

CODIFIED ORDINANCES OF BEACHWOOD

PART NINE - STREETS AND PUBLIC SERVICES CODE

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CODIFIED ORDINANCES OF BEACHWOOD  
PART NINE - STREETS AND PUBLIC SERVICES CODE

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TITLE ONE - Street and Sidewalk Areas  
Chap. 901. Street Excavations.

CHAPTER 901  
Street Excavations

901.01 Permit required.	901.04 Barricades.
901.02 Application for permit; deposit.	901.05 Warning lights.
901.03 Restoration of pavement.	901.99 Penalty.

CROSS REFERENCES

Openings by Municipality - see Ohio R. C. 723.02  
Excavation liability - see Ohio R. C. 723.49 et seq.  
Digging, excavating and piling earth on streets - see  
Ohio R. C. 5589.10  
Damage or removal of barricades or warning lights - see  
GEN. OFF. 660.09  
Storage of material in street - see GEN. OFF. 660.13  
Bonds for tree lawn and street excavations - see BLDG. 1329.11  
Starting work without permit - see ADM. 143.05

**901.01 PERMIT REQUIRED.**

No person, firm or corporation shall make any opening or excavation in any street, alley sidewalk or public way within the City unless a permit to make such opening has been obtained prior to commencement of the work, as hereinafter provided.  
(1964 Code §50.01)

**901.02 APPLICATION FOR PERMIT; DEPOSIT.**

Each permit for making such opening shall be confined to a single project and shall be issued by the Building Commissioner or other proper administrative officer. Application shall be made on a form prescribed by the Service Director and/or Staff Engineer, giving the exact location of the proposed opening, the kind of paving, the area and depth to be excavated and such other facts as the Service Director and/or Staff Engineer may deem necessary. The permit shall be issued only after a cash deposit sufficient to cover the cost of restoration, as determined by the Service Director and/or Staff Engineer, has been deposited with the Building Department, conditioned upon prompt and satisfactory refilling of excavations and restoration of all surfaces disturbed. The fee for such permit, payable prior to issuance of the permit, shall be that

901.03 RESTORATION OF PAVEMENT.

(a) The restoration of the pavement or other surface shall be performed under the direction and to the satisfaction of the Service Director and/or Staff Engineer and in accordance with regulations approved by him.

(Ord. 2006-109. Passed 7-10-06.)

(b) Upon failure or refusal of the permittee to satisfactorily fill the excavation, restore the surface and remove all excess materials within the time specified in the permit or, where not specified therein, within a reasonable time after commencement of the work, the City may proceed without notice to make such filling and restoration and the cost thereof shall be deducted from the deposit posted under Section 901.02. If the cost of such restoration should exceed the amount of such deposit, the proper officer of the City shall proceed to collect the remainder due from such permittee and no permit shall be subsequently granted until such amounts are paid.

(1964 Code §50.03)

901.04 BARRICADES.

Any person engaged in or employing others in excavating or opening any street, sidewalk, alley or other public way shall have such excavation or opening fully barricaded at all times to prevent injury to persons. (1964 Code §50.04)

901.05 WARNING LIGHTS.

Any person engaged in or employing others in excavating or otherwise in any manner obstructing a portion or all of any street, sidewalk, alley or other public way shall, at all times during the night season, cause at least two illuminated red lamps to be securely and conspicuously posted on, at or near each end of such obstruction or excavation. If the space involved exceeds fifty feet in length, then at least one additional lamp for each additional fifty feet or portion thereof excavated or obstructed shall be posted. (1964 Code §50.05)

901.99 PENALTY.

(EDITOR'S NOTE: See Section 101.99 for general Code penalty if no specific penalty is provided.)

TITLE THREE - Utilities

- Chap. 911. Water Connections.  
 Chap. 913. Sewer Connections.  
 Chap. 915. Licensing Plumbers and Sewer Builders.  
 Chap. 917. Private Disposal Systems.  
 Chap. 919. Propane Gas.

CHAPTER 911  
 Water Connections

EDITOR'S NOTE: The City contracts with the City of Cleveland and the Suburban Council of Governments for Water Service. Copies of the latest relevant legislation may be obtained from the Clerk of Council.

- |        |                         |        |                                     |
|--------|-------------------------|--------|-------------------------------------|
| 911.01 | Permit required.        | 911.04 | Permit to be issued without charge. |
| 911.02 | Application for permit. | 911.99 | Penalty.                            |
| 911.03 | Installation.           |        |                                     |

CROSS REFERENCES

Power to provide and regulate water system - see Ohio R. C. 715.08, 717.01, 743.01

Compulsory water connections - see Ohio R.C. 729.06, 743.23

Tampering with water hydrants, pipes or meters; unauthorized connections - see Ohio R. C. 4933.22

Starting work without permit - see ADM 143.05

**911.01 PERMIT REQUIRED.**

Any person, firm or corporation desiring to use water from the water supply mains of the City for any purpose shall, before making any connection with such water supply system or before using any water, make application to the Building Commissioner for permission to do so. (1964 Code Sec. 97.01)

**911.02 APPLICATION FOR PERMIT.**

The application to make a water connection shall be in writing, signed by the person, firm or corporation desiring to make such connection or use such water and, shall state the purpose for which water is to be used and the location of the connection to be made. Furthermore, the applicant shall, in consideration for the issuance of such permit, agree to save the City harmless by reason of any injury or damage to the water supply system or injury or damage to persons or property by reason of such connection or use of the water. (1964 Code Sec. 97.02)

**911.03 INSTALLATION.**

Upon approval of the application, the Building Commissioner shall notify the City of Cleveland in writing that such permission has been given to the applicant, and instruct the Division of Water and Heat of the City of Cleveland to install the service connection applied for at the expense of the applicant. (1964 Code Sec. 97.04)

911.04 PERMIT TO BE ISSUED WITHOUT CHARGE .

The water service connection permit provided for by this chapter shall be issued by the City without charge. (1964 Code §97.05)

911.99 PENALTY.

(EDITOR'S NOTE: See Section 101.99 for general Code penalty if no specific penalty is provided.)

**CHAPTER 913**  
**Sewer Connections**

913.01	Permit required; application.	913.06	Plugs.
913.02	Connection to be made by licensed person only.	913.07	Security deposit.
913.03	Regulations.	913.08	Grease traps and interceptors; cleaning
913.04	Duties of Building Commissioner.	913.99	Penalty.
913.05	City's expenses to be reimbursed.		

**CROSS REFERENCES**

Compulsory sewer connections - see Ohio R. C. 729.06  
 Regulations to control house sewers and connections - see Ohio R. C. 729.51  
 Tree roots obstructing sewers - see GEN. OFF. 660.20(e)  
 Licensing plumbers and sewer builders; fees - see S. & P. S. Ch. 915  
 Connection of private disposal systems required when sanitary sewer available  
   - see S. & P. S. 917.05  
 Starting work without permit - see ADM. 143.05  
 Exterior sewers for commercial structures and multiple-family dwellings  
   - see BLDG. 1375.02

**913.01 PERMIT REQUIRED; APPLICATION.**

No house sewer shall be constructed to connect with a public sewer nor shall any connection be made to a public sewer within the City until the written permission of the Building Commissioner has been obtained by the person, firm or corporation employed to perform the work. An application for a permit shall be signed by the owner, agent or lessee of the property for which the connection is to be made and by the person, firm or corporation employed to perform the work. Such application shall describe the property and state the fixtures to be connected and shall be accompanied by the fee prescribed in Section 1329.04. In the event that additional inspections are required by reason of the failure of the sewer builder to comply with the rules and regulations governing sewer connections, a fee of thirty dollars (\$30.00) shall also be charged for each additional inspection. Such fees shall be paid before a certificate of completion of the work shall be issued. All permits herein provided for shall be issued by the Building Commissioner. (Ord. 1990-151. Passed 12-3-90.)



#### 913.02 CONNECTION TO BE MADE BY LICENSED PERSON ONLY.

Every building in the City shall be connected to a sanitary sewer where such sewer is located in a public street abutting the building lot or is reasonably proximate thereto. Preexisting septic tank usage on a lot shall be discontinued after a sanitary sewer connection is made thereto. No owner, tenant or agent of either shall fail to connect to an available sanitary sewer and no person shall fail to disconnect a septic tank upon the making of such sanitary sewer connection. If the Building Commissioner determines that a sanitary sewer is available for service for an improved lot, he or she shall cause a written notice to be delivered or mailed to the last known address of such owner, tenant or agent directing that a sanitary sewer connection be made within 180 days.

No sewer connection shall be made in the City except by a person licensed by the City under Chapter 915 and upon payment of the applicable fee.  
(Ord. 1981-27. Passed 4-6-81.)

#### 913.03 REGULATIONS.

The written permission to construct a house sewer or to make a connection to a public sewer shall specify the permissible use of such house sewer and connection and such specifications shall be governed by the following requirements:

- (a) 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, and stable floor drains, and other objectionable wastes shall be discharged into a sanitary or combined sewer and in no case into a storm water sewer.
- (b) Industrial waste shall not be discharged into a storm water sewer but may be discharged into a sanitary sewer if the waste is of such character as is not detrimental to the sewer system or to the sewage treatment works. Where such waste is detrimental to the sewer system or sewage treatment works, 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 sewage treatment works.
- (c) 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.
- (d) Connection with a cesspool or a privy vault shall not be made into a sanitary, combined or storm water sewer.
- (e) A trap for the interception of grease and oil shall be provided on a connection from a hotel, restaurant, club or institutional kitchen and from a public garage or automobile washing station. Such trap shall be satisfactory to the Inspector of Buildings. No person shall discharge into a house sewer, or tap a house 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. (1964 Code §96.03)

#### 913.04 DUTIES OF BUILDING COMMISSIONER.

The Building Commissioner is hereby authorized and directed to adopt and enforce specifications and regulations in accordance with the provisions of this chapter for the purpose of providing control of the installation and inspection of sewer connections. The

Building Commissioner shall maintain accurate and complete records of all permits issued for, and inspections made of, the construction of house sewers and connections to the public sewers. He shall also require the abandonment and removal of connections to the public sewers which violate the provisions of this chapter. (1964 Code §96.04)

#### 913.05 CITY'S EXPENSES TO BE REIMBURSED.

Where public sewers or water mains have been constructed and the cost thereof has been wholly or partially paid out of funds of the City or financed through the issuance of bonds, and the owner of any property abutting upon such sewers or water mains makes application to tap such sewers or water mains, no permit shall be issued to such abutting property owner to make such connection or connections, nor shall such abutting property owner make such connection or connections unless he has first paid into the City Treasury, or given security for such payment satisfactory to the fiscal officer of the City, that portion of the cost of such sewers or water mains, for which a connection or connections are desired to be made, which was paid by the City or was formerly charged in the form of an assessment, but which assessment the City has been unable to collect due to defects in procedure or the failure to obtain an assessment lien for such cost. However, where the cost of such sewers or water mains to which connections are desired to be made has been assessed against such abutting property and a valid assessment lien imposed thereon for such cost, or where, in the case of an invalid assessment, reassessment for such cost may be levied under and by authority of Ohio R.C. 727.39, such permit shall be issued, provided the same conforms with the other regulations of the City. (Ord. 1963-180. Passed 12-2-63.)

#### 913.06 PLUGS.

Every person, firm or corporation who has secured a building permit shall, upon the completion of the installation of a sanitary sewer house connection:

- (a) Provide a plug of proper size to completely seal the end of the pipe so installed, which plug shall be properly cemented in place at the foundation end of such house connection.
- (b) Not remove such plug from the foundation end of a sanitary sewer house connection, except by written permission of the Building Commissioner, from the time of installation of such house connection until the time at which the soil pipe is connected thereto. (1964 Code 96.06)

#### 913.07 SECURITY DEPOSIT.

(a) Each sewer builder proposing to make sewer connections within the City shall deposit with the City Clerk an amount equal to fifty dollars (\$50.00) for each permit issued and outstanding. A permit shall be deemed to be outstanding within the meaning of this section until the Building Commissioner certifies that the work authorized under such permits has been completed in conformity with the rules and regulations governing such work. Upon such certification of completion being entered upon the records, the deposit represented by such permit shall be refunded to such sewer builder. If the work authorized by such permit is not completed in accordance with the rules and regulations therefor, the Building Commissioner may so notify the sewer builder and if the work is not thereafter completed within the time required by the Building Commissioner, he may order the work done, and the cost and expense thereof shall be deducted from the aggregate amount held on deposit for such

sewer building. The failure on the part of any sewer builder to complete the work authorized under any given permit in accordance with the rules and regulations for such work shall authorize the Building Commissioner to revoke any or all permits issued to such sewer builder and then outstanding and shall also authorize the Building Commissioner to refuse to issue any further permits to such sewer builder unless Council shall, by resolution, direct the issuance of further permits.

(b) In lieu of the cash guarantee herein required, the sewer builder may deposit with the City a surety bond in double the amount of the cash deposit herein required. Such surety bond shall be conditioned upon the faithful performance of the provisions of this chapter, shall conform to all legal requirements and may be so written as to be applicable to any work performed or about to be performed in the City for which plumbing or sewer building permits have been requested by such plumber or sewer builder. (1964 Code §96.07)

#### 913.08 GREASE TRAPS AND INTERCEPTORS; CLEANING.

(a) All establishments which maintain a kitchen or other facilities for the preparation of food shall provided a grease trap and/or grease interceptor of a capacity as hereinafter set forth:

<u>Seats</u>	<u>Gallon Capacity</u>
Under 40	500
Over 40	1,000

- (b) Each grease trap and/or grease interceptor shall be cleaned not less than:
- (1) Once each month for forty seats or over;
  - (2) Once every three months for forty seats or under;
  - (3) A certificate of cleaning shall be furnished to the Service Director as evidence of such cleaning within the specified times hereinbefore set forth;
  - (4) If the Service Director finds, upon inspection, that more frequent clearings are required, he shall give written notice of such fact to the establishment. (Ord. 1970-72. Passed 5-18-70.)

#### 913.99 PENALTY.

(EDITOR'S NOTE: See Section 101.99 for general Code penalty if no specific penalty is provided.)

**CHAPTER 915**  
Licensing Plumbers and Sewer Builders

916.01 License required.	916.04 Issuance of license; fee.
916.02 Evidence of qualifications and competence.	916.05 Revocation of license.
916.03 Period of license.	916.99 Penalty.

**CROSS REFERENCES**

Power to license plumbers, sewer tappers and vault cleaners - see  
Ohio R.C. 716.27

Starting work without license - see ADM. 143.05

Sewer connections to be made by licensed persons only  
- see S. & P.S. 913.02

Permit fees for plumbing - see BLDG. 1329.04

**915.01 LICENSE REQUIRED.**

No person shall engage in or work at the trade or occupation of plumbing or sewer building in the City until such person has first been issued a license therefor from the City in accordance with the provisions of this chapter.  
(Ord. 1990-121. Passed 9-10-90.)

**915.02 EVIDENCE OF QUALIFICATIONS AND COMPETENCE.**

A plumber's or sewer builder's license shall be issued to only those persons holding a plumber's or sewer builder's license in good standing, issued by the City of Cleveland, the City of Akron, the City of Painesville or the City of Willoughby, Ohio.  
(Ord. 1990-121. Passed 9-10-90.)

**915.03 PERIOD OF LICENSE.**

Upon showing evidence of meeting the requirements of Section 915.02, a person shall be issued a license to engage in plumbing contractor work within the City. Such license shall be valid for a period of one year, from January 1 of the year of issuance, and shall be renewable on January 1 of each succeeding year of the use of such license. (Ord. 1990-121. Passed 9-10-90.)

**915.04 ISSUANCE OF LICENSE; FEE.**

- (a) All licenses shall be issued by the Building Commissioner.
- (b) The fee prescribed in Section 705.01 shall be charged for each license issued in accordance with the provisions of this chapter. (Ord. 1990-121. Passed 9-10-90.)

**915.05 REVOCATION OF LICENSE.**

Any license issued under the provisions of this chapter may be revoked by the Mayor for a violation of any provision of these Codified Ordinances, state law or any regulation adopted by either government, directly by reference, regulating sewer connections. Prior to any order of revocation, a person may have his license temporarily suspended for a period not to exceed five

days by the Building Commissioner, pending a hearing by the Mayor.  
(Ord. 1990-121. Passed 9-10-90.)

915.99 PENALTY.  
(EDITOR'S NOTE: See Section 101.99 for general Code penalty if no specific penalty is provided.)



**CHAPTER 917**  
**Private Disposal Systems**

917.01	Permit required.	917.05	Connection to sanitary sewers mandatory when available.
917.02	Fees.	917.99	Penalty.
917.03	Installation inspection.		
917.04	Interpretation of chapter.		

**CROSS REFERENCES**

Power to regulate water closets and privies - see Ohio R.C. 715.40  
 Noxious or offensive odors - see GEN. OFF. 660.04  
 Sewer connections - see S. & P. S. Ch. 913  
 Lot area required - see P. & Z. 1143.03  
 Starting work without permit - see ADM 143.05

**917.01 PERMIT REQUIRED.**

Before a building permit is issued by the Building Commissioner for the erection of a building in which sanitary sewage will originate, which sewage will not be conducted to a sanitary sewer constructed and operated under authority of the City, the owner, builder or duly authorized agent shall first secure from the Cuyahoga County District Board of Health a permit for the installation and maintenance of a private sewage disposal system, such permit to be issued pursuant to the regulations of the Cuyahoga County District Board of Health now in force and as amended or supplemented. (1964 Code §96.25)

**917.02 FEES.**

For a permit required under Section 917.01, the owner, builder or duly authorized agent shall pay such fees as are now or may hereafter be required by the Cuyahoga County District Board of Health. (1964 Code §96.26)

**917.03 INSTALLATION INSPECTION.**

The inspection of the installation work of such private sewage system shall be made by the Cuyahoga County District Board of Health and the Building Commissioner shall be without obligation to make such inspection. The owner, builder or duly authorized agent shall comply with all the rules and regulations of the Cuyahoga County District Board of Health relative to the installation and inspection of such work. (1964 Code §96.27)

**917.04 INTERPRETATION OF CHAPTER.**

Nothing in this chapter shall be construed to eliminate the necessity for all connections to public sewers to be made in accordance with the provisions of this chapter or other regulations of the City. (1964 Code §96.28)

**917.05 CONNECTION TO SANITARY SEWER MANDATORY WHEN AVAILABLE.**

No sewage disposal device or equipment shall be installed or maintained on property

accessible to a sanitary sewer. Whenever a sanitary sewer is made available, any sewage

disposal device or equipment on such property shall be abandoned and the sewage shall be discharged directly from the building to the sanitary sewer through a watertight connecting sewer without passage through a sewage tank or other treatment device within ninety days after the property owner or agent has been given written notice by certified mail by the Building Commissioner as to the availability of such sanitary sewer. However, no roof water, cistern overflow or surface or subsoil drainage shall be discharged into such sewer or into sewage disposal equipment hereinafter specified. An abandoned sewage tank or other device or equipment for treatment or disposal of sewage shall be thoroughly cleaned and disinfected and filled to the ground surface with earth, ashes or other suitable filling materials.  
(Ord. 1963-171. Passed 11-18-63.)

917.99 PENALTY.

(EDITOR'S NOTE: See Section 101. 99 for general Code penalty if no specific penalty is provided.)

**CHAPTER 919**  
**Propane Gas**

919.01	Permit required; fee.	919.03	Permit issuance; effective period; removal required when natural gas available.
919.02	Permit application.	919.99	Penalty.

**CROSS REFERENCES**

Storage, handling and use of flammable or explosive materials in  
Limited Storage and Manufacturing Districts - see P. & Z.  
1129. 06(b)

Storage containers - see FIRE PREV. 1501.97(FPC §8.4)

Storage of hazardous or explosive materials - see FIRE PREV. 1501.97  
(FPC §§16.45 et seq. )

Starting activity without permit - see ADM. 143. 05

**919.01 PERMIT REQUIRED; FEE.**

Any person, firm or corporation desiring to use propane gas in the City in any zoning classification shall first obtain a permit therefor from the Building Commissioner upon payment of an inspection fee of twenty-five dollars (\$25.00).  
(Ord. 1977-129. Passed 11-21-77.)

**919.02 PERMIT APPLICATION.**

The application for a permit for a temporary propane gas installation and connection shall be in writing, signed by the applicant, shall state the location of the connection and the location of the installation and shall indicate compliance with all required zoning, building and fire regulations. Such application shall be promptly reviewed by the Building Commissioner and the Fire Inspector. (Ord. 1977-129. Passed 11-21-77.)

**919.03 PERMIT ISSUANCE; EFFECTIVE PERIOD; REMOVAL REQUIRED  
WHEN NATURAL GAS AVAILABLE.**

Applications for propane installations in residential districts shall be submitted to the Architectural Board of Review for its review and approval; applications in nonresidential areas shall be submitted to the Planning and Zoning Commission. Both agencies are hereby authorized to approve the location of the installation and require plantings and/or screening around the same. Permits shall be granted for one year. No such permit shall be granted unless the Building Commissioner receives a report from the East Ohio Gas Company that natural gas will probably be available within twelve months at the location

of the application. The applicant shall immediately tie into a natural gas street system as soon as the same is available and remove the propane installation promptly thereafter.  
(Ord. 1977-129. Passed 11-21-77.)

919.99 PENALTY.

(EDITOR'S NOTE: See Section 101.99 for general Code penalty if no specific penalty is provided.)



921.02 HEADSTONES AT WARRENSVILLE TOWNSHIP CEMETERY.

All headstones installed at the Warrensville Township Cemetery shall be at ground level. All such headstones shall be approved by the Service Director to ensure that the headstones will not interfere with the cutting of grass and the maintenance of the Cemetery.  
(Ord. 1981-49. Passed 5-4-81.)

## CHAPTER 923

## Trees

923.01	Definitions.	923.09	Removal of trees on public property.
923.02	Authority of Service Director.	923.10	Trimming trees on private property.
923.03	Permit required for handling trees in public places.	923.11	Removal of trees on private property.
923.04	Placing harmful substances near trees.	923.12	Interfering with work of Director or assistants.
923.05	Placing stone or concrete near trees.	923.13	Master Street Tree Plan.
923.06	Care of trees during building operations.	923.14	Dutch elm disease.
923.07	Moving trees.	923.99	Penalty.
923.08	Trimming trees on public property.		

## CROSS REFERENCES

Assessments for tree planting or maintenance - see Ohio R.C. 727.011

Injury and destruction of trees and growing products - see GEN. OFF. 642.06

Weeds - see GEN..OFF. 660.16

Tree roots obstructing sewers - see GEN. OFF. 660.20(e)

## 923.01 DEFINITIONS.

For the purposes of this chapter, certain terms are defined as follows:

- (a) "Arboriculture" or "tree preservation" means and includes the treating, spraying, pruning, maintaining and any other care or work intended for the strengthening of trees and the removal and prevention of tree pests, blights and diseases of any and all kinds.
- (b) "Owner" means the owner or owners of the premises, including the holder of title thereto subject to contract or purchase, a vendee in possession, a mortgagee or receiver in possession, a lessee or joint lessees of the whole thereof, or an agent or any other person, firm, corporation or fiduciary directly in control of the premises.
- (c) "Private property" means all property not included in the definition of "public property", including, but not limited to, vacant land or any land, building or other structure designed or used for residential, commercial, business, industrial, institutional or religious purposes.
- (d) "Public place" means any public street, public highway, public park or any property owned or held by the City within the boundaries of the City.
- (e) "Public property" means all property owned, operated or controlled by any government agency, including but not limited to streets, sidewalks, tree lawns, parks, playgrounds, parking lots, schools, libraries, post offices, municipal transit facilities and all other public lands and buildings.

- (f) "Service Director" or "Director" means the Director of the Department of Public Service and Properties.
- (g) "Tree" means any tree.  
(1964 Code 51.01; Ord. 1965-130. Passed 12-20-65.)

#### 923.02 AUTHORITY OF SERVICE DIRECTOR.

The Service Director is hereby given full jurisdiction, authority, control, supervision and direction of all trees which now or which may hereafter exist upon any public place in this City. The Director is also given full jurisdiction, authority and control in connection with the issuance of permits hereinafter provided for. In the exercise of any or all of the powers herein granted, the Director shall have the authority to delegate all or such part of his power and duties with respect to supervision and control of trees to his subordinates and assistants in the employ of the City as he may from time to time determine. (1964 Code §51.02)

#### 923.03 PERMIT REQUIRED FOR HANDLING TREES IN PUBLIC PLACES.

No person shall plant, remove, destroy, cut, prune, fertilize, treat, break, climb, injure or spray any tree existing on any public place in the City, or authorize or procure any person to do so, or remove or tamper with any device placed for the protection of any such tree, or attach any rope, wire, chain, sign or other device whatsoever either to such tree or to any device placed for the protection of such tree, or authorize or cause the same to be done, without first obtaining written permission from the Service Director to do so. (1964 Code §51.03)

#### 923.04 PLACING HARMFUL SUBSTANCES NEAR TREES.

No person shall permit any natural or artificial gas, salt, brine water, oil, liquid dye or any other substance deleterious to trees to come in contact with the soil surrounding the roots of any tree upon any public place in this City in such manner as to kill, injure, deface, destroy or affect the growth of such tree. (1964 Code §51.04)

#### 923.05 PLACING STONE OR CONCRETE NEAR TREES.

No person shall place or maintain upon the ground in any public place any stone, concrete, brick or other impervious material or substance in such a manner as may obstruct the free access of air and water to the roots of any tree upon any public place in the City, without first having obtained written permission from the Service Director to do so. Unless otherwise provided, there shall be maintained about the base of the trunk of each such tree at least nine square feet of open ground for a tree three inches in diameter, and for every two inches of increase of such diameter there shall be an increase of at least one square foot of open ground. (1964 Code §51.05)

#### 923.06 CARE OF TREES DURING BUILDING OPERATIONS.

No person in charge of or responsible for the erection, alteration or removal of any building or structure in the City shall permit any tree upon any public place in the vicinity of such operation to stand without a good and sufficient guard or protection as shall prevent injury, damage or defacement to such tree arising out of, in connection with or by reason of such operation. The quality of guard or protection shall be determined by the Service Director. (1964 Code §51.06)

#### 923.07 MOVING TREES.

All moving of trees upon any public place in the City made necessary by the moving of a building or structure or any other private enterprise shall be done under the supervision and with the written permission of the Service Director and at the expense of the applicant or person seeking the removal of such tree. Such applicant, as one of the conditions to obtaining such permission, shall deposit with the City such sum in cash as the Director may determine and specify to cover all of the cost of moving and replacing such tree, if the conditions of such permission require the replacement thereof. However, in lieu of such cash deposit, the Director may, in his discretion, accept a good and sufficient bond in like amount conditioned upon the payment of all the costs of such moving and replacement. (1964 Code §51.07)

#### 923.08 TRIMMING TREES ON PUBLIC PROPERTY.

The Service Director shall keep trimmed all trees standing upon any public place in the City so that the branches of such trees projecting over any public sidewalk, private driveway or into any public street beyond the curb line shall not conflict with the public welfare. (1964 Code §51.08)

#### 923.09 REMOVAL OF TREES ON PUBLIC PROPERTY.

The Service Director shall have the right and duty to trim any tree existing on any public place in the City so as to insure the public safety or to preserve the function or beauty of such public place; and he shall further have the right to remove any such tree, or any part thereof, which is in an unsafe condition or which, by reason of its location or nature, is injurious or detrimental to other public improvements in this City, or is infected with any injury, fungus, insect or other pest or disease which cannot otherwise be controlled. (1964 Code §51.10)

#### 923.10 TRIMMING TREES ON PRIVATE PROPERTY.

All trees standing upon private property in this City having branches projecting into public highways or public places shall, under the supervision of the Service Director, be kept trimmed by the owner or occupant of such private property to such an extent that the lowest branches of such trees shall not come within nine feet of the ground where they overhang any public sidewalk, public place or public highway. (1964 Code §51.09)

#### 923.11 REMOVAL OF TREES ON PRIVATE PROPERTY.

(a) Wherever a tree is located upon private property and such tree or a part thereof is found to be in a dead or dangerous condition and is so located that if such tree fell, or such part thereof broke off and fell, it could endanger life or property upon a street or upon other public property, the Service Director shall give written notice by personal service or by airlifted or registered mail to the owner of the property upon which such tree is located to remove such tree or part thereof within thirty days of the date of service or mailing of such notice. Failure of the owner of such premises to remove such tree or part thereof within thirty days shall be deemed a violation of this section.

(b) Wherever a tree is located upon private property and such tree or a part thereof is found to be in a dead or dangerous condition and is so located that if such tree fell, or such part thereof broke off and fell, it could endanger life or property upon the premises where such tree is located, or upon other private property, the Service Director shall give written notice by personal service or by certified or registered mail to the owner of the property upon which such tree is located to remove such tree or part thereof within thirty days of the date of service or mailing of such notice. Failure of the owner of such premises to remove such tree or part thereof within thirty days shall be deemed a violation of this section.

(Ord. 1965-130. Passed 12-20-65.)

#### 923.12 INTERFERING WITH WORK OF DIRECTOR OR ASSISTANTS.

No person shall interfere with the Service Director or his subordinates or assistants while engaged in or about the carrying out of the provisions of this chapter or the doing of any of the work ordered by the Director to be done hereunder.

(1964 Code §51.12)

#### 923.13 MASTER STREET TREE PLAN.

The Master Street Tree Plan prepared by the Cleveland Electric Illuminating Company for the City on June 23, 1959, and on file with the City Clerk, is hereby approved and adopted as the official Master Street Tree Plan for this City.

(1964 Code §51.11)

#### 923.14 DUTCH ELM DISEASE.

(a) Council hereby finds and determines that Dutch elm disease and the virus disease phloem necrosis, commonly known as "elm blight", threaten shade trees in the streets and public grounds and on public property in the City, that shade trees infected with such diseases are public nuisances and that in order to protect and preserve shade trees in the City it is necessary to discover and control such diseases and to provide for the destruction of diseased trees and the abatement of such nuisances.

(b) The Service Director is hereby authorized to inspect any tree within the City reported or supposed to be infected with the Dutch elm disease or the virus disease phloem necrosis, commonly known as "elm blight". If, upon such inspection the Director determines that such tree is infected with either of such diseases, he may, if the tree is in any public street, ground or way within the City, immediately remove and burn the same in such manner as to prevent as fully as possible the spread of such disease. If such tree is located on private property, the Director may immediately serve upon the owner of such property a written notice that such tree is so infected and that the same must be removed and burned under the supervision of the Director within thirty days of the service of notice. If such owner cannot be found, a copy of the notice shall be posted upon the infected tree. If the tree is not so removed and burned within the five days after the service or posting of the notice, the Director may cause the tree to be so removed and burned. The cost of the removal and burning shall be reported to the owner of the property, if he can be found, and also Council, and if the cost is not paid within thirty days of such report, Council may assess the same as in other cases of the abatement of nuisances.

(c) If upon inspection of any tree within this City reported or supposed to be infected as aforesaid, it is impossible to determine with certainty the existence of either of the diseases in such tree, the Director may forward specimens from the tree for complete examination, diagnosis and report to either the Ohio State Experimental Station at Wooster, Ohio, or to the United States Department of Agriculture Station at Beltsville, Maryland, and the action of the Director of Public Service under this section shall await and be determined by the report received from such examination and diagnosis. (Ord. 1969-98. Passed 8-18-69.)

923.99 PENALTY.

(EDITOR'S NOTE: See Section 101.99 for general Code penalty if no specific penalty is provided.)

CHAPTER 925  
Parks and Recreation

EDITOR'S NOTE: Recreation fees are established periodically by ordinance. Because of the frequency of change, they are not codified. Copies of the latest relevant legislation may be obtained, at cost, from the Clerk of Council.

925.01 Nonresident passes for  
Municipal Pool.

CROSS REFERENCES

Municipal Parks and Recreation - see Ohio R.C. Ch. 755

Recreation Board - see ADM. Ch. 157

Recreation Director - see ADM. 157.16

925.01 NONRESIDENT PASSES FOR MUNICIPAL POOL.

Nonresidents who are employed in the City shall be issued a limited pool pass to use the City Municipal Pool on Monday through Friday, inclusive, except that such passes shall not be valid for use on holidays and shall not authorize the nonresident's family or guests to use the Pool. Applicants must present a letter from their employer or other proof of employment with the City.

(Ord. 1987-138. Passed 10-19-87.)



- H. Executive or adult committees of Beachwood Boy Scouts or Cub Scouts; and
  - I. Similar recognized organizations composed of predominately City residents.
- (2) Other groups requesting permission to use the Community Centre must submit a request to Council, which may grant such approval for good cause to further a responsible purpose for the public peace, health, safety or welfare of the City.
- (b) Approving Requests and Resolving Conflicting Requests.
- (1) A formal application shall be filed with the Recreation Director or an Assistant Director at least thirty days before the required use of the Centre. Exceptions to this rule may be approved by the Director when special circumstances apply which do not interfere with policies contained in this chapter or with approved scheduling commitments already made by the City.
  - (2) Permission to use the Community Centre shall be granted not less than thirty days nor more than ninety days prior to the date requested. Permission shall not be granted for a date exceeding 180 days from the first date of use when more than one date is requested.
  - (3) The Mayor or Council reserves the right to cancel and/or re-schedule use of the Community Centre if a City function requires its use, or for the anticipated violation of any rule, regulation or law.
- (c) Special Conditions.
- (1) The Community Centre shall not be occupied beyond midnight without specific approval of the Mayor.
  - (2) Applicants for the use of the Community Centre shall pay for or furnish any special supervisors needed, i.e., police protection, parking supervisors, etc., as determined by the Recreation Director.
  - (3) Applicants shall be responsible for any damage to City property and for supervision of the use of the Community Centre. The Recreation Director may charge for janitorial services if extra clean-up costs have been incurred over and above those which might normally be expected, at the rate of twenty dollars (\$20.00) per employee hour for such extra services.
  - (4) Salespersons, solicitors, agents, collectors or other persons having commercial intentions not related to City business shall not be permitted to use the Community Centre nor shall the sale, soliciting or advertising for sale of merchandise, circulars, tickets, cards, prizes, rewards or other devices be permitted.
  - (5) Collections of money or goods shall not be permitted in the Community Centre, nor shall any functions be held therein for which tickets of admission have been sold, except upon special permission of Council.
  - (6) If a conflict occurs in which a City function requires the use of the Community Centre on a date previously approved by the Recreation Director, the Director shall cancel the permit given and reschedule the applicant to another location or date.
  - (7) Under no conditions may alcoholic beverages or illegal drugs be used in connection with any function held in or on any City building or grounds, nor shall smoking be permitted inside any building.

- (8) All persons attending such events shall:
  - A. Conduct themselves in an orderly manner;
  - B. Be respectful of the rights of others;
  - C. Protect City property from damage; and
  - D. Follow the orders of any authorized official regarding the use and occupancy of City property.
  
- (d) Applications.
  - (1) Application blanks for use of the Community Centre can be obtained from the Recreation Director.
  - (2) An approved application is only valid for the applicant; it is not transferable.
  - (3) The Recreation Director shall keep a calendar of approved uses of the Community Centre, and such list shall be final in case of conflict.  
(Ord. 1995-153. Passed 12-4-95.)

#### 927.03 REVIEW AND APPEAL.

Any person or organization who is refused a permit or who has other objections may file a notice of appeal to Council by filing it in writing with the Clerk of Council within ten days of the refusal, with the grounds for appeal. Council shall hear the appeal as soon as reasonably practical. (Ord. 1986-123. Passed 12-1-86.)



CHAPTER 929  
Hazardous Materials Incidents

EDITOR'S NOTE: Ordinance 1992-41, passed April 6, 1992, authorized a contract with the City of Cleveland for response to hazardous materials incidents. Copies of this Ordinance and of such contract may be obtained, at cost, from the Clerk of Council.

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| <p>929.01 Purpose; definitions.</p> <p>929.02 Notification of hazardous material incidents.</p> <p>929.03 Handling of hazardous material incidents.</p> | <p>929.04 Reimbursement to the City for handling of hazardous material incidents.</p> |
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CROSS REFERENCES

Solid and hazardous waste - see Ohio R.C. Ch. 3734  
 Hazardous substances - see Ohio R.C. Ch. 3751  
 Fire Department - see ADM. Ch. 147  
 Traffic direction during emergencies - see TRAF. 404.01  
 Misconduct at emergencies - see GEN. OFF. 648.06  
 Transportation of radioactive materials - see BUS. REG. Ch. 733

929.01 PURPOSE; DEFINITIONS.

(a) The intent and purpose of this chapter is to establish procedures for handling hazardous material incidents within the City, including notification to authorities of hazardous material incidents and hazardous materials, and reimbursement to the City and/or its agents, employees or licensees for the handling of such hazardous material incidents.

(b) Hazardous material incidents shall include but not be limited to the following:

- (1) "Incident", "spill", or "release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers and other closed receptacles) of any EHS-extremely hazardous substance, or CERCLA hazardous substance. These substances are chemicals and other substances classified as radioactive, flammable (liquids and solids), toxic, poisonous, explosive, flammable and non-flammable compressed gases, caustic and corrosive.
- (2) "CERCLA (Comprehensive Environmental Response and Liability Act) hazardous substance" means a substance as listed in Section 101(14) of CERCLA.
- (3) "EHS (Extremely Hazardous Substance)" means a substance on the list defined in Section 302(1) of SARA Title III.

**929.02 NOTIFICATION OF HAZARDOUS MATERIAL INCIDENTS.**

Upon the occurrence of a hazardous material incident within the City, the party in possession of the hazardous material at the time of the incident, whether the owner, an employee of the owner, an agent of the owner or such other party having possession of the hazardous material, shall immediately notify the Community Emergency Coordinator of the Local Emergency Planning District, the Beachwood Fire Department, the Environmental Protection Agencies (Federal and State) and the Regional Sewer District pursuant to Ohio R.C. 3750.06. Said notice shall include the following:

- (a) Location of the release (spill).
- (b) The chemical name or identity of any substance involved in the release (spill) and whether the substance is an extremely hazardous substance.
- (c) An estimate of the quantity of any substance released into the environment.
- (d) The time and duration of the release (spill).
- (e) The environmental medium or media into which the substance was released.
- (f) Any known or anticipated acute or chronic health risks associated with the release (spill) and, if known to the informant, advice regarding medical attention necessary for individuals exposed to the substance released.
- (g) Proper precautions to take as a result of the release (spill), including evacuation and other proposed response actions, unless that information is readily available to the Community Emergency Coordinator, pursuant to the plan of the district prepared under Ohio R.C. 3750.04.
- (h) The name and telephone number of the person or persons to be contacted for further information.
- (i) Such other information as may be required by the rules adopted under Division (B)(1)(f) of Ohio R.C. 3750.02.  
(Ord. 1997-175. Passed 10-6-97.)

**929.03 HANDLING OF HAZARDOUS MATERIAL INCIDENTS.**

At the sole discretion of the City, the Fire Department, Service Department, and/or Police Department may undertake to investigate, mitigate, minimize, remove or abate any hazardous material release (spill) or discharge occurring in the City. Said action shall, if practicable, be taken in concert with the Federal and State Environmental Protection Agencies, the Local Emergency Planning District, the Regional Sewer District and such other Federal, State and Local authorities as shall have an interest, and shall be in conformity with 40 Code of Federal Regulations Sections 300-399, Ohio R.C. 3745.13 and 3750.06 and all other statute, regulations and ordinances whether State or Federal which are then in effect. Other responsive action by the City may include the collection, storage and/or disposal of the hazardous material, subsequent to the release (spill) or discharge. In addition, the City may contract with an outside company or entity, which shall be certified by the Ohio Environmental Protection Agency, to collect, store and/or dispose of hazardous materials subsequent to a release (spill) or discharge.  
(Ord. 1997-175. Passed 10-6-97.)

929.04 REIMBURSEMENT TO THE CITY FOR HANDLING OF  
HAZARDOUS MATERIAL INCIDENTS.

The City may seek from the responsible party or parties reimbursement for the total cost of investigating, mitigating, minimizing, removing or abating of a hazardous material release (spill) or discharge, as well as the total cost of collecting, storing and/or disposal of said hazardous material subsequent to the release (spill) or discharge. Said reimbursement shall be sought in compliance with applicable Federal and Ohio law, including, but not limited to Ohio R.C. 3745.13 and such other laws or administrative regulations as shall be applicable. Upon recommendation of the Fire Chief and Finance Director, the Safety Director may establish a schedule of charges to be used in determining the above costs. In addition, the City may seek compensation separate and apart from that sought from the responsible party or parties, from the Federal Government, pursuant to the Super Fund Amendments and Reauthorization Act of 1986 and all other Federal, State and Local laws allowing for such a recovery. However, such compensation shall in no way mitigate or diminish the City's claims against the responsible party or parties. The City also may seek reimbursement for payments made by it to an outside company or entity in connection with the collection, storage and/or disposal of hazardous materials performed by said outside company or entity. Nothing herein shall derogate from or otherwise limit the City's legal and equitable remedies regarding the handling of hazardous material incidents and the costs related thereto.

(Ord. 1997-175. Passed 10-6-97.)



CHAPTER 931  
Cable Television

<p>931.01 Designation of City's policy. 931.02 Definitions. 931.03 Cable Television Commission. 931.04 Customer service standards.</p>	<p>931.05 Rate procedure for basic tier and related equipment. 931.06 Public access channel. 931.07 Institutional network. 931.08 Franchise fees.</p>
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CROSS REFERENCES

Theft of services - see GEN. OFF. 642.02  
Tampering - see GEN. OFF. 642.11

931.01 DESIGNATION OF CITY'S POLICY.

It is the City's policy to monitor through this chapter the provision of cable television service to the citizens of Beachwood in the general areas of customer service. The provisions of this chapter shall supersede any inconsistent provisions in any franchise agreements for the provision of cable television service. Specifically, the customer service standards are adopted pursuant to Ohio Law and Section 632 [47 U.S.C. § 552] of the Cable Television Consumer Protection and Competition Act of 1992, as amended by the Telecommunications Act of 1996, and Federal Communications Commission regulations adopted thereunder.  
(Ord. 1998-99. Passed 7-13-98.)

931.02 DEFINITIONS.

For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meanings given herein.

- (a) "Appointment Window" means either a specific time or, at a maximum, a four-hour time block during Normal Business Hours mutually agreed upon by the customer and the Provider. The operator may schedule service calls and other installation activities outside of Normal Business Hours for the convenience of the customer.
- (b) "1992 Cable Act" means the Cable Television Consumer Protection and Competition Act of 1992, as amended by the Telecommunications Act of 1996, and as each may be further amended.
- (c) "Cable Television Commission" or "Commission" means the Cable Television Commission of the City of Beachwood which is described in Section 931.03 hereof.
- (d) "Education Channel" means those channels set aside for programs originated by the Beachwood City School District.
- (e) "Municipal Channel" means those channels set aside for programs originated by the City of Beachwood.
- (f) "Normal Business Hours" shall have the meaning given it in Section 931.04(a)(1) hereof.

- (g) "Provider" means any cable television operator which has a franchise with the City.
- (h) "Public Access Channel" means those channels set aside for programs originated by the general public or local organizations or institutions, but not including the Municipal Channel or the Education Channel.
- (i) "Service Interruption" means the loss of picture or sound on one or more cable channels.
- (j) "Standard Installations" means those customer installations that are located up to 125 feet from the existing distribution system.  
(Ord. 1998-99. Passed 7-13-98.)

#### 931.03 CABLE TELEVISION COMMISSION.

(a) Members. There is hereby created a Cable Television Commission of the City of Beachwood which shall consist of five (5) members appointed by the Mayor, subject to the confirmation of City Council, for terms of four (4) years. The initial terms shall be as follows: one (1) member for a term of one (1 ) year; one (1) member for a term of two (2) years; one (1) member for a term of three (3) years; and two (2) members for terms of four (4) years. All subsequent appointments shall be for terms of four (4) years. All members of the Commission shall be residents of the City of Beachwood and shall receive such compensation as Council may determine. The Cable Television Commission shall have a Secretary designated by the Mayor. A member of the City Law Department shall be in attendance at Cable Television Commission meetings when determined to be necessary by the Mayor.  
(Ord. 1998-99. Passed 7-13-98.)

(b) Duties and Responsibilities. The Cable Television Commission shall have the following duties and responsibilities:

- (1) To hear complaints of subscribers regarding alleged violations of the customer service standards set forth in this Chapter 931. The Cable Television Commission shall endeavor to informally resolve all such complaints. In the event any complaint is unable to be informally resolved, a hearing shall be held by the Commission on the complaint with at least ten (10) days written notice to the Provider and the complainant. After hearing, the Commission shall make findings and conclusions and issue an order and/or assess a penalty if appropriate as provided in Section 931.04(k), provided, however, that any such order or assessment shall become effective only upon approval of Council.  
(Ord. 2002-78. Passed 4-15-02.)
- (2) The Cable Television Commission shall have responsibility for reviewing requests for the establishment of all cable television rates and rate changes and making recommendations for approval or disapproval to City Council. In reviewing requests by a Provider for initial rates or for rate changes, the Commission may utilize City staff and/or outside professional assistance at the direction of the Mayor. The Provider shall reimburse the City for the cost of any outside professional assistance in reviewing rate changes as set forth in Section 931.05. After review of a rate request, the Cable Television Commission shall make a recommendation to City Council for approval or disapproval. No cable television rate shall be deemed approved or disapproved until approved or disapproved by City Council.

- (3) The Cable Television Commission shall have responsibility for general oversight of the public access channel. In performing its responsibilities with respect to general oversight, it shall hear complaints from the general public and users of the public access channel and shall attempt to informally resolve complaints with the Provider. In the event it is unable to informally resolve complaints or in the event it discovers violations of the rules governing public access channels through its own investigation or as a result of a Complaint, it shall make findings and recommendations to the Mayor with copies to the Law Director, Clerk of Council and the Provider. The Cable Television Commission shall make an annual written report to City Council on the public access channel within the City of Beachwood, which report shall include information regarding usage, equipment, general compliance with the rules and regulations governing the public access channel and suggestions for improvements.

(c) Meetings. The Cable Television Commission shall establish a schedule of regular meetings and shall meet at such regularly scheduled meetings at least four (4) times per year. The

Commission may hold special meetings to review particular complaints or rate change requests or other matters. Notice of special meetings shall be posted and sent by regular mail to all Providers as well as any other person requesting a notice under Chapter 105 of the Codified Ordinances on Public Meetings. The Commission, with the assistance of the Law Department, may establish its own rules to govern the conduct of its meetings.

(d) Jurisdiction. The Cable Television Commission shall not have jurisdiction over any aspect of the Municipal or the Education Channel.  
(Ord. 1998-99. Passed 7-13-98.)

#### 931.04 CUSTOMER SERVICE STANDARDS.

Any Provider of cable television service in the City shall comply with the following customer service standards effective ninety (90) days after written notice of their adoption is given to the Provider:

(a) Subscriber Complaint Practices.

- (1) Provider shall maintain a local office with a telephone listing as a central service center and bill paying location which shall be open during normal business hours at least nine (9) hours per weekday and four (4) hours on Saturdays. The office shall accept payments, handle adjustments to subscriber bills, handle faulty equipment exchanges, and respond to customer's inquiries and installation, repair and/or maintenance requests and other service calls. Provider shall also provide full exchanges of equipment at the customer's premises. Provider shall have dispatchers and technicians on call twenty-four (24) hours a day, seven (7) days a week, including legal holidays. No extra charges shall be made to the subscriber for the availability of this service. Provider shall have a publicly listed local or toll-free telephone number and be so operated as to receive Subscriber Complaints and service and repair requests and billing inquiries on a twenty-four (24) hour-a-day, seven (7) days-a-week basis.

At least ninety percent (90%) of the time under normal operating conditions, Provider shall connect a telephone caller to a live trained service representative staff member within thirty (30) seconds and, if the call needs to be transferred, transfer time shall not exceed thirty (30) seconds, during the following times: 7:00 a.m. to 11:00 p.m. on Monday through Friday; 8:00 a.m. to 11:00 p.m. on Saturday; and 11:00 a.m. to 10:00 p.m. on Sundays and 10:00 a.m. to 8:00 p.m. on National Holidays with the exception of Thanksgiving, Christmas, New Year's Day and July 4, which shall be 10:00 a.m. to 6:00 p.m. Inquiries received during other hours must be responded to by a trained company representative no later than the next business day. Under normal operating conditions, the customer will receive a busy signal less than three percent (3%) of the time. Provider shall be required to maintain written or computer-generated records demonstrating, to the satisfaction of the City, its ability to meet the standards in this section. A written log shall be maintained listing all complaints and their dispositions in a manner consistent with the privacy rights of customers. A copy of the written log shall be provided by Provider for the Cable Television Commission's review at said Commission's periodic meetings.

- (2) Within Provider's local office, monitors of reasonably recent vintage shall display programming available on the local cable system allowing subscribers to view a properly received cable picture.
- (3) Provider shall render efficient service, make repairs promptly and interrupt service only for good cause and for the shortest time possible. Such interruptions, insofar as possible, shall be preceded by notice and shall occur during periods of minimum use of the System, preferably between midnight and 6:00 a.m. A written log available for City inspection shall be maintained for all service interruptions.
- (4) Provider shall maintain adequate telephone lines and trained Personnel to respond in a timely manner to schedule service calls and answer Subscriber Complaints or inquiries as required by this section.
- (5) All employees of Provider shall be courteous, knowledgeable and helpful and shall provide effective and satisfactory service in all contact with customers.
- (6) Work on subscriber requests for maintenance or repairs received prior to 12:00 p.m., Monday through Friday, shall be commenced the same day.
- (7) Work on subscriber requests for maintenance or repairs received after 12:00 p.m., Monday through Friday, shall be commenced within twenty-four (24) hours of the request.
- (8) Work on subscriber requests for maintenance or repairs received on Saturdays, Sundays or holidays shall be commenced within twenty-four (24) hours of the request.
- (9) At the customer's request, Provider shall provide maintenance or repairs at a later time convenient with the customer.

- (10) Service calls for maintenance or repair shall be performed within an "appointment window" as defined herein at no charge or a charge approved by the City or the FCC. Provider may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer. Provider may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment. Provider shall be deemed to have responded to a request for service under the provisions of this section when a technician arrives within the agreed upon time and, if the customer is absent when the technician arrives, the technician leaves written notification of arrival and return time, and a copy of that notification is kept by Provider. In such circumstances, Provider shall attempt to contact the customer within forty-eight (48) hours. If a representative of the Provider is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted and notified as soon as it is apparent that the appointment will be missed. The appointment shall be rescheduled, as necessary, at a time which is convenient for the customer.
- (11) If Provider fails to correct a service problem [other than a service interruption which is governed by subsection (a)(12) and (13) hereof] within twenty-four (24) hours after Provider receives notification of a service problem, Provider shall credit one-thirtieth (1/30) of the monthly charge for the affected tier or premium channel to the Subscriber for each twenty-four (24) hours or fraction thereof after the first twenty-four (24) hours during which a Subscriber is with reduced service. The credit shall be made automatically by Provider without requiring subscriber request. Provider shall, as part of the complaint log to be provided pursuant to subsection (a)(1) hereof, inform the Cable Television Commission, on a monthly basis, regarding the disposition of all credits provided by Grantee to subscribers pursuant to this subsection (a)(11) hereof.
- (12) Provider shall respond within two (2) hours to all service interruption reports affecting at least one (1) channel for five percent (5%) or more of the System's Subscribers.
- (13) In the event any service interruption continues for more than twelve (12) hours after Provider is first notified of the service interruption, Provider shall credit one-sixtieth (1/60) of the monthly charge to all Subscribers affected by the service interruption for each twelve (12) hours or fraction thereof after the first twelve (12) hours during which the Subscriber is with reduced service.

(b) Installation.

- (1) Subscribers who request installation or maintenance or repairs shall be given the schedule option of morning, afternoon, evening (during daylight hours) or Saturday appointments. Persons requesting Installation of cable service shall be afforded a right of rescission between the time cable service is requested and the time service is actually installed. All new Installations, reconnects, service upgrades or downgrades shall be performed within seven (7) business days of the date the order was placed by the Subscriber, unless a later date for installation is requested by the Subscriber. If a Provider representative is running late for an appointment with a subscriber and will not be able to keep the appointment as scheduled, the subscriber shall be contacted. The appointment shall be rescheduled, as necessary, at a time which is convenient to the customer.
- (2) Only those homes which require drops in excess of one hundred twenty-five (125) feet shall be required to pay for Provider's materials and time at the rate per foot. All other installations shall be performed at the advertised installation rate. For the purposes of this paragraph, the term "drop" shall mean the shortest lineal distance from the distribution line to the nearest point of the home. If the customer requests a nonstandard customer installation, or Provider determines that a nonstandard customer installation is required, Provider shall provide the customer in advance with a total installation cost estimate and an estimated date of completion. All underground cable drops from the pedestal to the home shall be buried at a depth of no less than eight inches (8"), and within no more than two (2) calendar weeks (weather permitting) from the initial installation, or at a time mutually agreed upon between Provider and the customer.

(c) Subscriber Information. Provider shall provide to the City and all new Subscribers upon installation and, at least once a year, to existing Subscribers, and at any time the Subscriber may request, written Subscriber service information in conspicuous print which shall include, but not be limited to, the following:

- (1) Products and programming services offered by Provider;
- (2) Provider's complete range of options for programming services and the rates, charges and conditions of subscription for all programming and other services, including public access related charges and conditions and pay-per-view;
- (3) Installation and service maintenance policies;
- (4) Instructions on the use of cable television service and information and use instructions for a standard Converter/VCR hookup;
- (5) Channel positions of programming carried on the system;
- (6) Provider's billing, collection, disconnection, service termination, refund, and credit policies as required by subsection (d) hereof;
- (7) The procedure for investigation and resolution of Subscriber service complaints, including the name, mailing address, and telephone number of Provider and the secretary of the Cable Television Commission with the City;
- (8) Customer privacy requirements;

- (9) Use and availability of A/B switches;
- (10) Use and availability of parental control/lock out devices;
- (11) Special services for customers with disabilities;
- (12) Days, times of operation and locations of service centers and local offices.

(d) Subscriber Billing Practices.

- (1) Provider shall notify each of its Subscribers, through the written service information, of its billing practices. The service information shall describe Provider's billing practices including, but not limited to, the following: frequency of billing, time periods upon which billing is based, advance billing practices, security deposit requirements, charges for late payments or returned checks, payments required necessary to avoid account delinquency, availability of credits for service outages, procedures to be followed to request service deletions including the notice period a Subscriber must give to avoid liability for such services and procedures to be followed in the event of a billing dispute.
- (2) Provider shall notify the City and all affected Subscribers as soon as possible in writing but not less than thirty (30) days prior to any change in the billing practices, rates, programming services, or channel positions if the change is in the control of Provider, and such notice shall include a description of the changed practice.
- (3) Each customer service representative, technician or employee of the Provider in each contact with a customer shall state the estimated cost of the service, repair or installation orally prior to the delivery of the service or before any work is performed, and shall provide the customer with an oral statement of the total charges before terminating the telephone call or before leaving the location at which the work was performed.
- (4) In case of a billing dispute, Provider must respond to a written complaint from a subscriber within thirty (30) days.
- (5) Refund checks will be issued promptly, but not later than either:
  - A. The customer's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier; or
  - B. The return of the equipment supplied by Provider if service is terminated.
- (6) Credits for service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.
- (7) The Subscriber bill shall contain the following information presented in plain language and format and in conspicuous print:
  - A. Name and address of Provider;
  - B. The period of time over which each chargeable service is billed including prorated periods as a result of the establishment and termination of service;
  - C. Each rate or charge levied for programming services, equipment provided, and other services or items offered;
  - D. All activity during the billing period clearly delineated, including optional charges, rebates and credits;

- E. The amount of the bill for the current billing period, separate from any balance;
  - F. Provider's telephone number and a statement that the Subscriber may call this number with any questions or Complaints about the bill; and
  - G. The date on which payment is due from the Subscriber.
- (8) The account of a Subscriber shall not be considered delinquent until at least thirty (30) days have elapsed from the due date of the bill, which shall be a date certain. The following provisions shall apply to the imposition of late charges on Subscribers:
- A. Provider shall not impose a late charge on a Subscriber unless a Subscriber is delinquent, Grantee has given the Subscriber written notice of the delinquency in a clear and conspicuous manner, and the Subscriber has been given at least eight (8) business days from the mailing of the notice to pay the balance due.
  - B. The total late charge for any delinquent bill should not exceed five percent (5%) of the amount of the delinquent bill.
  - C. No late charge may be assessed on the amount of a bill in dispute if found in favor of the Subscriber.
  - D. Any charge for returned checks shall be reasonably related to the costs incurred by Grantee in processing such checks.
- (9) In the event Provider provides bills, statements, invoices, or notices to Subscribers which separately itemize the portion or portions of Provider's charges which are attributed to any tax or fee, the itemization format first shall be reviewed by the City. At a minimum, if Provider itemizes any tax or fee on a subscriber's bill, Provider shall itemize all of its taxes or fees in a like manner. In no event shall any such itemization by Provider be inconsistent with applicable law.
- (10) Service to Subscribers with delinquent accounts may be terminated only after the account is forty-five (45) or more days past due and the subscriber has been given at least two (2) notices of delinquency and notice that service will be disconnected on or after a date certain if the account is not paid by a date certain.
- (e) Parental Control Option. Provider shall provide, free of charge, or for a charge approved by the City or the FCC, parental control devices to all Subscribers who wish to be able to delete any objectionable programming from the cable service entering the Subscriber's home.
- (f) Charges for Disconnection or Downgrading of Service.
- (1) Provider may impose a charge reasonably related to the Provider's actual cost incurred for a downgrade of service, except that no such charge may be imposed when:
- A. A Subscriber requests total disconnection from the System; or
  - B. A Subscriber requests the downgrade within a thirty (30) day period following any rate increase relative to the service in question.

- (2) If a Subscriber requests disconnection from service prior to the effective date of an increase in rates, the Subscriber shall not be charged the increased rate if Provider fails to disconnect service prior to the effective date. Any subscriber who requests disconnection of cable service or any particular programming service previously ordered shall have disconnection effective on the day such request is made. The subscriber will not be charged thereafter for any service disconnected, and in the case of a service for which the subscriber has prepaid, the subscriber shall promptly be provided a credit or sent a refund of the unused portion of the prepaid amount.
- (g) TV Reception. Providers shall provide clear television reception that meets or exceeds technical standards established by the United States Federal Communications Commission (the "FCC").
- (h) Treatment of Property.
  - (1) Providers shall keep trimming to a minimum; trees and shrubs or other landscaping that is damaged by a Provider, any employee or agent during installation or construction shall be restored to its prior condition or replaced. Trees and shrubs shall not be removed without the prior permission of the owner or legal tenant of the property on which they are located. This provision shall be in addition to, and shall not supersede, any requirement in any franchise agreement.
  - (2) A Provider shall, at its own cost and expense, and in a manner approved by the property owner and the City, restore any property to as good condition as before the work causing such disturbance was initiated. A Provider shall repair, replace or compensate a property owner for any damage resulting from the Provider's installation, construction, service or repair activities.
  - (3) Except in the case of an emergency involving public safety or service interruption to a large number of subscribers, a Provider shall give reasonable notice to property owners or legal tenants prior to entering upon private premises, and the notice shall specify the work to be performed; provided that in the case of construction operations such notice shall be delivered or provided at least twenty-four (24) hours prior to entry. Nothing herein shall be construed as authorizing access or entry to private property, or any other property, where such right to access or entry is not otherwise provided by law. If damage is caused by any Provider activity, the Provider shall reimburse the property owner 100% of the cost of the damage or replace the damaged property. For the installation of pedestals or other major construction or installation projects, property owners shall also be notified by mail at least one week in advance. In the case of an emergency, the Provider shall attempt to contact the property owner or legal tenant in person, and shall leave a door hanger notice in the event personal contact is not made.
  - (4) Provider personnel shall clean all areas surrounding any work site and ensure that all cable materials have been disposed of properly.

- (i) Safety. A Provider shall install and locate its facilities, Cable System and equipment in compliance with all federal, state, local and company safety standards, and in such manner as shall not unduly interfere with or endanger persons or property. Whenever the Provider receives notice that an unsafe condition exists with respect to its equipment, the Provider shall investigate such condition immediately and shall take such measures as are necessary to remove or eliminate any unsafe condition.
- (j) Customer Privacy.
  - (1) Providers shall not monitor cable television signals to determine the individual viewing patterns or practices of any customer without prior written consent from that customer, except as otherwise permitted by the applicable franchise or law.
  - (2) Providers shall not sell or otherwise make available customer lists or other personally identifiable customer information without prior written customer consent, except as otherwise permitted by the franchise or applicable law. The Cable Operator is permitted to disclose such information if such disclosure is necessary to render, or conduct, a legitimate business activity related to a cable service or other service provided by the Cable Operator to its customers. (Ord. 1998-99. Passed 7-13-98.)
- (k) Orders and Penalties. The Cable Television Commission may make orders and assess monetary penalties against the Provider for violation of any of the Customer Service Standards set forth herein. The order may require the Provider to undertake an activity which the Provider is required to undertake pursuant to these Customer Service Standards and may assess a penalty not to exceed three hundred dollars (\$300.00) per day per violation for each day that the Provider fails to comply with the order. Any such order or assessment shall become effective only upon approval of Council. (Ord. 2002-78. Passed 4-15-02.)

#### 931.05 RATE PROCEDURE FOR BASIC TIER AND RELATED EQUIPMENT.

(a) Services Covered. All rates associated with equipment rental and installation service charges for basic cable service and any other cable programming services, as defined by the 1992 Cable Act and applicable FCC regulations, shall to the extent permissible, be subject to regulation by the City in a manner provided by this section.

- (b) Procedure for Establishing Initial Rates and Approving Rate Changes.
  - (1) The City hereby adopts and shall follow the rules relating to cable rate regulation promulgated by the FCC at 47 C.F.R., Part 76.900, Subpart N as they may be amended. Prior to approving or disapproving any rates, the City shall provide an opportunity for consideration of the views of interested parties.
  - (2) Within thirty (30) days after receipt of a notice from the City of the City's certification by the FCC to regulate rates, the Provider shall have thirty (30) days to respond with rate and benchmark information to justify its initial benchmark rate and any subsequent increases that took place leading to the rate current at the time of the City's certification utilizing the appropriate official FCC form(s).

- (3) Provider shall file all rate justifications subsequent to the City's certification within the time frames provided by FCC regulations for the given type of FCC filing or cost-of-service showing submitted by the Provider.
  - (4) The initial rate and/or subsequent rate increases that are determined to be within the FCC's standards, may take effect pursuant to the time frames provided for in the FCC's regulations.
  - (5) The City shall conduct its evaluation of whether the proposed rate at issue is appropriate pursuant to FCC regulations and may avail itself of whatever additional periods of time that are permitted by the FCC and that are necessary to complete that evaluation.
  - (6) The City shall, in all cases, issue a written decision to approve the proposed rates and charges, disapprove the proposed rates and charges or to continue its review pursuant to FCC regulations.
  - (7) If any rate and/or charge is in excess of the FCC's standards, the City may order that such rate and/or charge be reduced and the City may order a refund of the amounts collected in excess of the permitted rate pursuant to applicable FCC regulations.
  - (8) After the City determines that the initial rate, or current rate at the time of the City's certification, is appropriate pursuant to FCC regulations, the Provider shall, in conjunction with each change in the rate and charges applicable to basic cable service, conform to the standards of the FCC. Before any rate change is effective, the Provider shall notify the City of its proposed rate change pursuant to FCC regulations.
  - (9) To the extent specifically permitted by federal law and applicable FCC rules, the Provider may appeal to the FCC for a review of the decision of the City.
- (c) Reimbursement of Costs.
- (1) The City may utilize a rate consultant to advise it on proposed rate changes and to assist it in the procedures and the standards for review adopted by the FCC. A rate consultant may be any person who has sufficient background and experience, in the sole opinion of the City, to properly evaluate and analyze rates and charges.
  - (2) All costs for the review of initial rates or rate changes shall be paid by the Provider upon demand of the City, unless contrary to applicable rules of the FCC governing these procedures or unless otherwise specifically preempted by State or Federal law. The costs shall include, but not be limited to, rate consultants, attorney's fees and the reasonable value of services (as determined by the City) rendered by the City or any City employees, agents, or representatives of the City.  
(Ord. 1998-99. Passed 7-13-98.)

**931.06 PUBLIC ACCESS CHANNEL.**

The public access channel shall be made available to all citizens of the City of Beachwood

on a reasonable basis. Rules and regulations governing use of the public access channel shall be recommended by the Provider and approved by the City pursuant to the franchise agreement. After approval by the City, the rules and regulations governing the public access channel shall be given to subscribers through a direct mailing at least one (1) time per year. They shall also be filed with the secretary of the Cable Television Commission.

(Ord. 1998-99. Passed 7-13-98.)

**931.07 INSTITUTIONAL NETWORK.**

No franchise shall be awarded to a cable television operator for use of the City's rights of way unless the franchise agreement includes a requirement that the cable operator provide an institutional network for the benefit of the community and the City's institutions or, if such a network has already been constructed or will be provided by another cable operator, a contribution of equivalent funds or equipment in place of the institutional network shall be provided.

(Ord. 1999-139. Passed 9-13-99.)

**931.08 FRANCHISE FEES.**

Any Provider shall pay franchise fees at a percentage determined by Council based on gross revenues from all services which utilize the cable television facilities constructed pursuant to its franchise agreement with the City. Without limitation, the gross revenues upon which the franchise fees are based shall include revenues derived from cable modem or internet access services. (Ord. 1999-139. Passed 9-13-99.)



