

**CODIFIED ORDINANCES OF ASHVILLE**

**PART NINE - STREETS, UTILITIES AND PUBLIC SERVICES CODE**

**TITLE ONE - Street and Sidewalk Areas**

- Chap. 901. Excavations.
- Chap. 905. Streets Generally.
- Chap. 909. Street Excavations.

**TITLE THREE- Utilities**

- Chap. 921. Utilities Generally.
- Chap. 925. Water Regulations.
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**TITLE FIVE - Other Public Services**

- Chap. 953. Solid Waste Disposal.



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**CHAPTER 901  
Excavations**

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**CROSS REFERENCES**

- Power to establish & care for streets - see O.R.C. 715.19, 717.01, 723.01
- Openings by the Municipality - see O.R.C. 723.02
- Excavation liability - see O.R.C. 723.49 et seq.
- Changing established grade - see O.R.C. 727.07
- Compulsory service connections-see O.R.C. 729.06, 743.23, 743.37
- Digging, excavating & piling earth on streets - see O.R.C. 5589.10
- Barricades and warning lights - see GEN. OFF. 521.03

**901.01 GENERAL PROVISIONS.**

(a) The purpose of this Chapter 901 is to provide requirements for the use or occupation of any and all rights-of-way and Public Property in the Village, the issuance of Permits to Persons or Businesses for such use or occupancy and to set forth the policies of the Village related to rights-of-way.

(b) The policy of the Village with regard to Excavation (rights-of-way) is hereby declared to be:

- (1) To promote public safety and protect public property;
- (2) To promote the utilization of Rights of Way for the public health, safety and welfare and to promote economic development in the Village;
- (3) To promote the availability of a wide range of utility, communication and other services, including the rapid deployment of new technologies and innovative services, to the Village's citizens and taxpayers at reasonable rates;
- (4) To promote cooperation among the Village, Franchisees, and Permittees in the occupation of rights-of-way, and work therein, in order to minimize public inconvenience during work in the rights-of-way and avoid uneconomic, unneeded and unsightly duplication of facilities;
- (5) To ensure adequate public compensation for the regulation of the private use of the rights-of-way and the regulation thereof; and
- (6) To promote and require reasonable accommodation of all uses of rights-of-way and to establish the following priority of use of rights-of-way, when all requested usage of rights-of-way by Permittees cannot be accommodated:
  - A. Use by the Village;
  - B. Use by another governmental entity with Village's concurrence or other uses required by law;
  - C. Telecommunications and Utility and General Permittees and Franchisees shall have third priority;
  - D. Special Permittees shall have fourth priority; and

(c) Residential Permittees shall have the fifth priority; provided, however, that the Service Superintendent may reasonably require rights-of-way Permittees and Franchisees to cooperate to accommodate use by other Permittees and Franchisees and provided further that the Village Administrator may alter this priority when the Service Superintendent or reasonably determines a deviation here from to be in the public interest.

(d) Authority. Chapter 901 of the Village of Ashville Code requires any person or agency desiring to excavate in or to occupy Public Right-of-way for any purpose whatsoever to first obtain a permit. Such permits are issued by and through the Planning and Zoning Department in accordance with the provisions of this regulation.

(e) Type of Permits. There are three types of permits: Excavation, Occupancy and Blanket.

- (1) Excavation permits: This type of permit is required when excavating within the right-of-way of any public street or alley. The work covered by this permit includes excavations in street or alley pavement, sidewalk or driveway, or the non-paved area within the right-of-way for any purpose whatsoever.

- (2) Occupancy permits: This type of permit is required when it is necessary to occupy, limit access to, or close the right-of-way of any public street or alley with vehicles, equipment or materials for an extended period of time for the purpose of providing services to any privately owned utility, building or property or for planned activities, demonstrations or similar event requiring the partial or complete closure of the right-of-way.
- (3) Blanket permits: This type of permit is only available to applicants that routinely utilize public right-of-way for the maintenance, repair, or service of privately owned and operated utilities. Any significant expansion of or repair to an existing private utility system requires a separate excavation permit. Blanket permits may be issued at the discretion of the Village to other businesses, e.g. tree planting/trimming operations, street light installations etc., which frequently work within the right-of-way in multiple locations and over an extended period of time with minimal impact to traffic. Blanket permits require the establishment of a ten thousand dollars (\$10,000) bond, letter of credit, or other surety acceptable to the Village Administrator and are issued for a one-year period beginning January 1st of each year. In all cases, recipients of blanket permits are subject to the traffic maintenance requirements of Section 901.10 and responsible for notifying the Village of the proposed work and schedule.
- (4) Not Transferable: Permits and rights of Permittees are not transferable without the express approval of the Village of Ashville.

(f) When Required. Permits are required when placing, extending, or repairing any pipes, conduits, wires, meter pits, roadway structure or appurtenances, working on or in a building or for any other purpose requiring the use of public right-of-way. Right-of-Way permits are not for, nor will not be issued for street vendors acting independently or as part of a large planned activity or for routine service to mail boxes or newspaper distribution boxes. The Village of Ashville, its contractors and agents are exempt from the requirements of this section.

(g) Application and Review. Requests for excavation or occupancy permits shall be made through the Village Planning and Zoning Department. All requests shall be on approved forms and shall conform to Section 901.04. No work may begin until a permit has been approved, except as provided for in Section 901.07.

- (1) Occupancy permits. Requests to place equipment, supplies or materials into or otherwise occupy or barricade the right-of-way of any improved or unimproved street, alley or public way shall be subject to approval at the time of application provided required fees are paid in full. Permits are not required for motorized service vehicles (e.g. lawn care, delivery or other service related businesses) legally parking or occupying any parking zone. Construction related equipment making limited deliveries such as the off-loading of landscaping or building materials, masonry block, stone or concrete deliveries, and taking less than one hour to do so, do not require permits however must adhere to the traffic control requirements as set forth in Section 901.10. Construction equipment or materials requiring the stationary occupancy of the right-of-way for periods greater than one hour such as the use of cranes or other hoisting equipment or stockpiling or

storage of materials or supplies must obtain an occupancy permit in accordance with this section. Waste containers or other trash collection receptacles placed within a public roadway, alley or sidewalk require an occupancy permit and are subject to the requirements of Section 901.15. When the permit is for a full road closure, permit request shall be submitted at least 10 working days in advance. When a full closure is for a major planned event requiring the establishment of traffic detours or other special measures to ensure proper traffic circulation, the submittal shall be a minimum of 20 working days in advance. All occupancy permit applications shall be submitted in accordance with subsection (d) hereof shall be reviewed by the Service, Utility, Building, and the Police Departments; if it is determined that police involvement is required for the requested work.

- (2) Excavation permits. Requests to work within or to dig into or open holes, ditches or trenches within the right-of-way, but outside of any paved roadway, shall be subject to approval at the time the application is submitted and required fees or deposits are paid in full. Requests to work within or to dig into or open holes, ditches or trenches in the roadway pavement of any improved street, alley, or public way shall be submitted, allowing up to 5 working days for approval in order to provide opportunity for review. A single application can be submitted for multiple excavations however all work is to be completed within 180 days and each excavation site is subject to the advance notification requirements of subsection (f) (1) hereof. The permit request shall include all plans, details and specifications as set forth in Section 901.05 for all work being applied for in the permit. When the request requires partial or complete closure of a road, a proposed traffic control/detour plan must be submitted with the permit application. Work requiring lane restrictions or road closures is subject to the additional advance notification requirements of subsection (f) hereof. Submitted plans shall be reviewed by the Engineering, Service, Building, Utility and Police Departments.

(h) Permit Issuance and Reissued Permits. A permit shall be issued by the Planning and Zoning Department after a permit application has been reviewed and approved within the time frames established in subsection (d) hereof. Permits shall be issued for a maximum period of 180 days. It will be the applicant's responsibility to resubmit for another permit in the event an approved permit has expired. Fees for a reissued permit are in Section 901.08 (a). The Village Contracted Engineer may with Village approval approve permits for extended time periods for major construction areas, highway improvement plans or ongoing maintenance operations.

(i) Advance Notification Requirements for Approved Excavation Work. This notification is in addition to the time required for initial permit review and shall apply to all work requiring excavation within the public right of way. Acceptable notification shall be by fax machine to the Village Contracted Engineer, attention Right of Way Inspection. Fax notifications must include the approved permit number, contractor name and telephone number and the proposed work schedule. Work commencing without appropriate notification shall be subject to the Village ordering the work to cease until all required notifications and meetings have occurred.

- (1) Minimum notification. A minimum 24-hour advance notification shall be made to the Contracted Engineer or Right-of-way designee for all projects requiring any excavation work whatsoever within the public right-of-way except for sidewalk and driveway approach work that must meet the requirements of Section 901.07 (a).
- (2) Lane closures. Prior to beginning a lane closure of any roadway, a minimum of (3) working days advance notice shall be provided contacting the Contracted Engineer or Right-of-way designee as indicated on the permit.
- (3) Full closure. Prior to implementing the complete closure of a street, a minimum of (5) working days advance notice shall be provided to allow for proper notification of Safety and Emergency Forces, local industry and businesses as deemed necessary by the Village. The permittee or his agent shall contact the Contracted Engineer or Right-of-way designee as indicated on the permit to establish the construction schedule.

(j) Liability. The issuance of an Excavation or Occupancy Permit does not relieve the agency or agent requesting the permit from liability for any damage that might occur to the roadway, the public, or personal property while performing work authorized by the permit.

(k) High Impact Areas. For purposes of this regulation, High Impact Areas are defined below. High impact areas may require the additional approval of other government agencies as well as special construction and restoration materials, specifications and procedures.

- (1) State Route 752 and 316, Circleville Avenue, Long Street, and Main Street.
- (2) Downtown Improvement Areas.

(l) Residential Development Areas. Individual Right-of-Way permits are not required for new residential home sites, or existing home sites being extensively modified, that require excavation within the right-of-way or dedicated utility easements, for the purpose of installing or modifying utility services or for the installation or improvement to driveways and sidewalks or for the adjustment of property grades. Residential home sites shall be subject to inspection and approval by the Village Right of Way Inspector designee prior to issuance of a certificate of building occupancy and are subject to an inspection fee in accordance with Section 901.07 payable through the Building Department at the time a building permit is submitted. (Ord. 2008-11. Passed 12-15-08.)

### **901.02 DEFINITIONS.**

For purposes of this Chapter 901, the following terms, phrases, words, and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. All capitalized terms used in the definition of any other term shall have their meaning as otherwise defined in this section. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

- (a) "Applicant" means any Person applying for a Permit hereunder.
- (b) "Approved" means approval by the Village pursuant to this Chapter or any Regulations adopted hereunder.

- (c) "Best Efforts" means the best reasonable efforts under the circumstances, taking into consideration, among other appropriate matters, safety, expedition, available technology and human resources and cost.
- (d) "Cable Television Franchise(Service)," granted to providers of Cable Television Service;
- (e) "Chapter" or "this Chapter" means this Chapter 901 of the Codified Ordinances of the Village, as amended from time to time and any Regulations adopted hereunder.
- (f) "Village" means the Village of Ashville, Ohio, or, as appropriate in the case of specific provisions of this Chapter, any board, bureau, authority, agency, commission, department of, or any other entity of or acting on behalf of, the Village of Ashville, or any officer, official, employee, representative or agent thereof, the designee of any of the foregoing, or any successor thereto.
- (g) "Council" means the Council of the Village of Ashville.
- (h) "Administrator" means the Village Administrator.
- (i) "Force Majeure" means a strike, acts of God, acts of public enemies, orders of any kind of a government of the United States of America or of the State of Ohio or any of their departments, agencies, or political subdivisions; riots, epidemics, landslides, lightning, earthquakes, fires, tornadoes, storms, floods, civil disturbances, explosions, partial or entire failure of utilities or any other cause or event not reasonably within the control of the disabled party, but only to the extent the disabled party notifies the other party as soon as practicable regarding such Force Majeure and then for only so long as and to the extent that, the Force Majeure prevents compliance or causes non-compliance with the provisions hereof.
- (j) "Franchise" means the nonexclusive right pursuant to the Constitution and laws of Ohio and/or the United States, granted by the Village pursuant to this Ordinance to operate or provide cable television or services to consumers within the Village.
- (k) "Permit" means the non-exclusive grant of authority to use or occupy all or a portion of Village's Rights of Way granted pursuant to this Chapter.
- (l) "Permittee" means any person issued a Permit pursuant to this Chapter to use or occupy all or a portion of the Rights of Way in accordance with the provisions of this Chapter and said Permit.
- (m) "Person" means any natural person or any association, firm, partnership, joint venture, corporation, or other legally recognized entity, whether for-profit or not-for-profit.
- (n) "Public Property" means any real property, other than a Right of Way, except for the last sentence of subsection (q) hereof owned by the Village.
- (o) "Regulation" means any rule adopted by and pursuant to the authority of this Chapter.
- (p) "Residential Related Purposes" shall mean residential use of right-of-way for mailboxes, decorative purposes, curb cuts, driveways, irrigation systems and other uses permitted in the Right-of-Way by ordinance.

- (q) "Rights-of-Way" means the surface of and the space above and below any public street, public road, public highway, public freeway, public lane, public path, public way, public alley, public court, public sidewalk, public boulevard, public parkway, public drive or any public easement or right of way now or hereafter held by the Village which shall, within its proper use, entitle a Permittee or Franchisee, in accordance with the terms hereof and of any Permit, to the use thereof for the purpose of installing or operating any poles, wires, cables, transformers, conductors, ducts, lines, mains, conduits, vaults, manholes, amplifiers, appliances, attachments or other property or facilities as may be ordinarily necessary and pertinent to the provision of utility, cable television, communications or other services as set forth in any Franchise or any Permit. Right of Way shall also include Public Property, but only to the extent the use or occupation thereof is specifically granted in a Permit or by Regulation. (Ord. 2008-11. Passed 12-15-08.)

### **901.03 USE OF PERMITTEE FACILITIES.**

The Village shall have the right to install and maintain, free of charge, upon any poles and within any underground pipes and conduits or like facilities of any telecommunication and utility or special permittee, communications facilities ("Village Facilities") solely for governmental use desired by the Village unless:

- (a) Such installation and maintenance unreasonably and materially interferes with existing and future operations of the Permittee, or
- (b) That such installation and maintenance would be unduly burdensome to such Permittee.

Each Permittee and Franchisee shall cooperate with the Village in the planning and design of its facilities so as to accommodate the Village's reasonably disclosed governmental requirements. Neither the Village Facilities nor the capacity of bandwidth thereon shall be leased, licensed or otherwise made available to third parties. The Village's use and occupancy of a Permittee's conduit shall be limited to the right to occupy a single innerduct in any given conduit and a single attachment to any given pole. The Village's right to use and occupancy of a Permittee's poles or conduit shall be subject to any and all reasonable terms and conditions the Permittee requires of other third party users of its poles and conduit. The Village shall pay the Permittee the reasonable cost to make the poles or conduit ready for the Village's use and occupancy. Nothing herein shall be construed to require a Permittee to construct poles or conduits where none exist or to rearrange, modify or alter its facilities on a pole or conduit in order to provide space for Village Facilities where space is not otherwise available. (Ord. 2008-11. Passed 12-15-08.)

### **901.04 FORM OF PERMIT APPLICATION.**

Excavation or Occupancy Permit requests shall contain but not be limited to the following information:

- (a) Name of applicant or agent making request.
- (b) Address of applicant or agent.
- (c) Contact Name and phone number (a 24-hour emergency number is needed if not the same).
- (d) Location of work-site specific-provide street name and specify limits (house number as applicable); lane requirements, sidewalk, etc.
- (e) Size of trench (width/length/depth).
- (f) How long permit is needed (maximum 180 days).

- (g) Proposed work hours if applicable, state if a complete closure is desired.
- (h) Purpose of request (Utility placement, working in roadway structure, working on or in a building, etc.), provide address when appropriate.
- (i) When work is to begin and completion date (required to issue permit).
- (j) Traffic control needs (full closure, number and location of lanes to be closed, etc.), provide adequate maintenance of traffic notes/details.
- (k) Plans as required by Section 901.03.
- (l) If used for vehicle occupancy, type and number of vehicles at site.  
(Ord. 2008-11. Passed 12-15-08.)

#### **901.05 PERMIT PLANS.**

Whenever an excavation is to be performed within the right-of-way, the permit application shall be accompanied by detailed work plans. The plans shall be of suitable size, clarity and scale to show the nature of the work to be performed. The Village utilities shall be shown on the plans in as much as information is available from searching Village records. All conflicts with any Village facility shall be resolved to the satisfaction of the owner Division. The following information shall be included in all plans:

- (a) Provide the property/street address of the proposed work location.
- (b) Utility trench data is to include estimated length, width, and depth dimensions.
- (c) Indicate if excavation is in pavement, sidewalk, driveway, or grass areas.
- (d) Make notation if a trench, push or bore method is involved.
- (e) Show distance off R-O-W or centerline.
- (f) Show edge of pavement and existing pavement markings.
- (g) Show details of proposed utility taps or other improvements.
- (h) Indicate type/model/manufacture of all materials to be utilized for public utility repairs. (Ord. 2008-11. Passed 12-15-08.)

#### **901.06 RESTORATION.**

Whenever any person or agency has the authority to excavate in any sidewalk, roadway or right-of-way of any improved or unimproved street, alley or public way, the person or agency causing such excavation shall be required to return, in accordance with current Village standards, the right-of-way to essentially the same condition it was prior to the excavation or restore the same in such a manner and by such time as required by the Village Contracted Engineer. All street, alley, sidewalk and driveway repairs shall conform to current Village standards and specification.

Restoration of any sidewalk, tree lawn, curb, street pavement, etc. shall occur no later than thirty (30) days after the conclusion of any utility repair or installation activity except in high impact areas per Section 901.01 (k) which requires pavement restoration be completed within seven (7) days. Construction activity completed December through April shall have all grading and seeding issues resolved no later than May 31st. Additional permits shall not be issued to the permittee until the violations are corrected to the satisfaction of the Village Contracted Engineer. In addition, each violation may be dealt with in accordance with Section 901.99.

Permanent repairs to any roadway cut for the purpose of installing, extending or repairing any utility wire, conduit, or any other repair shall be made in accordance with Village Standard Drawings. Standard Drawings have been developed to provide specifications on small pavement repairs, and other minor repair work within the right-of-way. Whenever a pavement cut area exceeds the nominal size of 8 feet in width and 100 feet in length, the plans shall indicate the

method of pavement replacement in accordance with current City standard specifications and are subject to review and approval by the Village Engineer. Whenever a trench exceeds 100 feet in length, the repair shall include a minimum 11-foot wide by 1-1/4 inch deep pavement surface planning operation along the length of the trench in preparation for pavement replacement to be installed with a paving machine.  
(Ord. 2008-11. Passed 12-15-08.)

#### **901.07 EMERGENCY REPAIRS.**

When any public agency, or any private utility company or corporation must excavate in any improved or unimproved street in order to make emergency repairs necessary for the safety of the public, the same shall request a street excavation permit no later than the following working day and be responsible for the payment of all associated fees. In the event the repair work poses any safety hazard to surrounding residents or businesses, the agency making the repair shall be responsible for notifying the Village of Ashville Police Department at the commencement of any emergency repair activity. All permanent repairs shall conform to Section 901.06. Excavations shall not be backfilled until the repair area and excavation is inspected and approved by the Village. Inspections can be arranged by contacting the Village Administrator on the next business day or through the Village Police Department during evening and weekend hours.  
(Ord. 2008-11. Passed 12-15-08.)

#### **901.08 INSPECTIONS.**

Inspection of work performed under all excavation permits shall be done by personnel of the Engineering Department. All excavation and paving activities within the public roads or right-of-way, excluding sidewalk and driveway approach repairs, require a minimum 24-hour advance notification to the Engineering Department. An approved copy of the Right-Of-Way permit and accompanying Excavation/Compaction Requirement notes must be present with the contractor on the job site at all times. Failure to comply with any of these provisions may result in the temporary shut down of all construction activities.

- (a) Sidewalk, Driveway or Curb. Form inspection required before placement of concrete. The permittee shall call the Planning and Zoning Department by 9:00 a.m. to schedule a required inspection for that day. Specific times are not guaranteed.
- (b) Utility Connections. Connections or repair to any public water line, sanitary or storm sewer requires inspection before backfill operation begins.
- (c) Backfill Compaction. Backfill installation shall be performed in accordance with Village specifications and is subject to inspection and testing as directed by the Village Contracted Engineer.
- (d) Final Inspection. When all work is complete. Upon a successful final inspection, deposits will be processed and returned to the permit holder.
- (e) Final Residential Lot Grade. Upon completion of all construction activities on a new or substantially modified residential home site, the Village Right-of-Way Inspector designee shall perform a final grade inspection of both the property and surrounding right-of-way to verify for conformance with current construction regulations and to check for any damage to existing public infrastructure attributable to the associated construction activities.
- (f) It is the permit holder's responsibility to request inspections. Failure to obtain an inspection will result in requiring re-excavation of the location and replacement with approved materials in the presence of proper inspection personnel. In addition, this action may result in the forfeiture of 100% of all deposits, permits and fees on account and denial by the Village of any future permit applications.  
(Ord. 2008-11. Passed 12-15-08.)

**901.09 FEES AND DEPOSITS.**

All private companies, corporations or individuals shall pay, at the time of permit application, certain fees as set forth below to cover the administrative costs of issuing the permit(s) and performing the required inspection(s). The actual fees are listed on the current fee schedule available at the Village Planning and Zoning Department.

- (a) Permit Fees. Permit fees shall be charged for the following permit applications and are due at the time an application is submitted:
  - (1) Excavation permits: Separate fee for each individual permit submitted.
  - (2) Occupancy Permits: Separate fee for each individual permit submitted.
  - (3) Blanket Occupancy Permits: Annual fee expiring on December 31st.
  - (4) Dumpster/Container Fees: Separate fee for each individual permit submitted.
- (b) Street Excavation Deposit. A street excavation deposit, or other surety as approved by the Village Administrator, shall be required for all roadway excavations when the pavement is open cut. The amount of deposit is based on the square yardage of pavement area being disturbed multiplied by the per square yard fee. Street excavation deposits must be paid prior to commencing any construction activities and shall be refunded if the repair work is completed in a manner satisfactory to the Village Contracted Engineer.
- (c) Inspection Fees. Permit applicants are responsible for paying inspection fees for the following construction activities. Fees are due at the time a permit is submitted and are not refundable:
  - (1) Sidewalk/Driveway Approaches/Curb Repairs.
  - (2) Residential Lot Final Grade Inspections.
  - (3) Open Trench Excavations.
- (d) Additional Inspection Fees. If, in the opinion of the Village Contracted Engineer, additional inspections are necessary in the form of a stand-by construction inspector being assigned to monitor the associated construction activity, the permittee shall be notified prior to approval of the permit application to discuss the inspection requirements. The permittee shall be responsible to pay for the cost of such stand-by inspection services at the current city hourly rate for construction inspection services. The permittee shall be invoiced for the total stand-by construction inspection fees, once it has been determined that the work has been completed in a satisfactory manner.  
(Ord. 2008-11. Passed 12-15-08.)

**901.10 TRAFFIC CONTROL.**

Traffic control devices shall be furnished, erected, maintained, and removed by the permittee in accordance with guidelines published in the manual of "Traffic Control for Construction and Maintenance Operations", current revision. Copies are available at the Ohio Department of Transportation, located at 1980 West Broad Street. In the event of conflicting requirements, any maintenance of traffic requirements spelled out in the plans shall take precedence over the above-mentioned manual. Any specific condition attached to the permit by the Village Contracted Engineer shall take precedence over both the manual and plan notes. All traffic control devices used for night work including barrels, cones, barricades etc., must be equipped with high intensity reflective film.

(Ord. 2008-11. Passed 12-15-08.)

**901.11 EXCAVATION IN NEW PAVEMENT.**

Permits granted to any person to make any opening in the new pavement or re-pavement of a street or alley that is less than two years old shall be subject to the provisions of Section 901.06 and any additional restoration requirements deemed necessary by the Village Engineer including but not limited to pavement heat welding, additional milling and paving and re-striping. When emergency repairs are necessary, the Village Contracted Engineer shall provide details and specifications on how the permanent pavement repairs are to be made. (Ord. 2008-11. Passed 12-15-08.)

**901.12 FAILURE TO PERFORM REQUIRED WORK/STOP WORK ORDER.**

Failure of any permit applicant to complete all of the approved work within the allotted time frame or to Village Specification may result in the Village issuing a stop work order and contracting out the remaining construction activities and repairs as required. The applicant will be responsible for all administrative, material and labor costs associated with the repair in addition to any fines as identified in Section 901.99. The Village may utilize the street excavation deposit described in Section 901.09 (b) to offset costs of making repairs. (Ord. 2008-11. Passed 12-15-08.)

**901.13 STEEL ROADWAY PLATES.**

The Village requires that all companies, corporations, or individuals placing steel roadway plates in the right-of-way of any street, alley, or public right-of-way notify the Village Service and/or Utility Department upon placement and removal of any plate. The contractor name, employee contact name with a 24-hour emergency telephone number, location and number and size of plates, and the approximate number of days planned for placement shall be submitted either by telephone or via fax notification. All plates over open excavations are to be held in place by the use of a minimum of four pins or placement of bituminous asphalt continuously or all four edges, and must be marked with orange construction barrels or safety cones. (Ord. 2008-11. Passed 12-15-08.)

**901.14 EMERGENCY PHONE NUMBER POSTING.**

The permit holder shall post in a conspicuous place at the job site a sign with a 24-hour emergency phone number. This shall be required whenever any travel portion of a lane or a sidewalk is barricaded, steel plates are placed or temporary pavement backfill has been placed. (Ord. 2008-11. Passed 12-15-08.)

**901.15 DUMPSTERS/CONTAINERS.**

All dumpsters or containers placed within public right-of-way must have an occupancy permit. This regulation does not apply to the trash containers placed by the Village of Ashville. Occupancy permits for dumpsters or containers may be issued to the vendor who supplies them or the permittee requesting the use of one. The vendor shall be responsible for providing a dumpster or container in compliance with current Village of Ashville regulations when placed in a roadway. Each dumpster or container shall be equipped with reflectorized hi-intensity barricade tape (minimum 8 inches wide, standard orange and silver). A minimum of two bands each are required for dumpsters or containers less than four feet in height and three bands for dumpsters and containers over four feet in height. Each band shall be spaced evenly around the perimeter of the dumpster or container. In lieu of reflectorized tape, traffic control barrels with reflectorized tape may be used at 4-foot maximum spacing around the entire dumpster. The company's name

and a 24-hour telephone number shall be placed on each side so that it is clearly visible. A weatherproof 9"x 12" plastic envelope shall be affixed to the dumpster or container to provide a means of posting the permit. The permittee shall be responsible for the placement of advance warning traffic control devices. The requirement of such shall be evaluated at the time of permit application or when a hazard develops. (Ord. 2008-11. Passed 12-15-08.)

**901.16 SPECIAL DUTY POLICE OFFICERS.**

When required by the permit, or if required by the Village Contracted Engineer, Village Administrator and/or Police Department, the permittee shall be responsible for hiring and paying for the services of Uniformed Special Duty Police Officers. Applicants shall be contacted prior to permit approval to discuss the necessity of the use of police officers. Police officers shall be required at all times when working in signalized street intersections. The Village of Ashville will determine the number of officers required. Village of Ashville officers are to be utilized when available, as their familiarity with local traffic patterns, issues and other Village personnel will be beneficial to the project. An officer may be requested by calling the Village of Ashville Police.

(Ord. 2008-11. Passed 12-15-08.)

**901.17 RIGHT TO DECLINE.**

The Village of Ashville has reserved the right to decline additional permits for other projects if a violation exists. No permit shall be issued until the violations are corrected to the satisfaction of the Village Contracted Engineer.

(Ord. 2008-11. Passed 12-15-08.)

**901.99 PENALTY.**

Whoever violates any provision of this chapter shall be deemed guilty of a minor misdemeanor and fined one hundred dollars (\$100.00). Any such violation shall constitute a separate offense on each successive day continued.

(Ord. 2008-11. Passed 12-15-08.)

**CHAPTER 905  
Streets Generally**

**905.01 Snow removal policy.**

CROSS REFERENCES

Assessments - see Ohio R.C. 701.05, Ch. 727

Power to establish and care for streets - see Ohio R.C. 715.19, 717.01,  
723.01

Openings by the Municipality - see Ohio R.C. 723.02

Dedication and acceptance - see Ohio R.C. 723.03

Change of name, vacating and narrowing streets - see Ohio R.C.  
723.04 et seq.

Sprinkling - see Ohio R.C. 723.16 et seq.

Surface treatment - see Ohio R.C. 723.23, 723.31

Excavation liability - see Ohio R.C. 723.49 et seq.

Compulsory service connections - see Ohio R.C. 729.06, 743.37

Changing established grade - see Ohio R.C. 727.07

Digging, excavating and piling earth on streets - see Ohio R.C. 5589.10

**905.01 SNOW REMOVAL POLICY.**

Council hereby adopts the following policy.

- (a) Policy. Adopted to facilitate the cleaning of streets, to expedite the flow of vehicular traffic, and to assist the Service Department in sleet, hail, ice and snow removal within the Village. The following policy has been approved by the Council Service Committee and shall be maintained by the Village Street Department.

The snowplows will clean the streets from curb to curb where there are no parked cars.

Vehicles should be moved to off street parking if possible.

- (b) Priority. Getting streets cleared for traffic and especially for emergency vehicles such as fire, life-saving and law enforcement is a top priority.  
Salting and/or sanding streets will be done when conditions warrant the use of salt and/or sand to reduce dangerous street conditions.
- (1) Designated locations for complete removal of accumulated snow:  
Snow emergency area as defined on Snow Emergency Location Map, stated in Section 351.14 of the Traffic Code as follows:
- |    |               |                                |
|----|---------------|--------------------------------|
| A. | Main Street   | N & S Railroad to Bortz Street |
| B. | Long Street   | Main Street to Plum Street     |
| C. | Bortz Street  | Main Street to Church Street   |
| D. | Wright Street | Long Street to Bortz Street.   |
- (2) All primary streets: Long, Main, Station, Circleville Avenue, State Route 752.
- (3) School areas (if school is in session): Walnut, Plum, Park.
- (4) Intersections of secondary streets.
- (5) Secondary streets: Jefferson, Miller, Scioto, Cromley, East, Powell, Randolph (Walnut, Plum and Park if school is not in session).
- (6) All other residential streets when weather conditions cause Village streets to become impassable.
- (c) Definition. Village streets shall be defined as the paved surface of roadways and alleys.
- (d) Prohibitions.
- (1) Placing of snow from any driveway, sidewalk, curb or parking lot into any street, alley, or public right of way in such a manner that hinders the cleaning of streets or impedes the flow of traffic.
- (2) Placement of any snow in front of or around any fire hydrant or storm sewer.
- (3) No person shall shovel, sweep, throw or otherwise deposit snow or ice from private property onto a sidewalk or street.
- (e) Snow Placement.
- (1) When snow cannot be stored off of streets or alleys it should be hauled to a proper location on a person's own property or to a designated Village area named by the Mayor or designee.
- (2) Snow should not be stored along streets and intersections in quantities that impair parking, pedestrian walkways and crosswalks and visual oncoming traffic.
- The Village shall take the necessary precautions to reduce the risk of property damage to Village-owned equipment or private property.
- (f) Sidewalks.
- (1) It is the duty of the owner or occupant of abutting lands to keep the sidewalks free from snow or ice.
- (2) Whoever violates this subsection (f) is guilty of a minor misdemeanor.
- (g) Penalty. Residents and/or contractors failing to cooperate will be contacted to return to the location in question and correct the situation.  
Any person who violates any provision of this section where no other penalty is provided shall be subject to the penalty of the snow emergency ordinance as codified in Section 351.14 of the Traffic Code.  
(Ord. 99-29. Passed 11-1-99.)

**CHAPTER 909**  
**Street Excavations**

<b>909.01</b>	<b>Permit required.</b>	<b>909.04</b>	<b>Restoration of pavement.</b>
<b>909.02</b>	<b>Application; bond deposit required.</b>	<b>909.05</b>	<b>Barriers required.</b>
<b>909.03</b>	<b>Bond deposit rates; public utility exception.</b>	<b>909.06</b>	<b>Warning lights required.</b>
		<b>909.99</b>	<b>Penalty.</b>

**CROSS REFERENCES**

Assessments - see Ohio R.C. 701.05, Ch. 727  
 Openings by municipality - see Ohio R.C. 723.02  
 Surface treatment - see Ohio R.C. 723.23, 723.31  
 Excavation liability - see Ohio R.C. 723.49 et seq.  
 Digging, excavating, and piling earth on streets - see Ohio R.C.  
 5589.10

**909.01 PERMIT REQUIRED.**

No person, other than the Service and Water and Sewer Department or authorized employees shall make any opening in or cut into, break or otherwise disturb any street, alley, gutter, or public right of way within the Village unless a permit therefor is obtained, prior to the commencement of the work, as herein provided.  
 (Ord. 88-12. Passed 8-15-88.)

**909.02 APPLICATION; BOND DEPOSIT REQUIRED.**

Each permit for opening any public right of way shall be confined to a single project and may be issued by the Planning and Zoning Chairperson. The permit application shall be made on a form prescribed by the Chairperson, giving the exact location of the proposed project, the type of existing pavement, the area and depth to be excavated, and such other facts as may be required. The permit shall be issued only after a cash deposit or other approved bond, sufficient to cover the total anticipated cost of restoration of the excavation site, has been deposited with the Planning and Zoning Chairperson, conditioned upon prompt and satisfactory restoration of all pavement surfaces disturbed. (Ord. 88-12. Passed 8-15-88.)

**909.03 BOND DEPOSIT RATES; PUBLIC UTILITY EXCEPTION.**

No person shall dig or disturb any portion of a street or alley or public right of way in the Village for any purpose, unless permission is obtained from the Planning and Zoning Chairperson through a permit and a deposit is made with the Chairperson of not less than the following amounts for streets or alleys of the stated type of construction:

## (1) Class "A" Street.

<u>Type of Construction</u>	<u>Minimum Deposit Required</u>
Concrete	\$200.00
Concrete and brick	200.00
Concrete, brick and asphalt	200.00
Full-depth asphalt (4"+)	200.00

## (2) Class "B" Street.

<u>Type of Construction</u>	<u>Minimum Deposit Required</u>
Granular base and asphalt	\$150.00
Granular base and chip and seal	150.00
Other base and asphalt	150.00
Gravel	100.00

All of the above minimum deposit amounts shall include an opening of not more than a total of 20 square feet. For larger increments, the following square foot amounts shall be added to above stated bonds:

Class "A" Street	\$5.00 per square foot
Class "B" Street	\$3.00 per square foot

Deposits shall be predicated upon the assumption that the Village may be required to make a satisfactory repair to the excavation and pavement in order to properly restore the street, alley or public right of way to at least as good of condition as it was prior to the opening. These bonds are also predicated on the fact that the Village requires the contractor or the property owner to properly complete all pavement restoration work. However, if the property owner or contractor doing the work should not restore the pavement, then the deposit would be utilized by the Village to complete the restoration. All deposits shall be held by the Village for a period of three months after the completion of the repair work in order to be assured that final repair work is durable and acceptable. The Village Administrator shall inspect all work, upon notification by the contractor or owner, to determine that proper repairs have been made according to Village specifications.

A public utility agrees for each project that the utility will pay for the proper restoration of any pavement area disturbed by its operation and that it will repair the said pavement to Village specifications and shall meet the requirements of the Village Administrator.

Each public utility will provide for proper safety barriers and warning lights, as required by the most recent edition of the Ohio Manual of Uniform Traffic Control Devices, and will specifically assume all liability for such excavation within the public right of way. (Ord. 88-12. Passed 8-15-88.)

**909.04 RESTORATION OF PAVEMENT.**

The opening and restoration of pavement or other surfaces shall be performed under the supervision and to the satisfaction of the Village Administrator and in accordance with the current rules, regulations and specifications.

Upon failure or refusal of the permittee to satisfactorily restore the subsurface and surface of the pavement or remove all excess materials within the time specified in the permit or, where not specified, in a reasonable amount of time after commencement of work, the Village may restore the subsurface and surface without notice to the permittee. In that event, the deposit referred to in Section 909.03 shall be deemed forfeited. Such deposit shall be paid into the appropriate fund of the Village, except that part in excess of the actual cost to be incurred by the Village to restore the site in the manner established by the permit utilizing either Village personnel and equipment, or otherwise as the Village deems appropriate. If the cost of restoration performed by the Village or its agent should exceed the amount of such deposit, the Planning and Zoning Chairperson shall collect the balance due from such permittee. (Ord. 88-12. Passed 8-15-88.)

**909.05 BARRIERS REQUIRED.**

Any person or firm engaged in or employing others in excavating or opening any street, sidewalk, alley or other public right of way shall have such excavation or opening fully barricaded at all times. The barricading shall be performed in accordance with the latest edition of the Ohio Manual of Uniform Traffic Control Devices. (Ord. 88-12. Passed 8-15-88.)

**909.06 WARNING LIGHTS REQUIRED.**

Any person or firm engaged in excavating or otherwise in any manner obstructing a portion of or all of any street, sidewalk, alley or other public right of way, at all times, from one-half hour before sunset until one-half hour after sunrise, shall cause proper warning lights to be secured, operating, and conspicuously posted around the excavation. The warning lights shall conform to the requirements of the Ohio Manual of Uniform Traffic Control Devices and to any requirements imposed by the Village Administrator. (Ord. 88-12. Passed 8-15-88.)

**909.99 PENALTY.**

Whoever violates any provision of this chapter shall be guilty of a minor misdemeanor upon the first offense and a misdemeanor of the fourth degree for any subsequent violation. If the offender's actions result in injury to a person, a violation of this chapter is a misdemeanor of the second degree. Each separate violation shall constitute a separate offense. (Ord. 88-12. Passed 8-15-88.)

**TITLE THREE- Utilities**

- Chap. 921. Utilities Generally.
- Chap. 925. Water Regulations.
- Chap. 929. Water, Sewer and Stormwater Rates.
- Chap. 935. Backflow Prevention.
- Chap. 940. Stormwater Utility.

**CHAPTER 921  
Utilities Generally**

**921.01 Construction and material specifications.**

**CROSS REFERENCES**

- Power to license sewer tappers and vault cleaners - see Ohio R.C. 715.27
- Power to construct sewerage system - see Ohio R.C. 715.40, 717.01
- Compulsory sewer connections - see Ohio R.C. 729.06
- Management and control of sewerage system - see Ohio R.C. 729.50
- Regulations to control house sewers and connections - see Ohio R.C. 729.51
- Untreated sewage - see Ohio R.C. 3701.59
- Interference with sewage flow - see Ohio R.C. 4933.24
- Sewerage districts - see Ohio R.C. 727.44 et seq.
- Assessments - see Ohio R.C. Ch. 729
- Household sewage disposal systems - see OAC Ch. 3701-29

**921.01 CONSTRUCTION AND MATERIAL SPECIFICATIONS.**

The construction and material specifications prepared for the Village are hereby adopted to govern all improvements to the storm sewer, sanitary sewer and water systems within the Village. (Ord. 94-9. Passed 6-6-94; Ord. 94-15. Passed 6-6-94.)

**CHAPTER 925**  
**Water Regulations**

<b>925.01</b>	<b>Definitions.</b>	<b>925.06</b>	<b>Voluntary termination of service.</b>
<b>925.02</b>	<b>Utility service termination policy.</b>	<b>925.07</b>	<b>Hearing procedures.</b>
<b>925.03</b>	<b>Notice procedures.</b>	<b>925.08</b>	<b>Nondiscrimination against consumers.</b>
<b>925.04</b>	<b>Disconnection.</b>		
<b>925.05</b>	<b>Emergencies and repairs.</b>		

**CROSS REFERENCES**

Power to provide and regulate water system - see Ohio R.C. 715.08, 717.01, 743.01  
 Water pollution - see Ohio R.C. 715.08, 743.25  
 Compulsory water connections - see Ohio R.C. 729.06, 743.23  
 Management and control of water works - see Ohio R.C. 735.28 et seq.  
 Tampering with water hydrants, pipes or meters; unauthorized connections - see Ohio R.C. 4933.22  
 Fluoridation - see Ohio R.C. 6111.13  
 Water pollution control - see Ohio R.C. Ch. 6111  
 Water supply - see OAC 4101:2-51-37

**925.01 DEFINITIONS.**

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

- (a) **Consumer:** Any person who is the ultimate user of utility services provided by the Service Village.
- (b) **Customer:** Any person or entity who enters into a contractual agreement with the Service Village to receive or to pay for utility services provided by the Service Village. Customers may, but need not, be consumers of the services provided under such a contractual agreement.
- (c) **Consumer Household:** Any service address in which the customer who is contractually liable for utility services furnished to that address does not reside.
- (d) **Customer Household:** Any service address in which the customer who is contractually liable for utility services furnished to that address resides.
- (e) **Billing Address:** The address at which the customer contractually liable for utility services furnished to a service address receives billing from the Service Village. Billing addresses may, but need not, be the address at which said services are received.

- (f) Service Address: Any individual address at which utility services are furnished a consumer or customer. The singular may include the plural. Most service addresses will be individually metered. However, in apartment buildings, apartment complexes, duplex apartments, etc., one meter may supply more than one household. In such circumstances, each individual apartment is a separate service address as that term is used herein.
- (g) Village Administrator. The Village Administrator shall be empowered and required (when good cause is shown) to compromise and adjust billings; negotiate, defer and compromise disputes as to service requirements or payment demands and to cancel disconnection and/or order reconnection. The Village Administrator shall strive to arrange reasonable alternate methods of payment, or reasonable security for payment, in order to preserve utility service, and shall maintain residential utility service, without discrimination. The Village Administrator shall preside at hearings held pursuant to these rules.  
(Ord. 94-1. Passed 2-7-94.)

#### **925.02 UTILITY SERVICE TERMINATION POLICY.**

Utility service to customer or consumer households may be disconnected or terminated (hereinafter “disconnection”) by the Village only for the following reasons:

- (a) Nonpayment;
- (b) Emergencies, repairs and replacement of lines;
- (c) At customer request, provided that the approval of both the customer and consumer of services for that service address is necessary if any service address affected by the request is a consumer.
- (d) If, upon physical examination, the Village obtains reasonable grounds for and has a good faith belief that, Ohio R.C. 4933.18 or 4933.19 have been violated by use of a jumper or other by-pass mechanism:
- (1) Prior to installation of check valves or backflow protection; or
  - (2) Which results in bypassing and negating such valves or protection.

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

- (e) Nonpayment of a lien certified against the property pursuant to Ohio R.C. 735.29(A).

Except as set forth in (b), (d) and (e) above, disconnections other than those with approval of both the customer and consumer of service may not occur without proper notice and adequate opportunity for hearing before termination. These rules shall be complied with by all utility department employees.

No disconnection of service shall occur except after compliance with these rules.  
(Ord. 94-1. Passed 2-7-94.)

### **925.03 NOTICE PROCEDURES.**

(a) Written notice of proposed disconnection of service, for any reason, other than voluntary disconnection where the customer asking for disconnection is also the only consumer at the address, must be sent by the Village at least 14 days, and no more than 30 days, prior to the date for proposed disconnection. Notices may be mailed with first class postage prepaid to reasonably assure delivery within that time. The date of the notice shall be the date of mailing, and a dated copy of any notice sent shall be retained by the Village. The notice shall include:

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

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

The notice in the termination letter shall include the following:

- (1) The reason for disconnection or termination of service;
- (2) The front of the envelope shall be stamped or printed in ink:

FINAL NOTICE  
Failure to Pay Will  
Result in Shut-off

- (3) The letter shall also include the following statements: You may avoid termination by taking one or more of the following actions prior to the scheduled termination date:
  - A. If you personally owe utility service charges which are past due, you should pay the bill in full or make arrangements to pay which are satisfactory to the Village of Ashville.
  - B. If you dispute the reason for the proposed termination, in whole or part, you may request a hearing to contest termination. If a hearing is requested before the scheduled date for termination, termination will not take place until the hearing process is complete. If you request a hearing, you have the right to examine records concerning this service address; to bring a representative to help you at the hearing; and to bring witnesses to testify on your behalf; or

- C. If you are a residential user of utility service at the address to be terminated, and if the customer responsible for paying the utility bill does not live at your address, you may avoid termination by paying a \$75.00 deposit and agreeing to contract for your own utility usage in the future.

If you wish to avoid termination, or to request a hearing, or wish a more complete explanation of your hearing rights or your rights to assume responsibility for future utility charges, you should immediately contact the Ashville Village Administrator at the address and telephone number listed on this card between the hours of 8:00 a.m. and 5:00 p.m., Monday, through Friday.

#### FINAL NOTICE

IF YOU HAVE ANY QUESTIONS OR DISPUTES  
ABOUT THIS BILL, CALL THE VILLAGE OF ASHVILLE.

In the event any service address that would be affected by disconnection is a consumer household, notice of disconnection of service, in this form and manner, must be delivered to each service address so affected, in addition to delivery to the customer household.  
(Ord. 94-1. Passed 2-7-94.)

#### **925.04 DISCONNECTION.**

Pursuant to the provisions in Sections 925.02 and 925.03, if water service to a household is disconnected or terminated, and no hearing has been requested, at the time of disconnection a "Notice of Termination of Utility Service" will be left on the property by a Village of Ashville representative. A copy of the Notice is designated hereto as Exhibit 3. If disconnection or termination is due to the consumer or customer failing to prevail in a hearing, the termination notice will not be left at the property and service will only be restored by the payment due as determined by the hearing.

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

- (a) The customer/consumer has not been mailed the final termination notice; or
- (b) The customer/consumer has arranged a payment plan with the Village Administrator which superseded the final termination notice.

In the case of (a) above, water service shall be reconnected and the final termination notice provided to the customer/consumer. In the case of (b) above, water service shall be reconnected and a final termination notice sent to the customer/consumer if the person fails to make payment under the alternative payment plan agreed to. If the Village Administrator determines that a mistake has not been made as to the disconnection, that fact shall be communicated to the customer/consumer, and the Village Administrator shall also communicate to the customer/consumer that he/she has the right to a hearing.  
(Ord. 94-1. Passed 2-7-94.)

**925.05 EMERGENCIES AND REPAIRS.**

Disconnection of service may occur without prior notice if emergency circumstances involve imminent danger to persons or property, including a break in a utility service line. Prior notice shall be given by the Village where utility service shall be lost for more than eight hours as the result of routine or scheduled maintenance, so that consumers of utility service may plan accordingly. If the loss of utility service results from a utility line break or other emergency circumstances, and is expected to, or does, last for more than four hours, the Village shall make reasonable attempts to give notice to service addresses affected by such loss of service by asking local media and using public bulletin boards to publicize the loss of service, the reason for it, and the expected date and time by which the Village expects to restore service.  
(Ord. 94-1. Passed 2-7-94.)

**925.06 VOLUNTARY TERMINATION OF SERVICE.**

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

- (a) Send a copy of any final notice to the service address; and
- (b) Send a copy of any customer's voluntary termination of water service notice to the service address.

A customer requesting a voluntary disconnection must complete the form designated as Exhibit 1. (Ord. 94-1. Passed 2-7-94.)

**925.07 HEARING PROCEDURES.**

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

- (a) Have the assistance of a representative; and
- (b) May present documentary and/or oral information and/or the testimony of witnesses for the Village Administrator's consideration.

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

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

(Ord. 94-1. Passed 2-7-94.)

**925.08 NONDISCRIMINATION AGAINST CONSUMERS.**

If service is disconnected, or if disconnection is proposed, due to a customer's nonpayment of service charges for a consumer household, an adult consumer of utility services in said household shall have the right to avoid disconnection, or obtain reconnection, if the consumer pays a \$75.00 deposit and assumes written responsibility for timely payment of future charges for service provided the household at the service address. Consumer assumption does not relieve the customer of contractual liability for charges incurred. The assumption obligation shall terminate upon the consumer's delivery to the Village of a written notice canceling that assumption, and the deposit shall be returned if the consumer makes payment of the consumer's final bill in full. If the consumer does not pay the final bill in full, said final bill amount (or portion unpaid) will be deducted from the deposit and any deposit balance will be returned to the consumer.

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

The Village shall not refuse to furnish utility service and/or propose to or disconnect utility service to any customer or consumer household on account of arrearages due Village for utility services furnished to persons formerly receiving services at the same premises, provided the customers obligated on that delinquent account do not continue to reside at such premises. Applicants who are denied utility service shall be notified of that decision, and the reason for it, by use of the form attached as Exhibit 2, at the time of the denial. No consumer of utility may be denied services because of, or billed for or required to pay for utility services furnished on the account of another individual, except to the extent of any assumption obligation previously assumed by that consumer pursuant to this paragraph, except that nothing herein affects the rights of the Village to lien property as provided by law, including but not limited to the procedures of Ohio R.C. 735.29(A) for certifying past due water bills to the County Auditor for collection.

(Ord. 94-1. Passed 2-7-94.)

Village of Ashville  
 91 West Main Street  
 Ashville, Ohio 43103

**UTILITY SERVICE DISCONNECTION REQUEST**

Account No. \_\_\_\_\_ Date of Request \_\_\_\_\_

Service Address:

Customer Name:

Billing Address:

The address at which utility service is to be suspended is:

\_\_\_\_\_ (1) Same as billing address, or

\_\_\_\_\_ (2)

The address at which utility service is to be suspended is a:

\_\_\_\_\_ (1) Single family residence

\_\_\_\_\_ (2) Duplex/triplex

\_\_\_\_\_ (3) Apartment building or buildings containing  
 \_\_\_\_\_ (a number) of units.

\_\_\_\_\_ (4) Nonresidential building.

Reason for suspension:

\_\_\_\_\_ (1) A temporary suspension is needed for repairs to:

\_\_\_\_\_ (2) Other reasons. (Explain)

To induce the Village of Ashville to suspend utility service to the address listed herein, I certify that I have personal knowledge that the information given above is accurate.

Signature of customer requesting suspension

**NOTICE TO TENANTS (see reverse)**

Village of Ashville  
91 West Main Street  
Ashville, Ohio 43103

**DENIAL OF SERVICE**

To:  
(Insert Name of Applicant)

Date:

Your application for utility service at:

\_\_\_\_\_ is denied for the  
following reason(s):

We will agree to provide utility services at that address under the following conditions:

If you disagree with this decision or the conditions we ask, you may request a hearing to appeal this denial. If you request a hearing, you have the right to examine utility department records concerning this denial; to bring a representative to help you with the hearing; and to bring witnesses to testify at the hearing. You may request a hearing now, orally or in writing, or by contacting the Village at

(Signature of Employee Making Decision)

Orig.: To Applicant  
cc: Attached to Service Address File

Village of Ashville  
91 West Main Street  
Ashville, Ohio 43103

### Notice of Termination of Utility Service

You are notified that utility service to:

\_\_\_\_\_ (service  
address)

was terminated at \_\_\_\_\_ a.m./p.m. on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_, because of:

(reason for termination)

Service will be restored if

and you pay a restoral fee of \$ \_\_\_\_\_.

You have a right to a hearing if you believe termination was wrong. Requesting a hearing at this time will not result in restoring service unless you win the hearing. However, if you believe this termination is a mistake in that you have not been previously mailed a final termination notice or you have already entered into a payment plan with Ashville, you should contact the Village Administrator immediately who may decide to reconnect your water service without the necessity of a hearing.

If termination was for nonpayment of a utility bill by a customer who does not reside at the service address, an adult resident of the service address may be able to temporarily obtain utility service in their own name until the customer pays the back bills. If you obtain utility service in your own name, you must pay a deposit and agree to pay any charges that will be incurred while the bill is in your name. However, you will not be required to pay the customer's back bill.

**If you:**

- \* wish to request a hearing;
- \* wish to learn your rights concerning the hearing process;
- \* wish to arrange for utility service reconnection;
- \* wish to obtain utility service in your own name;

contact the Village Administrator, Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m.



**CHAPTER 929**  
**Water, Sewer and Stormwater Rates**

<b>929.01</b>	<b>Purpose.</b>	<b>929.05</b>	<b>Sewer rates.</b>
<b>929.02</b>	<b>Water rates.</b>	<b>929.06</b>	<b>Water system capacity charge.</b>
<b>929.03</b>	<b>Water meters and water taps.</b>	<b>929.07</b>	<b>Sewer system capacity charge.</b>
<b>929.04</b>	<b>Billing, meter reading, terms of payment.</b>	<b>929.08</b>	<b>Stormwater rates.</b>

**CROSS REFERENCES**

Sewerage rates - see Ohio R.C. 729.49

Weekly deposit of sewer rentals - see Ohio R.C. 729.52

**929.01 PURPOSE.**

(a) It is hereby determined and declared to be necessary and conducive to the public health, safety, welfare and convenience of the Village, to operate the water and sewerage systems of the Village as a public utility and to levy and collect water and sewer service charges upon all lots, land and premises served by having connections with the system, and such charges when collected shall be used for the purposes hereinafter provided.

(b) For the purposes of this chapter, the terms are defined as follows:

- (1) "Sewage" means the water or water-borne wastes from premises on which any structure has been erected having connection with the system.
- (2) "Industrial wastes" means the liquid waste resulting from any commercial, manufacturing or industrial operations or processes.
- (3) "Tap" means the connection to the water main and the necessary pipes or lines extending from the water main to and including the curb stop or valve and box. Tap is also defined as the connection to the sanitary sewer main including wye branch or saddle as appropriate.
- (4) "Water service outside Village" means water service furnished to consumers outside the corporate limits of Ashville in accordance with authority for the service previously granted by the Council of this Village. (Ord. 93-12. Passed 9-20-93.)

**929.02 WATER RATES.****(a)**

<b>Gallons/ 1,000</b>	<b>Current</b>	<b>Inside Village New Rate</b>	<b>Outside Village New Rate</b>
1 - 24	\$3.19	\$2.94	\$4.41
25 - 49	\$2.97	2.72	4.08
50 - 74	\$2.76	2.51	3.77
75 - 99	\$2.55	2.30	3.45
100 - over	\$2.75	2.25	3.38

(Ord. 2006-06. Passed 3-6-06.)

(b) Special Charges. The following charges shall be paid for the special services furnished by the Water Department:

	<u>Charges During Business Hours</u>	<u>Charges After Hours/Weekends</u>
(1) Nonpayment of account Trip to turn off service	\$30.00	\$75.00
(2) Trip to turn on service after collection of delinquent account	30.00	75.00
(3) Turning on or off service at curb box at request of consumer	25.00	60.00
(4) Trip to service meter damaged by negligence, vandalism, freezing or hot water	30.00 *	75.00 *
(5) Turning on or off service as a result of fraud or illegal diversion of water including unauthorized turn off of water or other violation of the Rules and Regulations of the Water Department.  \$200.00/ First offense 300.00/ Each subsequent offense.		
(6) Testing of meter at request of consumer: A. When meter tests more than five percent (5%) fast		None
B. When meter tests less than five percent (5%) fast		30.00
(7) Check meter reading at request of consumer: A. When reading is found to be in error		None
B. When reading is found to be correct		30.00
(8) Maintenance and repairs to the service lines from the water main to meter shall be supervised by a representative of the Water Department, and the owner will be charged for labor and material if work is done by the Water Department. Hourly rates of \$20.00 per man-hour and equipment rental of \$50.00 per hour will be assessed.		
(9) Bulk water may be purchased from the Village Water Plant:  (Ord. 96-13. Passed 9-16-96.)		\$6.00 per 1,000 gallons
(10) After hours inspection:  (Ord. 2001-14. Passed 5-7-01.)	Two hours minimum billing with additional time billed at hourly increments: \$35.00 per hour billing rate.	

\* Plus cost of repair or new meter if required.

**929.03 WATER METERS AND WATER TAPS.**

When an application for initial water service or a change in water service is approved, the meter shall be installed by the Village and the fee charged shall be equal to the cost shown in the Water and Sewer Regulations.

All water meters shall be maintained by and remain the property of the Village.

All water taps in subdivisions or developments must be installed at the time the water mains are installed.

Every property owner shall be required to install a tap for each lot or parcel immediately prior to the paving of any street.

Taps may be installed by a qualified contractor upon issuance of a permit by the Water Department. Such installation must conform to the standards and specifications of the Water Department and must be approved by the Water Department.

(Ord. 93-12. Passed 9-20-93.)

**929.04 BILLING, METER READING, TERMS OF PAYMENT.**

(a) Billing. The Village will render bills for water and sewer service on a monthly basis.

(b) Meter Reading. All meter readings and billings shall be in units of 1,000 gallons. Each water meter within a multi-unit structure or an apartment building shall be individually read by the Village employees or its designee.

(c) Terms of Payment. The water rates prescribed above are net. If accounts are not paid by the 15th of the month following the monthly billing, a gross rate, which is the net rate plus 10 percent (10%) shall be charged.

(Ord. 2001-33. Passed 12-3-01.)

**929.05 SEWER RATES.**

(a) "Sewer rates" are established by considering factors, including the following: the customer base, the gallons billed in the past and anticipated to be billed in the future, the operational costs in the past and anticipated to be sustained in the future, the maintenance and repair costs in the past and anticipated to be sustained in the future, and past and future debt service.

(b) In the event the water passing to any such sewer connections arrives from a source other than the Municipal Water Works System, the amount of water so used may be otherwise measured and determined by the Village Administrator in order to determine the sewer service charge.

(c) In the event that the Village Administrator shall be satisfied that a portion of the water from any source consumed upon any premises does not and cannot enter the sanitary sewerage system, the owner or other interested party may, at his expense, install and maintain such separate metering devices. A portion of the water so consumed which is not discharged into the system shall be billed for water only.

(d) Over and above the rates and charges hereinabove established, there may be established in special instances and upon special agreement between the Village and the owner of any premises served by the sanitary sewerage system, such additional charges for industrial wastes of unusual strength or composition which were accepted by the Village for treatment as may be determined to be fair and equitable. Each such special agreement and the charges established thereby shall not be effective until ratified by ordinance duly passed by Council of the Village.

(e) For all premises within the Village using the sanitary sewer system only, a minimum monthly user fee of \$30.00 will be charged. For all premises outside the Village, \$45.00 per month shall be charged for the minimum user fee. (Ord. 2000-16. Passed 8-7-00.)

(f) Waste Water Rates

Per 1,000 Gallons	1-8/05 Rate	9-12/05 1/06 Rate	Inside Village New Rate	Outside Village New Rate
1-24	\$5.51	\$6.50	\$6.50	\$9.75
25-49	\$5.48	\$6.47	\$6.47	\$9.71
50-74	\$5.44	\$6.43	\$6.43	\$9.65
75-99	\$5.40	\$6.39	\$6.39	\$9.59
100-over	\$4.95	\$5.94	\$5.94	\$8.91

(Ord. 2006-06. Passed 3-6-06.)

**929.06 WATER SYSTEM CAPACITY CHARGE.**

(a) Purpose. For the purpose of providing revenue to help finance and to more equitably distribute the cost of construction of necessary additions to the water system, including ground-water wells, water treatment plant and distribution facilities, it is hereby determined and declared necessary to provide for the establishment, extraction and regulation of a water capacity charge as herein determined with such charge to be in addition to any and all other fees which may be imposed with respect to the water system.

(b) Water System Capacity Charge. A water system capacity charge shall be imposed upon all future users of the Village Water System.

(c) Prohibition. No person, firm or corporation shall make a service connection, or any part thereof, to the water system of the Village without being first issued a permit therefor by the Village. (Ord. 2002-12. Passed 11-18-02.)

(d) Rate. Such capacity charge shall be imposed based upon the size of the water tap whether within or without the Village according to the following schedule:

<u>Size of Tap (inches)</u>	<u>Water System Capacity Charge (*)</u>
3/4	\$3,000
1	5,310
1-1/2	11,910
2	21,090
3	47,520
4	84,480
6	189,960
8	337,740
10	527,910
12	760,050
Larger	Special Action by Village (Ord. 2005-09. Passed 10-17-05.)

(\*) Charges for taps serving condominiums and apartments shall be determined on the basis of bedrooms/unit in accordance with the following schedule:

<u>Number of Bedrooms</u>	<u>System Capacity Charge</u>	<u>New System Capacity Charge</u>
1	\$1,875	\$2,500
2	2,250	2,750
3	2,625	3,000

(Ord. 2006-12. Passed 9-18-06.)

Installation of a tap will be done with a Village employee present and will require the payment of a \$35.00 Inspection Fee.

Residential Meter and remote read: \$300

Any rates that cannot be determined by the above chart will be determined by special action of the Village Administrator. (Ord. 2005-09. Passed 10-17-05.)

(e) Fire Purposes Only. The water system capacity charge for future connections for fire purposes only shall be one-half of that amount established above for the size of the tap being connected.

(f) Payments.

- (1) The water system capacity charge shall be paid by the owner, developer or subdivider of any lands in the Village or lands to which a water connection will be made at the time the connection permit is issued.
- (2) The payment shall be made to the Village of Asheville.

(g) Enlargement.

- (1) In the case of enlargement in size of the water tap servicing the property of an existing or future user, the water system capacity charge shall be the difference between the amount established above for the size of the enlarged water connection and the amount set forth above for the size of the prior connection.
- (2) In the case of enlargement, the water system capacity charge shall be immediately paid to the Village in accordance with subsection (f) hereof.  
(Ord. 99-14. Passed 7-6-99.)

**929.07 SEWER SYSTEM CAPACITY CHARGE.**

(a) Purpose. For the purpose of providing revenue to help finance and to more equitably distribute the cost of construction of necessary additions to the sewer system and the sewage treatment facilities, it is hereby determined and declared necessary to provide for the establishment, exaction and regulation of a sanitary sewer system capacity charge as herein determined with such charge to be in addition to any and all other fees which may be imposed with respect to the sewer system.

(b) Sanitary System Capacity Charge. A sanitary system capacity charge shall be imposed upon all future users of the Village Sewer System.

(c) Prohibition. No person, firm or corporation shall make a service connection, or any part thereof, to the sewer system of the Village, without being first issued a permit therefor by the Village. (Ord. 2002-12. Passed 11-18-02.)

(d) Rate. Such capacity charge shall be imposed based upon the size of the water tap whether within or without the Village according to the following schedule:

<u>Size of Water Tap (inches)</u>	<u>Sanitary Sewage System Capacity Charge(*)</u>
3/4	\$4,000
1	7,080
1-1/2	15,880
2	28,120
3	63,360
4	112,640
6	253,280
8	450,230
10	703,880
12	1,013,400
Larger	Special Action by Village

(Ord. 2005-09. Passed 10-17-05.)

(\*) Charges for taps serving condominiums and apartments shall be determined on the basis of bedrooms/unit in accordance with the following schedule:

<u>Number of Bedrooms</u>	<u>System Capacity Charge</u>	<u>New System Capacity Charge</u>
1	\$2,450	\$3,500
2	3,000	3,750
3	3,500	4,000

(Ord. 2006-12. Passed 9-18-06.)

Installation of a tap will be done with a Village employee present and will require the payment of a \$35.00 Inspection Fee.

Any rates that cannot be determined by the above chart will be determined by special action of the Village Administrator. (Ord. 2005-09. Passed 10-17-05.)

(e) Payments.

- (1) The sanitary system capacity charge shall be paid by the owner, developer, or subdivider of any lands in the Village or lands to which a sanitary sewer connection will be made at the time the connection permit is issued.
- (2) The payment shall be made to the Village of Ashville.

(f) Enlargement.

- (1) In the case of enlargement in size of the water tap servicing the property of an existing or future user, the sewer system capacity charge shall be the difference between the amount established above for the size of the enlarged water connection and the amount set forth above for the size of the prior connection.
- (2) In the case of enlargement, the sewer system capacity charge shall be immediately paid to the Village in accordance with subsection (e) hereof. (Ord. 99-15. Passed 7-6-99.)

**929.08 STORMWATER RATES.**

(a) "Stormwater rates" are established by considering factors, including the customer base, the amount billed, and anticipated to be billed in the future, the operational costs and anticipated to be sustained in the future, the maintenance and repair costs in the past and anticipated to be sustained in the future, and past and future debt service.

(b) Stormwater utility fees provide a comprehensive stormwater management program that includes a capital improvement program to address neighborhood and street flooding, maintenance of existing stormwater infrastructure and programs to water quality protection programs to ensure compliance with Ohio EPA regulations. The rates are based on a property's contribution to stormwater runoff and are categorized by residential and non-residential land use. Customers are charged based on the impervious (non-penetrable) area a property is known to have, such as pavement and rooftops. A billing unit, called an Equivalent Residential Unit (or ERU) is equal to 2000 square feet of impervious area. Even properties that do not have a storm sewer, or water or sanitary sewer service, will receive a stormwater bill. This is because all properties with impervious surface contribution to an area's stormwater runoff. The entire community benefits from proper stormwater management.

Stormwater charges for single-family residential properties:

All single-family residential properties are calculated at 1 ERU and are billed the same flat daily rate. An example of how the 2006 residential rate is calculated:  
 $\$0.0987 \text{ per day} \times 30 \text{ days} = \$2.961 \times 1 \text{ ERU} = \$2.961$

Stormwater charges for non-residential properties:

Non-residential properties are calculated by how much impervious area the property is known to have, which was compiled from the Village's Geographical Information System (GIS) and other records. A property with 10,000 square feet of impervious area would be billed at 5 ERUs (10,000 divided by 2000). For example:

$\$.0987 \times 30 \text{ days} = \$2.9618.883 \times 10 \text{ ERUs} = \$29.61$ . The stormwater fee for non-residential properties varies by the number of days in the billing period and the number of ERUs calculated for the property.

For questions about stormwater charges for a particular Ashville property, please call our office at 740/983-6367. (Ord. 2006-14. Passed 11-20-06.)

**CHAPTER 935  
Backflow Prevention**

<b>935.01</b>	<b>Cross-connection control;</b>	<b>935.07</b>	<b>Type of protection required.</b>
	<b>general policy.</b>	<b>935.08</b>	<b>Backflow prevention devices.</b>
<b>935.02</b>	<b>Definitions.</b>	<b>935.09</b>	<b>Installation.</b>
<b>935.03</b>	<b>Water system.</b>	<b>935.10</b>	<b>Inspection and maintenance.</b>
<b>935.04</b>	<b>Cross-connections prohibited.</b>	<b>935.11</b>	<b>Booster pumps.</b>
<b>935.05</b>	<b>Survey and investigations.</b>	<b>935.12</b>	<b>Violations.</b>
<b>935.06</b>	<b>Where protection is required.</b>		

CROSS REFERENCES  
Backflow prevention - see OAC Ch. 3745-95

**935.01 CROSS-CONNECTION CONTROL; GENERAL POLICY.**

- (a) Purpose. The purpose of these Rules and Regulations is:
- (1) To protect the public potable water supply from contamination or pollution by isolating within the consumer's water system contaminants or pollutants which could backflow through the service connection into the public potable water system.
  - (2) To promote the elimination or control of existing cross-connections, actual or potential, between the public or consumer's potable water system and nonpotable water systems, plumbing fixtures and sources or systems containing process fluids.
  - (3) To provide for the maintenance of a continuing program of cross-connection control which will systematically and effectively prevent the contamination or pollution of the public and consumer's potable water systems.
- (b) Application. These Rules and Regulations shall apply to all premises served by the public potable water system of the Village of Ashville.

(c) Policy. The Village Administrator or his or her designated representative shall be responsible for the protection of the public potable water system from contamination due to backflow of contaminants through the water service connection. If, in the judgement of the Village Administrator or his or her designated representative, an approved backflow prevention device is necessary at the water service connection to any consumer's premises for the safety of the water system, the Village Administrator or his or her designated representative shall give notice to the consumer to install such approved backflow prevention device at each service connection to his premises. The consumer shall immediately install such approved device or devices at his own expense, and failure, refusal or inability on the part of the consumer to install such device or devices immediately shall constitute grounds for discontinuing water service to the premises until such device or devices have been installed.  
(Ord. 96-08. Passed 5-6-96.)

### **935.02 DEFINITIONS.**

(a) The following definitions shall apply in the interpretation and enforcement of these rules and regulations:

- (1) "Air gap separation" means the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the flood level rim of the receptacle.
- (2) "Approved" means that a backflow prevention device or method has been accepted by the supplier of water and the director as suitable for the proposed use.
- (3) "Auxiliary water system" means any water system on or available to the premises other than the public water system and includes the water supplied by the system. These auxiliary water systems may include water from another supplier's public water system; or water from a source such as wells, lakes, or streams; or process fluids; or used water. They may be polluted or contaminated or objectionable or constitute a water source or system over which the supplier of water does not have control.
- (4) "Backflow" means the flow of water or other liquids, mixtures, or substances into the distributing pipes of a potable water supply from any source other than the intended source of the potable water supply.
- (5) "Backflow prevention device" means any device, method, or type of construction intended to prevent backflow into a potable water system.
- (6) "Consumer" means the owner or person in control of any premises supplied by or in any manner connected to a public water system.
- (7) "Consumer's water system" means any water system, located on the consumer's premises, supplied by or in any manner connected to a public water system. A household plumbing system is considered to be a consumer's water system.
- (8) "Contamination" means an impairment of the quality of the water by sewage or process fluid or waste to a degree which could create an actual hazard to the public health through poisoning or through spread of disease by exposure.

- (9) "Cross-connection" means any arrangement whereby backflow can occur.
- (10) "Degree of hazard" is a term derived from an evaluation of the potential risk to health and the adverse effect upon the potable water system.
- (11) "Director" means the director of the Ohio Environmental Protection Agency or his duly authorized representative.
- (12) "Double check valve assembly" means an assembly composed of two single, independently acting, check valves including tightly closing shutoff valves located at each end of the assembly and suitable connections for testing the water-tightness of each check valve.
- (13) "Health hazard" means any condition, device, or practice in a water system or its operation that creates, or may create, a danger to the health and well-being of users. The word "severe" as used to qualify "health hazard" means a hazard to the health of the user that could reasonably be expected to result in significant morbidity or death.
- (14) "Interchangeable connection" means an arrangement or device that will allow alternate but not simultaneous use of two sources of water.
- (15) "Non-potable water" means water not safe for drinking, personal, or culinary use.
- (16) "Person" means the state, any political subdivision, public or private corporation, individual, partnership, or other legal entity.
- (17) "Pollution" means the presence in water of any foreign substance that tends to degrade its quality so as to constitute a hazard or impair the usefulness or quality of the water to a degree which does not create an actual hazard to the public health but which does adversely and unreasonably affect such waters for domestic use.
- (18) "Potable water" means water which is satisfactory for drinking, culinary, and domestic purposes and meets the requirements of the Ohio Environmental Protection Agency.
- (19) "Process fluids" means any fluid or solution which may be chemically, biologically or otherwise contaminated or polluted in a form or concentration such as would constitute a health, pollutional, or system hazard if introduced into the public or a potable consumer's water system. This includes, but is not limited to:
  - A. Polluted or contaminated waters;
  - B. Process waters;
  - C. Used waters originating from the public water system which may have deteriorated in sanitary quality;
  - D. Cooling waters;
  - E. Contaminated natural waters taken from wells, lakes, streams, or irrigation systems;
  - F. Chemicals in solution or suspension;
  - G. Oils, gases, acids, alkalis, and other liquid and gaseous fluids used in industrial or other processes, or for fire fighting purposes.

- (20) "Public water system" has the meaning ascribed to such term in Sections 6109.01 and 6109.02 of the Ohio Revised Code.
- (21) "Reduced pressure principle backflow prevention device" means a device containing a minimum of two independently acting check valves together with an automatically operated pressure differential relief valve located between two check valves. During normal flow and at the cessation of normal flow, the pressure between these two checks shall be less than the supply pressure. In case of leakage of either check valve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the check valves at less than the supply pressure. The unit must include tightly closing shutoff valves located at each end of the device, and each device shall be fitted with properly located test cocks.
- (22) "Service connection" means the terminal end of a service line from the public water system. If a meter is installed at the end of the service, then the service connection means the downstream end of the meter.
- (23) "Supplier of water" means the owner or operator of a public water system.
- (24) "System hazard" means a condition posing an actual or potential threat of damage to the physical properties of the public water system or a potable consumer's water system.
- (25) "Pollutional hazard" means a condition through which an aesthetically objectionable or degrading material not dangerous to health may enter the public water system or a potable consumer's water system.
- (26) "Used water" means any water supplied by a supplier of water from a public water system to a consumer's water system after it has passed through the service connection and is no longer under the control of the supplier.  
(Ord. 96-08. Passed 5-6-96.)

### **935.03 WATER SYSTEM.**

(a) The water system shall be considered as made up of two parts: the public potable water system and the consumer's water system.

(b) The public potable water system shall consist of the source facilities and the distribution system, and shall include all those facilities of the potable water system under the control of the Village Administrator or his or her designated representative up to the point where the consumer's water system begins.

(c) The source shall include all components of the facilities utilized in the production, treatment, storage and delivery of water to the public distribution system.

(d) The public distribution system shall include the network of conduits used for delivery of water from the source to the consumer's water system.

(e) The consumer's water system shall include those parts of the facilities beyond the service connection which are utilized in conveying water from the public distribution system to points of use.

(Ord. 96-08. Passed 5-6-96.)

#### **935.04 CROSS-CONNECTIONS PROHIBITED.**

(a) No water service connection shall be installed or maintained to any premises where actual or potential cross-connections to the public potable or consumer's water system may exist unless such actual or potential cross-connections are abated or controlled to the satisfaction of the Village Administrator or his or her designated representative.

(b) No connection shall be installed or maintained whereby water from an auxiliary water system may enter a public potable or consumer's water system unless such auxiliary water system and the method of connection and use of such system shall have been approved by the Village Administrator or his or her designated representative and by the Director of the Ohio Environmental Protection Agency as required by Section 6109.13 of the Ohio Revised Code.

(Ord. 96-08. Passed 5-6-96.)

#### **935.05 SURVEY AND INVESTIGATIONS.**

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

(b) On request by the Village Administrator or his or her designated representative, the consumer shall furnish information on water use practices within his premises.

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

(Ord. 96-08. Passed 5-6-96.)

#### **935.06 WHERE PROTECTION IS REQUIRED.**

(a) An approved backflow prevention device shall be installed on each service line to a consumer's water system serving premises, where in the judgement of the Village Administrator or his or her designated representative or the Director, actual or potential hazards to the public potable water system exist.

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

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

(c) An approved backflow prevention device shall be installed on each service line to a consumer's water system serving, but not necessarily limited to, the following types of facilities unless the Village Administrator or his or her designated representative or the Director determines that no actual or potential hazard to the public potable water system exists:

- (1) Hospitals, mortuaries, clinics, nursing homes;
- (2) Laboratories;
- (3) Piers, docks, waterfront facilities;
- (4) Sewage treatment plants, sewage pumping stations or storm water pumping stations;
- (5) Food or beverage processing plants;
- (6) Chemical plants;
- (7) Metal plating industries;
- (8) Petroleum processing or storage plants;
- (9) Radioactive material processing plants or nuclear reactors;
- (10) Car washes;
- (11) Others specified by the Village Administrator or his or her designated representative or the Director.

(d) An approved backflow prevention device shall be installed at any point of connection between the public potable or consumer's water system and an auxiliary water system, unless such auxiliary system is accepted as an additional source by the Village Administrator or his or her designated representative and the source is approved by the Director of the Ohio Environmental Protection Agency.  
(Ord. 96-08. Passed 5-6-96.)

**935.07 TYPE OF PROTECTION REQUIRED.**

(a) The type of protection required under Sections 935.06(a), (b) and (c) of these regulations shall depend on the degree of hazard which exists as follows:

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

(b) The type of protection required under Section 935.06(d) of these regulations shall be an approved air gap separation or an approved interchangeable connection.

(c) Where an auxiliary water system is used as a secondary source or water for a fire protection system, the provisions of subsection (b) hereof for an approved air gap separation or an approved interchangeable connection may not be required, provided:

- (1) At premises where the auxiliary water system may be contaminated with substances that could cause a system or health hazard, the public or consumer's potable water system shall be protected against backflow by installation of an approved reduced pressure principle backflow prevention device;
- (2) At all other premises, the public or consumer's potable water system shall be protected against backflow by installation of either an approved reduced pressure principle backflow prevention device or an approved double check valve assembly;
- (3) The public or consumer's potable water system shall be the primary source of water for the fire protection system;
- (4) The fire protection system shall be normally filled with water from the public or consumer's potable water system;

- (5) The water in the fire protection system shall be used for fire protection only, with no regular use of water from the fire protection system downstream from the approved backflow prevention device;
- (6) The water in the fire protection system shall contain no additives.  
(Ord. 96-08. Passed 5-6-96.)

### **935.08 BACKFLOW PREVENTION DEVICES.**

(a) Any backflow prevention device required by these rules and regulations shall be of a model or construction approved by the Village Administrator or his or her designated representative and the Director and shall comply with the following:

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

(b) Existing backflow prevention devices approved by the Village Administrator or his or her designated representative or the Director of the Ohio Environmental Protection Agency at the time of installation and properly maintained shall, except for inspection, testing and maintenance requirements, be excluded from the requirement of subsection (a) hereof providing the Village Administrator or his or her designated representative is assured that they will satisfactorily protect the public potable water system. Whenever the existing device is moved from the present location or requires more than minimum maintenance or when the Village Administrator or his or her designated representative finds that the maintenance of the device constitutes a hazard to health, the device shall be replaced by the backflow prevention device meeting the requirements of these regulations.

(Ord. 96-08. Passed 5-6-96.)

### **935.09 INSTALLATION.**

(a) Backflow prevention devices required by these rules and regulations shall be installed at a location and in a manner approved by and at the expense of the water consumer. In addition, any backflow prevention device required by Section 935.07(b) and (c) of these regulations shall be installed at a location and in a manner approved by the Director of the Ohio Environmental Protection Agency as required by Section 6109.13 of the Ohio Revised Code.

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

(c) Pits or vaults shall be of water-tight construction, be so located and constructed as to prevent flooding and shall be maintained free from standing water by means of either a sump and pump or a suitable drain. Such sump pump or drain shall not connect to a sanitary sewer nor permit flooding of the pit or vault by reverse flow from its point of discharge. An access ladder and adequate natural or artificial lighting shall be provided to permit maintenance, inspection and testing of the backflow prevention device.

(d) Reduced pressure principle backflow prevention devices must be installed above ground level or floor level, whichever is higher.  
(Ord. 96-08. Passed 5-6-96.)

#### **935.10 INSPECTION AND MAINTENANCE.**

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

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

(b) Inspections, tests, and overhauls of backflow prevention devices shall be made at the expense of the water consumer and shall be performed by the Village Administrator or his or her designated representative or a person approved by the Village Administrator or his or her designated representative as qualified to inspect, test and overhaul backflow prevention devices.

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

(d) The water consumer must maintain a complete record of each backflow prevention device from purchase to retirement. This shall include a comprehensive listing that includes a record of all tests, inspections, repairs and overhauls. Records of inspections, tests, repairs and overhaul shall be submitted to the Village Administrator or his or her designated representative.

(e) Backflow prevention devices shall not be bypassed, made inoperative, removed or otherwise made ineffective without specific authorization by the Village Administrator or his or her designated representative.  
(Ord. 96-08. Passed 5-6-96.)

#### **935.11 BOOSTER PUMPS.**

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

(b) It shall be the duty of the water consumer to maintain the low pressure cut-off device in proper working order and to certify to the Village Administrator or his or her designated representative, at least once a year, that the device is operating properly.  
(Ord. 96-08. Passed 5-6-96.)

#### **935.12 VIOLATIONS.**

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

(b) Water service to such premises shall not be restored until the consumer has corrected or eliminated such conditions or defects in conformance with these regulations and to the satisfaction of the Village Administrator or his or her designated representative.  
(Ord. 96-08. Passed 5-6-96.)

**CHAPTER 940**  
**Stormwater Utility**

<b>940.01 Purpose.</b>	<b>940.07 Equivalent Residential Unit assignment.</b>
<b>940.02 Utilization of money collected.</b>	<b>940.08 Billing and collection.</b>
<b>940.03 Definitions.</b>	<b>940.09 Appeal from ERU.</b>
<b>940.04 Establishment of system of charges.</b>	<b>940.10 Lien upon property.</b>
<b>940.05 Collection of charges.</b>	<b>940.11 Credits and abatements.</b>
<b>940.06 Imposition of charges.</b>	

**CROSS REFERENCES**

Stormwater rates - see S.U. & P.S. 929.08

**940.01 PURPOSE.**

It is hereby declared necessary for the protection of the public health, safety, welfare and convenience of the Village and its inhabitants to codify the establishment of the storm drainage utility and to codify just and equitable rates or charges to be paid to the Village for the use of such services. (Ord. 2006-14. Passed 11-20-06.)

**940.02 UTILIZATION OF MONEY COLLECTED.**

Money collected for the Stormwater Utility will be used for the payment of cost of the management, operations, maintenance, repair, construction, reconstruction, enlargement, replacement, improvement, extension and related costs of the storm drainage system of the Utility. This will provide for the safe and efficient capture and conveyance of stormwater; to mitigate the damaging effects of stormwater runoff and the correction of stormwater problems; to fund activities of stormwater management, including, but not limited to, design, approved planning, regulation, education, coordination, inspection and enforcement activities. (Ord. 2006-14. Passed 11-20-06.)

**940.03 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply, words used in the singular shall include the plural, and the plural, the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined herein shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

- (a) Abatement: Any action taken to remedy, correct, or eliminate a condition within, associated with, or impacting the stormwater system.
- (b) Administrator: The Village Administrator, or designee, of the Village.

- (c) Approved Plans: Plans approved according to a permits and plan review which will govern all improvements made within the Village that require stormwater facilities or changes or alterations to existing stormwater facilities.
- (d) Billing Period: The period identified from the first day of the month to the last day of the month. All bills rendered during a month are for the period beginning on the first day of the same month and are valid for that entire month unless otherwise identified. When Village water service is discontinued during a month, the drainage fee due for that account shall be the pro rata portion of the month for which water services were active. When a developed property that does not receive Village water service changes ownership during a billing period, the account existing on the first day of the billing period shall be liable for the prorated portion of the drainage fee for that billing period from the first day of the billing period until the day the property transaction is recorded with the Pickway County Recorder.
- (e) Bonds: Revenue bonds, notes, loans or any other debt obligations issued or incurred to finance the costs of construction.
- (f) Calendar year: Twelve month period commencing on the first day of January of any year.
- (g) Costs of construction: Costs reasonably incurred in connection with providing capital improvements to the system, or any portion thereof, including, but not limited to, the costs of:
  - (1) Acquisition of all property, real or personal, and all interests in connection therewith including all rights-of-way and easements therefor;
  - (2) Physical construction, installation and testing, including the costs of labor, services, materials, supplies and construction services used in connection therewith;
  - (3) Architectural, engineering, legal and other professional services;
  - (4) Insurance premiums taken out and maintained during construction, to the extent not paid for by a contractor for construction and installation;
  - (5) Any taxes or other charges which become due during construction;
  - (6) Expenses incurred by the Village or on its behalf with its approval in seeking to enforce any remedy against contractor or sub-contractor in respect of any default under a contract relating to construction;
  - (7) Principal of interest of any bonds; and
  - (8) Miscellaneous expenses incidental thereto.
- (h) Credit: An on-going (as long as the various circumstances which produced the credit have not changed) reduction in a Utility service charge given for certain qualifying activities which reduce either the impact of increased stormwater runoff or reduce the Village's costs of providing stormwater facilities.
- (i) Debt Service: With respect to any particular calendar year and any particular series of bonds, and amount equal to the sum of:
  - (1) All interest payable on such bonds during such calendar year, plus
  - (2) Any principal installments of such bonds during such calendar year.
- (j) Detention facility: A facility which, by means of a single control point, provides temporary storage of stormwater runoff in ponds, parking lots, depressed areas, rooftops, buried underground vaults or tanks, etc., for future release, and is used to delay and attenuate flow.

- (k) Developed property: That which has been altered from its natural state by the removal of vegetation and/or topsoil or by the addition of any improvements such as a building, structure, impervious surface, change of grade, or landscaping. For new construction, a property shall be considered developed pursuant to this chapter.
- (1) Upon issuance of a Certificate of Occupancy, or upon completion of construction of final inspection if no such certificate is issued; or
  - (2) Where construction is at least fifty percent (50%) complete and construction is halted for a period of three months.
  - (3) Where vegetation and/or topsoil has been removed leaving exposed soil surfaces for a period of three months.
- (l) Dwelling unit: Any residential space for habitation as classified by the Village Building Code.
- (m) Equivalent Residential Unit (ERU): The statistical average horizontal impervious area of “residential units” (single family, mobile homes, multifamily, condominiums, etc.) within the Village of Ashville. The horizontal impervious area includes, but is not limited to, all areas covered by structures, roof extensions, patios, porches, driveways, and sidewalks.
- (n) ERU rate: A drainage fee charged on each ERU as established by Village Council.
- (o) Exempt property: Public rights of way, public streets, public alleys and public sidewalks.
- (p) Extension and replacement: Costs of extensions, additions, and capital improvements to, or the renewal and replacement of capital assets of, or purchasing and installing new equipment for, the system, or land acquisitions for the system and any related costs thereto, or paying extraordinary maintenance and report, including the costs of construction, or any other expenses which are not costs of operation and maintenance or debt service.
- (q) Impervious area: A horizontal surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water. It includes, but is not limited to, semi-pervious surfaces such as compacted clay or gravel, unvegetated and under vegetated solid surfaces, as well as streets, roofs, sidewalks, patios, porches, parking lots, athletic courts and other similar surfaces. An area that is also covered with buildings and materials which include, but are not limited to, concrete, asphalt, rooftop, blacktop, gravel and other materials or artificially composted so as to produce in the judgement of the Administrator a non-pervious surface.
- (r) Mayor: The Mayor of the Village. The Mayor is the principal executive officer of the Village and shall serve as the executive officer of the storm water management utility for the purposes of fulfilling the requirements of the Environmental Protection Agency’s NPDES Phase II stormwater program.
- (s) Nonresidential developed property: Any lot or parcel not exclusively residential as defined herein, including transient rentals such as hotels and motels.
- (t) Operating budget: The annual operating budget adopted by the Village for the succeeding calendar year.

- (u) Operations and maintenance: The current expenses, paid or accrued, of operation, maintenance and current repair of the system, as calculated in accordance with sound accounting practice, and includes, without limiting the generality of the foregoing, insurance premiums, administrative expenses, labor, executive compensation, and cost of materials and supplies used for current operations, and charges for the accumulation of appropriate reserves for current expenses not annually incurred, but which are such as may reasonably be expected to be incurred in accordance with sound accounting practice.
- (v) Public Stormwater open channel: All open channels which convey, in part or in whole, stormwater and are owned, operated or maintained by the Village; or a stormwater open channel which has a permanent drainage/stormwater easement owned by the Village and drains an area which includes Village owned property or right-of-way. A public stormwater open channel does not include roadside ditches which convey only immediate right-of-way drainage.
- (w) Residential property: Any lot or parcel developed exclusively for residential purposes including, but not limited to, single family homes, duplexes, manufactured homes, multifamily, apartment buildings, and condominiums. Such properties may incorporate a home-business or day-care service consistent with all other Village ordinances and regulations and other applicable laws.
- (x) Retention facility: A facility which provides storage of stormwater runoff and is designed to eliminate subsequent surface discharges.
- (y) Revenues: All rates, fees, assessments, rental or other charges or other income received by the Stormwater Fund, in connection with the management and operation of the system, including amounts received from the investment or deposit of moneys in any fund or account and any amounts contributed by the Village, all as calculated in accordance with sound accounting practice.
- (z) Square footage of impervious area: For the purpose of assigning an appropriate number of ERUs to a parcel of real property, the square footage of all of the impervious area using the outside boundary dimensions of the impervious area to include the total enclosed square footage, without regard to topographic features of the enclosed area.
- (aa) Storm sewer: A sewer which carries stormwater, surface runoff, street wash waters, and drainage, but which excludes sanitary sewage and industrial wastes, other than unpolluted cooling water.
- (bb) Stormwater: Stormwater drainage, snow melt runoff, surface runoff and drainage.
- (cc) Stormwater Drainage Fund: The enterprise fund created by Village Council to operate, maintain and improve the system and for such other purposes as stated in this chapter.
- (dd) Stormwater facilities: Various stormwater and drainage works that may include inlets, pipes, pumping stations, conduits, manholes, energy dissipation structures, channels, outlets, retention/detention basins and other structural components.
- (ee) Stormwater fee: A fee authorized by ordinance(s) established to pay operations and maintenance, extension and replacement and debt service.

- (ff) Stormwater system: All manmade facilities, structures, and natural watercourses owned by the Village, or over which the Village has jurisdiction by law to operate or maintain, used for collection and conducting stormwater to, through and from drainage areas to the points of final outlet including, but not limited to, any and all of the following: conduits and appurtenant features, canals, creeks, catch basins, ditches, streams, gulches, gullies, flumes, culverts, siphons, streets, curbs, gutters, dams, floodwalls, levees, retention or detention facilities, rivers, public stormwater open channels and pumping stations.
- (gg) Undisturbed property: Real property which has not been altered from its natural state by dredging, filling, removal of trees and vegetation or other activities which have disturbed or altered the topography or soils on the property.
- (hh) User Fee District: The area or property within the corporate limits of the Village.
- (ii) Vacant Improved Property: Vacant property which is, or could reasonably be, served by any subdivision improvements that allow egress.
- (jj) Village: Village of Ashville.  
(Ord. 2006-14. Passed 11-20-06.)

#### **940.04 ESTABLISHMENT OF SYSTEM OF CHARGES.**

It is hereby determined necessary for the protection of public health, safety and welfare that a system of charges for the Stormwater Utility Department be established which justly and equitably allocates the cost of providing the services of the Stormwater Utility to each property. (Ord. 2006-14. Passed 11-20-06.)

#### **940.05 COLLECTION OF CHARGES.**

Stormwater utility service charges levied pursuant to this chapter shall be collected by the Administrator and shall be credited to the Stormwater Drainage Utility Fund established pursuant to this chapter. Notwithstanding other provisions of the Village Code, the Administrator shall make and enforce such rules and regulations consistent with this chapter as may be deemed necessary for the safe, economical and efficient management and protection of the Stormwater Utility, for the construction and use of the stormwater system consistent with policies established by the Council, and for the regulation, collection, rebating and refunding of the Stormwater Utility Service Charges. (Ord. 2006-14. Passed 11-20-06.)

#### **940.06 IMPOSITION OF CHARGES.**

The Stormwater Utility service charges provided for in this chapter are imposed on each and every lot and parcel of land within the Village, and the owner thereof, and are deemed reasonable and necessary to pay for the repair, replacement, planning, improvement, operation, regulation and maintenance of the existing and future stormwater system. The Stormwater Utility service charges shall be established so as to maintain adequate fund reserves to provide for reasonable expected variations in the collection of Stormwater Utility service charges, in the cost of providing services, and in the demand for services.

Subsequent to the initial establishment of Stormwater Utility service charges pursuant to this chapter, the Administrator in each odd numbered year shall prepare a Stormwater Utility report with recommended Stormwater Utility service charges. This report shall contain data utilized in the determination of the recommended Utility Service charges and shall be presented to the Council on or before October 1 of each odd numbered year for referral to the appropriate committee. The committee shall make a recommendation to Council on or before October 15 of each odd numbered year concerning the Stormwater Utility service charges to become effective for a two year period beginning January 1 of each even numbered year.

The Administrator shall biennially notify, in conjunction with the billing process, all persons subject to these charges of the Utility service charge being charged.  
(Ord. 2006-14. Passed 11-20-06.)

#### **940.07 EQUIVALENT RESIDENTIAL UNIT ASSIGNMENT.**

For the purpose stated in this chapter there is hereby charged to each Utility user and property, lot, parcel of land, building or premises (collectively, "properties") situated within the corporate limits of the Village, that is tributary directly or indirectly to the stormwater system, Utility service charges determined as provided in this section.

All properties having impervious area within the Village shall be assigned an Equivalent Residential Unit (ERU), or a multiple thereof, which will be at a minimum one ERU.

All improved single-family residential properties are assigned one ERU. A flat rate will apply to all single-family residential properties. All improved single-family residential properties are determined to include impervious area typical of a single-family residence.

All properties having an impervious area which are not improved single-family residential properties are to be assigned by the Village Administrator an ERU multiple based upon the properties' estimated impervious area (in square feet) divided by 2,530 square feet (one ERU). This division will be calculated to the second decimal place and rounded according to mathematical convention to the nearest whole ERU.

The Stormwater Utility service charge will be found in Title Three Chapter 929 Water and Sewer Rates now Water, Sewer and Stormwater Rates.  
(Ord. 2006-14. Passed 11-20-06.)

#### **940.08 BILLING AND COLLECTION.**

The bill for Stormwater Utility service charges shall be rendered on a monthly basis and shall be billed with the monthly bill for water, sewer, and refuse services for those property owners or condominium associations who are billed only for these services, shall be billed with the charges for sanitary sewer service for those property owners or condominium associations who are billed only for sanitary sewer service, shall be billed with the charges for water and sanitary sewer service for those property owners or condominium associations who are billed for those services, or billed alone to those property owners or condominium associations not billed for water or sanitary sewer service by the Village. The Stormwater Utility service charges prescribed in this chapter are due and payable when rendered. If Utility service charges are paid after the fifteenth day from the billing date, a penalty of ten percent (10%) shall be assessed.

Each occupant or the owner or tenant of such household shall pay in advance in installments as determined by the Administrator to the Village the fees imposed pursuant to Chapter 929.

Billings shall be mailed on a schedule to be determined by the Administrator and will be included on the water, sewer, and refuse statement.

Partial payments may be accepted. In accepting such partial payments, the balance owed shall be considered delinquent and the moneys paid shall be applied in the following order:

- (a) Refuse;
- (b) Stormwater;
- (c) Water;
- (d) Sewer;
- (e) and penalty.

Any payment made on the unused portion of the stormwater bill will automatically be applied to any outstanding balance for refuse, water, sewer, late fees or any other miscellaneous charges on a final bill before any refund is made.

(Ord. 2006-14. Passed 11-20-06.)

**940.09 APPEAL FROM ERU.**

An owner may challenge the ERU multiple assigned to the property by filing an appeal with the Administrator. The appeal shall be in writing and shall state the grounds for the appeal. The appeal shall be filed with the Administrator within 180 days after receipt of notice of the ERU multiple assigned to the property. The Administrator shall have ninety days to investigate the matter unless the Administrator determines more time is necessary for the review. The Administrator shall cause appropriate investigation to be made, determine whether an adjustment of the ERU multiple for the property is necessary, and adjust the assigned ERU multiple if appropriate. The appellant shall be notified in writing of the Administrator's determination with respect to the appeal and of any resulting adjustment in the amount of the Stormwater Utility service charge. (Ord. 2006-14. Passed 11-20-06.)

**940.10 LIEN UPON PROPERTY.**

Each Stormwater Utility service charge and applicable penalty rendered under or pursuant to this chapter is hereby made a lien upon the property to which it is applicable, and, if the same is not paid within ninety days after it shall be due and payable, it shall be certified to the Auditor of the county in which the property is located, who shall place the same on the tax duplicate of the county with the interest and penalties allowed by law and be collected as other taxes are collected. As an alternative to collection of a delinquent Stormwater Utility service charge and applicable penalty pursuant to certification to a county auditor, delinquent Utility service charges and applicable penalty may be recovered in an action at law by the Village. (Ord. 2006-14. Passed 11-20-06.)

**940.11 CREDITS AND ABATEMENTS.**

(EDITOR'S NOTE: Pursuant to Ordinance 2007-15, the Department of Stormwater will offer a credit for over retention. The Clerk/Fiscal Officer is authorized to process this credit in the appropriate revenue and expense account codes.)

The Administrator shall promulgate rules and regulations which allow for a credit and/or abatement in the Stormwater Utility service charge for properties other than single-family residential properties. These rules and regulations may allow, where appropriate, application of the credits retroactive to the effective date of this section. The Administrator shall have the authority to charge a Stormwater Utility service credit and/or abatement application fee, which shall be based upon estimated costs of reviewing, processing and administering the credit and/or abatement application.

(Ord. 2006-14. Passed 11-20-06.)

**TITLE FIVE - Other Public Services**

Chap. 953. Solid Waste Disposal.

**CHAPTER 953  
Solid Waste Disposal**

<b>953.01</b>	<b>Definitions.</b>	<b>953.05</b>	<b>User charge adjustment.</b>
<b>953.02</b>	<b>Franchise required.</b>	<b>953.06</b>	<b>Exclusive contract award.</b>
<b>953.03</b>	<b>Insurance requirements; no disposal within Village.</b>	<b>953.07</b>	<b>Grant and revocation of franchise.</b>
<b>953.04</b>	<b>User charges.</b>	<b>953.08</b>	<b>Curbside collection service.</b>
		<b>953.99</b>	<b>Penalty.</b>

**CROSS REFERENCES**

Contracts with county garbage and rubbish disposal districts - see Ohio R.C. 343.08  
 Collection and disposal of garbage - see Ohio R.C. 715.43, 717.01  
 Employment of scavengers - see Ohio R.C. 3707.39  
 Disposal and transportation upon public ways - see Ohio R.C. 3767.20 et seq.  
 Vehicle loads dropping, sifting, leaking - see TRAF. 339.08  
 Littering - see GEN. OFF. 521.08

**953.01 DEFINITIONS.**

(a) "Solid waste" means solid or semi-solid material resulting from industrial, commercial, agricultural or community operations, including, but not limited to, garbage, tires, combustible and noncombustible materials, brush, litter, street dirt and debris of any and all kinds and defined by Ohio law.

(b) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, admitting or placing of any solid or semi-solid or hazardous waste into or on any land or ground or surface water or into the air.

(c) "Hazardous waste" means any waste or combination of waste in solid, liquid or semi-solid or contained gaseous form that in the determination of the Environmental Protection Agency of the United States of America or the State of Ohio, because of its quantity, concentration, physical or chemical characteristics:

- (1) May cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating illness; or
- (2) Pose a substantial present or potential hazard to human health or safety or to the environment when improperly stored, treated, transported, disposed of or otherwise managed as in infectious waste, but not limited to all delineated pursuant to Ohio R.C. 3734.01(R), including but not limited to all of those substances identified by regulation as "hazardous waste" pursuant to the "Resource Conservation and Recovery Act of 1976", 42 U.S.C. 6921 as amended.  
(Ord. 89-14. Passed 8-21-89.)

#### **953.02 FRANCHISE REQUIRED.**

(a) The entire incorporated area of the Village is hereby designated as a solid waste disposal district pursuant to Ohio R.C. 3734.01 et seq.

(b) No person shall engage in the business of collecting or hauling solid waste, hazardous waste, refuse, rubbish, garbage or infectious waste for single, multi-family residences or commercial establishments in the Village unless that person or entity is granted a franchise for such collection by Council. Council hereby deems that it is in the best interest of the public that a single solid waste collection system servicing all single, multi-family dwellings and commercial establishments be established within the political boundaries.  
(Ord. 89-14. Passed 8-21-89.)

#### **953.03 INSURANCE REQUIREMENTS; NO DISPOSAL WITHIN VILLAGE.**

(a) The person or entity to whom Council grants any exclusive collection right shall maintain in full force and effect, public liability insurance protecting against damages from injury to any person in the amount of at least one hundred thousand dollars (\$100,000) per person and not less than three hundred thousand dollars (\$300,000) per occurrence, also protecting against damages to loss of property in the amount not less than fifty thousand dollars (\$50,000). The licensee shall comply in all respects with all other laws, rules, regulations and Workers' Compensation and shall provide not less than every six months evidence of compliance with the Mayor, Village Administrator or the Law Director of the Village.

(b) No person, entity, being, partnership, association, corporation or otherwise shall deliver, dispose of or otherwise treat or incinerate solid waste, hazardous waste or infectious waste anywhere within the confines of the geographic boundaries of the Village at any time.  
(Ord. 89-14. Passed 8-21-89.)

#### **953.04 USER CHARGES.**

Charges shall be paid to the Village for the use of the exclusive refuse collection service license and the fee shall be paid by every person, business, corporation or property owner whose premises are served by the refuse collection service. Such services shall be paid for bi-monthly by the residents and other users within the Village regardless of whether or not such persons use the service provided. The Village Administrator shall determine a uniform method of assessment that is appropriate as of the initiation of the service, commencing January 1, 1995.  
(Ord. 95-01. Passed 1-4-95.)

**953.05 USER CHARGE ADJUSTMENT.**

The user charge shall at all times general revenues not less than the actual cost of providing the service. If at any time, such revenues drop below the cost of service then an adjustment in

the user charge shall automatically be made in such an amount as to restore the cost of the service, provided, that Council may veto such an adjustment within forty-five days of its effective date. Notice of any meeting, during which a rate adjustment may be considered, shall be published according to law. (Ord. 89-14. Passed 8-21-89.)

**953.06 EXCLUSIVE CONTRACT AWARD.**

The right to the herein created exclusive franchise shall be awarded to that bidder who submits to the Village a plan for collection of solid, semi-solid, hazardous and infectious waste within the Village, submitting therewith the lowest and best bid. The franchise may be granted annually or such periods as the Village may contract for other such services not to exceed five years. (Ord. 89-14. Passed 8-21-89.)

**953.07 GRANT AND REVOCATION OF FRANCHISE.**

The exclusive license for the collection of solid, semi-solid waste and all other such materials, including hazardous and infectious waste shall be granted by Council at the sole and absolute discretion of Council after receipt of bids and Council retains the right to reject any and all bids so received. Further, the continuation of the franchise granted, if any, shall be subject to the discretion of Council. Council shall not, however, exercise its sole right to terminate the exclusive franchise granted unless and until it has given in writing notice to the franchise holder that there exists a deficiency in the operation. The franchise holder shall have a period of not less than fourteen days and no more than thirty days to correct all such deficiencies. (Ord. 89-14. Passed 8-21-89.)

**953.08 CURBSIDE COLLECTION SERVICE.**

(a) The Village will arrange for the collection of residential property waste material. Waste material will be collected weekly on days specified by the Village Administrator. No person will set out, allow to be set out, or allow to remain along any curb or upon any right of way, any waste material or other items that do not comply with the following:

- (1) Only items defined as "waste material" will be placed at the street curbside, or if no curb along the public right of way adjacent to the traveled portion of the street. No waste material will be placed on the paved portion of any street or in any public right of way in a manner that impedes sidewalk access.
- (2) No waste material will be placed along the curbside or upon a public right of way earlier than 1:00 p.m. on the afternoon preceding the regular scheduled collection day and no later than 7:00 a.m. of the regular scheduled collection day. The residential property owner/occupant will remove from the curbside or right of way all containers, debris and uncollected waste material, no later than 6:00 p.m. of the day following trash collection.
- (3) Any waste material (other than dirt, rocks, concrete, construction material, household furniture, appliances or similar matter) will be enclosed in containers not larger than 35 gallons capacity and with a gross weight not more than 75 pounds, or in sound, dry paper container, or other suitable bags, of not more than eight cubic feet capacity and with a gross weight of not more than 30 pounds, or in other suitable containers.

- (4) Brush and lumber will be tied in small bundles not to exceed five feet in length; large limbs and trees will not be collected.
- (5) Large boxes constructed from wood, paper, or cardboard will be broken down and tied into small bundles.
- (6) Newspaper, and magazines not placed in collection cans, boxes or bags will be tied into small bundles.
- (7) Cold ashes from fireplaces will be placed in a container separate from other materials.
- (8) Grass, leaf clippings and lawn rakings will be properly bagged or boxed.
- (9) Christmas trees will be picked up on regular collection days following the Christmas holiday.
- (10) Refrigerators or other appliances containing refrigerant gases will have attached certification that all refrigerants were properly removed in the manner required by law.
- (11) No petroleum products, old tires, or other hazardous material will be set out for collection.

(b) "Waste material" includes all solid refuse or perishable waste originating from the use of residential property situated within the corporate limits of the Village.

(c) The Village Administrator may modify these restrictions to accommodate scheduled organized seasonal cleaning drives.  
(Ord. 2001-12. Passed 6-18-01.)

**953.99 PENALTY.**

(a) Whoever violates any provision of this chapter shall be guilty of a minor misdemeanor for each offense. Each day or portion thereof during which such a violation occurs shall be considered a separate offense. (Ord. 95-01. Passed 1-4-95.)

(b) Any person who fails to comply with any provision of Section 953.08 is guilty of a minor misdemeanor. Each consecutive 24-hour period of non-compliance constitutes a separate occurrence and violation of Section 953.08. After the third consecutive violation the Village may remove any items in violation of any provision of Section 953.08 and assess the property owner full cost of the removal.  
(Ord. 2001-12. Passed 6-18-01.)