

ORDINANCE NO. 7513

AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO LEASE LAND FROM THE STATE OF OHIO AND DECLARING AN EMERGENCY

WHEREAS, the municipality leased a portion of the Miami & Erie Canal from the State of Ohio for a period of 20 years at a cost of \$204.00 per year; and,

WHEREAS, the City invested municipal funds to install pavement, drainage and other improvements to enable public use of the leased land as a free public parking lot; and,

WHEREAS, The current lease will expire on June 30, 2013, and the State of Ohio has proposed to lease the land to the municipality for an additional term of 15 years at a cost of \$315.00 per year, subject to adjustment of the annual rent at 5 year intervals, or, in the alternative, to sell the land to the municipality for \$250,000.00; and,

WHEREAS, Council finds that maintenance of the existing free public parking facility in the 300 block of Perry Street is supportive of governmental investments to encourage commercial activity in and redevelopment of the downtown business district; and,

WHEREAS, Council further finds that it is advantageous to rent the land rather than purchase it at the proposed price;

Now therefore, be it enacted by the Council of the Municipality of Defiance, Ohio, that:

Section 1: The City Administrator is authorized and directed to execute the Canal Land Lease pertaining to the parcel identified as Ohio Department of Natural Resources File No. M-199 Defiance and deliver the same to the Ohio Department of Natural Resources.

Section 2: It is found and determined that all legislative actions pertaining to the adoption of this Ordinance were taken in Public Session and that all deliberations that affected or influenced any such legislative act, including all deliberations in Committee, were conducted in Public Session duly convened in accordance with law.

Section 3: This Ordinance is declared to be an emergency measure necessary to the preservation of the health, safety and welfare of the community for the reason that execution of the proposed lease by June 30, 2013, is required to prevent a loss of occupancy rights that would otherwise occur upon expiration of the existing lease on that date. As such, this Ordinance shall be effective immediately upon passage by an affirmative vote of not less than 5 Members of Council and approval of the Mayor.

Passed: July 9, 2013

Tim Holtsberry
President of Council

Votes in Favor of Adoption: 7

Votes Opposed to Adoption: 0

Attest: Lisa Elders, Clerk

Approved: July 9, 2013

Bob Armstrong
Mayor

ORDINANCE NO. 7515

AN ORDINANCE AMENDING CHAPTER 925 OF THE CODIFIED ORDINANCES, APPROVING MODIFICATIONS TO THE ENFORCEMENT RESPONSE PLAN AND DECLARING AN EMERGENCY

WHEREAS, amendments to the Code of Federal Regulations (40 CFR Part 403) and Ohio Administrative Code (OAC 3745-3) necessitate amendment of Chapter 925 of the Codified Ordinances to conform municipally permitted Industrial Discharge Limits and related enforcement policies to the requirements of Federal and State Law; and,

WHEREAS, all proposed amendments to Chapter 925 of the Codified Ordinances and corresponding modifications to the municipality's Enforcement Response Plan have been reviewed by the Ohio Environmental Protection Agency;

Now therefore, be it enacted by the Council of the Municipality of Defiance, Ohio, that:

Section 1: Section 925.02, Subdivision (33), Paragraphs A, B and C are amended to provide (deleted text ~~stricken~~, newly added text in *italics*):

925.02 DEFINITIONS.

(33) "Significant noncompliance" means industrial user violations which meet one or more of the following criteria:

- A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent or more of all of the measurements taken during a six-month period exceed, by any magnitude, ~~the daily maximum limit or the average limit for the same pollutant parameter~~ *a numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR 403.3(1).*
- B. Technical review criteria (TRC) violations, defined here as those in which thirty-three percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the ~~daily maximum limit or the average limit multiplied by the applicable TRC~~ *numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR 403.3(1)* multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH).
- C. Any other violation of a ~~pretreatment effluent limit~~ *Pretreatment Standard or Requirement, as defined by 40 CFR 403.3(1) (daily maximum, or longer-term average, instantaneous limit or narrative standard)* that the ~~City~~ *POTW* determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public).

Section 2: Section 925.02, Subdivisions (1)-(32), Section 925.02, Subdivision (34)-(43) and Paragraphs D, E, F, G and H, of Section 925.02, Subdivision (33) as enacted by Ordinance 5330, Passed October 15, 1991, remain in full force and effect without modification or amendment.

Section 3: Section 925.05, Subdivision (b)(1) Paragraph B is amended to provide (deleted text ~~stricken~~, newly added text in *italics*):

925.05 LIMITATIONS ON DISCHARGES TO PUBLIC SEWERS.

(b) Limitations on Wastewater Strength.

(1) Categorical pretreatment standards.

B. Existing sources shall comply with all applicable categorical pretreatment standards *including Best Management Practices* within three years of the standards' effective date, unless a shorter compliance time is specified. Existing sources which become categorical industrial users after the promulgation of an applicable categorical pretreatment standard shall be considered existing industrial users except where those users meet the definition of a new source.

Section 4: Section 925.05, Subdivision (b)(3) Paragraph B is amended to provide (deleted text ~~stricken~~, newly added text in *italics*):

925.05 LIMITATIONS ON DISCHARGES TO PUBLIC SEWERS.

(b) Limitations on Wastewater Strength.

(3) Local limitations.

B. Other Dischargers. Dischargers who have not been issued an industrial user discharge permit by the Superintendent establishing user-specific effluent limitations shall not discharge wastewater containing concentrations of the following materials exceeding the following uniform values:

Table 1
Local Limitations

<u>Material</u>	Maximum One-Day (24-Hour Composite) Concentration (mg/l)	Maximum Instantaneous Concentration (mg/l)
<i>Antimony</i>	9.00	
<i>Arsenic</i>	0.81	
Cadmium	0.001	
Copper	0.03	
Cyanide	0.01	
Lead	0.03	
Mercury		0.0002
<i>Molybdenum</i>	3.55	
Nickel	0.01	
Total Chromium	0.005	
<i>Hexavalent Chromium</i>	1.40	
<i>Selenium</i>	0.27	
Zinc	0.11	
Oil and Grease	*100	200
Ammonia	N/A	
Phenol	N/A	
Phosphorus	N/A	

* The Maximum "one-day" concentration for oil and grease shall be determined by averaging the results of four or more grab samples taken over an appropriate production period during any twenty-four hour period.

The maximum one-day concentration shall be determined by obtaining a composite sample of the wastewater collected over an appropriate production period during any twenty-four hour period. The sample may be either flow-proportioned or time proportioned. Where automatic composite sampling is not feasible, a minimum of four grab samples may be taken and composited over the twenty-four hour period.

Section 5: Section 925.05, Subdivision (a); Section 925.05, Subdivision (b)(1), Paragraphs A, C, D, E, F, and G; Section 925.05, Subdivision (b)(2); Section 925.05, Subdivision (b)(3), Paragraphs A, C and D; Section 925.05, Subdivision (c); and Section 925.05, Subdivision (d) as enacted by Ordinance 5330, Passed October 15, 1991, remain in full force and effect without modification or amendment.

Section 6: Section 925.06, Subdivision (f) is amended to provide (deleted text ~~stricken~~, newly added text in *italics*):

925.06 INDUSTRIAL USER DISCHARGE PERMITS; REPORTING.

(f) Compliance Reports.

(1) Categorical pretreatment standards.

A. Initial compliance reports. Within ninety days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source, following commencement of the discharge of wastewater into the POTW, any discharger subject to such standards shall submit to the City a report indicating the nature and concentration of all prohibited or regulated substances contained in its discharge and the average and maximum daily flow. Sampling and analysis shall be performed in accordance with procedures established in Section 925.09(a). The report shall state whether or not applicable standards or requirements are being met on a

consistent basis and, if not, what additional operation and maintenance or pretreatment is necessary to bring the discharger into compliance with the applicable standards or requirements. The report shall be signed and certified in accordance with the signatory and certification requirements specified in Section 925.08(d) and certified to by a qualified engineer. *In cases where the Standard requires compliance with a Best Management Practice or pollution prevention alternative, the discharger shall submit documentation as required by the City Administrator or the applicable Standards to determine compliance with the Standard. Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques unless time-proportional composite sampling or grab sampling is authorized by the City Administrator. Where time-proportional composite sampling or grab sampling is authorized, the samples must be representative of the discharge and the decision to allow the alternative sampling must be documented in the discharger's file for that facility or facilities. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows:*

- (1) cyanide, total phenols, and sulfides samples may be composited in a laboratory or in the field;*
- (2) oil and grease and volatile organics samples may be composited in the laboratory;*
- (3) composite samples for other parameters unaffected by compositing procedures as documented in approved EPA methodologies may be authorized by the City Administrator as appropriate.*

B. Periodic compliance reports. Any discharger subject to a categorical pretreatment standard set forth in this chapter, after the compliance date of the pretreatment standard, or, in the case of a new source, ~~after commencement of the discharge to the City following commencement of the discharge of wastewater into the POTW, shall submit to the City during the months of June and December, unless required more frequently by the City,~~ a report indicating the nature and concentration of prohibited or regulated substances in the effluent which are limited by the pretreatment standards *in June and December of each year unless required more frequently by the City Administrator. In addition, this* The required report shall include a record of measured or estimated average and maximum daily flows during the reporting period. ~~Costs for the All monitoring and analysis costs shall be borne by the discharger. The City, f~~ For good cause shown, the City Administrator may authorize the submission of these *twice yearly reports required by this paragraph* ~~at six month intervals ending in months other than those specified in this paragraph June and December. In cases where the Pretreatment Standard requires compliance with a Best Management Practice or pollution prevention alternative, the discharger shall submit documentation required by the City Administrator or the Pretreatment Standard to determine the compliance status of the discharger. A minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist. The City Administrator may authorize a lower minimum for facilities for which historical sampling data are available but shall in all events require a sufficient number of grab samples to assess and assure compliance with Applicable Pretreatment Standards and Requirements by the discharger.~~

(2) Non-categorical pretreatment standards.

A. Any significant non-categorical industrial user discharging to the POTW ~~shall must submit to the City at least once every six months (on dates specified by the Superintendent in the individual user's discharge permit)~~ a description of the nature, concentration and flow of the pollutants ~~required to be reported~~ *for which reporting is required by the industrial user's discharge permit at least once every six months on the dates specified by the Superintendent in the individual user's discharge permit. In cases where a local limit requires compliance with a Best Management Practice or pollution prevention alternative,*

the discharger must submit documentation required by the City Administrator to determine the compliance status of the discharger. These reports shall must be based on sampling and analysis performed in the period covered by the report. The City Administrator shall require a sufficient number of grab samples to assess and assure compliance with Applicable Pretreatment Standards and Requirements by the discharger.

B. The City Administrator may require any other dischargers to submit initial and/or periodic reports indicating the nature and concentration of prohibited or regulated substances in their discharge.

(3) Sampling and analysis. The periodic compliance reports specified in paragraphs (f)(1)(B), ~~and (f)(2) A and (f)(2) B hereof of this Section shall must~~ be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, ~~which data are~~ and representative of conditions occurring during the reporting period. The self-monitoring provisions specified in Section 925.08(c), the signatory and certification provisions specified in Section 925.08(d) and the measurement and monitoring provisions specified in Section 925.09(a) shall be followed. The frequency of sampling shall be prescribed in the industrial user's discharge permit where applicable, or otherwise by the Superintendent. ~~This s~~ Sampling and analysis may be conducted by the City ~~and/or a municipally-designated~~ contractor in lieu of the industrial user. If the City has collected all the information required for the initial compliance report and/or ~~the one or more~~ periodic compliance reports, ~~may not be required~~ *relieved of the obligation to submit the reports by the City Administrator. In the event an Industrial User subject to periodic compliance reporting requirements under paragraphs (f)(1)(B), (f)(2) A or (f)(2) B of this Section monitors any regulated pollutant at the appropriate sampling location more frequently than required using the appropriate procedures, the results of this monitoring shall be included in the report.*

Section 7: Section 925.06, Subdivisions (a)-(e) as enacted by Ordinance 5330, Passed October 15, 1991, remain in full force and effect without modification or amendment.

Section 8: Section 925.07, Subdivision (c) is amended to provide (deleted text ~~stricken~~, newly added text in *italics*):

925.07 NOTIFICATION REQUIREMENTS FOR INDUSTRIAL USERS.

(c) Accidental Discharges, Operation Upsets and Slugloads. Dischargers shall notify the City immediately upon becoming aware of any accidental discharge, operation upset or slugload. *Significant Industrial Users are also required to notify the POTW immediately of any changes at the user's facility affecting potential for a Slug Discharge.* Such notification shall include:

(1) Immediate contact, by telephone, with the Superintendent of the Wastewater Treatment Plant to provide awareness of the discharge;

(2) A written report within five days specifying:

A. A description of the discharge, the cause thereof and the discharge's impact on any limits;

B. The amount/volume and duration of the discharge, including exact times and dates;

C. The time by which the discharge will be discontinued; and,

D. All steps taken or to be taken to reduce, eliminate or prevent recurrence of such a discharge in the future.

Section 9: Section 925.07, Subdivision (a); Section 925.07, Subdivision (b); and Section 925.07, Subdivision (d); as enacted by Ordinance 5330, Passed October 15, 1991, remain in full force and effect without modification or amendment.

Section 10: Section 925.08, Subdivision (c) is amended to provide (deleted text ~~stricken~~, newly added text in *italics*):

925.08 GENERAL REQUIREMENTS FOR INDUSTRIAL USERS.

(c) Self-Monitoring. The City may require dischargers to self-monitor their wastewater and analyze its characteristics to properly define the concentration of various pollutants and to ascertain compliance with the limits defined in Section 925.05 and any discharge permit or order issued under the provisions of this Chapter. Costs for all self-monitoring efforts shall be borne by the discharger. Related requirements include:

(1) Re-sampling requirement.

A. If sampling performed by the discharger indicates a violation, the discharger shall notify the City within twenty-four

hours of becoming aware of the violation. The discharger shall also repeat the sampling and analysis, and submit the results of the repeat analysis to the City within thirty days after becoming aware of the violation. ~~However, the discharger may not be required to re-sample if:~~

B. If sampling performed by the City or a municipally-designated contractor acting in lieu of the industrial user pursuant to Section 925.06(f)(3) indicates a violation, the City Administrator must notify the discharger within twenty-four hours of the City becoming aware of the violation and:

*1. repeat the sampling and analysis; or,
2. direct the discharger to repeat the sampling and analysis and submit the results of the repeat analysis to the City within thirty days, or within such lesser period of time as the City Administrator may reasonably require;*

C. The City Administrator may relieve the discharger of the obligation to resample otherwise imposed by Paragraph A or B of this sub-Section if:

A. 1. The City performs sampling at the site of the violation at a frequency of at least once per month; or,

*B. 2. The City performs sampling at the site of the violation between the time when the ~~discharger performs its~~ initial sampling *is conducted* and the time when the discharger or City receives the results of this sampling.*

(2) Additional self-monitoring. If the discharger monitors any pollutant more frequently than required ~~by the City using improved approved analytical methods as specified herein~~, the results of such monitoring shall be reported to the City.

Section 11: Section 925.08, Subdivision (d), is amended to provide (deleted text ~~stricken~~, newly added text in *italics*):

925.08 GENERAL REQUIREMENTS FOR INDUSTRIAL USERS.

(d) Signatory and Certification Requirements.

(1) All reports required by the City shall be signed by an authorized representative of the industrial user. An authorized representative shall be:

A. A responsible corporate officer if the discharger is a corporation. This includes the president, secretary, treasurer or a vice-president of the corporation in charge of principal business functions.

B. A general partner or proprietor if the discharger is a partnership or sole proprietorship, ~~respectively.~~

C. A principal executive officer or director having responsibility for the overall operation of the discharging facility if the discharger is a Federal, State or local governmental entity, ~~or their agents.~~

D. A duly authorized representative of ~~the an~~ individuals designated in paragraphs (d)(1)A, (d)(1)B ~~and or~~ (d)(1)C ~~hereof~~ of this Section if such representative is responsible for the overall operation of the facilities from which the industrial discharge originates or has ~~overall company~~ ultimate responsibility for ~~discharger's~~ environmental ~~matters~~ compliance, and ~~if written authorization~~ *satisfactory evidence of the individual's authority is submitted to the Superintendent in writing. The duly authorized employee must be an individual holding a position that is vested with responsibility for the overall operation of the discharging facility or the Pretreatment Program. The written statement attesting to the representative's position and authority to act on behalf of the discharger with respect to Pretreatment Program compliance must signed by the principal executive officer or ranking elected official and submitted to the Approval Authority prior to or together with the report being submitted.* If an authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or ~~overall~~ responsibility for environmental *compliance* ~~matters-for-the-company~~, a new authorization satisfying the above requirements must be submitted to the Superintendent before any reports to be signed by an authorized representative can be submitted.

Section 12: Section 925.08, Subdivisions (a) and (b) and Section 925.07, Subdivisions (e), (f), (g), (h), (l), (j), (k) and (l) as enacted by Ordinance 5330, Passed October 15, 1991, remain in full force and effect without modification or amendment.

Section 13: Section 925.09, Subdivision (d), is amended to provide (deleted text ~~stricken~~, newly added text in *italics*):

925.09 GENERAL CONDITIONS FOR INDUSTRIAL USERS.

(d) Records Retention. All dischargers subject to this chapter (*including documentation associated with Best Management Practices*) shall retain and preserve, for not less than three years, any records, books, documents, memoranda, reports and correspondence, and any and all summaries thereof, relating to monitoring, sampling and chemical analyses made by or in behalf of the discharger in connection with its discharge. All records which pertain to matters which are the subject of any enforcement or litigation activities brought by the City pursuant hereto shall be retained and preserved by the discharger until all enforcement activities have concluded and all periods of limitations with respect to any and all administrative or judicial appeals have expired.

Section 14: Section 925.09, Subdivisions (a), (b) and (c), and Section 925.09, Subdivisions (e) and (f), as enacted by Ordinance 5330, Passed October 15, 1991, remain in full force and effect without modification or amendment.

Section 15: The amendments to Chapter 925 enacted by this Ordinance shall not affect any right or liability accrued under Chapter 925 as enacted and in effect on the date of the event giving rise to such right or liability. All Sections of Chapter 925 of the Codified Ordinances not expressly amended by Section 1, 3, 4, 6, 8, 10, 11 or 13 of this Ordinance are ratified and confirmed and shall remain in full force and effect without modification.

Section : *The Enforcement Response Plan for the City of Defiance Pretreatment Program*, as adopted on February 17, 1993, and modified by all subsequent amendments thereto, including those most recently approved by the Ohio Environmental Protection Agency on March 19, 2013, is hereby approved and the City Administrator is directed to enforce Chapter 925 and related provisions of the Codified Ordinances in conformity with *The Enforcement Response Plan for the City of Defiance Pretreatment Program* as so amended.

Section 17: It is found and determined that all legislative actions pertaining to the adoption of this Ordinance were taken in Public Session and that all deliberations that affected or influenced any such legislative act, including all deliberations in Committee, were conducted in Public Session duly convened in accordance with law.

Section 18: This Ordinance is declared to be an emergency measure necessary to the preservation of the health, safety and welfare of the community for the reason that immediate adoption of the Ordinance and submission of the same to the Director of Environmental Protection is required to achieve regulatory compliance. As such, Sections 1-3, and 5-18 of this Ordinance shall be effective immediately upon passage by an affirmative vote of not less than 5 Members of Council and approval of the Mayor. The discharge limits established by Section 4 of this Ordinance shall take effect immediately upon approval by the Director of Environmental Protection.

Passed: July 9, 2013

Tim Holtsberry
President of Council

Votes in Favor of Adoption: 7

Votes Opposed to Adoption: 0

Attest: Lisa Elders, Clerk

Approved: July 9, 2013

Bob Armstrong
Mayor