AN ORDINANCE

Amending Chapter 52 of the Revised Code of General Ordinances Pertaining to the Regulation of the Use of Public and Private Sewers and Drains, and the Discharge of Water and Wastes into the Public Sewer System, and Repealing Existing Sections 52.01, 52.02, 52.03, 52.04, 52.05, 52.06, 52.07, 52.08, and 52.99 of the Revised Code of General Ordinances; and Declaring an Emergency.

WHEREAS, The federal government has enacted and amended the Federal Water Pollution Control Act now known as the Federal Clean Water Act (33 U.S.C. 1251, et. seq.); and

WHEREAS, With the passage of such federal legislation, municipalities are delegated and mandated a more responsible and responsive role in water pollution abatement; and

WHEREAS, The city, to insure its compliance with the Clean Water Act and to prevent the existence of public nuisances, has enacted local legislation to regulate the discharge and disposal of substances into city sewers and wastewater facilities; and

WHEREAS, By enacting such legislation, the city further desires to insure that the use of the public wastewater system operated by it will safeguard the public health and protect the environment; and

WHEREAS, The city desires to regulate to the fullest extent authorized by law the use of the public wastewater system operated by it; and

WHEREAS, Amendments to the federal legislation and regulations now require that local Ordinances be amended to reflect these changes; and

WHEREAS, This Ordinance has been subject to public hearings, review, and comment; and

WHEREAS, These proposed amendments have been approved by the Ohio Environmental Protection Agency as consistent with the Federal Clean Water Act; and

WHEREAS, It is determined that such legislation is consistent with the city’s policy of protecting its water resources; and

WHEREAS, The city deems it necessary to set forth uniform requirements for users of the POTW in order to comply with all applicable State and Federal laws; and

WHEREAS, In order to provide for the immediate preservation of the public peace, property, health, and safety it is necessary that this Ordinance take effect immediately upon its passage; now, therefore,

BE IT ORDAINED BY THE COMMISSION OF THE CITY OF DAYTON:

Section 1. That Chapter 52 of the Revised Code of General Ordinances of the City of Dayton is amended to read as follows:
§ 52.01 GENERAL PROVISIONS

I. Purpose and Policy

This chapter sets forth uniform requirements for users of the Publicly Owned Treatment Works (POTW) for the City of Dayton, Ohio, and enables the city to comply with all applicable State and Federal laws, including the Clean Water Act (33 USC 1251 et seq.) and the General Pretreatment Regulations (40 CFR Part 403). The objectives of this chapter are:

(A) To prevent the introduction of pollutants into the POTW that will interfere with the operation of the POTW;

(B) To prevent the introduction of pollutants into the POTW that will pass through the POTW, inadequately treated, into receiving waters or otherwise be incompatible with the POTW;

(C) To ensure that the quality of the wastewater treatment plant biosolids is maintained at a level that allows its use and disposal in compliance with applicable statutes and regulations;

(D) To protect POTW personnel who may be adversely affected by wastewater, wastewater solids, and biosolids in the course of their employment and to protect the general public;

This chapter provides for use of the city’s wastewater facilities, regulation of sewer construction, control of the quantity and quality of wastewater discharged, wastewater pretreatment, equitable distribution of costs, assurance that existing customers capacity will not be preempted, approval of sewer construction plans, issuance of sewer use rules and regulations, minimum sewer connection standards and conditions, and penalties and other procedures in cases of violation of this chapter.

This chapter shall apply to persons in the City of Dayton and to persons outside the city, who are, by contract or agreement with the city, users of the city’s sanitary sewers or wastewater treatment facilities. This chapter shall apply to all users of the POTW. The chapter authorizes the issuance of wastewater discharge permits, including zero discharge permits; authorizes 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 pretreatment program established herein.

Nothing contained in this chapter shall be construed so as to interfere with any existing or future lawful requirements that may be, or heretofore were, imposed by the Combined General Health District or other public body authorized to enact sanitary, health or water pollution abatement restrictions, so long as such requirements are consistent with the stated purpose of this chapter.

Nothing contained in this chapter shall be construed so as to interfere with the duties and powers of the Director of Water as set forth in §50.40 of the R.C.G.O.
II. Administration

Except as otherwise provided herein, the Director shall administer, implement, and enforce the provisions of this chapter. Any powers granted to or duties imposed upon the Director may be delegated by the Director to other City of Dayton personnel.

III. Definitions

As used in this chapter, the following words and phrases shall have the meanings ascribed to them respectively, regardless of whether or not the words and phrases are capitalized:

Accessible. Accessible, when applied to required pretreatment monitoring or treatment equipment, shall mean safe, direct access without the necessity of removing any panel, door, vehicle, equipment, materials, or other similar obstruction.

Act or "the Act". The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 et seq.

Administrative Penalty (assessment). A punitive monetary charge unrelated to treatment cost, which is assessed by the Director rather than a court.

Applicable Pretreatment Standards. For any specified pollutant, City of Dayton prohibitive standards, City of Dayton specific pretreatment standards (local limits), State of Ohio pretreatment standards, EPA's Categorical Pretreatment Standards (when effective), or National Pretreatment Standards, whichever standard is appropriate and most stringent.

Approval Authority. The Ohio Environmental Protection Agency (OEPA).

Authorized Representative of the User.

(1) If the user is a corporation:

(a) 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

(b) The manager of one or more manufacturing, production, or operation facilities who 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 of initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations. The manager must also be responsible for ensuring that the necessary systems are established or that the necessary actions are taken to gather complete and accurate information for control mechanism requirements, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

(2) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively:
(3) 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 his/her authorized designee;

(4) The individuals described in paragraphs (1) through (3) above 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 Director.

**Average Daily Flow.** The average 24-hour flow over a 30-day period determined by a method approved by the Director.

**Best Management Practices (BMPs).** Means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in OAC 3745-3-04. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

**Biochemical Oxygen Demand (BOD).** The quantity of oxygen utilized in the biochemical oxidation of organic matter amenable to measurement by the methods described in the latest edition of *Standard Methods for the Examination of Water and Wastewater*; under standard laboratory procedures for five (5) days at 20° centigrade, usually expressed as a concentration [milligrams per liter (mg/L)].

**Biosolids.** The organic product of municipal wastewater treatment that can be beneficially used.

**Building Sewer.** In plumbing, the extension from the building drain to the public sewer or other place of disposal. Also called house connection.

**Bypass.** The intentional diversion of waste streams from any portion of an industrial user’s treatment facility.

**Categorical Pretreatment Standard or Categorical Standard.** Any standard, including national categorical pretreatment standards, specifying quantities or concentrations of pollutants or pollutant properties that may be discharged to a POTW by new or existing industrial users in specific industrial categories.

**Categorical User (Categorical Industrial User).** A user covered by one of EPA’s Categorical Pretreatment Standards.

**Chemical Oxygen Demand (COD).** A measure of the oxygen equivalent of a sample that is susceptible to oxidation by a strong chemical oxidant. COD is determined by standard laboratory procedure as stipulated in 40 CFR, Part 136.

**City.** The City of Dayton, Ohio.
Color. The optical density at the visual wavelength of maximum absorption, relative to distilled water. One hundred percent (100%) transmittance is equivalent to zero (0.0) optical density.

Commercial User. A store, office, or recreational property used for transaction of business, sale of merchandise or as a gathering place for people and that is connected to the wastewater facilities and is not within the definition of “Governmental User,” “Industrial User,” or “Residential User.”

Composite Sample. The sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.

Contact Cooling Water. Water used for cooling purposes only, which may become contaminated either through the use of water treatment chemicals used for corrosion inhibitors or biocides, or by direct contact with process materials and/or wastewater.

Control Manhole. A device or structure suitable and appropriate to permit sampling and flow measurement of a wastewater stream to determine compliance with this chapter.

Day. A 24-hour period, beginning at 12:01 am, or otherwise specified by the Director.

Director. The Director of the City of Dayton Department of Water, or his or her duly authorized representative.

Discharge Authorization Permit (DAP). A wastewater discharge permit authorizing users other than Significant Industrial Users, or Categorical Users, but still requiring a control mechanism, to discharge wastewater to the City of Dayton POTW.

Domestic Sewage. The liquid and water borne wastes derived from ordinary household living practices, free from industrial wastes, and of such character to permit satisfactory disposal, without special treatment, into the POTW.

Easement. An acquired legal right for the specific use of land owned by others.

Existing Source. For a categorical industrial user, an "existing source" is 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.

Existing User. For non-categorical users an "existing user" is defined as any user that is discharging wastewater prior to the effective date of this chapter.

Extra-Strength Surcharge (High Strength Waste). Any waters or wastewater having a concentration of BOD or Total Suspended Solids in excess of 350 mg/L.

Fats, Oils and Grease (FOG). A group of substances including hydrocarbons, fatty acids, soaps, fats, waxes, oils, or any other material that is extracted by a solvent from an acidified sample and that is not volatilized during the laboratory test procedures. Oils and greases are defined by the method of their determination in accordance with procedures set forth in 40 CFR 136.
Garbage. The solid animal and vegetable wastes resulting from the domestic or commercial handling, storage, dispensing, preparation, cooking, and serving of foods.

Governmental User. Any property used for transaction of governmental business and that is connected to the wastewater facilities and is not within the definition of “Commercial User,” Industrial User,” or “Residential User.”

Grab Sample. A sample that is taken from a waste stream without regard to the flow of the waste stream and without consideration of time.

Grease Interceptor. A passive interceptor having a rated flow exceeding fifty (50) gallons per minute (189 L/m) to serve one or more fixtures and that shall be remotely located.

Grease Trap. A passive interceptor having a rated flow of fifty (50) gallons per minute (189 L/m) or less, and designed to retain grease from one to a maximum of four fixtures.

Groundwater. Water within the earth.

Indirect Discharge or Discharge. The introduction of pollutants into the POTW. The discharge into the POTW is normally by means of pipes, conduits, pumping stations, force mains, constructed drainage ditches, surface water intercepting ditches, and all constructed devices and appliances appurtenant thereto.

Industrial User. Any non-domestic source of wastewater regulated under Section 307 (b), (c) or (d) of the Clean Water Act who introduces pollutants into the wastewater facility. “Industrial User” shall also include any user that discharges wastewater containing pollutant(s), or any substance(s) that may cause or contribute to interference in the wastewater facilities, and any federal categorical industry that is designated as such by the EPA.

Industrial Waste. Any and all liquid or water borne waste from industrial or commercial processes, except domestic sewage, non-contact cooling water, condensate, and/or blowdown water.

Industrial Wastewater Discharge Permit. A final determination by the Director establishing discharge limitations, monitoring and sampling requirements, discharge prohibitions, or otherwise regulating a discharge or discharger to the wastewater facility.

Interceptor. A device designed and installed so as to separate and retain deleterious or undesirable matter from normal wastes and permit normal liquid wastes to discharge by gravity.

Interference. A discharge that, alone or in conjunction with a discharge or discharges from other sources, both:

(1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
(2) Is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations):

(a) Section 405 of the Clean Water Act;

(b) The Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to subtitle D of the SWDA);

(c) The standards for the use and disposal of sewage sludge (40 CFR 503);

(d) The Clean Air Act, 42 USC 7401 et seq., as amended, and;

(e) The Toxic Substances Control Act, 15 USC 2601 et seq., as amended.

Liquid Waste. The discharge from any fixture, appliance, or appurtenance in connection with a plumbing system that does not receive fecal matter.

Maximum Allowable Discharge Limit. The maximum concentration (or loading) of a pollutant allowed to be discharged at any moment.

Natural Outlet. Any outlet into a watercourse, pond, ditch, lake, or any other body of surface water or groundwater.

New Source.

(1) 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 that will be applicable to such source if such standards are thereafter promulgated in accordance with that Section, provided that:

(a) The building, structure, facility, or installation is constructed at a site at which no other source is located; or

(b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(c) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent factors such as the extent to which the new facility is integrated with the existing plant, and the extent to
which the new facility is engaged in the same general type of activity as the existing source should be considered.

(2) 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 Section (1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.

(3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

(a) Begun, or caused to begin as part of a continuous on-site construction program;

(i) any placement, assembly, or installation of facilities or equipment; or

(ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities that is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(b) Entered into a binding contractual obligation for the purchase of facilities or equipment that are intended to be used in its operation within a reasonable time. Options to purchase or contracts that 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.

New User. A "new user" is not a "new-source" and is defined as a user that applies to the city for a new building permit or any person who occupies an existing building and plans to discharge wastewater to the city's collection system after the effective date of this chapter. Any person that buys an existing facility that is discharging non-domestic wastewater will be considered an "existing user" if no significant changes are made in the operation.

Non-Contact Cooling Water. Water used for cooling purposes only that has no direct contact with any raw material, intermediate product, waste product, or finished product and that does not contain a level of contaminants detectably higher than that of the intake water.

Owner. The person or persons who legally own, lease, or occupy private property with wastewater facilities that discharge, or will discharge to the city's wastewater facilities.

Pass Through. A discharge that exits the POTW in such quantities and/or concentrations that, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the city's NPDES permit (including an increase in the magnitude or duration of a violation).

Permittee. A person or user issued a wastewater discharge permit.
**Person.** Any individual, partnership, co-partnership, 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, or local governmental entities.

**pH.** The logarithm of the reciprocal of the hydrogen ion concentration expressed in moles per liter of solution as determined by 40 CFR, Part 136.

**Pollutant.** Any of the following:

1. Any liquid waste containing animal or vegetable matter in suspension or solution, and may include household wastes as commonly discharged from residences and from commercial, institutional, or similar facilities;

2. Any liquid, gaseous, or solid waste substance resulting from any process of industry, manufacture, trade, construction, agriculture, or business, or from the development, processing, or recovery of any natural resource, together with such sewage as is present;

3. Any garbage, refuse, decayed wood, sawdust, shavings, bark, or other wood debris, lime, sand, ashes, offal, night soil, oil, tar, coal dust, dredged or fill material, or silt, other substances that are not sewage or industrial waste; or

4. Any man-made or man-induced alteration of the chemical, physical, biological, or radiological properties of water.

**Pollution Prevention.** Source reduction and other practices that reduce or eliminate the creation of pollutants through:

1. Increased efficiency in the use of raw materials, energy, water, or other resources; or,

2. Protection of natural resources by conservation.

**Pretreatment.** 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 BMPs; by pollution prevention alternatives including process changes, material substitutions, improved operating practices and recycling; or by other means (except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard).

**Pretreatment Device.** A piece of equipment or mechanism, including, but not limited to, tanks, separators, interceptors, or cylinders, designed to reduce the amount of pollutants; eliminate pollutants; or alter the nature of pollutant properties in wastewater prior to (or in lieu of) introducing such pollutants into the POTW.

**Pretreatment Requirements.** Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.
**Pretreatment Standards or Standards.** A discharge limit related to pretreatment that is imposed on an industrial user by local ordinance or control mechanism, including categorical pretreatment standards, prohibitive discharge limits established pursuant to rule 3745-3-04 of the Administrative Code; local limits established pursuant to paragraph (C)(4) of rule 3745-3-03 and paragraph (D) of rule 3745-3-04 of the Administrative Code; and any enforceable schedule designed to achieve compliance with such limit.

**Process Wastewater.** Essentially the same as Industrial Waste; however, process wastewater usually refers to a wastestream from a specifically regulated process in a facility.

**Prohibited Discharge Standards or Prohibited Discharges.** Absolute prohibitions against the discharge of certain substances; these prohibitions appear in §§ 52.03 II. A. and B.

**Properly Shredded Garbage.** Garbage that has been shredded to such a degree that all particles will be carried freely under flow conditions normally prevailing in the sanitary sewers, with no particle greater than 1/2 inch in any dimension.

**Publicly Owned Treatment Works (POTW).** A "treatment works," as defined by Section 212 of the Act (33 USC 1292) that is owned by the city. This definition includes all devices, facilities, or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances that convey wastewater to a treatment plant.

**Recycling.** The reuse or reclamation of a material. A material is used or reused if it is either employed as an ingredient to make a product or employed in a particular function as an effective substitute for a commercial product. A material is reclaimed if it is processed to recover a useful product or if it is regenerated.

**Residential User.** All premises used only for human residency and that are connected to the wastewater facilities and discharge wastes typical of household activities.

**Septic Tank Waste.** Any domestic and/or residential sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

**Sewage.** Any liquid waste containing sludge, sludge materials, or animal or vegetable matter in suspension or solution, and may include household wastes as commonly discharged from residences and from commercial, institutional, or similar facilities.

**Sanitary Sewer.** Any pipe, conduit, ditch, or other device used to collect and transport sewage from the generating source.

**Shall, May.** "Shall" is mandatory, "may" is permissive.

**Significant Industrial User (SIU).** Significant Industrial User means:

1. All Industrial Users subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I, subchapter N; and

2. Any other Industrial User that: discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, non-
contact cooling and boiler blowdown wastewater); contributes a process wastestream that makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW Treatment plant; or is designated as such by the Control Authority on the basis that the Industrial User has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or requirement (in accordance with 40 CFR 403.8(f)(6)).

**Slug Load.** Any discharge at a flow rate or concentration that could cause a violation of the discharge standards in §§ 52.03 II through V or any discharge of a non-routine, episodic nature, including but not limited to, an accidental spill or a non-customary batch discharge.

**Source Reduction.** Any practice that reduces the amount of any pollutant or contaminant entering any waste stream or that is otherwise released into the environment (including fugitive emissions) prior to recycling, treatment, or disposal.

**Standard Industrial Classification (SIC) Code.** A classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

**State.** The State of Ohio.

**Storm Sewer.** A sewer for conveying storm, surface, and other waters, that are not intended to be transported to a treatment facility.

**Storm Water.** Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

**Surface Water.** Water that occurs when the rate of precipitation exceeds the rate at which water may infiltrate into the soil.

**Suspended Solids.** The total suspended matter that either floats on the surface of, or is in suspension in, water or wastewater, as determined by 40 CFR, Part 136; also known as “Total Suspended Solids (TSS)” or “Non-filterable Residue.”

**Toxic Pollutant.** One of the pollutants, or combination of those pollutants, listed as toxic in regulations promulgated by EPA under Section 307 (33 USC 1317) of the Act, or other pollutants as may be promulgated.

**Treatment Plant Effluent.** The discharge from the POTW into waters of the United States.

**User.** A source of indirect discharge.

**Waste Minimization.** An activity that eliminates or reduces the amount of any pollutant from entering the waste stream or the environment. This may include a change in raw materials, operational improvement, process improvement, product improvement, product reformulation, reuse, or reclamation.

**Wastewater.** A combination of sanitary sewage, industrial wastes, and water carried wastes from residences, commercial buildings, industries, and institutions, together with
any groundwater, surface water, or storm water that may be introduced into the wastewater facility.

**Wastewater Discharge Permit (Industrial Wastewater Discharge Permit, Discharge Permit, Discharge Authorization Permit (DAP)).** A control document issued by the Director to users discharging wastewater to the POTW. The permit may contain appropriate pretreatment standards and requirements as set forth in this chapter.

**Wastewater Facility.** The combination of the sanitary sewers and treatment facilities.

**Wastewater Treatment Facility.** The structures, land, processes, equipment, and arrangements necessary to treat and discharge wastewaters.

**Wastewater Treatment Plant or Treatment Plant.** That portion of the POTW that is designed to provide treatment of municipal sewage and industrial waste.

**Zero Discharge Permit.** A Permit for an Industrial User that operates in such a way so that no Categorical or otherwise regulated Industrial Waste is discharged to the POTW.

The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.

IV. **General Definitions**

Unless the context of usage indicates otherwise, the meaning of terms in this chapter and not defined in Section 52.01 III above, shall be as defined in the latest edition of Glossary: *Water and Wastewater Control Engineering*, published by WEF.

V. **Abbreviations**

The following abbreviations shall have the designated meanings:

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<thead>
<tr>
<th>Abbreviation</th>
<th>Meaning</th>
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<tbody>
<tr>
<td>AKART</td>
<td>All Known Available and Reasonable Technology</td>
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<td>BMPs</td>
<td>Best Management Practices</td>
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<td>BOD</td>
<td>Biochemical Oxygen Demand</td>
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<td>CIU</td>
<td>Categorical Industrial User</td>
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<td>CFR</td>
<td>Code of Federal Regulations</td>
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<td>Chemical Oxygen Demand</td>
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<td>DAP</td>
<td>Discharge Authorization Permit</td>
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<td>EPA</td>
<td>US Environmental Protection Agency</td>
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<tr>
<td>FOG</td>
<td>Fats, Oils, and Grease</td>
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<tr>
<td>GPD</td>
<td>gallons per day</td>
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<tr>
<td>IWDP</td>
<td>Industrial Wastewater Discharge Permit</td>
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<td>LEL</td>
<td>Lower Explosive Limit</td>
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<td>mg</td>
<td>milligrams</td>
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<td>mg/L</td>
<td>milligrams per liter</td>
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<tr>
<td>NOV</td>
<td>Notice of Violation</td>
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<tr>
<td>NPDES</td>
<td>National Pollutant Discharge Elimination System</td>
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<tr>
<td>O&amp;M</td>
<td>Operation and Maintenance</td>
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<tr>
<td>OEPA</td>
<td>Ohio Environmental Protection Agency</td>
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<td>ORC</td>
<td>Ohio Revised Code</td>
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§52.02 SANITARY SEWER CONNECTIONS

I. Sewer Main Extension

To have a sanitary sewer extended in the City of Dayton, the applicant shall contact the Division of Water Engineering for current costs and procedures. Submittal/approval of plans, securing permits, and payment of applicable fees are required prior to any service work being started. To have a connection made in an available sewer, contact a licensed plumber. The plumber shall then contact the Division of Sewer Maintenance for current costs and procedures. Certain portions of building sewer lateral installations are performed by the city and billed to the licensed plumber or excavator.

II. Connection to Sanitary Sewer Required

(A) Except as provided in this chapter, no person shall construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.

(B) The owner of any house, building, or property that is used for human occupancy, employment, recreation, or other purposes, and abutting on any street, alley, right-of-way, or easement in which there is or may be located a sanitary sewer connected to the treatment facility of the city, is required at the owner's expense to install suitable toilet facilities therein, and to connect such facilities by means of a building sewer (lateral) directly to the sanitary sewer in accordance with the provisions of this chapter, within ninety (90) days after official notice to do so, provided that the proper sanitary sewer is within two hundred (200) feet of the property line. The owner is responsible for maintenance of the building sewer (lateral) to the point of connection with the publicly-owned sanitary sewer. This Section shall not apply to any person served by a privately constructed, owned, operated, and maintained sanitary sewer and wastewater treatment facility that discharges directly to an outlet in accordance with the provisions of this chapter and applicable local, state, and federal laws.

(C) This Section shall not apply to any private system that discharges to wastewater facilities of the city or that discharges directly to a natural outlet by authority of a separate NPDES permit and in compliance with applicable local, state, and federal laws.

(D) At such time as a sanitary sewer becomes available as defined above, to a property served by a private wastewater disposal system, a direct connection shall be made to the sanitary sewer within ninety (90) days after official notice to do so, and any
septic tanks, cesspools, and similar wastewater disposal facilities shall be emptied and filled with suitable material.

III. **Connection Approvals**

(A) No person shall uncover, make any connections with or opening into, use, alter, or disturb any sanitary sewer or a storm sewer without first obtaining written approval from the Department of Building Services or Department of Water, as appropriate.

(B) There may be four types of connections to the city’s wastewater facilities: Residential, Commercial, Governmental, and Industrial. The Industrial User shall file an Application for Industrial Wastewater Service on a special form furnished by the Director. The application shall include wastewater disclosure information as required by the provisions of this chapter. Exceptions to this provision may be made by the Director.

IV. **Connection Costs**

The costs and expenses incidental to the building sewer installation and connection to the city’s wastewater facilities shall be borne by the owner. The owner shall indemnify the Director for any loss or damage incurred by the city that is directly or indirectly caused by the installation of the building sewer. Current rates for city connection are available at the Division of Sewer Maintenance, Division of Water Engineering, or the Department of Building Services (“One Stop Shop”).

V. **Separate Connections Required**

A separate and independent building sewer shall be provided for every building separately owned. Except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court yard, or driveway, the building sewer serving the front building may, upon the approval of the Director, be extended to the rear building and the whole considered as one building sewer. The Director assumes no obligation or responsibility for damage caused by or resulting from any single building sewer that serves two or more buildings.

VI. **Existing Building Sewers**

Existing building sewers may be used for connection of new building only on approval of the Director. Submit exemption requests to the Division of Water Engineering. Exemption requests shall contain at a minimum the name and address of the owner of the property, billing responsibilities, and the reason for the exception.

VII. **Abandonment of Service**

If a residential, commercial, governmental, or industrial structure is scheduled to be razed, then the service to the premises shall be cut and plugged at the property line as required by the Department of Water and the Department of Building Services. The actual cost will be incurred by the property owner.

VIII. **Building Sewer Design**

The size, slope, alignment, construction materials, trench excavation, and backfill methods, pipe placement, jointing and testing methods used in the construction and installation of a building sewer shall conform to the building and plumbing code or other applicable requirements of the city. In the absence of code provisions or in amplification thereof, the
materials and procedures set forth in appropriate specifications of the ASTM and WEF shall apply.

IX. Building Sewer Elevation

Whenever practicable, the building sewer shall be brought to a building at an elevation below the basement floor. In buildings in which any building drain is too low to permit gravity flow to the city’s sanitary sewer, wastewater carried by such building drain shall be lifted by an approved means and discharged to a building sewer draining to the city sewer.

X. Surface Runoff, Groundwater, and Non-Contact Cooling Water Drains

No person shall connect roof, foundation, areaway, parking lot, roadway, or other surface runoff or groundwater or non-contact cooling water drains to any sewer that is connected to the city’s wastewater facility. The Director may approve the connection of such drains only when he has explicitly approved the waters intended for such drains for discharge to the wastewater facility, under the provision found in §52.03 II (B)(12).

XI. Conformance to Applicable Codes

(A) The connection of a building sewer into a sanitary sewer shall conform to the requirements of the building and plumbing code or other applicable requirements of the city, or the procedures set forth in appropriate specifications of the ASTM or the WEF. The connections shall be made gas-tight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials shall be approved in writing by the Director before installation.

(B) The connection of a surface runoff, groundwater, or non-contact cooling water drain to a storm sewer or outlet designed to transport surface runoff or groundwater drainage shall conform to the requirements of the applicable building code of the city and other applicable federal, state, and local requirements.

XII. Connection Inspection

The applicant for a building sewer or other drainage connection permit shall notify the Director when such sewer or drainage connection is ready for inspection prior to its connection to the city’s facilities. Such connection and testing as deemed necessary by the Director shall be made under the supervision of the Director.

XIII. Excavation Guards and Property Restoration

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

XIV. Allocation of Capacity

The Director shall not accept discharges of any wastewater to the city’s sanitary sewers or wastewater treatment facilities unless there is sufficient capacity in the sanitary sewers and treatment facilities to convey and adequately treat the quantity of wastewater that the requested connection will add to the system. Where the Director determines that a discharge from a new source will utilize an unreasonable proportion of the reserve capacity of the sanitary sewers or wastewater treatment facilities, the Director shall not accept the discharge from the new source.
§52.03 GENERAL REQUIREMENTS

I. Waste Disposal

No person shall place, deposit, or permit to be deposited in any non-sanitary manner on public or private property within the City of Dayton, or in any area under the jurisdiction of said city, any human or animal excrement, garbage, or other objectionable waste. No person shall discharge wastewater to any outlet except in compliance with federal and state NPDES permit requirements.

II. Prohibited Discharge Standards

(A) General Prohibitions: No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater that 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. The Director may reject any wastewater that will create hazards or have deleterious effects on the POTW.

(B) Specific Prohibitions: No person shall discharge or cause to be discharged to the POTW any substances, materials, waters, or wastes in such quantities or concentrations that in whole or in part:

1. Create a fire or explosion hazard including, but not limited to, gasoline, benzene, naphtha, fuel oil, wastestreams with a closed cup flashpoint of less than 60°C (140°F) using the test method specified in 40 CFR 261.21, or other flammable or explosive liquid, solid, or gas;

2. Contain corrosive properties causing damage or hazard to structures, equipment, or personnel of the wastewater facilities; however, in no case shall discharges have a pH lower than 6.0 or greater than 12.0 unless the Director orders specific alternate limitations or conditions. pH shall be determined by analytical methods defined by 40 CFR Part 136 or alternate methods approved by the Director;

3. Solid or viscous pollutants in amounts that will cause obstruction to the flow in the POTW resulting in Interference; but in no case solids greater than one half inch (1/2 inch) in any dimension;

4. Pollutants, including oxygen-demanding pollutants (BOD, COD, etc.), released in a discharge at a flow rate and/or pollutant concentration that, either singly or by interaction with other pollutants, will cause interference with the POTW;

5. Contain heat in amounts that will accelerate the formation of excessive amounts of hydrogen sulfide in the sanitary sewer, inhibit sampling efforts, endanger wastewater treatment facility personnel, or inhibit biological activity in the wastewater treatment facilities. A discharge of wastewater in excess of 60°C (140°F) may be prohibited by the Director. In no case shall a discharge of wastewater cause the temperature of the influent to the wastewater treatment facility to exceed 40°C (104°F);
(6) Contain any type of oils, fat, or grease that may cause or contribute to the obstruction of the flow in sewers or that may cause or contribute to interference with the operation or performance of, or pass-through, the wastewater facilities; and, at the discretion of the Director, water or wastes containing fats, wax, grease, or oils regardless of origin, and whether emulsified or not, in excess of 100 mg/L, as determined using methods specified by 40 CFR 136;

(7) Contain materials that may result in the presence of toxic gases, vapors, or fumes within the wastewater facilities or that may cause acute worker health and safety problems or that may cause violations of applicable occupational health and safety regulations;

(8) Trucked or hauled pollutants, including septage and industrial waste, unless authorized by the Director, and at discharge points designated by the Director;

(9) Noxious or malodorous liquids, gases, solids, or other wastewater that, 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;

(10) Contain any odor or color producing substances exceeding concentration limits or other applicable standards that are established by the Director for the purposes of meeting the city's NPDES permit;

(11) Contain radioactive wastes in quantities prohibited by applicable state and federal regulations, or that, in the determination of the Director, will interfere with operation of the wastewater facility, or the safety of the workers or public, or the marketability or safety of sewage sludge and biosolids;

(12) Any runoff from roof, foundation, areaway, parking lot, roadway, or other surface water or groundwater or non-contact cooling water. The Director may approve the discharge of such water only when he determines that the quantity and quality of the discharge will not unreasonably burden the capabilities of the wastewater facility and no alternate method of disposal or reuse is reasonably available, or to mitigate an environmental risk or health hazard. All such approved discharges shall be flow measured by the discharger, using a measuring device or other method approved by the Director, and shall be subject to the city's applicable schedules of sewer rates and charges;

(13) Any sludges, screenings, or other residues from the pretreatment of industrial or commercial wastes or from industrial or commercial processes, except as authorized by the Director;

(14) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;

(15) Detergents, surface-active agents, or other substances in amounts that cause excessive foaming in the POTW, as determined by the Director;
(16) Any liquid, solids, or gases that by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time shall two (2) successive readings on an explosion meter, at the point of discharge into the system (or at any point in the system), be more than five percent (5%) nor any single reading over ten percent (10%) of the lower explosive limit (LEL) of the meter;

(17) Animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, stone or marble dusts, metal, glass, straw, shavings, grass clippings, rags, waste paper, wood, plastics, gas, tar asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes, or any garbage that has not been properly shredded, except as specifically authorized by the Director;

(18) Cause the city to violate any limits in the city’s NPDES permit, or any requirement of the permit, or otherwise pass-through or interfere with the city’s wastewater treatment facility, or significantly contribute to any such violation, pass-through, or interference;

(19) The contents of any tank or other vessel owned or used by any person in the business of collecting or pumping sewage, effluent, septage, or other wastewater unless said person has first obtained testing and approval as may be generally required by the City of Dayton and paid all fees assessed for the privilege of said discharge;

(20) Contain polychlorinated biphenyls, or isomers thereof, in any quantity or concentration above method detection limits delineated in 40 CFR Part 136 or that are detected by any other method;

(21) Any hazardous or dangerous wastes as defined in rules published by the State of Ohio (ORC 3734/3745) and/or in EPA rules 40 CFR Part 261;

(22) Persistent pesticides and/or pesticides regulated by the Federal Insecticide Fungicide Rodenticide Act (FIFRA);

(23) Any slug load; or

(24) Cause the city's effluent or residues, biosolids, sludges, grit, or scums, to be unsuitable for reclamation and reuse or interferes with the sludge, grit, and scum disposal practices.

(C) Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they are likely to be discharged to the POTW unless the user has in place a spill prevention control and containment (SPCC) plan/slug control plan that has been reviewed and approved by the Director.

(D) Any removal of manhole lids, or other access to the wastewater facilities for the purpose of discharging wastes at times and/or locations other than those designated by the Director, or without the expressed permission of the Director, shall be
considered a violation and shall be subject to enforcement action including assessments and/or penalties.

III. Federal Categorical Pretreatment Standards

The National Categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are incorporated herein by reference as if set forth in full in this chapter.

(A) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Director may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c)(5) for equivalent mass-based limits or 40 CFR 403.6(c)(6) for equivalent concentration-based limits.

(B) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Director shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).

(C) 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.

(D) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

IV. State Requirements

State requirements and limitations on discharges to the POTW shall be met by all users that are subject to such standards in any instance in which they are more stringent than federal requirements and limitations, or those in this chapter or other applicable laws.

V. Local Limits

(A) The Director shall, from time to time, adopt, revise, or rescind local limits based upon the exercise of scientific and technical discretion as he or she deems appropriate to prevent pass-through; interference; accumulation of pollutants in the wastewater treatment sludge or biosolids; or detriment to worker health and safety. All persons discharging to wastewater facilities owned by or under the jurisdiction of the City of Dayton shall meet the applicable local limits as developed by the Director and set forth in the document “Local Limits for the Discharge of Wastewater under the Industrial Pretreatment Program, Division of Wastewater Treatment, City of Dayton,” unless otherwise authorized under the provisions of this chapter. The Director shall give written notice of any new, revised, or rescinded local limits to each Significant Industrial User known to be affected by the limit and shall publish notice of the new or revised local limits in a newspaper of general circulation at least thirty (30) days prior to the effective date of the new or revised local limits. Prior to the effective date of such new or revised local limits, the limits previously established by ordinance or the Director shall remain in effect.

(B) Users that are required to also meet a federal categorical pretreatment standard shall meet the stricter between the local limit and the federal categorical pretreatment standards referred to in subsection III of this section.
(C) BMPs may be developed as a local limit and must also be incorporated in the Industrial Wastewater Discharge Permit or applicable control document.

VI. City's Right of Revision

The Director reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW. Additionally, by the authority granted by CFR Part 403.7, the Director may apply for and obtain authorization from the EPA to revise discharge limitations for those substances listed in the federal categorical pretreatment standards for which consistent removal occurs in the wastewater treatment facilities.

VII. Special Agreement

The Director reserves the right to enter into special agreements with users setting out special terms under which they may discharge to the POTW. In no case will a special agreement waive compliance with a categorical pretreatment standard or federal pretreatment requirement. However, the user may request a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15. They may also request a variance from the categorical pretreatment standard from the Approval Authority in accordance with 403.13.

VIII. Dilution

A user shall not increase the use of process water to avoid or reduce the assessment of an extra-strength surcharge, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with an applicable pretreatment standard or requirement unless expressly authorized by an applicable pretreatment standard or requirement. The Director may impose mass limitations on users that he believes may be using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

IX. Pretreatment Facilities

(A) General: Users shall provide all known, available, and reasonable methods of prevention, control, and treatment (AKART) as required to comply with this chapter and shall achieve compliance with all applicable pretreatment standards and requirements set out in this chapter within the time limitations specified by the EPA, the State, or the Director, whichever is more stringent.

(B) Any facilities required to pre-treat wastewater to a level acceptable to the Director shall be provided, operated, and maintained at the user’s expense.

(C) In addition, the Director may establish Best Management Practices (BMPs) for particular groups of users. These BMPs may include, but are not limited to types or methods of pretreatment technology to be used, methods of source control, minimum maintenance requirements, dragout prevention practices, spill prevention practices, or other requirements as deemed necessary. BMPs may be developed as a local limit and if so, shall be incorporated in the Industrial Wastewater Discharge Permit or alternate control document. Industrial Users with applicable standards that require compliance with a BMP or a pollution prevention alternative shall submit documentation to determine compliance with the standard when submitting baseline or periodic compliance reports.
(D) Detailed plans describing such facilities and operating procedures shall be submitted to the Director for review, and shall be acceptable to the Director 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 Director under the provisions of this chapter.

(E) Within ninety (90) days after the completion of the wastewater pretreatment facility, the discharger shall furnish as-built drawings and its operations and maintenance procedures. Any subsequent significant changes in the pretreatment facility or method of operation shall be reported to and approved by the Director prior to the initiation of the changes.

(F) New sources, and new users determined to be SIUs shall have pretreatment facilities installed and operating prior to discharge, if required.

(G) Dischargers who operate automatic and coin-operated laundries, car washes, filling stations, commercial garages or similar businesses having any type of washing facilities (including pressure washing and steam cleaning) or any other dischargers producing grit, sand, oils, lint, or other materials that have the potential of causing partial or complete obstruction of the building side sewer or other areas in the POTW shall, upon order of the Director, install approved interceptors, oil/water separators, or tanks in accordance with specifications adopted by the City of Dayton such that excessive amounts of oil, sand and inert solids are effectively prevented from entering the POTW.

(H) All pretreatment facilities, including grease interceptors, oil/water separators, settling tanks and grit traps shall be properly installed, maintained, and operated by the discharger at his or her own expense. The installation shall be kept in continuous operation at all times, and shall be maintained to provide efficient operation. Cleaning shall be performed by a service contractor qualified to perform such cleaning, or in a manner approved by the Director. All material removed shall be disposed of in accordance with all state and federal regulations. Records and certification of maintenance shall be made readily available to the Director for review and inspection, and shall be maintained for a minimum of three (3) years.

(I) If a failure to maintain settling tanks, grease traps and/or interceptors, or oil/water separators results in partial or complete blockage of the building sewer, private sewer system discharging to the city Sewer System, or other parts of the city Sewer System, or adversely affects the treatment or transmission capabilities of the POTW, or requires excessive maintenance by the city, or poses a possible health hazard, the discharger responsible for the facilities shall be subject to the remedies herein, including cost recovery, enforcement, violation assessments, and penalties.

X. Additional Pretreatment Measures

(A) Whenever deemed necessary, the Director 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 chapter.
(B) When determined necessary by the Director, each user discharging into the POTW, shall install and maintain, on his or her property and at his or her expense, a suitable storage and flow-control facility to insure equalization of flow. The Director may require the facility to be equipped with alarms and a rate of discharge controller, the regulation of which shall be determined by the Director. A wastewater discharge permit may be issued solely for flow equalization.

(C) Grease, oil, and sand interceptors shall be provided when, in the opinion of the Director, they are necessary for the proper handling of wastewater containing excessive amounts of fats, oils, and grease, or sand; except that such interceptors shall not be required for individual dwelling units or any private living quarters. All interception units shall be of type and capacity approved by the Director 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 his or her expense.

(D) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

XI. Deadline for Compliance with Applicable Pretreatment Requirements

(A) Compliance by existing sources (categorical users) covered by Categorical Pretreatment Standards shall be within three (3) years of the date the Standard is effective unless a shorter compliance time is specified in the appropriate Standard. The Director shall establish a final compliance deadline date for any categorical user when the local limits for said user are more restrictive than EPA's Categorical Pretreatment Standards. The Director may establish a final compliance deadline date for any existing user not covered by Categorical Pretreatment Standards.

(B) New source dischargers, and "new users" that are determined to be SIUs, are required to comply with applicable pretreatment standards within the shortest feasible time (not to exceed ninety (90) days from the beginning of discharge). New Sources, and "new users" that are determined to be SIUs, shall install and have in operating condition, and shall "start-up" all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge.

(C) Any wastewater discharge permit issued to a categorical user shall not contain a compliance date beyond any deadline date established in EPA's Categorical Pretreatment Standards. Any other existing user that is considered to be an SIU, or a categorical user that shall comply with a more stringent local limit, which is in non-compliance with any local limits shall be provided with a compliance schedule to insure compliance within the shortest time feasible.

XII. Accidental Discharge/Slug Control Plans

(A) The Director shall evaluate whether each SIU needs an accidental discharge(slug control plan at least once during the term of each significant industrial user's Industrial Wastewater Discharge Permit or applicable control document or within one year of being identified a significant industrial user. The Director may require any user to develop and implement an accidental discharge(slug control plan. Where deemed necessary by the Director, facilities to prevent accidental discharge
or slug discharges of pollutants shall be provided and maintained at the user's cost and expense.

(B) A SPCC plan/slug control plan showing facilities and operating procedures to provide this protection shall be submitted to the Director for review and approval before implementation. The Director shall determine which user is required to develop a plan and require said plan to be submitted within ninety (90) days after notification by the Director. Each user shall implement its SPCC as submitted or as modified after such plan has been reviewed and approved by the Director. Review and approval of such plans and operating procedures by the Director shall not relieve the user from the responsibility to modify and operate its facility as necessary to meet the requirements of this section. Each industrial user required to implement a SPCC plan/slug control plan shall notify the city of any significant changes to the user's operations or systems that might alter the nature, quality, or volume of its wastewater at least ninety (90) days prior to the change.

(C) Any user required to develop and implement an accidental discharge/slug control plan shall submit a plan that addresses, at a minimum, the following:

(1) Description of discharge practices, including non-routine batch discharges;

(2) Description of stored chemicals;

(3) Procedures for immediately notifying the POTW of any accidental or slug discharge. Such notification shall also be given for any discharge that would violate any of the standards in §§ 52.03 II through V; and

(4) 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.

(D) Users shall notify the Director immediately upon the occurrence of a "slug" or "accidental discharge" of substances regulated by this chapter. Users shall notify the Manager of the city's Division of Wastewater Treatment, or the supervisor on duty at the wastewater treatment facility by telephone immediately upon the occurrence of a slug load or accidental discharge, or bypass of substances prohibited or limited by this chapter. The notification shall include location of discharge, date and time thereof, type of waste, concentration and volume, and corrective actions. Any affected user shall be liable for any expense, loss, or damage to the POTW, in addition to the amount of any assessments or penalties imposed on the city on account thereof under state or federal law.

(E) Within five (5) days following an accidental discharge, the user shall submit to the Director a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. The user shall document and maintain sufficient records so as to reflect fairly and accurately any such discharge, including, but not limited to, bypasses of pretreatment facilities. Such notification shall not relieve the user of any expense, loss, damage, or other
liability that 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 assessments, civil penalties, or other liability that may be imposed by this chapter or other applicable law.

(F) Signs shall be permanently posted in conspicuous places on the user's premises advising employees whom to call in the event of a slug or accidental discharge. Employers shall instruct all employees who may cause or discover such a discharge with respect to emergency notification procedures.

XIII. Hauled Wastewater

(A) Industrial and/or commercial wastes, and by-products and other materials originating from industrial and/or commercial operations outside the City of Dayton and the City of Dayton contract service areas shall not be discharged in any form into the wastewater facilities or storm sewer. Written exceptions to this provision may be made by the Director.

(B) No person shall access the wastewater facilities for any activity including discharge of hauled septic, industrial, or other wastes except at locations and at times as designated by the Director. Any removal of manhole lids or other access to the wastewater facilities for the purpose of discharging wastes at times and/or locations other than those designated by the Director, or without the expressed permission of the Director, shall be considered a violation and shall be subject to enforcement action including assessments and/or penalties.

§52.04 WASTEWATER DISCHARGE PERMIT REQUIREMENTS

(A) The Director may require any user to complete and submit to the city an Industrial User’s Survey providing information needed by the Director to properly regulate the business, including, but not limited to, the nature of the business, water use, wastewater quantity and characteristics, and potential for pollutants to enter the city’s wastewater facilities.

(B) No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Director, except that a significant industrial user that has filed a timely application pursuant to §52.04 I may continue to discharge for the time period specified therein. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this chapter and subjects the wastewater discharge permittee to the sanctions set out in this chapter. Obtaining a wastewater discharge permit does not relieve a permittee 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) The Director may require other users to obtain wastewater discharge permits (as necessary) to carry out the purposes of this chapter.

(E) General Control Mechanisms may be issued for groups of users, including both significant and non-significant industrial users that have substantially similar types of operations; discharge the same types of wastes; require the same effluent limitations; and require the same or similar monitoring.
(1) General Control Mechanisms are not available to industrial users:
   (a) Subject to production-based categorical pretreatment standards;
   (b) Who have categorical pretreatment standards expressed as mass of pollutant discharged per day; or
   (c) Whose limits are based on the combined wastestream formula or net/gross calculations.

(2) To be covered by a General Control Mechanism, the significant industrial user is required to file a written request to the POTW for coverage that identifies: contact information; production processes; types of wastes generated; location for monitoring all wastes to be covered by the General Control Mechanism; any requests for a monitoring waiver for any pollutants not present; and any other information the POTW deems appropriate.

I. Wastewater Discharge Permitting: Existing SIU

   (A) Any SIU that was discharging wastewater into the POTW prior to the effective date of this chapter and that wishes to continue such discharges in the future shall, within sixty (60) days after notification by the Director submit a permit application to the city in accordance with §52.04 V, and shall not cause or allow discharges to the POTW to continue after ninety (90) days of the effective date of this chapter except in accordance with a wastewater discharge permit issued by the Director.

   (B) The Director's notification to SIUs covered by categorical pretreatment standards will be in reasonable time to insure that the SIUs comply with the one hundred eighty (180) day submittal deadline date established in 40 CFR §403.12 (b).

II. Wastewater Discharge Permitting: New Source and "New user"

At least ninety (90) days prior to the anticipated start-up, new sources, sources that become a user subsequent to the promulgation of an applicable categorical pretreatment standard, and "new users" that are determined to be SIUs, shall apply for a wastewater discharge permit and will be required to submit to the Director at least the information listed in paragraphs (A)-(E) of §52.04 V. A new source, or "new user" that is determined to be a SIU, cannot discharge without first receiving a wastewater discharge permit from the Director. New sources, and "new users" that are determined to be SIUs, shall also be required to include in their application information on the method of pretreatment the user intends to use to meet applicable pretreatment standards. New Sources, and "new users" that are determined to be SIUs, shall give estimates of the information requested in paragraphs (D) and (E) of §52.04 V.

III. Wastewater Discharge Permitting: Extra-jurisdictional Users

   (A) Any existing user located beyond the city limits required to obtain a wastewater discharge permit shall submit a wastewater discharge permit application as outlined in §52.04 I.

   (B) New Source, and "new users" that are determined to be SIUs, located beyond the city limits required to obtain a wastewater discharge permit shall comply with §52.04 II.
IV. Wastewater Discharge Permitting: Zero Discharge Permits

Any SIU that operates its regulated processes so that no industrial waste is discharged to the POTW may request that a zero discharge permit (ZDP) be issued by the Director. To be eligible for a ZDP the user shall demonstrate to the Director's satisfaction that no Categorical or otherwise regulated industrial waste will be discharged and shall either permanently seal all accesses to the POTW other than those required for disposal of domestic sewage or install shutoff devices that will accept city-installed, tamper evident seals or locks. Breaking this seal or lock without prior authorization by the Director shall be a violation of the ZDP and this chapter.

V. Wastewater Discharge Permit Application Contents

All users required to obtain a wastewater discharge permit shall submit, at a minimum, the following information. The Director shall approve a form to be used as a permit application. Categorical users submitting the following information shall have complied with 40 CFR 403.12 (b).

(A) **Identifying information.** The user shall submit the name and address of the facility including the name of the operator and owners;

(B) **Permits.** The user shall submit a list of any environmental control permits held by or for the facility;

(C) **Description of operations.** The user shall submit a brief description of the nature, average rate of production, and Standard Industrial Classification of the operation(s) carried out by such Industrial User, including a list of all raw materials and chemicals used or stored at the facility that are, or could accidentally or intentionally be, discharged to the POTW; number and type of employees; hours of operation; each product produced by type, amount, process or processes, and rate of production; type and amount of raw materials processed (average and maximum per day) and the time and duration of discharges. This description should also include a schematic process diagram that indicates points of discharge to the POTW from the regulated or manufacturing processes. Disclosure of site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, inspection manholes, sampling chambers and appurtenances by size, location, and elevation.

(D) **Flow Measurement.**

(1) **Categorical User:**

The user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:

(a) Regulated or manufacturing process streams; and

(b) Other streams as necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e).
(c) The city may require a categorical industrial user to install flow monitoring facilities, instruments, and recording devices to enable accurate measurement of flows as determined to be necessary.

(2) Non-Categorical User

The user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:

(a) Total process flow, wastewater treatment plant flow, total plant flow, or individual manufacturing process flow as required by the Director.

(b) The Director may allow for verifiable estimates of these flows where justified by cost or feasibility considerations. However, the city may require a non-categorical industrial user to install flow monitoring facilities, instruments, and recording devices to enable accurate measurement of flows as determined to be necessary.

(E) Measurements of pollutants.

(1) Categorical User:

(a) The user shall identify the applicable pretreatment standards for each regulated or manufacturing process.

(b) In addition, the user shall submit the results of sampling and analysis identifying the nature and concentration (or mass) where required by the Categorical Pretreatment Standard or as required by the Director of regulated pollutants (including standards contained in §§ 52.03 II through V, as appropriate) in the discharge from each regulated or manufacturing process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall conform to sampling and analytical procedures outlined in §52.06.

(c) The user shall take representative samples to compile that data necessary to comply with the requirements of this paragraph.

(d) Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) for a categorical user covered by a categorical pretreatment standard this adjusted limit along with supporting data shall be submitted as part of the application.

(2) Non-Categorical User

(a) The user shall identify the applicable pretreatment standards for its wastewater discharge.

(b) In addition, the user shall submit the results of sampling and analysis identifying the nature and concentration (or mass where
required by the Director) of regulated pollutants contained in §§ 52.03 II through V, as appropriate in the discharge. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall conform to sampling and analytical procedures outlined in §52.06.

(c) The user shall take representative samples to compile that data necessary to comply with the requirements of this sub-section.

(d) Where the Director developed alternate concentration or mass limits because of dilution this adjusted limit along with supporting data shall be submitted as part of the application.

(F) Certification. A statement, reviewed by an authorized representative of the user and certified by a qualified professional as outlined in § 52.04 VI, indicating whether the applicable Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet the applicable Pretreatment Standards and Requirements.

(G) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the applicable Pretreatment Standards, the Director will establish the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The schedule shall conform to the requirements of §52.05 IV. The completion date in this schedule shall not be later than the compliance date established pursuant to §52.03 XI.

(1) Where the user's categorical Pretreatment Standard has been modified by a removal allowance (40 CFR 403.7), the combined wastestream formula (40 CFR 403.6(e)), and/or a Fundamentally Different Factors variance (40 CFR 403.13) at the time the user submits the report required by this paragraph, the information required by paragraphs (D) and (E) of this section shall pertain to the modified limits.

(2) If the categorical Pretreatment Standard is modified by a removal allowance (40 CFR 403.7), the combined wastestream formula (40 CFR 403.6(e)), and/or a Fundamentally Different Factors variance (40 CFR 403.13) after the user submits the report required by paragraphs (D) and (E) of this section, then a new report shall be submitted by the user within sixty (60) days after the modified limit is approved.

(H) Any other information as may be deemed necessary by the Director to evaluate the wastewater discharge permit application. Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

VI. Signatory and Certification Requirement

All wastewater discharge permit applications and user reports shall be signed in ink 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 designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of assessment and imprisonment for knowing violations."

VII. Wastewater Discharge Permit Decisions

The Director will evaluate the data furnished by the user and may require additional information. The Director will determine whether or not to issue a wastewater discharge permit. The Director may deny any application for a wastewater discharge permit.

VIII. Wastewater Discharge Permit Contents

Wastewater discharge permits shall include such conditions as are reasonably deemed necessary by the Director 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 shall contain the following conditions:

(1) A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years;

(2) A statement that the wastewater discharge permit is non-transferable without prior notification to and approval from the Director, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

(3) Effluent limits based on applicable pretreatment standards;

(4) Self monitoring, sampling, reporting, notification, submittal of technical reports, compliance schedules, 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;

(5) Requirement for notification within twenty-four (24) hours of becoming aware to the Director where self-monitoring results indicate non-compliance;

(6) Requirement to report a by-pass or upset of a pretreatment facility;

(7) Requirement for the SIU who reports non-compliance to repeat the sampling and analysis and submit results to the Director within thirty (30) days after becoming aware of the violation; and

(8) A statement of applicable civil, criminal, and administrative 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.

(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 special conditions including management practices necessary to adequately prevent accidental, unanticipated, or routine discharges;

(4) Require any user to prepare and submit plans or implement measures that provide for pollution prevention, recycling, source reduction, waste minimization, or best management practices to reduce the amount or concentration 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. Require payment to cover the added cost of handling and treating the wastewaters not covered by existing fees or charges; provided however, any such wastewater discharges shall be in compliance with the federal categorical pretreatment standards and general or specific discharge prohibitions;

(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 permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those that become effective during the term of the wastewater discharge permit; and

(8) Require as a condition of any Industrial Wastewater Discharge Permit that the permittee indemnify and hold harmless the city from any and all damages, liabilities, fines, penalties, and costs resulting from violations of federal or state law that were caused or contributed to by the permittee’s discharge.

(9) Other conditions as deemed appropriate by the Director to ensure compliance with this chapter, and State and Federal laws, rules, and regulations.
IX. Wastewater Discharge Permit Appeals

Any person, including the user, may petition the Director to reconsider the terms of a wastewater discharge permit within thirty (30) days of its issuance, or any Permit Modification.

Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

In its petition, the appealing party shall 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. Appealing party shall submit any information submitted by the Director.

The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.

If the Director fails to act within sixty (60) days of the receipt of an appeal, 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 administrative actions for purposes of judicial review.

Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision shall do so by filing a petition for review with the Montgomery County Common Pleas Court within thirty (30) days following the final administrative wastewater discharge permit decision.

X. Wastewater Discharge Permit Duration

Wastewater discharge permits shall be issued for a specified time period, not to exceed five (5) years. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the Director. Each wastewater discharge permit will indicate a specific date upon which it will expire. The wastewater discharge permit will expire at 11:59 PM on the specified date.

XI. Wastewater Discharge Permit Modification

(A) The Director may modify the wastewater discharge permit for good cause including, but not limited to, the following:

1. To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;

2. 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;

3. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

4. Information indicating that the permitted discharge poses a threat to the public, city's POTW, city personnel, or the receiving waters;
(5) Violation of any terms or conditions of the wastewater discharge permit;

(6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

(7) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;

(8) To correct typographical or other errors in the wastewater discharge permit; or

(9) To reflect a transfer of the facility ownership and/or operation to a new owner/operator.

(B) Any Permit Modification may be appealed under §52.04 IX.

XII. Wastewater Discharge Permit Transfer

(A) Wastewater discharge permits may be transferred to a prospective permittee only if the current permittee gives at least ninety (90) days advance notice to the Director and the Director approves the wastewater discharge permit transfer. The notice to the Director shall include a written certification by the prospective permittee that:

(1) States that the prospective permittee has no immediate intent to change the facility's operations and processes;

(2) Identifies the specific date on which the transfer is to occur;

(3) Acknowledges full responsibility for complying with the existing wastewater discharge permit; and,

(4) States that a copy of this Permit has been provided to the prospective permittee.

A Permit may only be transferred if all outstanding assessments, fees, and penalties have been paid.

(B) Provided that the above occurs and that there were no significant changes to the manufacturing operation or wastewater discharge, the new owner will be considered an existing user and be covered by the existing limits and requirements in the previous owner's permit. Failure to obtain prior approval pursuant to these regulations shall render the current Permittee jointly and severally liable, with the new owner for any assessments and/or penalties, owed or incurred.

XIII. Wastewater Discharge Permit Revocation

(A) Wastewater discharge permits may be revoked for the following reasons:

(1) Failure to notify the Director of significant changes to the wastewater prior to the changed discharge;

(2) Failure to provide prior notification to the Director of changed conditions;
(3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

(4) Falsifying self-monitoring reports;

(5) Tampering with monitoring equipment;

(6) Refusing to allow the Director timely access to the facility premises and records;

(7) Failure to meet discharge limitations;

(8) Failure to pay fees and/or assessments;

(9) Failure to pay sewer charges;

(10) Failure to meet compliance schedules;

(11) Failure to complete a wastewater survey or the wastewater discharge permit application;

(12) Failure to provide advance notice of the transfer of a permitted facility;

(13) If the city has to invoke its emergency provision as cited in Section 52.10 VIII;

(14) Violation of any pretreatment standard or requirement;

(15) Violation of any terms of the wastewater discharge permit;

(16) Violation of any provisions of this chapter; or

(17) Violation of any terms of an order of the Director issued under this chapter.

(B) Wastewater discharge permits may be revoked by the Director on determination that the facility has ceased operations. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

XIV. Wastewater Discharge Permit Re-issuance

A user, required to have a wastewater discharge permit, shall apply for wastewater discharge permit re-issuance by submitting a complete wastewater discharge permit application, in accordance with §52.04 V, a minimum of ninety (90) days prior to the expiration of the user's existing wastewater discharge permit. A user, whose existing wastewater discharge permit has expired and has submitted its re-application in the time period specified herein, may continue to lawfully operate under the terms and conditions of the expired permit until the Director issues or denies the new wastewater discharge permit. A user, whose existing wastewater discharge permit has expired and who failed to submit its re-application in the time period specified herein, will be deemed to be discharging without a wastewater discharge permit.
§52.05 REPORTING REQUIREMENTS

I. Baseline Monitoring Report

(A) Within either one hundred eighty (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 be required to submit to the Director a report that contains the information listed in §52.04 V.

(B) At least ninety (90) 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 be required to submit to the Director a report that contains the information listed in §52.04 V.

(C) A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged. The sampling requirements for Initial Compliance Reports are equivalent to the sampling requirements for the Baseline Monitoring Report.

II. Reports on Compliance with Categorical Pretreatment Standard Deadline (90-Day Compliance Report)

(A) Within ninety (90) days following the date for final compliance by the CIU with applicable pretreatment standards and requirements set forth in this chapter, in a wastewater discharge permit, the affected user shall submit to the Director a report containing the information outlined in Paragraphs (D)-(F) of §52.04 V.

(B) For users subject to equivalent mass or concentration limits established by the Director in accordance with procedures established 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 shall be signed and certified in accordance with §52.04 VI.

III. Periodic Report on Continued Compliance (Discharge Monitoring Report)

(A) Any user that is required to have an industrial waste discharge permit and performs self-monitoring shall submit to the Director during the months of June and December, unless required on other dates or more frequently by the Director, a report indicating the nature of the effluent over the previous reporting period. The frequency of monitoring shall be as prescribed within the industrial waste discharge permit. All users, except for zero discharge users, shall sample their discharge at least twice per year.

(B) The report shall include a record of the concentrations (and mass if specified in the wastewater discharge permit) of the pollutants listed in the wastewater discharge permit that were measured and a record of all flow measurements (average and maximum) taken at the designated sampling locations, and shall also include any
additional information required by this chapter or the wastewater discharge permit. Production data shall be reported if required by the wastewater discharge permit. Both daily maximum and average concentration (or mass, where required) shall be reported. All discharge monitoring reports shall be signed and certified in accordance with §52.04 VI.

(C) If sampling and analyses are performed more frequently than required for any parameters required by the user’s Industrial Wastewater Permit, using test procedures prescribed by 40 CFR Part 136 or amendments thereto, or otherwise approved by EPA or as specified in the user’s Permit, at the designated sample location(s) – then the results shall be reported to the Director.

(D) Any user subject to equivalent mass or concentration limits established by the Director or by unit production limits specified in the applicable categorical standards, shall report production data as outlined in §52.05 II (B).

(E) Zero discharge users shall submit periodic reports as required by the Director stating that no Categorical or otherwise regulated industrial waste has been discharged to the POTW.

(F) If the Director calculated limits to factor out dilution flows or non-regulated flows, the user will be responsible for providing flows from the regulated process flows, dilution flows and non-regulated flows.

(G) Flows shall be reported on the basis of actual measurement; provided, however, that the Director may accept reports of average and maximum flows estimated by verifiable techniques if the Director determines that an actual measurement is not feasible.

(H) Sampling shall be representative of the user’s daily operations and shall be taken in accordance with the requirements specified in §52.06. 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.

(I) The Director may require reporting by users that are not required to have an industrial wastewater discharge permit if information or data is needed to establish a sewer charge, determine the treatability of the effluent or determine any other factor that is related to the operation and maintenance of the sewer system.

(J) The Director may require self-monitoring by the user or, if requested by the user, may agree to perform the periodic compliance monitoring needed to prepare the periodic compliance report required under this section. If the Director agrees to perform such periodic compliance monitoring, it may charge the user for such monitoring, based upon the costs incurred by the city for the sampling and analyses. Any such charges shall be added to the normal sewer charge and shall be payable as part of the utility bills. The Director is under no obligation to perform periodic compliance monitoring for a user.

(K) The Director shall require reporting by users with applicable standards that require compliance with a BMP or a pollution prevention alternative to provide
documentation to determine compliance with the standard when submitting their Periodic Report on Continued Compliance.

IV. Compliance Schedules for Meeting Pretreatment Standards

If additional pretreatment and/or O & M will be required to meet the Pretreatment Standards, the shortest schedule by which the Industrial User will provide such additional pretreatment and/or O & M shall be established. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard.

(A) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).

(B) No increment referred to in paragraph (A) of this section shall exceed nine (9) months.

(C) Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Director including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports.

V. Notification of Significant Production Changes

Any user operating under a wastewater discharge permit incorporating mass or concentration limits based on production levels shall notify the Director within two (2) business days after the user has a reasonable basis to know that the production level will significantly change within the next calendar month. Any user not providing a notice of such anticipated change will be required to comply with the existing limits contained in its wastewater discharge permit.

VI. Hazardous Waste Notification

(A) Any user that is discharging fifteen (15) kilograms of hazardous wastes as defined in 40 CFR 261 (listed or characteristic wastes) in a calendar month or any facility discharging any amount of acutely hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e) is required to provide a one time notification in writing to the city, EPA, and OEP. Any existing user exempt from this notification shall comply with the requirements contained herein within thirty (30) days of becoming aware of a discharge of fifteen (15) kilograms of hazardous wastes in a calendar month or the discharge of acutely hazardous wastes to the city sewer system.

(B) Such notification shall include:

(1) The name of the hazardous waste as set forth in 40 CFR Part 261;

(2) The EPA Hazardous waste number; and
(3) The type of discharge (continuous, batch, or other).

(C) If an industrial user discharges more than one hundred (100) kilograms of such waste per calendar month to the sewer system, the notification shall also contain the following information to the extent it is known or readily available to the industrial user:

(1) an identification of the hazardous constituents contained in the wastes;

(2) an estimation of the mass and concentration of such constituents in the wastestreams discharged during that calendar month; and

(3) an estimation of the mass of constituents in the wastestreams expected to be discharged during the following twelve (12) months.

(D) These notification requirements do not apply to pollutants already reported under the self-monitoring requirements.

(E) Whenever the EPA publishes final rules identifying additional hazardous wastes or new characteristics of hazardous waste, a user shall notify the Director of the discharge of such a substance within ninety (90) days of the effective date of such regulations.

(F) In the case of any notification made under this paragraph, an industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical. Discharging of hazardous waste to the sewer system is prohibited as per §52.03 II.

VII. Report of Potential Problems (including Accidental Spills, and/or Slug Loadings)

(A) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the Director of the incident. This notification shall include the location of the discharge, type of waste, concentration, and volume, if known, and corrective actions taken by the user.

(B) Within five (5) days following such discharge, the user shall, unless waived by the Director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability that may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any assessments, penalties, or other liability that may be imposed pursuant to this chapter.

(C) A report shall be permanently posted on the user’s bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph A, above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.
VIII. Non-Compliance Reporting

(A) Industrial users shall submit such additional reports as the Director shall require.

(B) If sampling performed by a user indicates a violation, the user shall notify the Director within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling within five (5) days and submit the results of the repeat analysis to the Director within thirty (30) days after becoming aware of the violation, except the user is not required to resample if:

(1) The Director performs sampling at the user at a frequency of at least once per month; or,

(2) The Director performs sampling at the user between the time when the user performs its initial sampling and the time when the user receives the results of this sampling.

IX. Notification of Changed Discharge

(A) Each user shall notify the Director of any planned significant changes to the user’s operations or system that might alter the nature, quality, or volume of its wastewater at least ninety (90) days before the change.

(B) The Director 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 §52.04 V.

(C) The Director may issue a wastewater discharge permit under §52.04 VII or modify an existing wastewater discharge permit under §52.04 XI in response to changed conditions or anticipated changed conditions.

(D) For purposes of this requirement, significant changes include, but are not limited to, flow changes of twenty percent (20%) or greater, and the discharge of any previously unreported pollutants.

X. Total Toxic Organics (TTO) Reporting

(A) Categorical users that are required by EPA to eliminate and/or reduce the levels of total toxic organics (TTOs) discharged into the sewer system shall follow the Categorical Pretreatment Standards for that industry. Those users shall also meet the following requirements:

(1) Shall sample, as part of the initial application requirements, for the organics listed under the TTO limit reasonably expected to be present;

(2) May submit a statement that no TTOs are used at the facility and/or develop a toxic organic management plan (TOMP) in lieu of continuously monitoring for TTOs, if authorized by the Director;

(B) If allowed to submit a statement or develop a TOMP, the user shall routinely submit a certification statement as part of its self-monitoring report that there has been no dumping of concentrated toxic organics into the wastewater and that it is
implementing a TOMP as approved by the Director. The Director may require the development and implementation of a TOMP in addition to monitoring for TTOs.

XI. Reports from Unpermitted Users

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the city as the Director may require.

XII. Record Keeping

Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter and any additional records of 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 (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or POTW, or where the user has been specifically notified of a longer retention period by the Director.

XIII. Timing

Written reports will be deemed to have been submitted on the date postmarked. For reports that 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. Reports received via facsimile (fax) will be credited as having been received on the date that the fax was successfully received by the POTW. Proof of successful transmission is the responsibility of the sending party. The original document shall be submitted to the Director as soon as possible after the fax transmission.

XIV. Falsifying Information

No person shall knowingly make any false statement, representation or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this chapter, or falsify, tamper with, or knowingly render inaccurate any monitoring device or method used to determine compliance or extra-strength surcharge.

§52.06 SAMPLING AND ANALYTICAL REQUIREMENTS

I. Sampling Requirements for Users

(A) For Baseline Monitoring and 90-Day Compliance Reporting purposes, a minimum of four (4) grab samples shall be used for pH, cyanide, total phenols, oil and grease, sulfide, and/or volatile organics. For Periodic Report on Continued Compliance reporting purposes, single grab samples shall be used for pH, hexavalent chromium, cyanide, total phenols, oil and grease, sulfide, and/or volatile organics. Except for those pollutants that are required to be measured by grab samples (referenced above), all other pollutants will be measured by flow-proportional sampling unless justification for an alternate sampling type, representative of the discharge, is documented in the industrial user file. Multiple grab samples collected during a twenty-four hour period may be composited prior to the analysis as follows: for hexavalent chromium, cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil & grease, the samples may be composited in the laboratory. Protocols (including appropriate
preservation) specified in 40 CFR 136 and appropriate U.S. EPA guidance must be followed. For all other pollutants, twenty (24) hour composite samples shall be obtained through flow-proportional composite sampling techniques. The city may require an industrial user to install flow monitoring facilities, instruments, and recording devices to enable accurate measurement of flows as determined to be necessary. The Director may waive flow-proportional composite sampling for any user that demonstrates that flow-proportional is not feasible. In such cases, samples may be obtained through time-proportional composite sampling techniques or through a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. Industrial Users with applicable standards that require compliance with a BMP or a pollution prevention alternative shall submit documentation to determine compliance with the standard when submitting baseline or periodic compliance reports.

(B) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated or manufacturing process if no pretreatment exists or as determined by the Director and/or contained in the user's wastewater discharge permit. For categorical users, if other wastewaters are mixed with the regulated wastewater prior to pretreatment the user shall measure the flows and concentrations necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e) in order to evaluate compliance with the Applicable Categorical Pretreatment Standards. For other SIUs, for which the city has adjusted its local limits to factor out dilution flows, the user shall measure the flows and concentrations necessary to evaluate compliance with the adjusted pretreatment standard(s).

(C) All sample results shall indicate the time, date and place of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges from the user. If sampling and analyses are performed more frequently than required for any parameters required by the user’s Industrial Waste Permit, using test procedures prescribed by 40 CFR Part 136 or amendments thereto, or otherwise approved by EPA or as specified in the user’s Permit, at the designated sample location(s) – then the results shall be reported to the Director.

(D) If a violation is detected through sampling and analysis conducted by the city in lieu of the industrial user, the city shall perform the repeat sampling and analysis within thirty (30) days of becoming aware of the violation. The city may notify the industrial user of the violation and may require the industrial user to perform the repeat sampling and analysis.

II. Analytical Requirements

(A) All pollutant analyses, including sampling techniques, 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 shall be performed in accordance with procedures approved by the Director. Sampling methods, locations, times, duration, and frequencies are to be determined on an individual basis subject to approval by the Director. Users cannot use samples taken by the city to fulfill self-monitoring requirements.
(B) When self-monitoring analyses are required of a user, the user may, upon approval of the Director, make arrangements with a laboratory, including that of the user, to perform such analyses. The measurements, tests, and analyses of the characteristics of wastewater required by this chapter shall be performed by a laboratory acceptable to the Director.

III. City Monitoring of User's Wastewater

The Director will follow the same procedures as outlined in §§ 52.06 I and II.

(A) The owner or occupant of any property serviced by a building sewer carrying industrial user wastewater discharges shall provide suitable access to the Director, and where deemed necessary by the Director, such meters, equipment and appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastewater. Such access shall be in a secure, readily and safely accessible location and shall be provided in accordance with plans approved by the Director. The access shall be provided and maintained at the owner's expense so as to be safe and accessible at reasonable times.

(B) The Director shall consider such factors as the volume and strength of discharge, rate of discharge, quantities of toxic materials in the discharge, wastewater treatment facility removal capabilities, and cost effectiveness in determining whether or not access and equipment for monitoring industrial user wastewater discharges shall be required. The Director may dispense with discharge monitoring done for the sole purpose of determining wastewater surcharges when, in his or her sole discretion, he determines that such monitoring will not be cost effective.

§52.07 COMPLIANCE MONITORING

I. Inspection and Sampling

Continued connection and use of the City of Dayton sewer system shall be contingent upon the right of the Director to inspect and sample all discharges into the system. The Director, bearing proper identification, shall have the right to enter the facilities of any user for the purpose of the enforcement of this chapter, and to determine that any wastewater discharge permit or order issued hereunder, is being met and whether the user is complying with all requirements thereof. Users shall allow the Director ready access to all parts of the premises, including easements, for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

(A) Where a user has security measures in force that 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 Director will be permitted to enter without delay for the purposes of performing specific responsibilities.

(B) The Director 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.

(C) 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 Director and shall not be replaced. The costs of clearing such access shall be borne by the user.

(D) Unreasonable delays in allowing the Director access to the user's premises shall be a violation of this chapter.

(E) While performing the necessary work on private properties referred to in this section, the Director shall observe all safety rules established by the owner or occupant of the property and applicable to the premises.

(F) During the performance on private properties of inspections, wastewater sampling, or other similar operations referred to in this section, the owner or occupant shall be indemnified against loss of or damage to property of the owner or occupant by the Director, except as such may be caused by negligence or failure of the owner or occupant to maintain safe conditions as required by §52.07 II.

(G) No person shall assault, abuse, harass, or otherwise interfere with the Director’s performance of any activity authorized by this chapter.

II. Monitoring Facilities/Control Manholes

(A) Each user shall provide and operate at its own expense a secure, readily and safely accessible monitoring facility or control manhole to allow inspection, sampling, and flow measurements of each sewer discharge to the city. Each monitoring facility or control manhole shall be situated on the user's premises, except where such a location would be impractical or cause undue hardship on the user, the Director may concur with the facility or manhole being constructed in the public street or sidewalk area, providing that the facility is located so that it will not be obstructed by landscaping or parked vehicles. The Director, whenever applicable, may require the construction and maintenance of monitoring facilities or control manholes at other locations (for example, at the end of a manufacturing line, wastewater treatment system).

(B) There shall be ample room in or near such monitoring facility or control manhole to allow accurate sampling, flow measurement and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user. All monitoring facilities or control manholes shall be constructed and maintained in accordance with all applicable local construction standards and specifications.

(C) The Director may require the user to install monitoring equipment as necessary. All devices used to measure wastewater flow and quality shall be calibrated to ensure their accuracy.

(D) Monitoring of wastewater characteristics for any purpose shall be conducted at a frequency deemed necessary by the Director.

III. Search Warrants

If the Director 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 chapter, or that there is a need to inspect as part of a routine inspection program of the city designed to verify compliance with this chapter or any wastewater discharge permit or
order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Director shall seek issuance of a search and/or seizure warrant from the City of Dayton Municipal Court, the Montgomery County Common Pleas Court, or the U.S. Federal District Court. Such warrant shall be served at reasonable hours by the Director and may be accomplished in the company of a uniformed police officer that has jurisdiction.

IV. Vandalism

No person shall willfully or negligently break, damage, destroy, uncover, deface, tamper with, or prevent access to any structure, appurtenance or equipment, or other part of the POTW. Any person found in violation of this requirement shall be subject to the sanctions set out in this chapter.

§52.08 CONFIDENTIAL INFORMATION

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from city 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 Director, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable State law.

When requested and demonstrated by the user furnishing a report that such information should be held confidential, the Director shall make reasonable efforts as permitted by law to protect the portions of a report that might disclose trade secrets or secret processes from 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.

§52.09 PUBLICATION OF USERS IN SIGNIFICANT NON-COMPLIANCE

The Director shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the users that, during the previous twelve (12) months, were in significant non-compliance with applicable pretreatment standards and requirements. The term significant non-compliance shall mean:

(A) Chronic violations of wastewater discharge limits by Significant Industrial Users at each permitted monitoring point, defined here as those in which sixty-six percent (66%) or more of wastewater measurements, including violations to instantaneous limits, taken during a six (6) month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;

(B) Technical Review Criteria (TRC) violations by Significant Industrial Users at each permitted monitoring point, defined here as those in which thirty-three percent (33%) or more of wastewater measurements, including violations to instantaneous limits, taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria [1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH];
§52.10 ADMINISTRATIVE ENFORCEMENT REMEDIES

I. Enforcement Response Plan (ERP)

The Director developed an updated Enforcement Response Plan (ERP) with public participation, which was approved by the Ohio E.P.A. on December 31, 1998, and became effective January 1, 1999. The ERP is used as guidance when implementing enforcement actions to assure that users of the city’s wastewater facilities comply with the provisions of this chapter. As a separate document, the ERP may be updated periodically as necessary, without necessitating a modification to this chapter. Copies of the ERP are available in the Pretreatment office, located at the Wastewater Treatment Facility.

II. Notice of Violation (NOV)

(A) When the Director finds that a user has violated (or continues to violate) any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Director may serve upon that user a written Notice of Violation. The Director may select any means of service that is reasonable under the circumstances.

(B) Unless a report due date is specified, 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 Director within twenty-one (21) days of the receipt of this notice. 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 Director to take
any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

III. Consent Orders

The Director may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for non-compliance. Such documents will include specific action to be taken by the user to correct the non-compliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to §§ 52.10 V and VI and shall be judicially enforceable. Use of a Consent Order shall not be a bar against, or prerequisite for, taking any other action against the user.

IV. Show Cause Hearing

The Director may order a user that has violated or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the Director and show cause why a 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 (10) 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.

V. Compliance Orders

When the Director finds that a user has violated or continues to violate any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Director may issue an order to the user responsible for the discharge directing that the user come into compliance within a time specified in the order. Compliance Orders may require users to refrain from certain activities, install additional pretreatment equipment, increase self-monitoring, use best management practices designed to minimize the amount of pollutants discharged to the sewer. If the user does not come into compliance within the time specified in the order, sewer service may be discontinued. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

VI. Cease and Desist Orders

(A) When the Director finds that a user has violated (or continues to violate) any provision of this chapter, 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 Director may issue an order to the user directing it to cease and desist all such violations and directing the user to:

(1) Immediately comply with all requirements; and

(2) 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.
(B) Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

VII. Administrative Assessments

(A) When the Director finds that a user has violated or continues to violate any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Director may impose a penalty assessment in an amount not less than Two Hundred Fifty Dollars ($250) and not to exceed Ten Thousand Dollars ($10,000). Such assessments shall be levied on a per violation, per day basis. In the case of monthly or other long-term average discharge limits, assessments may be levied for each day during the period of violation. Said Administrative assessments shall constitute a sewer service surcharge, and shall be subject to collection in the same manner as all other sewer utility rates, charges, and penalties.

(B) Unless other arrangements have been made with, and authorized by the Director, unpaid charges, assessments, and penalties shall accrue thereafter at a rate of one percent (1%) per month. After ninety (90) days, if charges, assessments, and penalties have not been paid, the Director may revoke the user's discharge permit. A lien against the user's property shall be sought for unpaid charges, fines, and penalties.

(C) Users desiring to appeal and dispute such assessments shall file a written request for the Director to reconsider the assessment along with full payment of the assessment amount within ten (10) days of being notified of the assessment. Upon receipt of a timely appeal, the Director shall set a date and time for an appeal hearing, but in no case shall the hearing be set more than thirty (30) days from the receipt of the timely notice of appeal. The appellant shall be notified in writing of the date, time, and place for the appeal hearing. The Director or his/her designee shall serve as the Hearing Examiner. In the event the user's appeal is successful, any payments made shall be returned to the user. Affirmation or modification of an administrative assessment by the Director shall relate back to the original date of assessment.

(D) The Director shall recover the costs of preparing administrative enforcement actions, such as notices and orders, including the cost of additional inspections, sampling and analysis, and may add them to the assessment.

(E) Issuance of an administrative assessment shall not be a bar against, or a prerequisite for, taking any other action against the user.

(F) Users seeking judicial review of administrative assessments shall do so by filing a Petition for Review in the Montgomery County Common Pleas Court within thirty (30) days of the decision of the Director.

VIII. Emergency Suspensions

(A) The Director may immediately suspend a user's discharge (after informal notice to the user) whenever such suspension is necessary to stop an actual or threatened discharge that reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons.
(B) The Director may also immediately suspend a user’s discharge (after informal notice and opportunity to respond) that threatens to interfere with the operation of the POTW, or that presents or may present an endangerment to the environment.

(C) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user’s failure to immediately comply voluntarily with the suspension order, the Director shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals.

(D) The Director shall allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Director that the period of endangerment has passed, unless the termination proceedings in §52.10 IX are initiated against the user.

(E) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Director prior to the date of any show cause or termination hearing under §§ 52.10 IV and IX.

(F) Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

IX. Termination of Discharge (Non-Emergency)

(A) In addition to the provisions in §52.04 XIII, any user that violates the following conditions is subject to discharge termination:

1. Violation of wastewater discharge permit conditions;

2. Failure to accurately report the wastewater constituents and characteristics of its discharge;

3. Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge;

4. Refusal of reasonable access to the user’s premises for the purpose of inspection, monitoring or sampling; or

5. Violation of the pretreatment standards in §52.03.

(B) Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under §52.10 IV why the proposed action should not be taken. Exercise of this option by the Director shall not be a bar to, or a prerequisite for, taking any other action against the user.

X. Cost Recovery

Any user violating any of the provisions of this chapter, or who causes a discharge that results in or contributes to pass-through, interference, accumulation in sludge or biosolids, violation of any federal, state or local requirement, a deposit or obstruction, or causes
damages to or impairs the city sanitary sewers or wastewater treatment facility shall be liable to the city for any expense, loss, fine or damage caused by such discharge including the costs incurred in investigating, monitoring, and prosecuting such violation or discharge. The Director shall bill the user for costs incurred as a result of the violation or discharge. Refusal to pay the assessed costs shall constitute a violation of this chapter. The Director may disconnect from the city’s wastewater facilities any user who refuses or fails to pay the assessed costs.

XI. Appeal Procedures

(A) Appeals

(1) Any user seeking to dispute a Notice of Violation, order, assessment, or other action of the Director, other than issuance of a Wastewater Discharge Permit, may file an appeal.

(2) The appeal shall be filed in writing and received by the Director, in writing, within ten (10) days of the receipt of the disputed action. If the notice of appeal is not received by the Director within the 10-day period, the right to an appeal is waived. The notice of appeal shall state with particularity the basis upon which the appellant is disputing the action taken.

(3) Upon receipt of a timely appeal, the Director shall set a date and time for an appeal hearing, but in no case shall the hearing be set more than thirty (30) days from the receipt of the timely notice of appeal. The appellant shall be notified in writing of the date, time, and place for the appeal hearing. The Director or his/her designee shall serve as the Hearing Examiner.

(B) Appeal Hearing

(1) The hearing examiner may admit and give probative effect to evidence that possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs. The hearing examiner shall give effect to the rules of privilege recognized by law. The hearing examiner may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Factual issues shall be resolved by a preponderance of evidence.

(2) Documentary evidence may be received in the form of copies or excerpts or by incorporation by reference.

(3) Every party shall have the right to cross examine witnesses who testify and shall have the right to submit rebuttal evidence; provided that the hearing examiner may control the manner and extent of the cross examinations and rebuttal.

(4) The hearing examiner may take notice of judicially cognizable facts.

(C) Appeal Conclusion

Within ten (10) days of the conclusion of the hearing, the hearing examiner shall determine if the disputed action was proper, and shall approve, modify, or rescind the disputed action.
The final determination of the hearing examiner shall be in writing, and all parties shall be provided a copy of the final determination.

(D) Judicial Review of Appeal

Any party, including the city, the Ohio Environmental Protection Agency, the United States Environmental Protection Agency, or the user/appellant, is entitled to review of the final determination of the hearing examiner in the Montgomery County Common Pleas Court. Appeal cases shall be filed and proceed according to the Montgomery County Rules of Civil Procedure.

§52.11 JUDICIAL ENFORCEMENT REMEDIES

I. Injunctive Relief

(A) When the Director finds that a user has violated or continues to violate any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Director may petition the Montgomery County Common Pleas Court through the city's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this chapter on activities of the user.

(B) The Director may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user. Injunctive relief shall be nonexclusive to other remedies available to the Director.

II. Civil Penalties

(A) A user that has violated or continues to violate any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the Director for a maximum civil penalty of Ten Thousand Dollars ($10,000) per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation. In addition to any civil penalty, the Director may recover from the user an additional civil penalty equal to the economic benefit obtained by the user as a result of its violation.

(B) The Director may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the city.

(C) In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

(D) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for taking any other action against a user.
III. Criminal Prosecution

(A) A user who willfully or negligently violates any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a gross misdemeanor, punishable by an assessment of not more than Ten Thousand ($10,000) and/or one (1) year in jail. Each day a violation occurs shall constitute a separate offense.

(B) A user who willfully or negligently introduces any substance into the POTW that causes personal injury or property damage shall, upon conviction, be guilty of a gross misdemeanor and be subject to a penalty of not more than Ten Thousand Dollars ($10,000) and/or one (1) year in jail. Each day a violation occurs shall constitute a separate offense. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.

(C) A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained pursuant to this chapter, a wastewater discharge permit, or an order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter shall, upon conviction, be guilty of a gross misdemeanor, and punished by an assessment of not more than Ten Thousand Dollars ($10,000) and/or one (1) year in jail. Each day a violation occurs shall constitute a separate offense.

(D) In addition, the user shall be subject to:

(1) the provisions of 18 USC Section 1001 relating to fraud and false statements;

(2) the provisions of Sections 309 (e) 4 of the Clean Water Act, as amended governing false statements, representation, or certification; and

(3) the provision of Section 309 (c)(6) of the Clean Water Act, regarding responsible corporate officers.

(E) In the event of a second or subsequent conviction, a user shall be punished by an assessment of not more than Twenty Thousand Dollars ($20,000) per violation, per day, or imprisonment for not more than two (2) years, or both.

IV. Remedies Non-exclusive

The provisions in §§ 52.09 through 52.12 are not exclusive remedies. The Director reserves the right to take any, all, or any combination of these actions against a non-compliant user. Enforcement of pretreatment violations will generally be in accordance with the city's enforcement response plan. However, the Director reserves the right to take other action against any user when the circumstances warrant. Further, the Director is empowered to take more than one enforcement action against any non-compliant user. These actions may be taken concurrently.
§52.12 SUPPLEMENTAL ENFORCEMENT ACTION

I. Performance Bonds

The Director may decline to issue or reissue a wastewater discharge permit to any user that has failed to comply with any provision of this chapter, a previous wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement unless such user first files a satisfactory bond, payable to the city, in a sum not to exceed a value determined by the Director to be necessary to achieve consistent compliance.

II. Financial Assurances

The Director may decline to issue or reissue a wastewater discharge permit to any user that has failed to comply with any provision of this chapter, a previous wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, unless the user first submits proof that it has obtained financial assurances sufficient to meet pretreatment requirements, and/or restore or repair damage to the POTW caused by its discharge.

III. Water Supply Severance

Whenever a user has violated or continues to violate any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, water service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

IV. Public Nuisances

A violation of any provision of this chapter, wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, is hereby declared a public nuisance and shall be corrected or abated as directed by the Director.

V. Contractor Listing

Users that have not achieved compliance with applicable pretreatment standards and requirements are not eligible to receive a contractual award for the sale of goods or services to the city. Existing contracts for the sale of goods or services to the city held by a user found to be in significant non-compliance with pretreatment standards or requirements may be terminated at the discretion of the city.

VI. Publication of Violations and/or Enforcement Actions

The Director may publish violations and/or enforcement actions at any time, where monetary assessments may be inappropriate in gaining compliance, or in addition to monetary assessments. Violations and/or enforcement actions may also be published when the Director feels that public notice should be made, or at other appropriate times. The cost of such publications will be recovered from the user.

§52.13 AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

I. Bypass

(A) For the purposes of this section,

(1) "Bypass" means the intentional diversion of wastestreams from any portion of a user's treatment facility.
(2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that 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.

(B) A user may allow any bypass to occur that does not cause applicable 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 paragraphs (D) and (E) of this section.

(C) Sampling of the bypass wastestream is required whether the bypass was anticipated or unanticipated. The pollutants to be analyzed shall be all pollutants listed in the user's Permit. If the user is not permitted, then the pollutants to be analyzed shall be the pollutants listed in the latest approved "Local Limits for the Discharge of Wastewater under the Industrial Pretreatment Program, Division of Wastewater Treatment, City of Dayton."

(D) Notice

(1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the POTW, at least ten (10) days before the date of the bypass, if possible.

(2) A user shall submit oral notice to the Director of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) 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 POTW may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

(E) Prohibition of Bypass

(1) Bypass is prohibited, and the POTW 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 judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and
(c) The user submitted notices as required under paragraph (C) of this section.

(2) The POTW may approve an anticipated bypass, after considering its adverse effects, if the POTW determines that it will meet the three conditions listed in paragraph (D)(1) of this section.

§52.14 SEWER BILLING

I. Fees and Charges

(A) All fees, assessments, and charges payable under the provisions of this chapter shall be paid into the City of Dayton Sanitary Sewer Fund. Such fees, assessments, and charges shall be as set forth herein or established in the latest edition of the city’s wastewater service charge ordinance, §50.03 of the Revised Code of General Ordinances: Assessment Rates and User Charge System.

(B) All fees, assessments, and charges payable under the provisions of this chapter are due and payable upon the receipt of notice of charges, or as otherwise specified by the Director. Unpaid charges shall be deemed delinquent and shall be subject to penalty and interest charges as provided for in the latest edition of the city’s Wastewater Service Charge ordinance and may be assessed against the property served on the County tax duplicate.

II. Delinquent Accounts

(A) After reading the meter or estimating consumption, a statement of charges due shall be sent to the user on file with the Division of Revenue and Taxation. If the bill is not paid by the day specified for payment of the gross amount, past due notices may be mailed.

(B) Should a bill remain unpaid for twenty-eight (28) days after the net payment date the account shall be considered delinquent and processed as follows:

(1) A 7-day shut off notice shall be mailed to the property where the water was consumed and a duplicate copy thereof shall be mailed to the billing address and to the Customer.

(2) The water service may be shut off as soon as practical and not turned on again until all bills and further charges are paid, except as otherwise provided herein.

The Director of Finance may set a minimum value for shut-off. In a manifold metered situation, the city may shut off all units for the delinquency of one or more units within this limited shut-off situation.

(3) If all charges are not paid within 14 days from the date the water is scheduled for shut off, the meter may be removed at the discretion of the city. One attempt may be made to remove the meter during the next 14-day period. If the meter has not been removed at the end of the second 14-day period, the account may be considered abandoned.
All abandoned accounts that are not resumed within 60 days from the gross payment date may be considered as “lost meter accounts” and charged to the Customer or user for all amounts due. In the event a Customer transfers or abandons a service, all charges become due and payable immediately. The Customer may be held accountable for any consumption registered on an “abandoned account” water meter and back-billed accordingly.

(C) Any owner of real estate premises installing or maintaining water service connections agrees to comply with all rules and regulations of the Department of Water and as agreeing, in particular, to be liable for all water, sewer, and storm water charges for such premises, whether the accounts for such premises are carried in the name of such owner or in the name of tenants or other persons. The Division of Revenue and Taxation may transfer delinquent charges on an account to another active service location owned by the same Customer who incurred charges and failed to pay.

(D) Delinquent accounts shall be assessed a Delinquent Shutoff Charge as established by a separate ordinance on the scheduled shut off date. Should the account remain unpaid, city personnel will continue to check service after every billing cycle and a Delinquent Shutoff Charge will be assessed for each trip made to verify service being off. Once Water service has been turned off and is turned on again by anyone other than authorized city personnel, a Fee for Unauthorized Use as established by a separate ordinance shall be assessed. Unauthorized operation of the shut off may result in severing the service and the Customer shall be charged the Service Termination Fee as established in a separate ordinance.

(E) Water and Sewer charges will continue to accrue as long as the meter remains in service at the property. If the meter is missing, charges shall continue to accrue until the Division of Revenue and Taxation determines that the account is abandoned. Storm water charges continue as long as the impervious surfaces remain on a property.

(F) Services may be shut off if declared delinquent or otherwise requested by the Customer or occupant of the premises. Services shall not be shut off upon the request of a landlord as a means to evict a tenant. Service may be shut off to a tenant whose account is declared delinquent. Service may be shut off to a tenant whose account is declared delinquent, including those accounts with assessments levied under §52.10 VII.

(G) The Manager of Revenue and Taxation may grant an extension of up to twelve (12) months for payments, including assessments levied under §52.10 VII. Each case will be considered on an individual basis upon the request of the customer or user.

(H) If a dispute should exist on payment arrangements between an owner and the tenant, the owner has the final approval.

(I) In cases where industrial, commercial, or governmental accounts become delinquent, the Director of Finance shall determine the course of action, except for assessments levied under §52.10 VII, which shall be determined by the Director of Water.
(J) Customer’s checks that are not honored by the bank shall result in a Bad Check Fee as established by a separate ordinance.

(K) The addresses of occupied premises that are shut off for delinquency shall be forwarded to the Manager of Inspectional Services, except those assessments levied under §52.10 VII.

(L) The public records of the Division of Revenue and Taxation are available for inspections and copying at reasonable times during regular business hours. The Division of Revenue and Taxation may charge the costs it incurs in such inspection and copying to the person requesting the public record.

(M) Delinquent administrative assessments that have been levied by the Director of Water to applicable Industrial Users may be applied to the sewer charge portion of that Industrial User’s account to facilitate collection.

III. Abandoned Accounts

All Abandoned accounts that are not resumed within sixty (60) days from the gross payment date may be considered as “lost meter accounts” and charged to the customer or user for all amounts due. In the event a customer transfers or abandons a service, all charges become due and payable immediately. The customer may be held accountable for any consumption registered on an “abandoned account” water meter and back billed accordingly.

IV. Wastewater Rates – General Information

(A) For any lot, parcel of land, building, or premises situated within the corporate limits of the city having any connection with the city wastewater system or otherwise discharging wastewater, industrial wastes, water or other liquids, either directly or indirectly, into the city wastewater system, a charge or rental shall be based upon the quantity of water used as measured by the city water meter there in use or by other means acceptable to the Director of the Department of Water.

(B) If a person is found to be discharging wastewater or other wastes into the city’s wastewater system without paying a wastewater service charge or rental, the Director shall, by any such method as is practicable, measure or estimate the quantity of such wastes for the purpose of establishing a proper charge in accordance with the schedule of charges set forth herein, and the customer shall be charged for the total term of the prior usage on the basis of the quantity so determined.

(C) When a secondary water supply serves a one family dwelling connected to the wastewater collection system, charges shall be computed on an estimated usage of 3,000 cubic feet per quarter (for a 5/8 inch meter). The billing for larger customers served by a secondary water supply shall be reviewed on a case-by-case basis.

(D) The procedure for applying minimum wastewater treatment charges for private sewer meter installations shall be based on the actual size of the sewer meter; provided however, exceptions such as, but not limited to multiple sewer meter installations, parshall flumes and weirs, shall be billed at a 10 inch sewer meter size for the minimum wastewater service charges.
(E) Charges will be payable quarterly or monthly as due in accordance with applicable rates.

(F) When special readings are requested by the customer or user or needed by the Departments of Water or Finance between regular reading dates, charges will be determined in proportion to the time elapsed since normal time between regular reading dates.

(G) The Manager of Revenue and Taxation may render bills at regular rates for extended periods beyond three (3) months. Bills may be issued to Customers or users for periods shorter than three (3) months provided the total number of billings are no more than the total number of revenue billings normally issued in a one (1) year period.

Monthly billing may be implemented for an account when deemed appropriate by the Manager of Revenue and Taxation.

(H) All bills shall contain gross and net amounts. Net amounts are gross less a 5% discount on water and wastewater billings payable within 14 days. The 5% discount is offered as an incentive for prompt payment. However, governmental agencies under separate agreements shall make payments to the city as per the terms and conditions of said agreements. When the Director of Finance determines that an account delinquent in amount not more than $2,500.00 is uncollectible, the Director may order the bill to be cancelled.

V. Extra-Strength Surcharge

(A) The measurement of the strength of the wastewater for purposes of application of the extra strength surcharges shall be made by standard sampling and laboratory procedures in a manner acceptable to the Director. The surcharges shall be made quarterly or monthly at the discretion of the Director.

(B) For the purpose of applying the surcharge for discharges of higher than normal strength wastewater, the Department of Water, Division of Wastewater Treatment, shall attempt to sample the effluent of the customer’s building lateral a minimum of six (6) times per billing cycle. However, if the Director determines that monitoring the user’s effluent is not practical, reliable, or cost effective, the Director may specify alternative methods and frequency of determining the characteristics of the wastewaters discharge that will, in the Director’s judgment, provide an equitable measurement of such characteristics; provided however, this action is in compliance with federal and state law.

(C) The Director will append an extra-strength surcharge to the appropriate monthly or quarterly sewer billing account for any user whose average Biochemical Oxygen Demand (BOD) and/or Total Suspended Solids (TSS) exceeds the background level of 350 mg/L. In lieu of analyzing for BOD, the Director may opt to establish a Chemical Oxygen Demand (COD)-to-BOD ratio for a user to facilitate analysis "turn around" time for billing purposes.

VI. Wastewater Service Rate Schedule

The rates as adjusted from time to time by City of Dayton ordinance pertaining to wastewater services shall apply.
VII. Customers Outside the City of Dayton

(A) Except as modified by agreement, “Individually metered” customers outside the City of Dayton corporation limits connected to and served by the City of Dayton wastewater treatment facilities shall pay fifteen (15%) above the city rates for wastewater treatment service. “Retail” customers outside the city under direct contract with the city shall pay twenty-five (25%) above the city rates for wastewater service. For those accounts outside the city designated as “Master Metered,” the total charges are fifty (50%) greater than the comparable city rates.

(B) Any rates, charges, or fees are applicable for any lot, parcel of land, building, or premises situated outside of the corporate limits of the city having any connection with city wastewater system or otherwise discharging wastewater, industrial wastes, water, or other liquids, either directly or indirectly, into the city wastewater system, where such usage of the city wastewater system is covered by specific agreements specifying rates, terms, and conditions of usage. The measurement of the strength of the wastewater for purposes of application of the extra strength surcharges shall be made by standard sampling and laboratory procedures in a manner acceptable to the Director.

VIII. Complaints and Appeals

(A) Customers or users with water, storm water, and/or sewer billing complaints and who are billed directly by the Division of Revenue and Taxation, may contact the Call Center of the Division of Revenue and Taxation in regards to these complaints. The Director shall apply this chapter, and other applicable Department of Water ordinances to facilitate a satisfactory resolution of the complaint.

Customers or users with billing disputes, who are not billed directly by the Division of Revenue and Taxation, shall contact the governmental agency that has jurisdiction of their respective billing area.

(B) Customers or users residing within City of Dayton limits, who are not satisfied with the above resolutions to billing complaints, may appeal in writing to the Board of Water and Sewer Charges Review. A written complaint shall be received by the Manager of Revenue and Taxation within two (2) billing quarters of the date of the disputed bill, otherwise the bill cannot be disputed.

(C) To be considered by the Board appeals shall include at a minimum the name, service address, daytime phone number of the complainant, the name of the Call Center Representative contacted, any related documentation and the basis for the bill adjustment requested.

(D) For appeals filed before the due date for the gross billing amount, a 25% deposit (of the amount in dispute) is required to forward the billing complaint to the Board of Water and Sewer Charge Review. After a shut off notice has been generated on said account, a 50% deposit will be required. After the service has been shut off, a 100% deposit must be submitted. The Manager of Revenue and Taxation has the right to waive any deposit.

(E) Any person, feeling aggrieved by a decision of the Board of Water and Sewer Charge Review may appeal such decision to the Board of Water and Sewer Charge
appeals by notifying the Manager of Revenue and Taxation in writing within 14
days after receiving notice of the decision of the Board of Water and Sewer Charge
Review. Such notice shall contain the grounds for appeal. Maximum adjustment by
the Board of Appeals will be 50% of the disputed amount. The decision of the
Board of Water and Sewer Charge Appeals is final.

(F) Governmental agencies covered under separate agreements may appeal, on behalf of
their customer, to the Director of Water for any adjustments and the Director’s
decision will be final. Any appeal to the Director shall include those items listed in
subsection (C) of this section. Decisions of the Director do not preclude additional
customer services or adjustments on the part of other political subdivisions
independent of the City of Dayton.

IX. Private Sewer Meters (for billing or regulatory purposes)

(A) Customers or users may use a private sanitary meter for billing purposes only if
approved by the Director of the Department of Water. Special billing request shall
be submitted to the Director’s office for consideration. A fee as specified in a
separate City of Dayton rate schedule shall be charged for each private meter read.

(B) In the case where the customer or user uses a private meter for billing and/or
regulatory reporting purposes, the meter will be maintained by the customer or user
at the customer’s or user’s expense. If the meter malfunctions or fails to register,
the measurement of consumption/discharge shall be based on the old water meter
registration and/or estimated by considering past usage. The private meter shall be
required to be serviced and/or calibrated at the customer’s or user’s expense upon
the Department of Water’s direction.

(C) Private meters used for billing purposes shall be calibrated by an independent third
party once a year at a minimum, or more frequently if deemed necessary by the
Department of Water.

§52.15 MISCELLANEOUS PROVISIONS

I. Pretreatment Charges and Fees

(A) The Director may adopt reasonable fees for reimbursement of costs of setting up
and operating the city’s Pretreatment Program, which fees shall be established in a
schedule. The schedule may be periodically amended and shall be made available
to the public upon request.

(B) These fees relate solely to the matters covered by this chapter and are separate from
all other rates or charges for sewer service. The Director may collect said fees in
the same manner as other sewer rates are collected, including but not limited to the
sewer lien procedures provided under Ohio law.

(C) Fees may include:

(1) Fees for wastewater discharge permits, including the cost of processing the
permit applications, public noticing, issuing and administering the permit,
and reviewing monitoring reports submitted by users;

(2) Fees for modifying or transferring permits;
(3) Fees for monitoring, inspection, surveillance and enforcement procedures including the cost of collection and analyzing a user’s discharge;

(4) Fees for reviewing and responding to accidental discharge procedures and construction;

(5) Fees for preparing and executing enforcement action;

(6) Fees for filing appeals;

(7) Fees for High Strength Waste and Industrial Process flow; and

(8) Other fees as the Director may deem necessary to carry out the requirements contained herein.

II. Severability

A finding by any court or other jurisdiction that any part or provision of this chapter is invalid shall not affect the validity of any other part or provision of this chapter that can be given effect without the invalid parts or provisions.

III. Conflicts / Repeal

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this chapter are hereby repealed to the extent of the inconsistency or conflict. If the federal or state government promulgates a regulation for a given new or existing user in a specific industrial category that establishes pretreatment standards or establishes that such a user is exempt from pretreatment standards, and such regulation is in conflict with the terms of this chapter, then such federal or state regulation will be submitted to the city Commission for consideration of adoption as an amendment to this chapter.

IV. Non-Liability

(A) It is the specific intent of this chapter to place the obligation of complying with these regulations upon the applicant or Discharger and no provision nor any term used in this chapter is intended to impose any duty whatsoever upon the city or any of its officers, employees, or agents, except as provided under the Act or other related statutes of the United States or the State of Ohio.

(B) Nothing contained in this chapter is intended to be nor shall be construed to create or form the basis for any tort liability on the part of the city or its officers, employees, or agents, for any injury or damage resulting from the failure of an applicant or Discharger to comply with the provisions of this chapter, or by reason or in consequence of any inspection, notice, order, certificate, permission or approval authorized or issued or done in connection with the implementation or enforcement of this chapter, or inaction on the part of the city related in any manner to the implementation or the enforcement of this chapter by its officers, employees, or agents.
V. Savings

The enactments of this chapter shall not affect any case, proceeding, appeal or other matter currently pending in any court or in any way modify any right or liability, civil or criminal, that may be in existence on the effective date of this chapter.

Section 2. That existing Sections 52.01, 52.02, 52.03, 52.04, 52.05, 52.06, 52.07, 52.08, and 52.99 of the Revised Code of General Ordinances are hereby repealed.

Section 3. For the reasons stated in the preamble hereof, this Ordinance is declared to be an emergency measure and shall take effect immediately upon its passage.

ADOPTED BY THE COMMISSION April 23, 2008

SIGNED BY THE MAYOR April 23, 2008

Mayor Rhine McLin, City of Dayton, Ohio

ATTEST:

Clerk of Commission

APPROVED AS TO FORM:

City Attorney