

Avon Lake Board of Municipal Utilities

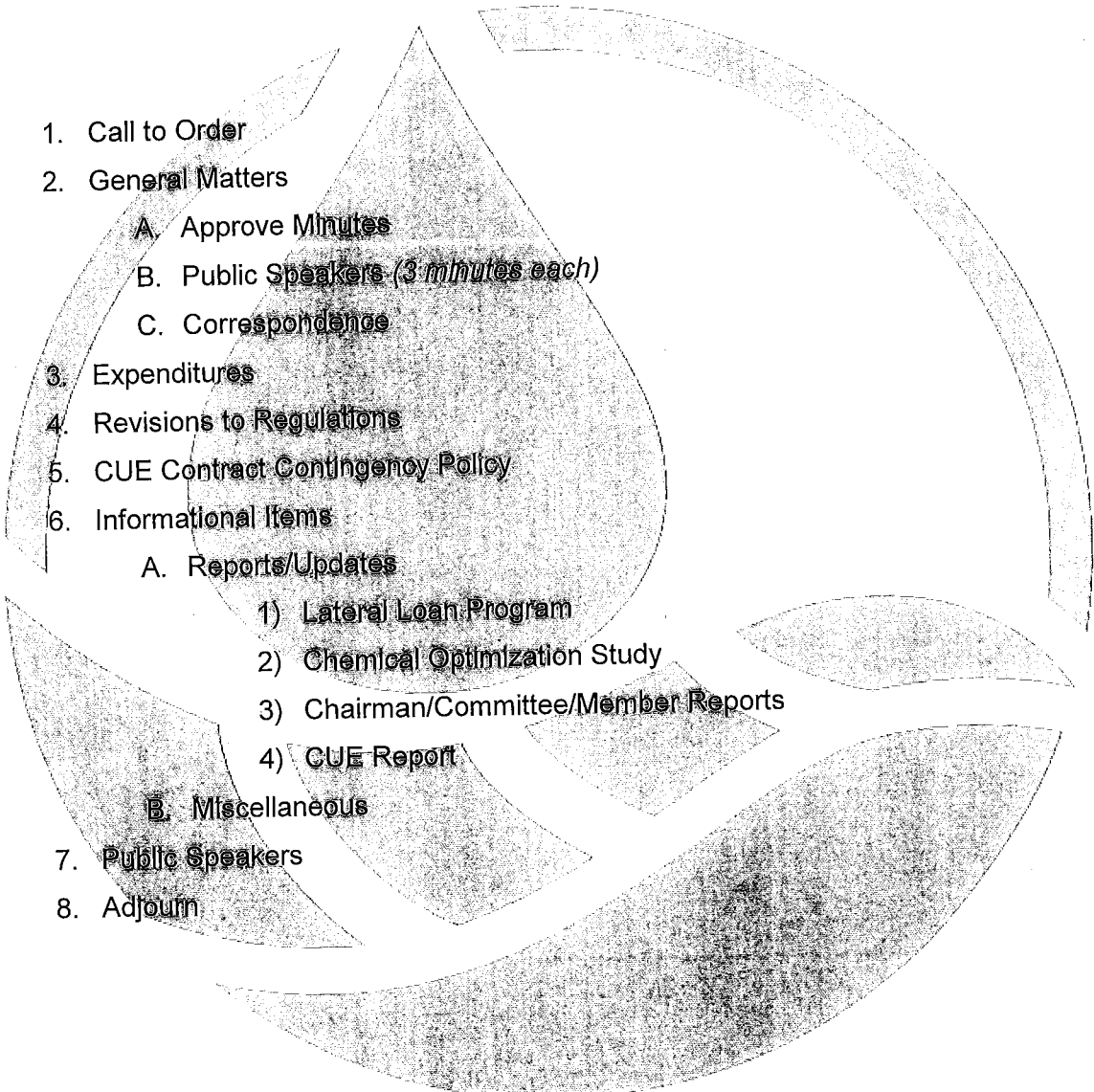
**AGENDA**

For

**Tuesday**

**July 5, 2016**

**6:30 PM**

- 
1. Call to Order
  2. General Matters
    - A. Approve Minutes
    - B. Public Speakers (3 minutes each)
    - C. Correspondence
  3. Expenditures
  4. Revisions to Regulations
  5. CUE Contract Contingency Policy
  6. Informational Items
    - A. Reports/Updates
      - 1) Lateral Loan Program
      - 2) Chemical Optimization Study
      - 3) Chairman/Committee/Member Reports
      - 4) CUE Report
    - B. Miscellaneous
  7. Public Speakers
  8. Adjourn

Board of Municipal Utilities  
**Regular Meeting Minutes**  
June 28, 2016  
201 Miller Road  
Avon Lake, Ohio

**Call to Order – Roll Call**

The meeting was called to order at 6:42 PM.

Present: Mr. Dzwonczyk, Mr. Rush, Mr. Rickey, Mr. Berner and Ms. Schnabel.

Also present: Chief of Utility Operations Eberle, Mayor Zilka, Councilmember Fenderbosch, Ed St. John.

**Approve Minutes**

Chairman Dzwonczyk presented the minutes of the June 7, 2016 meeting and with no changes, additions or corrections noted, ordered the minutes to stand and be distributed as presented.

**Public Speakers** – None.

**Correspondence** – None.

**Expenditures**

Following review of expenses dated June 28, 2016 for funds and amounts as follows, Mr. Rush moved, Mr. Rickey seconded, that all be approved and paid per budget:

Water Fund 701	\$ 1,037,032.55
Wastewater Fund 721	\$ 319,956.68
MOR Fund 703 ETL1	\$ 26,437.45
MOR Fund 762 ETL2	\$ 26,899.86
LORCO Fund 749	\$ 837,221.20
WW Constr (724)	\$ 177,172.25

Ayes: Dzwonczyk, Berner, Rickey, Rush, Schnabel

Nays: None

Motion carried.

**Construction Administration/Resident Project Representative Services**

Per discussion at this evening's meeting, and detailed explanation provided in the meeting's write-up and as a follow-up to the June , 2016 meeting Ms. Schnabel moved and Mr. Berner seconded to authorize the CUE to execute Amendment 9 with CDM Smith for Construction Administration and Resident Project Representative services for the Water Pollution Control Center Plant Improvement Project for up to \$2,300,000, which includes an approximate 8% contingency for out-of-scope services the CUE deems necessary for the project.

Ayes: Dzwonczyk, Berner, Rickey, Rush, Schnabel  
Nays: None  
Motion carried.

### **Walker Road Water Main Replacement Project – Phase 2**

Bids were opened on June 9<sup>th</sup> for Phase 2 of the Walker Road Water Main Replacement Project. One company provided a bid. Underground Utilities Inc. of Monroeville, Ohio provided a bid of \$2,769,940.80, based upon current bid quantities, which is 8.5% below the engineer's estimate. Staff deems Underground Utilities responsive and responsible and requests the Board award the project which includes an \$18,105.00 line item for enclosing the ditch between Jaycox and Marbrook Lane as requested by Public Works. Mr. Rickey moved and Mr. Berner seconded to award the Walker Road Water Main Replacement Project – Phase 2 be awarded to the low bidder, Underground Utilities, Inc. in the amount of \$2,769,940.80

Ayes: Dzwonczyk, Berner, Rickey, Rush, Schnabel  
Nays: None  
Motion carried.

### **Plant Operator 12-Hour Shift**

Per the CUO's request as explained in this meeting's write-up Mr. Berner moved and Mr. Rush seconded to accept the proposed Plant Operator 12-Hour Shift Letter of Understanding and to allow its implementation until the end of the current agreement on June 30, 2017.

Ayes: Dzwonczyk, Berner, Rickey, Rush, Schnabel  
Nays: None  
Motion carried.

### **Reports/Updates**

*Revisions to Regulations:* With both the Wastewater Plant Manager and CUE out of the office the week of June 20<sup>th</sup>, the proposed revisions will be presented at the Board's next meeting.

*Storage Improvement Project Work:* is progressing on the 60" and 48" waterline and electrical duct bank installations in Lake Road that forced the road closure, the clearwell is nearing completion, the pump station building is progressing, and the new emergency generator has been delivered.

*Elevated Storage:* The base for the new tank was completed. This involved a single pour of 750 cubic yards of concrete over a 15-hour time period. First Energy is scheduled to install the power the first week of July.

*Mull/Norman:* The water service switchover will be completed the week of June 27 and sanitary and storm laterals will then be installed. The project is ahead of schedule.

*Employee Anniversaries :* Per the recommendation of their supervisors and concurrence of management, the Board recognized WPCC Operator Joshua Spinks and WFP

Operator Adam Sisson as permanent employee's with the completion of their one-year probationary period June 29, 2016 and July 13, 2016, respectively. Their requisite step increases will take effective on their anniversary dates.

*Chairman/Committee/Members Reports*

Chairman Dzwonczyk reported attending the Sewer Committee meeting last week and nothing related to water or wastewater was mentioned.

Chairman Dzwonczyk reported he will be absent from the Board meeting July 5<sup>th</sup> 2016.

Mr. Rickey reported he attended a LORCO board meeting last week. Ryan Homes is looking at a 450 site project in the LORCO area. Mr. Yost is looking at a farm that would potentially add 250 more homes in the LORCO area.

Mr. Rush reported the HR Committee Meeting passed the Step increase for the Biller/Bookkeeper II position, previously passed by the Board.

Mr. Rush reported City Council had passed 15 different pieces of legislation at their last meeting.

*CUE Report*

None

***Miscellaneous***

CUO reported Water Plant Manager Steve Heimlich received the highest honor award from the Ohio Section of the AWWA.

CUO reported the August 16, 2016 Board meeting will include a full report on the non-eligible loan costs associated with the Water plant project funding from state revolving loan funds.

***Executive Session***

Mr. Rush moved, Mr. Rickey seconded, to meet in Executive Session as allowed by ORC 121.22 (G)(1) to discuss employee matters and the purchase of land and to include the CUO, Mayor Zilka, Councilmember Fenderbosch in the discussion.

Ayes (per rollcall vote): Dzwonczyk, Berner, Rickey, Rush, Schnabel

Nays: None

Motion carried.

The Board reconvened at 8:58 PM

***Adjourn***

As there was no further business, Mr. Rush moved, Mr. Rickey seconded, that the meeting adjourn at 9:00 PM.

Ayes: Dzwonczyk, Berner, Rickey, Rush, Schnabel

Nays: None

Motion carried.

Approved August 16, 2016

John G. Dzwonczyk, Chairman

Rick Eberle, Acting Clerk

07/01/16

**Avon Lake Municipal Utilities**  
**Water Fund 701 Expenses**  
 July 5, 2016

Name	Amount	Memo	Account
Jul 5, 16			
1. Water Employees	61,939.56	Salaries P/R #14 6/13/16-6/26/16	701 5-180 7-102-...
2. Water Employees	6,077.97	Part Time P/R #14 6/13/16-6/26/16	701 5-180 7-105-...
3. Water Employees	3,996.75	Overtime P/R #14 6/13/16-6/26/16	701 5-180 7-106-...
4. Sisson, Adam	10.00	1 Employee Meal Allowance - LS	701 5-180 7-200-...
5. Klunk, Brian	20.00	2 Employee Meal Allowances-LS	701 5-180 7-200-...
6. Medical Mutual of Ohio	199.32	Med Mut Payment 6/28/16	701 5-180 7-203-...
7. PERS	33,495.04	PERS - May 2016 Wages	701 5-180 7-209-...
8. PERS	6,422.51	PERS Pickup - May 2016 Wages	701 5-180 7-219-...
9. Avon Lake Printing	500.00	Print Summer Waterline-EW	701 5-180 8-601-...
10. FriendsOffice	155.63	Office Supplies-LS/KG	701 5-180 8-601-...
11. Uline	45.03	1/2-Office Supplies-KK	701 5-180 8-601-...
12. United Parcel Service	291.33	Shipping Charges-LS	701 5-180 8-601-...
13. U.S. Bank	440.59	1/2-Lease Pmt-Ricoh Copiers-RRE	701 5-180 8-601-...
14. USALCO	9,041.16	74.37 Tons Alum - SH	701 5-180 8-602-...
15. Active Plumbing Supply	90.37	Maintenance Supplies-RK	701 5-180 8-603-...
16. Allied Electronics Inc.	180.44	Maintenance Supplies-SH	701 5-180 8-603-...
17. Aztec Steel Corp.	290.80	Steel Stock-RK	701 5-180 8-603-...
18. Grainger Inc.	160.62	Maintenance Supplies-SH	701 5-180 8-603-...
19. Home Depot	182.05	1/2-Maintenance Supplies-RRE	701 5-180 8-603-...
20. Roberts Surveying Supplies	185.00	1/2-Maintenance Supplies-JRG	701 5-180 8-603-...
21. Swift First Aid Service	35.30	1/2-Svc First Aid Kits@201Miller-RK	701 5-180 8-603-...
22. Swift First Aid Service	39.00	Svc First Aid Kits@WFP-SH	701 5-180 8-603-...
23. Trico Oxygen Company	360.06	1/2-Maintenance Supplies-RK	701 5-180 8-603-...
24. APO Pumps and Compress...	1,520.89	Compressor Maintenance-SH	701 5-180 8-607-...
25. Bain Enterprises	347.50	1/2-Equipment Maintenance - RK	701 5-180 8-607-...
26. Jack Doheny Supplies Ohio ...	219.55	1/2-Equipment Maintenance-RK	701 5-180 8-607-...
27. Hach Company	7,096.00	Turbidity Meter Maintenance-SH	701 5-180 8-607-...
28. McMaster-Carr Supply	25.77	Hydrant Valve Repair-RK	701 5-180 8-607-...
29. Rex Pipe & Supply Co.	73.39	Tube to Install Level Sensor-SH	701 5-180 8-607-...
30. USA Blue Book	88.92	Equipment Maintenance-SH	701 5-180 8-607-...
31. W.W. Williams	1,945.00	Generator Maintenance-SH	701 5-180 8-607-...
32. Complete Concrete	350.00	Core Drilling @Wa Plant-SH	701 5-180 8-612-...
33. HD Supply Waterworks, Ltd.	10,836.10	Wa Distribution Supplies-RK	701 5-180 8-612-...
34. Rock Pile	156.00	Top Soil-RK	701 5-180 8-612-...
35. Fisher Scientific	81.55	Water Lab Supplies - SH	701 5-180 8-615-...
36. Idexx Laboratories Inc.	4,253.06	Water Micro Lab Supplies-SH	701 5-180 8-615-...
37. USA Blue Book	714.28	Water Lab Supplies-SH	701 5-180 8-615-...
38. Sherwin-Williams Co.	135.80	Paint/Supplies for Fire Hydrants-RK	701 5-180 8-624-...
39. Columbia Gas	26.73	GasSvc@WFP Lab 5/18/16-6/17/16-SH	701 5-180 8-700-...
40. Illuminating Co.	18,661.58	Elect@WaPlant 5/19/16-6/17/16-SH	701 5-180 8-700-...
41. GDF Suez	30,206.62	Elect@WaPlant 5/19/16-6/17/16-SH	701 5-180 8-700-...
42. a.m. design group, inc.	1,579.65	Water Quality Rpt Layout/Design-EW	701 5-180 8-701-...
43. AWWA	182.00	AWWA Membership-S.Heimlich-LS	701 5-180 8-701-...
44. Avon Lake Board of Educati...	379.72	Bus Trips to Wa Plant-EW	701 5-180 8-701-...
45. Hall, Donald	110.00	Reimburse for WA Distrib Class II Exa...	701 5-180 8-701-...
46. Heimlich, Steve	307.80	Reimbursement-Mileage to AWWA Co...	701 5-180 8-701-...
47. Lescher Tree Care	800.00	Tree Removal & Clearing @WFP-SH	701 5-180 8-701-...
48. Operator Training Committe...	459.70	1/2-GIS Training-JRG	701 5-180 8-701-...
49. Precision Laser & Instrumen...	390.50	1/2-Trimble Terrasync Software/Traini...	701 5-180 8-701-...
50. Solar Testing Laboratories, l...	878.00	Testing/Analysis-SIP-5/18/16-5/23/16-...	701 5-180 8-701-...
51. Treasurer, State of Ohio	25.00	2016 Damage Prevention Safety Regis...	701 5-180 8-701-...
52. Technical Services Group Inc.	969.33	Annual Meter Test/Calibration-RK	701 5-180 8-701-...
53. Parker Supply LLC.	114.89	Building Maintenance Supplies-SH	701 5-180 8-708-...
54. Sherwin-Williams Co.	3.63	Paint & Supplies-RK	701 5-180 8-708-...

07/01/16

Avon Lake Municipal Utilities  
Water Fund 701 Expenses  
July 5, 2016

---

Name	Amount	Memo	Account
55. Speed Exterminating Comp...	30.00	1/2-Exterminating@201Miller-June201...	701 5-180 8-709-...
56. Precision Laser & Instrumen...	6,214.00	1/2-Trimble Premium Centimeter Kit-J...	701 5-180 8-804-...
57. Valley Ford Truck Inc.	33,316.00	2016 Ford F250 Pickup Truck - RK	701 5-180 8-804-...
58. Shamrock	273.46	1/2-UBill Fees-May 2016-RRE	701 5-180 8-907-...
59. Browning, Sylvia H.	17.70	Refund Cr Bal on Closed Acct-LS	701 9-180 8-901-...
60. Vezdos, Barbara	-17.30	Refund Cr Bal on Closed Acct-LS	701 9-180 8-901-...
61. Ratajczak, Kenneth Jr.	482.00	Reimburse-Damage to Wheel Rim-RK	701 9-180 8-901-...
Jul 5, 16	<u>247,413.35</u>		

07/01/16

**Avon Lake Municipal Utilities**  
**Wastewater Fund 721 Expenses**  
 July 5, 2016

Name	Amount	Memo	Account
Jul 5, 16			
1. Wastewater Employees	59,925.64	Salaries P/R #14 6/13/16-6/26/16	721 5-190 7-102...
2. Wastewater Employees	7,408.00	Part Time P/R #14 6/13/16-6/26/16	721 5-190 7-105...
3. Wastewater Employees	4,961.55	Overtime P/R #14 6/13/16-6/26/16	721 5-190 7-106...
4. Kasten, Rick	5.00	1 Employee Meal Allowance - LS	721 5-190 7-200...
5. Frankiewicz, Paul	10.00	1 Employee Meal Allowance-LS	721 5-190 7-200...
6. Hall, Donald	20.00	2 Employee Meal Allowances-RRE	721 5-190 7-200...
7. Knick, Dennis	10.00	1 Employee Meal Allowance-RRE	721 5-190 7-200...
8. Alverson, Dale	10.00	1 Employee Meal Allowance-LS	721 5-190 7-200...
9. Dillon, Timothy	10.00	1 Employee Meal Allowance-LS	721 5-190 7-200...
10. Fischer, William	10.00	1 Employee Meal Allowance - LS	721 5-190 7-200...
11. Medical Mutual of Ohio	203.12	Med Mut Payment 6/28/16	721 5-190 7-203...
12. PERS	20,825.18	PERS - May 2016 Wages	721 5-190 7-209...
13. PERS	1,036.88	PERS Pickup - May 2016 Wages	721 5-190 7-219...
14. Avon Lake Printing	494.00	Print Summer Waterline-EW	721 5-190 8-601...
15. FriendsOffice	52.68	Office Supplies-KG	721 5-190 8-601...
16. Uline	45.03	1/2-Office Supplies-KK	721 5-190 8-601...
17. U.S. Bank	440.59	1/2-Lease Pmt-Ricoh Copiers-RRE	721 5-190 8-601...
18. Bonded Chemicals Inc.	6,608.00	41.30 Tons Lime-SB	721 5-190 8-602...
19. Home Depot	182.05	1/2-Maintenance Supplies-RRE	721 5-190 8-603...
20. Indy Equipment	520.00	Maintenance Supplies-RRE	721 5-190 8-603...
21. Roberts Surveying Suppli...	185.00	1/2-Maintenance Supplies-JRG	721 5-190 8-603...
22. Swift First Aid Service	35.30	1/2-Svc First Aid Kits@201Miller-RK	721 5-190 8-603...
23. Swift First Aid Service	154.70	Svc First Aid Kits @WPCC-SB	721 5-190 8-603...
24. Trico Oxygen Company	360.05	1/2-Maintenance Supplies-RK	721 5-190 8-603...
25. United Laboratories	1,865.90	Maintenance Supplies-RRE	721 5-190 8-603...
26. Avon Lake Sheet Metal ...	18,360.00	New Gas Line-SB	721 5-190 8-607...
27. Bain Enterprises	347.50	1/2-Equipment Maintenance - RK	721 5-190 8-607...
28. Jack Doheny Supplies O...	219.56	1/2-Equipment Maintenance-RK	721 5-190 8-607...
29. McMaster-Carr Supply	38.11	Retaining Ring-RRE	721 5-190 8-607...
30. HD Supply Waterworks, ...	83.77	Repairs @WPCC-RK	721 5-190 8-612...
31. Indy Equipment	117.02	Repairs @WPCC-RK	721 5-190 8-612...
32. Fisher Scientific	122.76	Wastewater Lab Supplies - SH	721 5-190 8-615...
33. Idexx Laboratories Inc.	1,344.00	Wastewater Micro Lab Supplies-SH	721 5-190 8-615...
34. North Coast Environment...	592.00	Lab Testing-SB	721 5-190 8-615...
35. Columbia Gas	26.73	GasSvc@Center P.S. 5/18/16-6/17/16-RK	721 5-190 8-700...
36. All Erection & Crane Ren...	4,786.76	Crane Rental to Reinstall Storage Lid-RRE	721 5-190 8-701...
37. Baytos, Steve	384.85	Reimbursement-Mileage to AWWA Conf-R...	721 5-190 8-701...
38. Brown & Caldwell	77,874.62	Coll Sys Modeling Update 4/29/16-5/26/16-...	721 5-190 8-701...
39. Great Lakes Pipeline Ser...	500.00	CCTV Sewer Lines@33051 Lake-JRG	721 5-190 8-701...
40. Operator Training Comm...	459.70	1/2-GIS Training-JRG	721 5-190 8-701...
41. Precision Laser & Instru...	390.50	1/2-Trimble Terrasync Software/Training-JRG	721 5-190 8-701...
42. Republic Services	34,051.78	Sludge Disposal-May 2016-SB	721 5-190 8-702...
43. Premier Plant Solutions	188.75	Plants for WPCC-RRE	721 5-190 8-708...
44. Sherwin-Williams Co.	305.76	Paint & Supplies-RK	721 5-190 8-708...
45. Speed Exterminating Co...	30.00	1/2-Exterminating@201Miller-June2016-RRE	721 5-190 8-709...
46. Precision Laser & Instru...	6,214.00	1/2-Trimble Premium Centimeter Kit-JRG	721 5-190 8-804...
47. Valley Ford Truck Inc.	33,316.00	2016 Ford F250 Pickup Truck - RK	721 5-190 8-804...
48. Shamrock	273.46	1/2-UBill Fees-May 2016-RRE	721 5-190 8-907...
49. Browning, Sylvia H.	19.46	Refund Cr Bal on Closed Acct-LS	721 9-190 8-901...
50. Vezdos, Barbara	26.24	Refund Cr Bal on Closed Acct-LS	721 9-190 8-901...
Jul 5, 16	<u>285,452.00</u>		



07/01/16

Avon Lake Municipal Utilities  
MOR Fund 703 Expenses - ETL1  
July 5, 2016

---

Name	Amount	Memo	Account
Jul 5, 16			
1. HD Supply Waterworks...	234.00	For ETL 1 North Ridgeville - RK	703 5-180 8-740...
2. W.W. Williams	1,613.47	Maint/Repair-Moore Rd Generator-SH/RK	703 5-180 8-740...
3. Direct Energy	8.12	Elect Svc@Moore PRV 5/11/16-6/8/16-...	703 5-180 8-743...
Jul 5, 16	<u>1,855.59</u>		

07/01/16

Avon Lake Municipal Utilities  
MOR Fund 762 Expenses - ETL2  
July 5, 2016

---

Name	Amount	Memo	Account
Jul 5, 16			
1. Alloway	525.00	Special Purpose TTHM's & HAA5-SH	762 5-180 8-74...
2. Flexim Americas Corpo...	8,362.00	Meter for ETL2-RK	762 5-180 8-74...
3. Fenik, John	200.00	Lawn Svc@IslandRd- June 2016-RRE	762 5-180 8-74...
4. W.W. Williams	1,613.46	Generator Maintenance @Moore Rd-RK	762 5-180 8-74...
5. W.W. Williams	1,299.00	Generator Maintenance @Island Rd-SH	762 5-180 8-74...
	<u>11,999.46</u>		
Jul 5, 16			

07/01/16

Avon Lake Municipal Utilities  
LORCO Fund 749 Expenses  
July 5, 2016

---

Name	Amount	Memo	Account
Jul 5, 16			
1. LORCO Employees	1,875.00	2nd Qtr LORCO Stipends	749 5-190 7-102...
2. Covalen	12,862.96	Grinder Pump Repair Parts-RK	749 5-190 8-603...
3. JWC Environmental	16,451.40	Grinder Parts-RRE	749 5-190 8-603...
4. Fenik, John	100.00	Lawn Svc@Four Plex-June 2016-RRE	749 5-190 8-701...
5. Shamrock	382.24	Print/Mail LORCO Bills-May 2016-RRE	749 5-190 8-848...
	<u>31,671.60</u>		
Jul 5, 16			

07/01/16

Avon Lake Municipal Utilities  
Water Works Construction Fund 704 Expenses  
July 5, 2016

---

Name	Amount	Memo	Account
Jul 5, 16			
1. Illuminating Co.	332,347.89	New Electrical Svc@SIP Project-RRE	704 5-180 8-80...
2. MWH	33,000.00	Prof Svc 5/7/16-6/3/16-SIP Project-RRE	704 5-180 8-80...
Jul 5, 16	<u>365,347.89</u>		

Avon Lake Regional Water  
**MEMORANDUM**

To: **Board of Municipal Utilities**  
From: **Rick Eberle**  
Subject: **Agenda Items – July 5, 2016**  
Date: **July 1, 2016**

---

**Item 4: Revisions to Regulations - TAD**

Wastewater Plant Manager Baytos took the questions and concerns the Board expressed at their 6/7/16 meeting back to the Ohio EPA and will present the proposed revisions at this meeting. The proposed revisions are suggested changes recommended by Ohio EPA after their review to keep them current with the Ohio Revised Code and Ohio Administrative Code. The proposed changes deal with only the wastewater section of the Regulations and in particular the industrial pretreatment sections.

*Recommended Motion:*

*I move that the Avon Lake Regional Water Regulations be revised as presented.*

**Item 5: CUE Contract Contingency Policy - TAD**

With the return of CUE Danielson on 7/5/16 staff will meet to compose a draft CUE contract contingency policy for discussion at the meeting..

**Item 6A1: Lateral Loan Program – TAD**

The CUE will give a verbal update at the meeting.

**Item 6A2: Chemical Optimization Study – TAD**

The CUE will give a verbal update at the meeting.

## CHAPTER 2 - DEFINITIONS

As used in these Regulations, as amended by the Board from time to time, the following terms shall have the meanings (such meanings to be equally applicable to both the singular and plural forms of the terms defined) set forth below, which shall apply in the interpretation and enforcement of these Regulations:

**Section 2.01** Act or the Clean Water Act shall mean the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended from time to time (33 U.S.C. §§ 1251, *et seq.*).

**Section 2.02** Administrative Fee means the charge assessed users to cover billing costs (including meter reading) and laboratory costs. Billing, laboratory and other costs associated with industrial surcharges are not included in the Administrative Fee.

**Section 2.03** 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.

**Section 2.04** ANSI means the American National Standards Institute.

**Section 2.05** Avon Lake Water System means the public potable water supply system of Avon Lake, Ohio and all systems, facilities and appurtenances thereto.

**Section 2.06** AWWA means the American Water Works Association.

**Section 2.07** 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.

**Section 2.08** Backflow Prevention Device means any device, method, or type of construction intended to prevent backflow into a potable water system.

**Section 2.08.01** Best Management Practices also known as (BMP) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 1.02 of Title IV. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

**Comment [PL2]:** If I number this Section 2.09, I will have to renumber everything after that. ☹

**Comment [PL3]:** OAC 3745-3-01(D)

**Section 2.09** Billable Water Consumption means the amount of potable water used during the applicable billing period at the premises, as measured through a City water meter, with the following exceptions:

1. The billable sewer consumption for an individual residential account shall be determined in accordance with Title II, Section 2.19.
2. The billable sewer consumption for other than an individual residential account shall be the amount of potable water consumed on the premises, unless the Owner or other interested party of the premises can demonstrate to the satisfaction of the CUE that a measurable portion of the water from all sources consumed on said premises cannot and does not enter the public sewage system.

**Section 2.75** Sewer Service Charge means those wastewater charges identified in Chapter 1 of Title III.

**Section 2.76** Shall is mandatory; may is permissible.

**Section 2.77** Significant Industrial Use ("SIU") means:

1. All discharges subject to Categorical Pretreatment Standards under 40 CFR Chapter I, Subchapter N; and

2. All noncategorical dischargers that:

a. in the opinion of the Board, have a reasonable potential to adversely affect the POTW's operation;

b. discharge or has the potential to discharge 25,000 gallons or more of process water (excludes sanitary water, non-contact cooling water, and boiler blowdown) in a day; or

c. that contribute a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW.

2.3. However, the Board need not designate as significant any noncategorical Industrial User that, in the opinion of the Chief Utilities Executive, has no potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement. Any noncategorical Industrial User designated as significant may petition the Board to be deleted from the list of Significant Industrial Users on the grounds that it has no potential for adversely affecting the POTW's operation or violating any pretreatment standard or requirement.

**Section 2.78** Sludge shall mean any solid, semi-solid or liquid waste generated by a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility or any other waste having similar characteristics and effects as defined in standards issued under Section 402 of the Act (33 U.S.C. § 1342) and Section 405 of the Act (33 U.S.C. § 1345) and in the applicable requirements under Section 2001, 3004, and 4004 of the Solid Waste Disposal Act (PL 94-580; 42 U.S.C. §§ 6901- 6992k).

**Section 2.79** Slug or Slug Discharge shall mean any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge that has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, local limits or permit conditions, pollutant, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which will cause interference at the WPCC.

Comment [PL4]: OAC 3745-3-03(C)(2)(f)

**Section 2.80** Standard Methods shall mean the current edition of *Standard Methods for the Examination of Water and Wastewater* as published by the American Public Health Association, American Water Works Association, and Water Pollution Control Federation.

**Section 2.81** State means the State of Ohio and any of its employees or representatives.

**Section 2.82** Storm Sewer shall mean a sewer that carries storm, surface, and groundwater drainage, but excludes sewage and industrial wastes.

**Section 2.83** Storm Water shall mean water flowing from surface drainage, rain water from roofs, sub-soil drainage, cistern overflow, water from condensers, cooling systems, and other water which is free from sanitary sewage or industrial wastes.

**Section 2.84** Suspended Solids shall mean solids that either float on the surface of or are in suspension in water, sewage, or other liquids and which are removable by laboratory filtering. Quantitative determination of suspended solids shall be made in accordance with procedures set forth in Standard Methods.

**Section 2.85** 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.

**Section 2.86** Toxic pollutant shall mean any pollutant or combination of pollutants which is or can potentially be harmful to public health or the environment including those listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provisions of the Act.

**Section 2.87** Upset shall mean an incident in which an industrial user unintentionally and temporarily is in a state of noncompliance with the standards set forth in these Regulations due to factors beyond the reasonable control of the user, and excluding noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation thereof.

**Section 2.88** User Charge System (sanitary) means the system of charges assessed consumers of the system to cover the consumer's proportionate share of the cost of operating and maintaining the sewage treatment system, including replacement. The User Charge System includes revenues generated by the Administrative Fee, Operation, Maintenance, and Replacement Increment of the Consumption Charge, the Industrial Surcharge Fee, and Industrial Surcharge Rate.

**Section 2.89** User Class (sanitary) means the division of consumers or users of the sewage system by waste characteristics. For the purpose of user charges, the classes of users are as follows:

1. Non-Industrial Users. Any user of the treatment works who contributes primarily segregated domestic wastes or wastes from sanitary conveniences and shall include the commercial, institutional/governmental, and residential user classes.

a. Residential User. This class of users consists of households including both single and multi-family dwellings.

b. Commercial User. This class of users consists of business establishments that contribute wastes that are equivalent of normal strength domestic sewage. Users in this class include, but are not necessarily limited to, retail stores, banks, office buildings, hotels, restaurants, warehouses, service stations, and dry process industrial establishments.



## ***TITLE IV - DISCHARGE PERMITS***

### **CHAPTER 1 - PROHIBITED DISCHARGES**

#### **Section 1.01 General Discharge Prohibitions.**

1. It shall be unlawful to discharge sewage, industrial wastes, or other wastes to any sewer within the jurisdiction of the Board without having first complied with the terms of these Regulations.
2. Industrial wastes shall not be discharged into a storm sewer but may be discharged into a sanitary sewer if the waste is of such character as not to be detrimental to the sewer system or to the WPCC. Where such waste is detrimental to the sewer system or the WPCC, it shall be otherwise disposed of in a satisfactory manner or so improved in character as not to be detrimental to the sewer system or WPCC.
3. Surface water, rain water from roofs, subsoil drainage, building foundation drainage, cistern overflow, clean water from condensers, waste water from water motors and elevators, and any other clean and unobjectionable waste water shall be discharged into a storm water or combined sewer and in no case into a sanitary sewer.
4. Sewage, including wastes from water closets, urinals, lavatories, sinks, bathtubs, showers, laundries, cellar floor drains, garage floor drains, bars, soda fountains, cuspidors, refrigerator drips, drinking fountains, stable floor drains, and other objectionable wastes shall be discharged into a sanitary or combined sewer and in no case into a storm sewer.
5. Industrial wastes entering sewers not connected to the WPCC shall be of such characteristics as not to be detrimental to the public sewage system or to the receiving stream, according to the standards determined by the Ohio Environmental Protection Agency or the CUO.
6. Sanitary sewage shall be discharged into a sanitary sewer whenever a sanitary sewer is reasonably accessible. If such sanitary sewer is not reasonably accessible, then sanitary sewage shall be discharged into a combined sewer.
7. Where the public sewage system is reasonably accessible to the property, no privy shall be constructed, maintained, or used, and any person owning property in Avon Lake on which there is a privy where the public sewage system is reasonably accessible, shall have sixty (60) days after notification by the Board to do away with such privy or be subject to the penalties provided in these Regulations.
8. Connection with a cesspool or a privy vault shall not be made into a sanitary, combined, or storm sewer.
9. No person shall discharge into a building sewer or tap a public sewer for the purpose of discharging into it any waste or drainage water prohibited by the provisions of this Section. Any existing connection in violation of the provisions of this Section shall be abandoned and removed.
10. No person shall access the sewer system or POTW for any activity including discharge of hauled septic or industrial wastes except at locations and at times as designated

by the CUO. Any removal of manhole lids, or other access to the sewer system for the purpose of discharging wastes at times and/or locations other than those designated by the CUO, or without the expressed permission of the CUO, shall be considered a violation and shall be subject to enforcement action including fines and penalties allowed under these Regulations.

**Section 1.02 Specific Discharge Prohibitions.**

Except as hereinafter provided, no person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewer:

- a. Having a temperature higher than 104 degrees F (40 degrees C);
- b. Containing more than 10 ppm by weight of fats, oils, or grease;
- c. Containing any garbage that has not been ground by household type or other suitable garbage grinders;
- d. Containing any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch, manure, or any other solids or viscous substances capable of causing obstructions or other interferences with proper operation of the sewer system;
- e. Having a pH lower than 5.0 or higher than 11.0, or having any other corrosive property capable of causing damage or hazards to structures, equipment, or personnel of the sewer system;
- f. Containing toxic or poisonous substances in sufficient quantity to injure or interfere with any wastewater treatment process, to constitute hazards to humans or animals, or to create any hazard in waters which receive treated effluent from the sewer system treatment plant. Toxic wastes shall include, but are not limited to wastes containing cyanide, chromium, Cadmium, mercury, copper, and nickel ions;
- g. Containing noxious or malodorous gases or substances capable of creating a public nuisance, including pollutants which result in the presence of toxic gases, vapors, or fumes within the sanitary sewers or WPCC in a quantity that may cause acute worker health or safety problems.
- h. Containing solids of such character and quantity that special and unusual attention is required for their handling;
- i. Containing any substance which may affect the WPCC's effluent and cause violation of the NPDES permit requirements;
- j. Containing any substance which would cause the WPCC to be in noncompliance with sludge use, recycle or disposal criteria pursuant to guidelines or regulations developed under Section 405 of the Act (33 U.S.C. § 1345), the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act or other regulations or criteria for sludge management and disposal as required by the State;
- k. Containing color which is not removed in the treatment processes;

- l. Containing any medical or infectious wastes;
- m. Containing any radioactive wastes or isotopes;
- n. Pollutants which create a fire or explosion hazard in the sanitary sewers or WPCC, including but not limited to wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using the test method specified in 40 CFR §261.21;
- o. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass-through; or
- p. Containing any pollutant released at a flow rate and/or pollutant concentration which would cause interference with the treatment plant.

**Section 1.03 Interceptors.** Grease, oil, and sand interceptors shall be provided when, in the opinion of the CUO, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes containing grease in excessive amounts, or any flammable wastes, sand, and other harmful ingredients, except that such interceptors shall not be required for private quarters or dwelling units. Where installed, all grease, oil, and sand interceptors shall be maintained by the owner, at his expense, in continuous and efficient operation at all times while being used.

**Section 1.04 Enforcement.**

1. The CUO may issue Orders to any industrial user to insure compliance with any requirements under these Regulations including applicable National Categorical Pretreatment Standards, other discharge limits, and reporting requirements. Such Orders shall be in the form of a Permit signed by the CUO and may include but shall not be limited to a list of pollutants to be monitored, location of sampling points, type of sample, frequency of sampling, and compliance schedules to meet discharge limits.
2. If any wastewater or water being discharged to the WPCC has any of the characteristics mentioned in Section 1.02 above or exceed the limits established in this Chapter 1, the CUO may:
  - a. Reject the wastewater or water.
  - b. Require the user to pretreat or modify the wastewater or water to acceptable condition before discharging into a public sewer.
3. If any wastewater or water being discharged to the WPCC exceeds the limits established in Section 2.02 (b), the CUO may:
  - a. Require the user to pretreat or modify the wastewater or water to meet the appropriate limits before discharging into a public sewer.
  - b. Require the user to pay the additional cost or expense incurred by the WPCC for handling and treating the additional load imposed on the treatment system.
4. If the volume of any proposed discharge(s) or increased actual or proposed volume of an existing discharge exceeds the capacity of the receiving sewer or exceeds the

volume of the flow that the WPCC can treat under the terms and condition of its NPDES permit, then the CUO shall have the authority to limit or prohibit said discharge(s).

**Section 1.05 Specific Pollutant Limitations.**

1. Toxic Pollutant Limitations

No person shall discharge or cause to be discharged into a public sewer wastes which contain any of the pollutants contained in the following list of toxic pollutants unless the person is issued a permit by the CUO which allows the discharge of such pollutants. In the absence of such specific permits, no person shall discharge any of the following toxic pollutants except as such pollutants may occur and only in the concentrations such pollutants may occur in the water supply to their premises. Discharge of such pollutants allowed by a permit shall not exceed the following maximum daily and 30-day average concentrations:

Parameter	ug/l	
	Max. Daily Concentration	30 Day Average
Cadmium (total)	260	150
Chromium (total)	2300	1710
Copper (total)	2070	1500
Cyanide (total)	652	650
Lead (total)	430	430
Mercury (total)	0.0	---
Nickel	2380	1100
Silver	240	100
Zinc (total)	1500	1480
Arsenic	290	---
Chromium (HEX)	252	---

The CUO may develop BMPs and such BMPs shall be considered local limits and pretreatment standards for the purpose of this rule.

Comment [PL5]: OAC 3745-3-03(C)(4)

2. Compatible Pollutant Limitations

No wastewater shall be discharged which exceeds the maximum daily concentration established for the following compatible pollutants without permission from the CUO and payment of the appropriate surcharge:

Parameter	mg/l
	Max. Daily Concentration
BOD	365
COD	725
SS	400
Ammonia Nitrogen	30
Oil & Grease	10
Phosphorous	10
Dissolved Solids	3500

**Section 1.06 National Categorical Pretreatment Standards.** National Categorical Pretreatment Standards as promulgated by the U.S. Environmental Protection Agency pursuant to the Act

shall be met by all dischargers of the regulated industrial categories. An application for modification of the National Categorical Pretreatment Standards may be considered for submittal to the Regional Administrator by the CUO, when the WPCC achieves consistent removal of the pollutants. "Consistent Removal" shall mean the reduction in the amount of a pollutant or alteration of the nature of the pollutant by the wastewater treatment plant to a less toxic or harmless state in the effluent provided that the plant meets the NPDES permit limits established for that pollutant and the sludge meets all the applicable requirements for the preferred method of disposal.

**Section 1.07 State Requirements.** State requirements and limitations on discharges to the WPCC shall be met by all users which are subject to such standards in any instance in which they are more stringent than federal requirements and limitations or those in this or any other applicable Regulation.

**Section 1.08 Right of Revision.** The Board reserves the right to amend these Regulations to provide for more stringent limitations or requirements on discharges to the WPCC where deemed necessary to comply with the objectives set forth in these Regulations.

**Section 1.09 Dilution.** No user shall increase the use of potable or process water in any way nor mix separate waste streams for the purpose of diluting a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the standards set forth in these Regulations.

**Section 1.10 Prevention of Accidental Discharges.**

1. Each user shall provide protection from accidental discharge or prohibited or regulated materials or substances established by these Regulations. Any direct or indirect connection or entry point for persistent or deleterious wastes to the user's plumbing or drainage system shall be eliminated. Where such action is impractical or unreasonable, the user shall appropriately label such entry points to warn against discharge of such wastes in violation of this Regulation. Where necessary, facilities to prevent accidental discharge of prohibited material shall be provided and maintained at the user's expense.

(a) Detailed plans, known as the Spill Prevention Control and Countermeasure (SPCC) Plan, showing facilities and operating procedures to provide this protection shall be submitted to the CUO for review and shall be approved by the CUO before construction of the facility.

(b) The SPCC Plan shall include the following:

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

(ii) Description of stored chemicals;

(iii) Procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a prohibition under Section 1.02 of Title IV, with procedures for follow-up written notification within five days;

**Comment [PL6]:** Note that if an SPCC Plan is required for a permittee, the plan must be specifically referenced or otherwise incorporated into the IU's control mechanism. Page 2 of [http://www.epa.ohio.gov/portals/35/guidance/pr\\_etreatment2.pdf](http://www.epa.ohio.gov/portals/35/guidance/pr_etreatment2.pdf).

**Comment [PL7]:** OAC 3745-3-03(C)(2)(f)(I-iv)

(iv) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of wastewater discharge, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), or measures and equipment for emergency response.

(c) Review and approval of such plans and operating procedures shall not relieve the user from the responsibility to modify this facility as necessary to meet the requirements of these Regulations.

2. In order that employees of users be informed of City requirements, users shall make available to their employees copies of these Regulations together with such other wastewater information and notices which may be furnished by the City from time to time directed toward more effective water pollution control. A notice shall be furnished and permanently posted on the user's bulletin board advising employees whom to call in case of an accidental discharge in violation of these Regulations.

3. The CUO shall be notified immediately of a facility that has an accidental discharge which exceeds the limitations of these Regulations. A report stating the date, time and cause of the accidental discharge, the quantity and characteristics of the discharge, and measures taken to prevent future discharges shall be filed within five (5) days of the occurrence of the accident.

4. The CUO shall be notified at least 30 days in advance if a facility anticipates a substantial change in its wastewater quantity or quality. The substantial change may be due to production rate, scheduled maintenance or operations, scheduled bypass, etc.

**Section 1.11 Operating Upsets.** Any permittee that experiences an upset in operations that places the permittee in a temporary state of noncompliance with the provisions of these Regulations shall inform the CUO within 24 hours of becoming aware of the upset at Avon Lake Regional Water offices.

A written follow-up report of the upset shall be filed by the permittee with the CUO within five (5) days. The report shall specify:

1. Description of the upset, the cause(s) thereof, and the upset's impact on the permittee's compliance status;
2. Duration of noncompliance, including exact dates and times of noncompliance, and, if not corrected, the anticipated time the noncompliance is expected to continue; and
3. All steps taken or to be taken to reduce, eliminate, and prevent recurrence of such an upset.

The report must also demonstrate that the treatment facility was being operated in a prudent and workmanlike manner.

A documented and verified operating upset shall be an affirmative defense to any enforcement action brought against the permittee for violations attributable to the upset event.

## **CHAPTER 2 - PERMIT ADMINISTRATION**

### **Section 2.01 Industrial Pretreatment Permit Requirements.**

1. All non-domestic users must notify the CUO of the nature and characteristics of their wastewater prior to commencing their discharge. The CUO is authorized to prepare a form for this purpose.

2. It shall be unlawful for significant industrial users to discharge wastewater, either directly or indirectly, into the City's sanitary sewer system without first obtaining an industrial user pretreatment permit from the CUO. Any violation of the terms and conditions of an industrial user pretreatment permit shall be deemed a violation of these Regulations. Obtaining an industrial user pretreatment permit does not relieve a permittee of its obligation to obtain other permits required by federal, state, or local law.

3. The CUO may require that other industrial users obtain industrial user pretreatment permits as necessary to carry out the purposes of these Regulations.

4. Existing Connections: Any significant industrial user which discharges non-domestic waste into the sanitary sewer system prior to the effective date of these Regulations except in accordance with a permit issued by the CUO.

5. New Connections: Any significant industrial user proposing to begin or recommence discharging non-domestic wastes into the sanitary sewer system must obtain a pretreatment permit prior to beginning or recommencing such discharge. An application for this permit must be filed at least ninety (90) days prior to the anticipated start-up date.

### **Section 2.02 Permit Application.**

1. In order to be considered for a pretreatment permit, all industrial users required to have a permit must submit the following information on an application form approved by the CUO:

a. Name, address, and location (if different from the address);

b. Standard Industrial Classification (SIC) code of both the industry as a whole and any processes for which federal categorical standards have been promulgated;

c. Wastewater constituents and characteristics including any federal, state, or local standards. Sampling and analysis will be undertaken in accordance with 40 CFR Part 136;

(1) Sampling shall be representative of daily operations

(2) When BMPs apply, documentation must be submitted to determine compliance with the standard

d. Time and duration of the discharge;

e. Daily maximum, daily average, and monthly average wastewater flow rates, including daily, monthly, and seasonal variations, if any;

f. Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used at the facility which are or could accidentally or intentionally be discharged to the POTW;

g. The site plans, floor plans, and mechanical and plumbing plans and details to show all sewers, floor drains, and appurtenances by size, location, and elevation;

h. Each product produced by type, amount, process or processes and rate of production;

i. Type and amount of raw materials processed (average and maximum per day);

j. Number and type of employees and hours of operation, and proposed or actual hours of operation of the pretreatment system;

k. A list of other environmental control permits;

Comment [PL8]: OAC 3745-3-06(C)

kl. Whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet all applicable federal, state, and local standards. If additional pretreatment and/or O&M will be required to meet the standards, then the industrial user shall indicate the shortest time schedule necessary to accomplish installation or adoption of such additional treatment and/or O&M. The completion date in this schedule shall not be longer than the compliance date established for the applicable pretreatment standard. The following conditions apply to this schedule:

(1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction, beginning operation, and conducting routine operation). No increment referred to in (a) above shall exceed nine (9) months nor shall the total compliance period exceed eighteen (18) months;

(2) No later than fourteen (14) days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the CUO including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule. In no event shall more than nine (9) months elapse between such progress reports to the CUO.

2. Any other information as may be deemed by the CUO to be necessary to evaluate the permit application.



3. All plans required in Section 2.09 must be certified for accuracy by a State registered professional engineer.

**Comment [PL9]:** This doesn't look like it requires any plans. Could this be referencing 2.02.1.g?

4. All applications shall contain the certification statement required by Section 3.03 of Title IV.

**Comment [PL10]:** Should this reference 3.02?

5. All applications shall be signed as required by Section 3.04 of Title IV.

**Comment [PL11]:** Should this reference 3.03?

6. Industrial users with categorical standards that require compliance with a BMP or pollution prevention alternative shall submit documentation to determine compliance with the standard when submitting baseline reports.

**Comment [PL12]:** OAC 3745-3-06(E)(4)(f)

### **Section 2.03 Pretreatment Permit Contents.**

1. Pretreatment permits shall include such conditions as are reasonably deemed necessary by the CUO to prevent pass-through or interference, protect the quality of the water body receiving the POTW's effluent, protect worker health and safety, facilitate POTW sludge management and disposal, protect ambient air quality, and protect against damage to the POTW collection system or plant. Permits may contain (but are not be limited to) the following:

- a. Limits on the average and/or maximum rate of discharge, and/or requirements for flow regulation and equalization;
- b. Limits on the average and/or maximum concentration, mass, or other measure of identified wastewater constituents or properties;
- c. Requirements for the installation of pretreatment technology or construction of appropriate containment devices, etc., designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
- d. Development and implementation of spill control plans or other special conditions including additional management practices necessary to adequately prevent accidental, unanticipated, or routine discharges (see Section 1.10 of Title IV);
- e. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;
- f. Requirements for installation and maintenance of inspection and sampling facilities;
- g. Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules;
- h. Compliance schedules;
- i. Requirements for submission of technical reports or discharge reports;
- j. Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the CUO and affording the CUO or his representatives, access thereto;

k. Requirements for notification of any new introduction of wastewater constituents or of any substantial change in the volume or character of the wastewater being introduced into the POTW, including the listed or characteristic hazardous wastes for which the user has submitted initial notification under 40 CFR 403.12 (P);

i. Requirements for the notification of any change in the manufacturing and/or pretreatment process used by the permittee;

m. Requirements for notification of excessive, accidental, or slug discharges;

n. Other conditions as deemed appropriate by the CUO to ensure compliance with these Regulations and State and federal laws, rules, and regulations;

o. A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable federal pretreatment standards, including those which become effective during the term of the permit.

#### **Section 2.04 Permit Issuance Process.**

1. Permit Duration. Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than five (5) years, at the discretion of the CUO.

2. Permit Appeals. The CUO will provide notice of final permit decisions. Upon notice by the CUO, the industrial user may petition to appeal the terms of the permit within thirty (30) days of the notice.

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

b. In its petition, the appealing party must indicate the permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to be placed on the permit.

c. The effectiveness of the permit shall not be stayed pending a reconsideration of the Board. If, after considering the petition and any arguments put forth, the CUO or the Board determines that reconsideration is proper, it shall remand the permit back to the CUO for reconsideration and possible re-issuance. Those permit provisions being reconsidered by the CUO shall be stayed pending re-issuance.

d. The Board of Municipal Utilities' decision not to reconsider a final permit shall be considered final administrative action for purposes of judicial review.

e. Aggrieved parties seeking judicial review of the final Control Authority action must do so by filing a complaint with the court of competent jurisdiction.

3. Permit Action. The CUO may modify the permit for good cause including, but not limited to, the following:

a. To incorporate any new or revised federal, state, or local pretreatment standards or requirements;

b. Material or substantial alterations or additions to the discharger's operation processes or discharge volume or character which were not considered in drafting the effective permit.

c. A change in any condition in either the industrial user or the POTW elimination of the authorized discharge;

d. Information indicating that the permitted discharge poses a threat to the Avon Lake collection and treatment systems, POTW personnel, or the receiving waters;

e. Violation of any terms or conditions of the permit;

f. Misrepresentation or failure to disclose fully all relevant facts in the permit application or in any required reporting;

g. Revision of or a grant of variance from such categorical standards pursuant to 40 CFR 403.13; or

h. To correct typographical or other errors in the permit;

i. To reflect transfer of the facility ownership and/or operation to a new owner/operator;

j. Upon request of the permittee, provided such request does not create a violation of any applicable requirements, standards, laws, rules, or regulations.

The filing of a request by the permittee for a permit modification, revocation and re-issuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

4. Permit Transfer. Permits may be reassigned or transferred to a new owner and/or operator with prior approval of the CUO:

a. The permittee must give at least thirty (30) days advance notice to the CUO;

b. The notice must include a written certification by the new owner which:

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

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

(3) Acknowledges full responsibility for complying with the existing permit.

5. Permit Termination. Pretreatment permits may be terminated for the following reasons:

a. Falsifying self-monitoring reports;

b. Tampering with monitoring equipment;

- c. Refusing to allow timely access to the facility premises and records;
- d. Failure to meet effluent limitations;
- e. Failure to pay fines;
- f. Failure to pay sewer charges;
- g. Failure to meet compliance schedules.

6. Permit Re-issuance. The user shall apply for permit re-issuance by submitting a complete permit application a minimum of ninety (90) days prior to the expiration of the user's existing permit.

7. Continuation of Expired Permits. An expired permit will continue to be effective and enforceable until the permit is re-issued if:

- a. The industrial user has submitted a complete permit application at least ninety (90) days prior to the expiration date of the user's existing permit;

- b. The failure to re-issue the permit, prior to expiration of the previous permit, is not due to any act or failure to act on the part of the industrial user.

8. Special Agreements. Nothing in these Regulations shall be construed as preventing any special agreement or arrangement between the POTW and any user whereby wastewater of unusual strength or character is accepted into the POTW and specially treated and subject to any payment or user charges, as may be applicable. However, no discharge which violates pretreatment standards will be allowed under the terms of such special agreements. If, in the opinion of the CUO, the wastewater may have the potential to cause or result in any of the following circumstances, no such special agreement will be made:

- a. Pass-through or interference;
- b. Endanger municipal employees or the public.

**Section 2.05 Significant Industrial User ("SIU")**. Notwithstanding any other provision of these Regulations, Significant Industrial Users shall be subject to the following requirements:

1. New connections and existing connections that subsequently become subject to these Regulations shall install and start-up any pretreatment technology prior to discharge and achieve compliance within 90 days after the commencement of discharge.

2. Users subject to subparagraph 1 above shall have ninety (90) days after commencement of discharge to submit a Compliance Report to the CUO updating the permit application, required by Title IV with actual production, flow, and pollutant data. The forms for this report will be supplied by the CUO.

3. The CUO, in accordance with Section 403.6 (c) (2), and (5), and (6) of the Federal Pretreatment Regulations (40 CFR §403), may convert categorical limits based on mass per unit of production to equivalent mass per day or concentration limits. Users subject to

**Comment [PL13]:** This refers to converting limits to equivalent concentration-based limits.

a production based standard shall then be required to comply with the equivalent limits in lieu of the promulgated standards.

4. A determination of significant noncompliance shall automatically institute the appropriate enforcement and penalty actions as outlined in Title V of these Regulations.

5. All significant industrial users shall be required to submit to the CUO Compliance Reports on the user's self-monitoring on a quarterly basis. The deadline for submittal shall be a part of each users specific permit conditions. Industrial users with categorical standards that require compliance with a BMP or pollution prevention alternative shall submit documentation to determine compliance with the standard when submitting quarterly self-monitoring reports.

Comment [PL14]: OAC 3745-3-06(E)(4)(f)

### **CHAPTER 3 - STANDARD CONDITIONS FOR DISCHARGE PERMITS**

All dischargers to the public sewers that are subject to the permit requirements of these Regulations shall also be subject to the following standard conditions and shall have them incorporated as a portion of their formal discharge permit.

#### **Section 3.01 General Conditions.**

1. **Severability.** The provisions of a discharge permit are severable, and, if any provision of the permit or the application of any provision of the permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of the permit shall not be affected thereby.
2. **Duty to Comply.** The permittee must comply with all conditions of the permit. Failure to comply with the requirements of the permit may be grounds for administrative action or enforcement proceedings including civil or criminal penalties, injunctive relief, and summary abatements:
3. **Duty to Mitigate.** The permittee shall take all reasonable steps to minimize or correct any adverse impact to the public treatment plant or the environment resulting from non-compliance with the permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the non-complying discharge.
4. **Permit Modifications.** The discharge permit may be modified in accordance with Chapter 2 of Title IV.
5. **Permit Termination.** The discharge permit may be terminated pursuant to the conditions of Chapter 2 of Title IV.
6. **Permit Appeals.** The permittee may petition to appeal the terms of the permit within thirty (30) days of the notice.  

This petition must be in writing; failure to submit a petition for review shall be deemed to be a waiver of the appeal. In its petition, the permittee must indicate the permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to be placed in the permit.

The effectiveness of the permit shall not be stayed pending a reconsideration by the Board. If, after considering the petition and any arguments put forth by the Chief of Utility Operations, the Board determines that reconsideration is proper, it shall remand the permit back to the Chief of Utility Operations for reconsideration and possible reissuance. Those permit provisions being reconsidered by the Chief of Utility Operations shall be stayed pending reissuance.

The Board of Municipal Utilities' decision not to reconsider a final permit shall be considered final administrative action for purposes of judicial review. The permittee seeking judicial review of the Board's final action must do so by filing a complaint with the court of competent jurisdiction.
7. **Permit Transfer.** Permits may be reassigned or transferred to a new owner and/or operator upon the written consent of the CUO in accordance with Chapter 2 of Title IV.

8. Duty to Reapply. If the permittee wishes to continue an activity regulated by the permit after the expiration date of the permit, the permittee must submit an application for a new permit at least 90 days before the expiration date of the existing permit.

9. Continuation of Expired Permits. An expired permit will continue to be effective and enforceable in accordance with Chapter 2 of Title IV.

10. Property Rights. The issuance of a permit does not convey any property rights of any sort or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any violation of federal, state, or local laws or regulations.

11. Dilution. The permittee shall not increase the use of potable or process water or, in any way, attempt to dilute an effluent as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the permit.

12. General Discharge Prohibitions. The permittee shall comply with all the general prohibitive discharge standards in these Regulations.

13. Compliance with Applicable Pretreatment Standards and Requirements. Compliance with the permit does not relieve the permittee from its obligations regarding compliance with any and all applicable local, state, and federal pretreatment standards and requirements including any such standards or requirements that may become effective during the term of the permit.

**Section 3.02 Certification Requirements**. All applications, reports, or information submitted to the Chief of Utility Operations must contain the following certification statement:

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

**Section 3.03 Signatures on Applications and Reports**. All applications, reports, or other documents required by these Regulations and submitted to Avon Lake Regional Water shall be signed as follows by an authorized representative of the industrial user. An authorized representative may be:

1. By ~~a~~<sup>A</sup> responsible corporate officer, if the Industrial User submitting the reports is a corporation. For the purpose of this paragraph, a responsible corporate officer means

(a) ~~e~~<sup>E</sup> either a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation; or who is duly authorized to legally bind the corporation.

(b) The manager of one or more manufacturing, production, or operation facilities, provided the manager:

Comment [PL15]: OAC 3745-3-06(F)(1)(b)

(i) Is authorized to make management decisions that govern the operation of the regulated facility, including having explicit or implicit duty of making major capital investment recommendations, and of initiating and directing other comprehensive measures, to assure long-term environmental compliance with environmental laws and regulations;

(ii) Can ensure that the necessary systems are established or that the necessary actions are taken to gather complete and accurate information for control mechanism requirements; and

(iii) Is assigned or delegated the authority to sign documents in accordance with corporate procedures.

2. By a general partner or proprietor if the Industrial User submitting the reports is a partnership or sole proprietorship respectively;

3. The principal executive officer having responsibility for the overall operation of the discharging facility if the Industrial User submitting the reports is a federal, state, or local governmental entity, or its agents; or

4. By a member or manager if the applicant is a limited liability company.

#### **Section 3.04 Operation and Maintenance of Pollution Controls.**

1. Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of the permit. Proper operation and maintenance includes but is not limited to: effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

2. Duty to Halt or Reduce Activity. Upon reduction of efficiency of operation or loss or failure of all or part of the treatment facility, the permittee shall, to the extent necessary to maintain compliance with its permit, control its production or discharges or both until operation of the treatment facility is restored or an alternative method of treatment is provided. This requirement applies, for example, when the primary source of power of the treatment facility fails or is reduced. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.



3. Bypass of Treatment Facilities.

a. Bypass is prohibited unless it is unavoidable to prevent loss of life, personal injury, or severe property damage, or no feasible alternatives exist.

b. The permittee may allow bypass to occur which does not cause effluent limitations to be exceeded but only if it is also for essential maintenance to assure efficient operation.

c. Notification of bypass:

(1) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior written notice, at least ten (10) days before the date of the bypass to the Chief of Utility Operations,

(2) Unanticipated bypass. The permittee shall immediately notify the Chief of Utility Operations and submit a written notice to the POTW within five (5) days after the bypass. This report shall specify:

(i) A description of the bypass, its cause and duration;

(ii) Whether the bypass has been corrected; and

(iii) The steps being taken or to be taken to reduce, eliminate, and prevent a recurrence of the bypass.

4. Removed Substances. Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in accordance with Section 405 of the Clean Water Act (33 U.S.C. § 1345) and Subtitles C and D of the Resource Conservation and Recovery Act (40 CFR Parts 260-279).

**Section 3.05 Monitoring and Records.**

1. Monitoring Facilities. If so required by its/his permit, a user shall be required to provide and operate a suitable monitoring location and/or equipment to facilitate observation, sampling, and measurement of the discharge. Such monitoring locations and/or equipment shall be accessible and safely located and shall be constructed in accordance with plans approved by the Chief of Utility Operations. The monitoring location and/or equipment shall be installed by the user at his expense and shall be maintained by the user so as to be safe and accessible at all reasonable times.

2. Representative Sampling. Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge. All samples shall be taken at the monitoring points specified in the permit and, unless otherwise specified, before the effluent joins or is diluted by any other wastestream, body of water, or substance. All equipment used for sampling and analysis must be routinely calibrated, inspected, and maintained to ensure its accuracy. Monitoring points shall not be changed without notification to and the approval of the Chief of Utility Operations.

3. Flow Measurements. If flow measurement is required by the permit, the appropriate flow measurement devices and methods consistent with approved scientific

practices shall be selected and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, calibrated, and maintained to ensure that the accuracy of the measurements are consistent with the accepted capability of that type of device. Devices selected shall be capable of measuring flows with a maximum deviation of less than ten percent (10%) from true discharge rates throughout the range of expected discharge volumes.

4. Analytical Methods to Demonstrate Continued Compliance. All sampling and analysis required by the permit shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, otherwise approved by EPA, or as specified in the permit.

a. Grab samples shall be taken for pH, hexavalent chromium, cyanide, total phenols, oil and grease, sulfides, and volatile organic compounds. All other pollutants are done by flow proportional sampling and are representative of discharge.

b. Using protocols (including appropriate preservations) specified in 40 CFR 136 and appropriate US EPA guidance, multiple grab samples collected during a twenty-four-hour period may be composited prior to the analysis as follows: for hexavalent chromium, cyanide, total phenols, and sulfides, the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory.

Comment [PL16]: OAC 3745-3-06(H)(7)

5. Additional Monitoring by the Permittee. If the permittee monitors any pollutant more frequently than required by the permit, using test procedures identified in these Regulations, the results of this monitoring shall be included in the permittee's self-monitoring reports.

6. Inspection and Entry. The permittee shall allow the Chief of Utility Operations or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

a. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of the permit;

b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under the permit;

d. Sample or monitor, for the purposes of assuring permit compliance, any substances or parameters at any location; and

e. Inspect any production, manufacturing, fabricating, or storage area where pollutants, regulated under the permit, could originate, be stored, or be discharged to the sewer system.

7. Retention of Records.

a. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by the permit, and records of all data used to complete the application for the permit, for a period of at least three (3) years from the date of the sample, measurement, report or application. This period may be extended by request of the Chief of Utility Operations at any time.

b. All records that pertain to matters that are the subject of special orders or any other enforcement or litigation activities brought by the Board shall be retained and preserved by the permittee until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.

8. Record Contents. Records of sampling and analyses shall include:

a. The date, exact place, time, and methods of sampling or measurements, and sample preservation techniques or procedures;

b. Who performed the sampling or measurements;

c. The date(s) analyses were performed;

d. Who performed the analyses;

e. The analytical techniques or methods used; and

f. The results of such analyses; and

g. The documentation showing chain of custody.

9. Falsifying Information. Knowingly making any false statement on any report or other document required by this permit or knowingly rendering any monitoring device or method inaccurate, is a crime and may result in the imposition of criminal sanctions and/or civil penalties.

### **Section 3.06 Additional Reporting Requirements.**

1. Planned Changes. The permittee shall give notice to the Chief of Utility Operations 90 days prior to any facility expansion, production increase, or process modifications which results in new or substantially increased discharges or a change in the nature of the discharge, including the listed or characteristic hazardous wastes for which the permittee has submitted initial notification under 40 CFR 403.12 (P).

2. Anticipated Noncompliance. The permittee shall give a 30 day advance notice to the Chief of Utility Operations of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

3. Automatic Resampling. If the results of the permittee's wastewater analysis indicates a violation has occurred, the permittee must notify the Chief of Utility Operations within 24 hours of becoming aware of the violation and repeat the sampling and pollutant analysis and submit, in writing, the results of this repeat analysis within 30 days after becoming aware of the violation. Where the control authority has performed the sampling and analysis in lieu of the

industrial user, the control authority shall perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform the repeat analysis.

Comment [PL17]: OAC 3745-3-06(H)(6)

4. **Duty to Provide Information.** The permittee shall furnish to the Chief of Utility Operations within 30 days any information which the Chief of Utility Operations may request to determine whether cause exists for modifying, revoking, re-issuing, or terminating the permit, or to determine compliance with the permit. The permittee shall also, upon request, furnish to the Chief of Utility Operations within thirty (30) days copies of any records required to be kept by the permit.

5. **Operating Upsets.** Any permittee that experiences an upset in operations that places the permittee in a temporary state of noncompliance with the provisions of the permit shall inform the Chief of Utility Operations within 24 hours of becoming aware of the upset.

A written follow-up report of the upset shall be filed by the permittee with the Chief of Utility Operations within five (5) days. The report shall specify:

- a. Description of the upset, the cause(s) thereof, and the upset's impact on the permittee's compliance status;
- b. Duration of noncompliance, including exact dates and times of noncompliance, and if not corrected, the anticipated time the noncompliance is expected to continue; and
- c. All steps taken or to be taken to reduce, eliminate, and prevent recurrence of such an upset.

The report must also demonstrate that the treatment facility was being operated in a prudent and workmanlike manner.

A documented and verified operating upset shall be an affirmative defense to any enforcement action brought against the permittee for violations attributable to the upset event.

6. **Annual Publication.** A list of all industrial users which during the previous twelve (12) months, were in significant noncompliance of applicable Pretreatment Standards or other Pretreatment Requirements shall, at least, annually be published by the Chief of Utility Operations in a daily newspaper within the service area. Significant noncompliance shall be determined in accordance with Title V of these Regulations.

7. **Recovery of Costs Incurred.** In addition to civil and criminal liability, the permittee violating any of the provisions of a permit or these Regulations or causing damage to or otherwise inhibiting the City of Avon Lake wastewater disposal system shall be liable to the City for any expense, loss, or damage caused by such violation or discharge. The Chief of Utility Operations shall bill the permittee for the costs incurred by the City for any cleaning, repair, or replacement work caused by the violation or discharge.

8. **Confidential Information.** Any information and/or data supplied by the user in reports, questionnaires, monitoring programs, and inspections may be made available to the public or other governmental agencies unless the user requests and demonstrates that such information should be kept confidential. Any information submitted by the user claimed as confidential must be in accordance with 40 CFR Part 2 (Public Information). Such information

may be made available to the federal, state, or local authorities during a judicial review or enforcement proceeding involving the user.

Information and data having to do with the quality and quantity of the wastewater discharges of a user shall not qualify as confidential.

**[END OF TITLE IV]**

## **TITLE V - ENFORCEMENT**

### **CHAPTER 1 - PENALTIES AND DEFENSE**

**Section 1.01 Judicial Remedies.** If any person or entity violates any provision of Title II-Water System, Title III-Sewers or Title IV-Discharge Permits, or discharges sewage, industrial wastes, or other wastes into the public sewer system contrary to any of the provisions of these Regulations or any order or permit issued hereunder, the Chief Utilities Executive may commence an action against such person or entity for appropriate legal and/or equitable relief in the Common Pleas Court for Lorain County.

**Section 1.02 Injunctive Relief.** Whenever a person or entity violates any provision of Title II-Water System, Title III-Sewers or Title IV-Discharge Permits, or violates or continues to violate any of the provisions of these Regulations or any permit or order issued hereunder, the Chief Utilities Executive may petition the Court for the issuance of a preliminary or permanent injunction or both, as may be permitted by the Ohio Revised Code, which restrains or compels the activities on the part of the person or entity.

#### **Section 1.03 Civil Penalties.**

1. Any person or entity violates any provision of Title II-Water System, Title III-Sewers or Title IV-Discharge Permits, or violates or continues to violate any of the provisions of these Regulations or any order or permit issued hereunder, shall be liable to Avon Lake Regional Water for a civil penalty of not more than one thousand dollars (\$1,000.00) per violation, to be assessed by the Chief Utilities Executive, plus actual damages incurred by Avon Lake Regional Water, for as long as the violation continues. In addition to the above described penalty and damages, Avon Lake Regional Water may recover attorney's fees, court costs, and all other expenses associated with all such enforcement activities, including sampling and monitoring expenses.

2. Avon Lake Regional Water shall take all action necessary to recover all such penalties, damages, fees, and costs. In determining the amount of the penalty to be assessed and damages to be recovered, Avon Lake Regional Water shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the violation, corrective actions by the person or entity, the compliance history of the person or entity, and any other factor as justice requires.

#### **Section 1.04 Criminal Penalties.**

##### **1. Violations.**

a. Any person or entity who violates any provision of these Regulations or any orders or permits issued hereunder shall, upon conviction, be guilty of a misdemeanor, punishable by a fine not to exceed one thousand dollars (\$1,000.00) per violation per day or imprisonment for not more than one year or both.

b. In the event of more than one conviction described in Subparagraph 1(a) above, the person or entity shall be punished by a fine not to exceed three thousand dollars (\$3,000.00) per violation per day or imprisonment for not more than three years or both.

2. Falsifying Information.

a. Any person or entity who knowingly makes any false statements, representations, or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to these Regulations, or wastewater permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under these Regulations shall, upon conviction, be punished by a fine of not more than one thousand dollars (\$1,000.00) per violation or imprisonment for not more than one year or both.

b. In the event of more than one conviction described in subparagraph (1) above, the person or entity shall be punished by a fine not to exceed three thousand dollars (\$3,000.00) per violation or imprisonment for not more than three years or both.

**Section 1.05 No Waiver.** The Board, the CUE, or the CUO may refer any person or entity to the appropriate officials for the initiation of investigation, prosecution, or other proceedings for a criminal violation under these Regulations without commencing enforcement proceedings outlined in this Chapter. The failure or delay by the Board to enforce any of these Regulations shall not operate as a waiver or otherwise preclude the Board's enforcement of these Regulations at a later time, subject to the applicable statute of limitations. Additionally, no waiver shall be enforceable against the Board unless such waiver is in writing and signed by a duly authorized person.

**Section 1.06 Affirmative Defenses.**

1. Treatment Upsets.

a. Any industrial user which experiences an upset in operations that places it in a temporary state of noncompliance, which is not the result of operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation, shall inform the Chief of Utility Operations thereof immediately upon becoming aware of the upset. Where such information is given orally, a written report thereof shall be filed by the user within five days after the upset. The report shall contain:

(1) A description of the upset, its cause(s), and impact on the discharger's compliance status

(2) The duration of noncompliance, including exact dates and times of noncompliance, and if the noncompliance is continuing, the time by which compliance is reasonably expected to be restored.

(3) All steps taken or planned to reduce, eliminate, and prevent recurrence of such an upset.

b. An industrial user which complies with the notification provisions of this Section in a timely manner shall have an affirmative defense to any enforcement action brought by the Chief Utilities Executive for any noncompliance with these Regulations or an order or permit issued hereunder by the user which arises out of violations attributable to and alleged to have occurred during the period of the documented and verified upset.

2. Treatment Bypasses.

a. A bypass of the treatment system is prohibited unless all of the following conditions are met:

(1) The bypass of the treatment system is prohibited unless all of the following conditions are met:

(2) There was no feasible alternative to the bypass, including the use of auxiliary treatment or retention of the wastewater; and

(3) The industrial user properly notified the Chief of Utility Operations as described in subparagraph b below.

b. Industrial users must provide immediate notice to the Chief of Utility Operations upon discovery of an unanticipated bypass. If necessary, the Chief of Utility Operations may require the industrial user to submit a written report explaining the cause(s), nature, and duration of the bypass, and the steps being taken to prevent its recurrence.

c. An industrial user may allow a bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it is for essential maintenance to ensure efficient operation of the treatment system. Industrial users anticipating a bypass must submit notice to the Chief of Utility Operations at least 10 days in advance. The Chief of Utility Operations may only approve the anticipated bypass if the circumstances satisfy those set forth in this Section.

**Section 1.07** Notification of Violation.

1. Whenever the Chief Utilities Executive or the Chief of Utility Operations finds that any person or entity has violated or is violating any provision of Title II-Water System, Title III-Sewers or Title IV-Discharge Permits, or violates or continues to violate any of the provisions of these Regulations or any permit or order issued under these Regulations, the Chief Utilities Executive shall serve upon said person or entity a written Notice of Violation by U.S. Certified Mail, return receipt requested. The Notice of Violation shall include a detailed description of the alleged violation for which action may be commenced by the Board, and an explanation of the recipient's required actions pursuant to these Regulations.

2. Within thirty (30) days of the receipt of the notice, the notified person or entity shall submit in writing to the Chief Utilities Executive, an explanation of the cause of the violation and a plan for the satisfactory correction and prevention thereof, including specific required actions and time schedules for completing the same.

3. Submission of the plan in no way relieves the person or entity of liability for any violation occurring before or after receipt of the Notice of Violation.

4. A Notice of Violation containing any violation of Chapter 3734 of the Ohio Revised Code shall also comply with the requirements of Section 3734.101(B) of the Ohio Revised Code, including a copy of the Notice of Violation shall be sent by U.S. Certified Mail to the Director of the Ohio Environmental Protection Agency and the Ohio Attorney General.



**Section 1.08 Show Cause Hearing.**

1. Any person who or entity which has been cited for a violation and upon whom the Chief of Utility Operations has recommended enforcement actions be imposed shall, upon written request to the Board made within thirty (30) days of receipt of the Notice of Violation, have the opportunity to show cause, in an evidentiary hearing before the Board, why the enforcement actions should not be imposed ("Show Cause Hearing"). Should the person or entity fail to make a written request for a Show Cause Hearing within thirty (30) days after receipt of the Notice of Violation, and the person or entity shall be deemed to have waived any right to a Show Cause Hearing, and the Board shall impose such fine or penalty against such person or entity as it deems appropriate under the facts.

2. Following the Board's receipt of a timely written request by the cited person or entity for a Show Cause Hearing, the Board shall cause a notice of the Show Cause Hearing to be served on the person or entity cited personally or by certified mail (return receipt requested).

3. The notice of the Show Cause Hearing shall be served at least ten (10) days prior to the hearing and shall include the date, time, and place of the hearing, the proposed enforcement action, and the reasons for such actions. The duly notified person or entity wishing to appear at and participate in the Hearing must so notify the Chief of Utility Operations not less than five (5) days prior to the date of the hearing. The Show Cause Hearing shall be tape recorded, and the Board shall maintain the recording of the Show Cause Hearing as required by these Regulations and law. All witnesses at the Show Cause Hearing shall testify under oath. The person or entity requesting the Show Cause Hearing may be represented by counsel, may confront and examine all witnesses, and may present all evidence concerning the alleged violation.

4. After the Show Cause Hearing, the Board shall promptly inform the cited person or entity, by written notice, of the determination of the Board regarding the cited violation and the enforcement action, if any, to be taken including the assessment of any fine or penalty.

**Section 1.09 Consent Orders.**

1. In order to assure correction of a violation, the Chief Utilities Executive may enter into a Consent Order with the person or entity responsible for the noncompliance.

2. The Consent Order will be a written agreement between the parties that assures voluntary compliance and will include specific action to be taken by the person or entity in violation to correct the noncompliance within a specified period of time. The Consent Order may contain such other provisions or conditions reasonably determined by the CUE.

**Section 1.10 Compliance Orders.**

1. When the CUE finds that a person or entity has violated or continues to violate these Regulations or a permit or order issued hereunder, he may issue a Compliance Order to the responsible person or entity directing that, following a specific time period, sewer or water service shall be discontinued unless adequate correction to the noncompliance has been completed. Such Orders may contain any requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of a pretreatment technology or the implementation of additional self-monitoring and management practices.

2. All Compliance Orders shall include the opportunity for the appropriate person or entity to show cause in accordance with this Chapter.

3. All Compliance Orders shall be served on the person or entity who has violated or continues to violate these Regulations personally or by certified mail (return receipt requested).

**Section 1.11 Cease and Desist Orders.** When the CUE finds that a person or entity has violated or continues to violate these Regulations or any permit or order issued hereunder, the CUE may issue an order to cease and desist all such violations and direct the person or entity in noncompliance to:

1. Comply with these Regulations immediately; and
2. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

**Section 1.12 Emergency Suspensions.**

1. The CUE Operations shall have the authority to require or, when circumstances so dictate, cause the cessation of any discharge into the City's wastewater treatment and public sewer system which either significantly endangers the health or welfare of the public or environment, or poses a significant threat to the effective operation of the Water Pollution Control Center. The Chief of Utility Operations shall give notice, if possible, to the owner, lessor, occupant, agent, officer, or authorized representative of the user prior to causing the cessation of the discharge. The emergency cessation shall be accomplished using reasonable measures under the circumstances.

2. The CUE shall have the authority to terminate the service of any person or entity who refuses reasonable access to the user's premise by representatives of the City for the purpose of inspection or monitoring. Such termination shall take place no sooner than 24 hours after notice of proposed termination has been delivered and provided that reasonable access continues to be refused.

3. The CUE shall have the authority to terminate the service of any user who makes a new connection to the public sewer system without authorization by the CUE or his designee. Such termination shall take place no sooner than 24 hours after written notice of the proposed termination to the user.

4. After taking any of the actions described in subparagraphs (1), (2), or (3) of this Section, the CUE shall give the affected user a written notice of violation and, either concurrently or in a separate writing, of the precondition, including the payment of fines, for restoration of service. These notifications shall be made as soon as practicable. Any affected user can request an opportunity to show cause in accordance with this Chapter as to why the preconditions for the restoration of service should not be enforced.

5. If a user upon whom the notice prescribed by this Section refuses to receive said notice, then written notice shall not be required, provided that notice is given to the extent possible under the circumstances. For the purposes of subparagraphs (2) and (3) of this Section, the time of notice shall be the time receipt of notice was refused.

**Section 1.13 Termination of Service.**

1. If an Order referenced in these Regulations is not complied with in accordance with its terms, then the CUE shall terminate service to that person within 24 hours of notice given to the affected user regarding the scheduled termination. Notice shall be given in accordance with this Chapter.
2. Service terminated in accordance with subparagraph (1) of this Section shall not be restored until the above referenced Order is complied with and the appropriate reconnection charge and applicable fine, if any, are paid, or as the Board may direct in a subsequent Order.
3. The decision issued by the Board pursuant to this Chapter shall constitute a final action from which an appeal may be made to a court of competent jurisdiction.

**Section 1.14 Annual Publication of Significant Violations.** The Chief of Utility Operations shall publish, at least annually, in the daily newspaper circulated in the service area, a description of those industrial users which were found to be in significant noncompliance, as defined below, with any provisions of these Regulations or any permit or order issued hereunder during the period since the previous publication.

For industrial users which do not fall under the category of a Significant Industrial User, a Significant Noncompliance ("SNC") shall be determined by meeting the criteria in Section 1.14 items 1.c., 1.d., or 5 below.

For significant industrial users, a SNC shall be determined by any of the following:

1. Violations of Discharge Limits:
  - a. Chronic Violations – Sixty-six percent (66%) or more of the measurements exceed the same daily maximum limit, ~~or the same average limit, or instantaneous limit~~ in a six-month period (any magnitude exceeding the limit) for the same pollutant parameter. Chronic violations are applicable to any permitted monitoring point.
  - b. Technical Review Criteria (TRC) Violations – Thirty-three percent (33%) or more of the measurements for each pollutant parameter exceed the same daily maximum, ~~or the same average limit, or instantaneous limit~~ by more than the TRC in a six-month period. TRC violations are applicable to any permitted monitoring point.

Group 1 for Compatible Pollutants (BOD, TSS, Fats, Oil and Grease): TRC = 1.4 or 40% over the Limit

Group 2 for all other Pollutants (all other pollutants, except pH): TRC = 1.2 or 20% over the Limit
  - c. Any other violation of a discharge limit (average or daily max.) that the CUO believes has caused, alone or in combination with other discharges, interference (e.g., slug loads) or pass-through or endangered the health of Avon Lake Regional Water personnel or the public.

**Comment [PL18]:** There is a distinction between what a SIU does to be in SNC and what a non-SIU does to be in SNC.  
OAC 3745-3-03(C)(2)(h)

d. Any discharge of a pollutant which has caused imminent endangerment to human health, welfare, or the environment or has resulted in Avon Lake Regional Water's exercise of its emergency authority to halt or prevent such a discharge.

2. Violations of compliance schedule milestones for starting construction, completing construction, or attaining final compliance by ninety (90) days or more after the schedule date.

3. Failure to provide reports for compliance schedules, self-monitoring data, or categorical standards (baseline monitoring reports, 90-day compliance reports, etc.) within thirty (30) days from the due date.

4. Failure to accurately report noncompliance.

5. Any other violation or group of violations (including violations of BMPs) that the CUO determines will adversely affect the operation or implementation of the Avon Lake Pretreatment Program.

A determination of significant noncompliance shall automatically be cause for the Board's commencing the appropriate enforcement and penalty actions as outlined in this Title V.