriptions, or air-rifles, spring puns, bow and arrows, slings, paint ball weapons or any other forms of weapons potentially inimical to wild life and dangerous to human safety, or any instrument that can be loaded with and fire blank cartridges, or any kind of trapping device. Shooting into park area from beyond park boundaries is forbidden.

- (c) Picnic Areas and Use. No person in a park shall:
- (1) Regulated. Picnic or lunch in a place other than those designated for that purpose. Attendants shall have the authority to regulate the activities in such area when necessary to prevent congestion and to secure the maximum use for comfort and convenience of all. Visitors shall comply with any directions given to achieve this end.
 - (2) Availability. Violate the regulations that use of the individual fireplaces together with tables and benches follows generally the rule of "first come, first served" on Wednesday, Saturdays, Sundays and holidays.
 - (3) Nonexclusive. Use any portion of the picnic areas or of any of the buildings or structures therein for the purpose of holding picnics to the exclusion of other persons, nor shall any person use such area and facilities for an unreasonable time, if the facilities are crowded.
 - (4) Duty of picnicker. Leave a picnic area before the fire is completely extinguished and before all trash in the nature of boxes, papers, cans, bottles, garbage and other refuse is placed in the disposable receptacles where provided. If no such trash receptacles are available, then refuse and trash shall be carried away from the park area by the picnicker to be properly disposed of elsewhere.

(d) Games. No person in a park shall take part in or abet the playing of any games involving thrown or otherwise propelled objects such as balls, stones, arrows, javelins or model airplanes except in areas set apart for such forms of recreation. The playing of rough or comparatively dangerous games such as football, baseball and quoits is prohibited except on the fields and courts or areas provided therefor.

(e) Riding, Leading or Driving Animals. No person in a park shall ride, lead or drive a horse or any other animal except for domestic animals as hereinafter provided.
(Ord. 53-1976 §6. Passed 7-14-76.)

955.07 BEHAVIOR.

(a) Fireworks and Explosives. No person in a park shall bring or have in his possession, or set off or otherwise cause to explode or discharge or burn, any firecrackers, torpedo, rocket, or other fireworks or explosives of inflammable material, or discharge them or throw them into any such area from land or highway adjacent thereto. This prohibition includes any substance, compound, mixture or article that in conjunction with any other substance or compound would be dangerous from any of the foregoing standpoints.
(Ord. 53-1976 §7. Passed 7-14-76.)

(b) Domestic Animals. No person in a park shall permit the entry of a dog or other domestic animal into areas other than automobile parking concourses and walks immediately adjacent thereto, and in such other areas as may be clearly marked by signs bearing the words "Domestic Animals Permitted in this Area". Nothing herein shall be construed as permitting the running of dogs at large. All dogs in those areas where such animals are permitted shall be restrained at all times on adequate leashes not greater than five feet in length. Provided, however, and regardless of any ordinance or provisions to the

contrary, there shall be no entry of dogs or other domestic animals, even if such dog or domestic animal is restricted on a leash, into that public park known as Perry Square East bearing the City Index No. 1001-300 and Perry Square West bearing the City Index No. 4001-300. This prohibition against all dogs and other domestic animals within Perry Square East and Perry Square West shall, for the purposes of clarity herein, encompass that area of landscaped ground, paved street and sidewalks bounded by North Park Row on the north, South Park Row on the south, French Street on the east, and Peach Street on the west.
(Ord. 55-1979 §1. Passed 6-13-79.)

(c) Alms. No person in a park shall solicit alms or contributions for any purpose whether public or private.

(d) Fires. No person in a park shall build or attempt to build a fire except in such areas and under such regulations as may be designated by the Director of Parks and Public Places. No person shall drop, throw or otherwise scatter lighted matches, burning cigarettes or cigars, tobacco paper or other inflammable material, within any park area, or on any highway, road or street abutting or contiguous thereof.

(e) Closed Areas. No person in a park shall enter an area posted as "Closed to the Public", nor shall any person use, or abet the use of any area in violation of posted notices.

(f) Going onto Ice. No person in a park shall go onto the ice on any of the waters except such areas as are designated as skating fields, and provided a safety signal is displayed.

(g) Loitering and Boisterousness. No person in a park shall sleep or protractedly lounge on the seats, or benches, or other areas, or engage in loud, boisterous, threatening, abusive, insulting or indecent language or engage in any disorderly conduct or behavior tending to a breach of the public peace.

(h) Exhibit Permits. No person in a park shall fail to produce and exhibit any permit from the Director he claims to have upon request of any authorized person who shall desire to inspect the same for the purpose of enforcing compliance with any ordinance or rule.

(i) Interference with Permittees. No person in a park shall disturb or interfere unreasonably with any other person or party occupying any area, or participating in any activity, under the authority of a permit.
(Ord. 53-1976 §7. Passed 7-14-76.)

955.08 MERCHANDISING, ADVERTISING AND SIGNS.

No person in a park shall:

- (a) Vending and Peddling. Expose or offer for sale any article or thing, nor shall he station or place any stand, cart or vehicle for the transportation, sale or display of any such article or thing. Exception is here made as to any regularly licensed concessionaire acting by and under the authority and regulation of the Director of Parks and Public Places.
- (b) Advertising. Announce, advertise or call the public attention in any way to any article or service for sale or hire except as authorized by the Director.
- (c) Signs. Paste, glue, tack or otherwise post any sign, placard, advertisement or inscription whatever except as authorized by the Director.
(Ord. 53-1976 §8. Passed 7-14-76.)

955.09 OPERATING POLICY.

(a) Hours. Except for the following and except for special events under the supervision of the Director of Parks and Public Places, parks and public playgrounds shall be open to the public only between the hours of 8:00 a.m. and 11:30 p.m.

- (1) The following parks and public playgrounds, or parks thereof, shall be open twenty-four hours per day:
 - A. Chautauqua Park, Cranch Park, Euclid Park, Lake Park, Perry Square East and Wayne Park (passive part only).
 - B. Kosciuszko Park and Playground (passive part only).
 - C. Griswold Park.
 - D. Frontier Park, Gridley Park and Perry Square West.
 - E. Washington Park (passive part only).
 - F. Zuck Park (hours to be regulated by the County of Erie, Lessee).
 - G. John C. Carney Park (passive part only).
 - H. Burton Park and Playground (passive part only).
- (2) The following parks and public playgrounds shall be open from 6:00 a.m. to 9:00 p.m.:
 - A. Joseph C. Martin Golf Course.
 - B. Erie Golf Course.
 - C. Downing Golf Course.
(Ord. 53-1976 §9. Passed 7-14-76.)
- (3) The following parks and public playgrounds shall be open from 8:00 a.m. to 9:30 p.m.:
 - A. Gregory Stuart Baldwin Park.
(Ord. 60-1982 §1. Passed 8-25-82.)

(b) Closed Areas. Any section or part of any park may be declared closed to the public by the Director at any time and for any interval of time, either temporarily or at regular and stated intervals, daily or otherwise, and either entirely or merely to certain uses, as the Director shall find reasonably necessary.

(c) Permit. A permit shall be obtained from the appropriate director before participating in the following park activity:
Softball field usage and Glenwood Picnic Grove usage.

(d) Application. A person seeking issuance of a permit hereunder shall file an application with the Director. The application shall state:

- (1) The name and address of the applicant;
- (2) The name and address of the person, persons, corporation or association sponsoring the activity, if any;
- (3) The day and hours for which the permit is desired;
- (4) The park or portion hereof for which such permit is desired;
- (5) An estimate of the anticipated attendance; and
- (6) Any other information which the Director shall find reasonably necessary to a fair determination as to whether a permit should issue hereunder.

(e) Standards for Issuance. The Director shall issue a permit hereunder when he finds that:

- (1) The proposed activity or use of the park will not unreasonably interfere with or detract from the general public enjoyment of the park;
- (2) The proposed activity and use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation;
- (3) The proposed activity or use is not reasonably anticipated to incite violence, crime or disorderly conduct;
- (4) The proposed activity will not entail unusual, extraordinary or burdensome expense or police operation by the City; and
- (5) The facilities desired have not been reserved for other use at the day and hour required in the application.

(f) Appeal. Within ten days after receipt of an application the Director shall apprise an applicant in writing of his reasons for refusing a permit, and any aggrieved person shall have the right to appeal in writing within ten days to Council, which shall consider the application under the standards set forth in subsection (b) hereof and sustain or overrule the Director's decision within seven days. The decision of Council shall be final.

(g) Effect of Permit. A permittee shall be bound by all park rules and regulations and all applicable ordinances fully as though the same were inserted in such permits.

(h) Liability of Permittee. The person or persons to whom a permit is issued shall be liable for any loss, damage or injury sustained by any person whatever by reason of the negligence of the person or persons to whom such permits shall have been issued.

(i) Revocation. The Director shall have the authority to revoke a permit upon a finding of violation of any rule or ordinance, or upon good cause shown.
(Ord. 53-1976 §9. Passed 7-14-76.)

955.10 ENFORCEMENT.

(a) **Officials.** The Director of Parks and Public Places and any park attendant or police officer shall, in connection with their duties imposed by law, diligently enforce the provisions of this article.

(b) **Ejectment.** The Director and any park attendant or police officer shall have the authority to eject from the park any person acting in violation of this article.

(c) **Seizure of Property.** The Director and any park attendant or police officer shall have the authority to seize and confiscate any property, thing or device in the park, possessed or used in violation of this article. (Ord. 53-1976 §10. Passed 7-14-76.)

955.99 PENALTY.

Whoever violates any provision of this article or any regulation legally promulgated under authority thereof, upon prosecution before any District Justice of the City shall be fined not less than ten dollars (\$10.00) nor more than three hundred dollars (\$300.00), together with the cost of prosecution, or in default of payment of same shall undergo imprisonment not to exceed ninety days. (Ord. 53-1976 §11. Passed 7-14-76.)

ARTICLE 958
Separation of Recyclables

958.01	Legislative purpose.	958.10	Separation and disposal of leaf waste.
958.02	Definitions.	958.11	Recycling operations.
958.03	Establishment of Program; grant of power.	958.12	Recycling of materials.
958.04	Establishment of regulations.	958.13	Franchise or license.
958.05	Lead acid batteries.	958.14	Enforcement.
958.06	Separation and collection.	958.15	Repeal and severability.
958.07	Ownership of recyclable materials.	958.16	Modifications.
958.08	Collection prohibited.		
958.09	Other means of disposal.		

958.01 LEGISLATIVE PURPOSE.

(a) The Act of July 28, 1988, No. 101, known as the Municipal Waste Planning, Recycling and Waste Reduction Act, provides that each municipality of the Commonwealth shall have the power and duty to adopt and implement programs for the collection and recycling of municipal waste or source separated recyclable materials.

(b) Conservation of recyclable materials has become an important public concern because of the growing problem of solid waste disposal and its impact on our environment.

(c) The adoption and implementation of recycling shall effect the conservation of natural resources, the protection of the right of the people to clean air, pure water and the preservation of the environment.

(Ord. 59-1990 Sec. 1. Passed 8-22-90.)

958.02 DEFINITIONS.

(a) Unless the context clearly indicates otherwise, the following words and phrases used throughout this article shall have the following meanings:

- (1) "Aluminum containers" means empty aluminum beverage and food containers.
- (2) "Bi-metal containers" means empty food or beverage containers consisting of steel and aluminum.

- (3) "Collector" means the entity or entities authorized by the Municipality to collect recyclable materials from residences, or authorized by commercial, municipal and institutional establishments that do not receive collection services from the Municipality to collect recyclable materials from those properties.
- (4) "Commercial establishments" means those properties used primarily for commercial or industrial purposes and those multiple residential buildings containing more than four dwelling units.
- (5) "Community activities" means events that are sponsored by public or private agencies or individuals that include but are not limited to fairs, bazaars, socials, picnics and organized sporting events attended by 200 or more individuals per day.
- (6) "Corrugated paper" means structural paper material with an inner core shaped in rigid parallel furrows and ridges.
- (7) "Ferrous containers" means empty steel or tin-coated steel food or beverage containers.
- (8) "Glass containers" means bottles and jars made of clear, green or brown glass. Excluded are plate glass, automotive glass, blue glass, light bulbs and porcelain and ceramic products.
- (9) "High-grade office paper" means all white paper, bond paper and computer paper in commercial, institutional and municipal establishments and in residences.
- (10) "Household refuse" means all municipal waste except the following categories of solid waste:
 - A. Tires;
 - B. Large appliances (white goods);
 - C. Construction/demolition waste;
 - D. Bulky waste;
 - E. Putrescible waste;
 - F. Uncompactible waste;
 - G. Sludge;
 - H. Infectious/pathological waste;
 - I. Ash residue;
 - J. Special handling waste;
 - K. Friable asbestos waste;
 - L. Recyclable materials;
 - M. Household hazardous waste;
 - N. Unacceptable waste;
 - O. Oversized refuse items;
 - P. Yard waste; or
 - Q. Leaves.
- (11) "Institutional establishments" means those facilities that house or serve groups of people such as hospitals, schools, day care centers and nursing homes.
- (12) "Lead acid batteries" includes but is not limited to automotive, truck and industrial batteries that contain lead.
- (13) "Leaf waste" means leaves from trees, bushes and other plants; garden residue; chipped shrubbery and tree trimmings. Leaf waste shall not include grass clippings.

- (14) "Magazines and periodicals" means printed matter containing miscellaneous written pieces published at fixed or varying intervals. Expressly excluded are all other paper products of any nature whatsoever.
- (15) "Multi-family house properties" means any properties having more than four dwelling units per structure.
- (16) "Municipal establishments" means public facilities operated by the Municipality and other governmental and quasi-governmental authorities.
- (17) "Municipality" means the City of Erie.
- (18) "Municipal waste" means any garbage, refuse, industrial lunchroom wastes or other material, including solid, liquid, semi-solid or contained gaseous material, resulting from operation of residential, municipal, commercial or institutional establishments and from community activities and any sludge not meeting the definition of residual or hazardous waste in the Solid Waste Management Act from a municipal, commercial or institutional water supply treatment plant, waste-water treatment plant or air pollution control facility. The term does not include source-separated recyclable materials.
- (19) "Newspapers" means paper of the type commonly referred to as newsprint and distributed at fixed intervals, having printed thereon news and opinions, containing advertisements and other matters of public interest. Expressly excluded are glossy advertising inserts often included with newspapers.
- (20) "Paper" means all grades and colors of typing, wrapping, writing and computer papers, corrugated paper, cardboard, cereal and food boxes, soda and beer cartons, paper milk cartons, paper egg cartons, paper bags and junk mail.
- (21) "Person(s)" means owners, lessees and occupants of residences, commercial or institutional establishments.
- (22) "Plastic containers" means empty soda bottles (polyethylene terephthalate-pet) and empty milk/water jugs (high density polyethylene-hdpe). Expressly excluded are all other plastic food and beverage containers.
- (23) "Recyclable materials" means source separated recyclable materials including aluminum containers, bi-metal containers, ferrous containers, glass containers, plastic containers, paper, magazines and periodicals, newspapers, leaf waste and grass clippings.
- (24) "Recycling" means the collection, separation, recovery and sale or reuse of metals, glass, paper, leaf waste, plastics and other materials which would otherwise be disposed of or processed as municipal waste; or the mechanized separation and treatment of municipal waste (other than through combustion) and creation and recovery of re-useable materials.
- (25) "Residences" means any occupied single or multi-family dwelling having up to four dwelling units per structure for which the Municipality provides municipal waste collection service.
- (26) "Source separated recyclable materials" means those materials separated at the point of origin for the purpose of being recycled.

- (27) "Waste" means a material whose original purpose has been completed and which is directed to a disposal or processing facility or is otherwise disposed. The term does not include source separated recyclable materials or material approved by the Department of Environmental Resources for beneficial use.
(Ord. 59-1990 Sec. 1. Passed 8-22-90; Ord. 63-2001. Passed 11-7-01.)

958.03 ESTABLISHMENT OF PROGRAM; GRANT OF POWER.

The City hereby establishes a Recovery Program for the mandatory separation and collection of materials to be recycled from all residences in the City for which municipal solid waste collection is provided by the City. Collection of the materials to be recycled shall be made periodically by the City or its designated agent for recycling purposes. This article is ordained pursuant to the Third Class City Code (53 P.S. Section 35101 et seq.).
(Ord. 59-1990 Sec. 1. Passed 8-22-90.)

958.04 ESTABLISHMENT OF REGULATIONS.

(a) The Director of the Department of Public Works, Parks and Property is hereby authorized and empowered to establish and promulgate regulations including, but not limited to, the manner, days and times of collections of recyclable materials and the bundling, handling, location and time of placement of such materials for collection.

(b) The regulations shall include the following:

- (1) Separation, storage and collection of recyclables by residences;
- (2) Separation, storage and collection of recyclables by commercial, municipal, institutional establishments and community activities;
- (3) Separation, storage and collection of recyclables by multi-family housing properties;
- (4) Separation, collection and composting of leaf waste; and
- (5) A sustained public information and education program.

(c) The program regulations are provided as an attachment to original Ordinance 59-1990, passed August 22, 1990. The Director is empowered to make changes to the program regulations as necessary. Any material changes in the program regulations may be made by the Mayor and public notice and notification shall be made to all affected parties.
(Ord. 59-1990 Sec. 1. Passed 8-22-90.)

958.05 LEAD ACID BATTERIES.

No person may place a lead acid battery in mixed municipal solid waste, discard or otherwise dispose of a lead acid battery except by delivery to an automotive battery retailer or wholesaler, to a secondary lead smelter permitted by the Environmental Protection Agency, or to a collection or recycling facility authorized under the laws of this Commonwealth.
(Ord. 59-1990 Sec. 1. Passed 8-22-90.)

958.06 SEPARATION AND COLLECTION.

All persons who are residents of the City shall separate all materials to be recycled from all other municipal solid waste produced at their residences and shall place the same for collection by the City in accordance with the regulations established herein. The owner, landlord or agent of an owner or landlord of a multi-family housing property (more than four dwelling units per structure) shall be in compliance with this article by establishing a collection system for recyclable materials at each property. The collection system shall include suitable containers for collecting and sorting materials, easily accessible locations for the containers and written instructions to the occupants concerning the use and availability of the collection system. Collection for the recyclable materials other than leaf waste shall be provided at least one day each month.

(Ord. 59-1990 Sec. 1. Passed 8-22-90.)

958.07 OWNERSHIP OF RECYCLABLE MATERIALS.

All materials to be recycled and placed by the resident for collection by the City pursuant to this article and regulations established herein, shall from time of placement at the curb, become the property of the City except as otherwise provided.

(Ord. 59-1990 Sec. 1. Passed 8-22-90.)

958.08 COLLECTION PROHIBITED.

It shall be a violation of this article for any person, firm, organization or corporation, other than the City, or one authorized by the City, to collect materials to be recycled and placed by a resident for collection by the City, unless such person, firm, organization or corporation has prior written permission to make such collection as set forth in this article. Each unauthorized collection in violation hereof from one or more residences on one calendar day shall constitute a separate and distinct offense punishable as hereinafter provided.

(Ord. 59-1990 Sec. 1. Passed 8-22-90.)

958.09 OTHER MEANS OF DISPOSAL.

Any resident may donate or sell materials to be recycled to any person, firm, organization or corporation, whether operating for profit or not, provided that the receiving person, firm, organization or corporation shall not collect such donated recyclable materials from the collection point of a residence without prior written permission from the City to make such collection.

(Ord. 59-1990 Sec. 1. Passed 8-22-90.)

958.10 SEPARATION AND DISPOSAL OF LEAF WASTE.

No resident shall dispose of leaf waste with ordinary household waste or materials to be recycled. Leaf waste shall be separated from other municipal waste generated at homes, apartments and other residential establishments. Leaf waste shall be collected in accordance with the regulations attached to original Ordinance 59-1990, passed August 22, 1990.

(Ord. 59-1990 Sec. 1. Passed 8-22-90.)

958.11 RECYCLING OPERATIONS.

All recycling operations that operate within the City shall keep daily records of all deliveries of recyclables, including, but not limited to, the name and address of the hauler, the source of the recyclable, the kind of recyclables received, the weight or volume of the recyclables, and where the recyclables were sold. A copy of these records shall be maintained at the recycling facility by the operator for no less than five years and shall be made available to the City for inspection, upon request.

(Ord. 59-1990 Sec. 1. Passed 8-22-90.)

958.12 RECYCLING OF MATERIALS.

It shall be a violation of this article for any person, firm, organization or corporation to dispose of recyclables with the ordinary municipal waste. All collected recyclable materials are to be taken to a recycling facility. Operators of recycling operations are prohibited from disposing of recyclables in landfills or incinerators unless markets for such recyclables do not exist.

(Ord. 59-1990 Sec. 1. Passed 8-22-90.)

958.13 FRANCHISE OR LICENSE.

The City may enter into agreement with any agency to handle the recyclable materials.

(Ord. 59-1990 Sec. 1. Passed 8-22-90.)

958.14 ENFORCEMENT.

(a) Any person, firm, organization or corporation who violates any of the provisions of this article shall, upon conviction, be sentenced to pay a fine of not less than twenty-five dollars (\$25.00) nor more than three hundred dollars (\$300.00) and costs of prosecution for each and every offense. Each day that such violation occurs or continues shall constitute a separate violation.

(b) The City reserves the right not to collect recyclable materials commingled with nonrecyclable materials. Additionally, the City reserves the right not to collect nonrecyclable materials commingled with recyclable materials.

(Ord. 59-1990 Sec. 1. Passed 8-22-90.)

958.15 REPEAL AND SEVERABILITY.

All ordinances or parts of ordinances inconsistent with this article are hereby repealed to the extent of such inconsistency. Should any part of this article be held unconstitutional, illegal or unenforceable by any court of competent jurisdiction, such invalidity shall not affect, impair, nullify or otherwise prevent the enforcement of the remainder of this article. It is hereby declared that such parts as are legal would have been erected independently of the invalid portion had the invalidity of such part been known, and it is the intention of the City that such remainder shall be and remain in full force and effect.

(Ord. 59-1990 Sec. 1. Passed 8-22-90.)

958.16 MODIFICATIONS.

The City may, from time to time, modify, add to or remove from the standards and regulations herein.

(Ord. 59-1990 Sec. 1. Passed 8-22-90.)

TITLE NINE - Boat Control

Art. 971. Definitions; Enforcement; Penalty.

Art. 973. Operation Generally.

Art. 975. Health, Safety and Sanitation.

ARTICLE 971

Definitions; Enforcement; Penalty

971.01	Definitions.	971.05	Port Commission to make
971.02	Harbormaster or deputy to enforce.		regulations; posting.
971.03	Information by citizens.	971.06	Exceptions.
971.04	Violation of Coast Guard regulations.	971.99	Penalty.

CROSS REFERENCES

Wharves and docks - see 3rd Class §3 901 et seq. (53 P. S. §38901 et seq.)

Port Commission - see ADM. Art. 153

971.01 DEFINITIONS.

For the purpose of this Title Nine - Boat Control, the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular and words in the singular number include the plural number. The word "shall" is always mandatory and never directory.

- (a) "Boat" means any watercraft, including seaplanes when not airborne, in or upon, or docked or moored at any place in any waterway, or beached or stored at any landing area or launching ramp within the City, the waters over which the City has jurisdiction or otherwise owns or controls, with the beach or shoreline adjacent thereto.
- (b) "Motorboat" means a boat with any mechanical source of motor power, either inboard or outboard.
- (c) "Waterway" means any waters, waterway, lake, river, creek, canal, lagoon, mooring basin or connecting waters within the City or over which the City has jurisdiction.
- (d) "Title" means Ordinance 47-1958, passed June 10, 1958, codified herein as Title Nine - Boat Control. (Ord. 47-1958 §2. Passed 6-10-58.)

971.02 HARBORMASTER OR DEPUTY TO ENFORCE.

The Harbormaster of the City or any police officer of the City that may be assigned to such duty by the Chief of Police as a deputy Harbormaster, or any legally authorized deputy Harbormaster, is authorized and empowered to enforce the provisions of this Title. For this purpose, such officers shall have authority to board any boat moored in violation of this Title and/or to board any vessel operated or equipped in violation of the provisions of this Title. Such officers shall be authorized to moor or cause to be moored in another location any vessel moored in violation of this article. (Ord. 47-1958 §11. Passed 6-10-58.)

971.03 INFORMATION BY CITIZENS.

Nothing herein contained shall be deemed to prevent or prohibit any citizen from making sworn information before any magistrate or alderman of the City charging violation of the provisions of this Title which he has witnessed. (Ord. 47-1958 §11. Passed 6-10-58.)

971.04 VIOLATION OF COAST GUARD REGULATIONS.

The Harbormaster of the City or his legally authorized deputy is further authorized to make such information or charge of violations of regulations of the U.S. Coast Guard as he may be authorized to do by Federal statute or Coast Guard regulations. (Ord. 47-1958 §11. Passed 6-10-58.)

971.05 PORT COMMISSION TO MAKE REGULATIONS; POSTING.

The Port Commission is authorized to make such regulations in conformity with the provisions of this Title as may be necessary to the proper enforcement hereof. Such regulations shall be transmitted to Council for its approval and, as approved, shall be advertised as is required by law for ordinances imposing a penalty for violations. Such regulations shall be posted in summary form at such wharves, docks, piers, mooring areas, landing areas or launching areas as are under the jurisdiction of the Commission or at such areas to which they apply. When so adopted, approved, advertised and posted, such regulations shall have the same force and effect as this Title and the violations thereof shall be prosecuted and the penalty imposed as are provided by this article. (Ord. 47-1958 §10. Passed 6-10-58.)

971.06 EXCEPTIONS.

Nothing herein shall be deemed to apply to the operation of boats in a publicly announced, regularly scheduled race, speed test, regatta or exhibition, in an area or course that is clearly and properly marked and adequately patrolled. Nothing herein shall be deemed to apply to such action as is reasonably necessary to protect persons and property from injury or damage in an emergency which threatens the same. (Ord. 47-1958 §9. Passed 6-10-58.)

971.99 PENALTY.

Whoever violates any provision of this Title or regulations legally promulgated under the authority of this Title, upon prosecution before any magistrate or alderman of the City shall be fined not less than ten dollars (\$10.00), nor more than three hundred dollars (\$300.00), together with cost of prosecution, or in default of payment of same to undergo imprisonment not to exceed ninety days. (Ord. 47-1958 §12. Passed 6-10-58.)

ARTICLE 973
Operation Generally

<p>973.01 Standards adopted.</p> <p>973.02 Conflict with Federal law; separability.</p> <p>973.03 Other prosecution no bar.</p> <p>973.04 Speed regulations.</p> <p>973.05 Reckless operation.</p> <p>973.06 Operating under influence of intoxicants.</p> <p>973.07 Motorboats near beaches prohibited.</p> <p>973.08 Muffler required.</p> <p>973.09 Unnecessary noise.</p>	<p>973.10 Use of searchlights.</p> <p>973.11 Disturbing other boats or persons.</p> <p>973.12 Mooring or anchoring.</p> <p>973.13 Anchoring in vicinity of water intakes and outfall sewers.</p> <p>973.14 Water skis or surfboards.</p> <p>973.15 Inflated rafts or tubes.</p> <p>973.16 Abandoned boats.</p> <p>973.17 Regulation of carriers of flammable, volatile or explosive substances.</p>
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CROSS REFERENCE
Port Commission - see ADM. Art. 153

973.01 STANDARDS ADOPTED.

The following statutes and regulations issued under the authority thereof are adopted as standards of safe operation, rules of traffic and standards of safe equipment and maintenance. The violation thereof or the failure to conform therewith shall be considered as prima-facie evidence of the violation of the provisions of this article regulating the safety of operation, equipment and maintenance of boats, punishable in accordance with the provisions hereof.

- (a) An Act to Regulate Navigation on the Great Lakes, Feb. 8, 1895, as amended, 33 U.S. Code 241-294.
- (b) The Motor Boat Act of April 25, 1940, as amended, 46 U. S. Code 526.
- (c) Pilot Rules for the Great Lakes, issued by U.S. Coast Guard July 1, 1957, CG-172 and any supplement, amendment or addition thereto.
- (d) Rules and Regulations for Uninspected Vessels, issued by the U.S. Coast Guard, July 1, 1953, CG-258 and any supplement, amendment or addition thereto.
- (e) Rules and Regulations for Numbering Undocumented Vessels, issued by the U.S. Coast Guard, January 15, 1953, CG-267, and any supplement, amendment or addition thereto. (Ord. 47-1958 §4. Passed 6-10-58.)

973.02 CONFLICT WITH FEDERAL LAW; SEPARABILITY.

When any provisions of this Title are found to be in conflict with any Federal statute or regulations issued pursuant thereto, or any statutes of the Commonwealth or regulations issued pursuant thereto, such Federal or State statute or regulation shall prevail, but the remaining provisions of this Title shall not be affected. When any provision of this Title shall be found unconstitutional or beyond the powers of the City, it is the intention of Council that the remainder of this Title shall not be affected thereby. (Ord. 47-1958 §4. Passed 6-10-58.)

973.03 OTHER PROSECUTION NO BAR.

Prosecution and/or conviction of any offense under Federal law or regulation shall not bar any prosecution or conviction for any similar or related offense punishable under the terms of this Title. (Ord. 47-1958 §4. Passed 6-10-58.)

973.04 SPEED REGULATIONS.

(a) **Standard of Safe Speed.** Every operator of a boat shall operate the same at all times in a careful and prudent manner and at such rate of speed as not to endanger the life, limb or property of any person, either by direct contact therewith, by action taken to avoid the change of same or by reason of the wash of the wave of same.

(b) **Assured Clear Distance.** No person shall operate any boat at a rate of speed greater than will permit him in the exercise of reasonable care to bring the boat to a stop within the assured clear distance ahead.

(c) **Limitation Within U.S. Harbor Line.** No boat shall be operated at a speed in excess of five miles per hour within the area bounded on the west by the west line of Cascade Street, on the east by the breakwater connecting the mainland of the City to the Channel Pier between the U. S. Harbor line on the north and the shore line on the south.

(d) **Limitation in Canal Basins and Near Shore.** No boat shall be operated at a speed in excess of three miles per hour in the East and West Canal Basins and also in any other area within 300 feet of the shore line of the City. (Ord. 47-1958 §5. Passed 6-10-58.)

973.05 RECKLESS OPERATION.

No person shall operate a boat in a reckless manner or at an excessive rate of speed or so loaded as to endanger or be likely to endanger the life or property of any person, having due regard for the presence of other boats or persons, or other objects in or on a waterway or the shores, piers, docks, wharves, seawalls adjacent thereto or to boats moored in such waterways or structures adjacent thereto, having due regard to the weather or other conditions existing at such time. (Ord. 47-1958 §3. Passed 6-10-58.)

973.06 OPERATING UNDER INFLUENCE OF INTOXICANTS.

No person shall operate a boat while under the influence of intoxicating liquors or drugs. (Ord. 47-1958 §3. Passed 6-10-58.)

973.07 MOTORBOATS NEAR BEACHES PROHIBITED.

No person shall operate any boat with an inboard or outboard motor in operation at the time within 500 feet of any shore or beach which is clearly marked by signs, buoys or some other distinguishing device as a bathing or swimming area. (Ord. 47-1958 §6. Passed 6-10-58.)

973.08 MUFFLER REQUIRED.

No person shall operate a boat with inboard or outboard motor unless the same is equipped with an adequate muffled exhaust. (Ord. 47-1958 §6. Passed 6-10-58.)

973.09 UNNECESSARY NOISE.

No person shall operate any siren, bell, whistle, horn or other noise-producing or amplifying device or instrument on a boat in such manner that the peace and good order of the area is disturbed, except for such use or operation as is required by Federal laws or regulations for the safe operation or navigation of vessels. (Ord. 47-1958 §6. Passed 6-10-58.)

973.10 USE OF SEARCH LIGHTS.

No person using a boat shall use the searchlights or spotlights indiscriminately or in such manner as to disturb the peace and good order of other boats or persons in the area. (Ord. 47-1958 §6. Passed 6-10-58.)

973.11 DISTURBING OTHER BOATS OR PERSONS.

No person shall operate a boat in any manner as to unjustifiably or unnecessarily annoy or frighten or endanger the occupants of any other boat or any other person in the vicinity. (Ord. 47-1958 §6. Passed 6-10-58.)

973.12 MOORING OR ANCHORING.

No person shall moor, tie to or anchor any boat in any recognized passageway or channel, or to any channel marker or buoy, or otherwise interfere with the full use of such passageways or channels by others, nor shall any person moor a boat to a private dock or pier without permission. No boat shall be moored or anchored at the site of any construction work, or construction, repair or dredging equipment. (Ord. 47-1958 §6. Passed 6-10-58.)

973.13 ANCHORING IN VICINITY OF WATER INTAKES AND OUTFALL SEWERS.

No boat having an overall length in excess of 100 feet, or a gross tonnage in excess of fifty tons, shall anchor within 500 feet of either side of the line of the City water intake pipes or the City outfall sewer as such are designated on U.S. Corps of Engineers charts at Presque Isle Bay, and as designated by marking buoys, or at such greater distances as may be ordered by the Harbormaster as temporary or emergency conditions may require for the protection of the health and safety of the citizens of the City. (Ord. 47-1958 §6. Passed 6-10-58.)

973.14 WATER SKIS OR SURFBOARDS.

No person shall operate any boat pulling or hauling surfboards, water skis or any similar devices unless there is an additional person aboard such boat who will direct his attention to the assurances of the safe operation of such devices at all times, both with regard to the safety of persons using such devices and the safety of other persons or boats in the vicinity of same. (Ord. 47-1958 §6. Passed 6-10-58.)

973.15 INFLATED RAFTS OR TUBES.

No person shall use an inflated raft or inner tube in any area where boats with inboard or outboard motors are permitted to operate. (Ord. 47-1958 §6. Passed 6-10-58.)

973.16 ABANDONED BOATS.

Every boat in a waterway which is abandoned, which becomes a menace in navigation, is unseaworthy or sinks, grounds or becomes otherwise disabled, is declared to be a nuisance, and the person in charge thereof or the owner thereof shall abolish such nuisance within five days after notice from the Harbormaster. (Ord. 47-1958 §6. Passed 6-10-58.)

973.17 REGULATION OF CARRIERS OF FLAMMABLE, VOLATILE OR EXPLOSIVE SUBSTANCES.

Any boat, vessel or barge, whether loaded or empty, which carries, has carried or is designed for the carriage of flammable, volatile or explosive materials, except for its own fuel, shall not be docked or moored at any dock, wharf, pier or mooring area owned by the City until written permission has been secured from the Harbormaster, and shall be thereafter docked or moored strictly in accordance with the terms of such permission. The Port Commission is authorized to make such additional regulations controlling the docking, mooring or anchoring of vessels carrying or designed to carry flammable, volatile or explosive substances at any point in waters under the jurisdiction of the City, as may be necessary to protect the lives and property of the citizens of the City.

(Ord. 47-1958 §6. Passed 6-10-58.)

ARTICLE 975
Health, Safety and Sanitation

975.01 Garbage and refuse.
975.02 Toilets.

975.03 Equipment.

CROSS REFERENCE

Garbage and rubbish collection - see S.U. & P.S. Art. 951

975.01 GARBAGE AND REFUSE.

No garbage and refuse shall be deposited in any waters under the jurisdiction of the City.
(Ord. 47-1958 §8. Passed 6-10-58.)

975.02 TOILETS.

No person shall use toilet facilities emptying into waters under the jurisdiction of the City when the boat is moored at a dock or pier where toilet facilities are available. When such facilities are not readily available, use of toilets on boats in City waters shall be limited insofar as is practical and possible in the interest of public health. (Ord. 47-1958 §8. Passed 6-10-58.)

975.03 EQUIPMENT.

All boats not otherwise governed or regulated by Federal or State statutes and regulations shall be equipped as follows:

- (a) Motors. No boat shall be powered or equipped with a motor of greater or lesser power than is compatible with safe operation.
- (b) Life Saving Devices. Every boat shall carry a Coast Guard approved life preserver jacket, ring, buoy or buoyant cushion at all times for every person aboard.
- (c) Fire Extinguishers. All boats using inboard or outboard motors for propulsion, and all boats having flammable liquids aboard such as, but not limited to, gasoline or other fuel for lanterns or stoves, shall carry a Coast Guard approved fire extinguisher.
- (d) Anchors. All boats shall carry at least one anchor of proper weight with sufficient line of ample length for any waters in which they are to be used.
- (e) Lights. All boats shall show lights when operating from sunset to sunrise.
(Ord. 47-1958 §7. Passed 6-10-58.)
- (f) Safety of Equipment. No person shall own or operate a boat in waters under the jurisdiction of the City unless the same shall be powered and equipped so as not to endanger the life or property of persons occupying or likely to occupy the same or of persons or property in the vicinity.
(Ord. 47-1958 §303. Passed 6-10-58.)

