

ORDINANCE NO. 17-3538

**AN ORDINANCE ADDING SECTIONS 95.80 TO 95.86 OF THE MUNICIPAL CODE OF ORDINANCES TO ESTABLISH A SILVERTON SIDEWALK REPLACEMENT PROGRAM TO ASSIST PROPERTY OWNERS WITH THE SYSTEMATIC REPLACEMENT OF SIDEWALKS THROUGHOUT THE COMMUNITY AND DECLARING AN EMERGENCY**

**WHEREAS**, Chapter 95.30 to 95.45 of the Silverton Code of Ordinances specifies the duty of property owners in Silverton to maintain and to replace sidewalks adjacent to their property, specifies the manner in which this work is to be performed and inspected, and empowers various officers of Silverton to take actions to repair or cause to be repaired sidewalks and to assess the costs to the abutting property owner; and,

**WHEREAS**, the Village of Silverton has launched an aggressive schedule to repave and reconstruct roadways in community and Council wishes to extend improvements to include the systematic repair and replacement of all sidewalk sections through the community over time; and

**WHEREAS**, most property owners do not realize that it is their responsibility to maintain, repair, and replace sidewalks abutting their property; many Silverton residents have fixed incomes and modest abilities to invest in replacing sidewalk sections; and enforcement of the property owner responsibility to fix and replace sidewalks has not been consistent or sustained by the Village; and

**WHEREAS**, in recognition of the competing priorities of wishing to systematically replace sidewalks in the community and the limited ability of some property owners to pay for this work themselves, Village Council wishes to establish a new program under which the Village can manage the replacement of sidewalk sections in need of repair and share the responsibility of paying for this costs, and enable the property owners to spread their own costs over three or more years through annual property tax assessments; and

**WHEREAS**, the Municipal Code of Ordinances needs to be amended to allow the Village to establish this new program.

**NOW THEREFORE, BE IT ORDAINED** by the Council of the Village of Silverton, Ohio, that:

**SECTION I.** To add sections: “Sections 95.80, 95.81, 95.82, 95.83, 95.84, 95.85, and 95.86 of the Municipal Code of Ordinances, which are to be added to and amend the Municipal Code of Ordinances, read as follows:”

**“Section 95.80 Silverton Sidewalk Replacement Program”:**

Silverton Village Council may, at its discretion, provide for an annual sidewalk replacement program to cause the systematic repair and replacement of sidewalks in a defined geographic area within the Silverton corporate limits. The Silverton Sidewalk Replacement Program shall identify sidewalks that are cracked, unlevel, sinking, rising, twisting, having loose aggregate, crumbling or otherwise not compliant with the standards and specifications of the Typical Construction Standards in Appendix A of Chapter 53 of the Code of Ordinances within the area designated by Council through the adoption of a Resolution of Necessity.

**“Section 95.81 Marking and Recording of Sidewalks in need of Repair under the Silverton Sidewalk Replacement Program”**

The Village Manager or the Village Manager’s designee shall inspect all sidewalks within the designated area, shall mark clearly sidewalk sections in need of replacement with spray paint or other visible means, and shall attribute all sidewalk sections in need of repair or replacement to the appropriate abutting property owners by parcel identification number. The Village Manager shall communicate this information to Council, shall estimate the cost of the total project, and shall recommend the project proceed, be amended, or reconsidered.

**“Section 95.82 Notice to Property Owners Regarding Silverton Sidewalk Replacement Program”**

The Village Manager shall, following the communication to Council required in Section 95.81, cause notice to be provided to all property owners in the designated area of the need to replace sidewalks, the number associated with each the property, the estimated cost to do so, and the approximate time frame for this work to be completed.

- (A) In the event that a property owner within the designated area does not have any sidewalk sections in need of repair, no notice shall be required.
- (B) In the event when two or more property owners may have responsibility for a section of sidewalk in need of repair under Section 95.30 of the Silverton Code of Ordinances, the Village shall assume 100% responsibility for this section’s replacement under the Silverton Sidewalk Replacement Program.

- (C) A property owner is free to fix or replace any sidewalk sections designated as in need of repair following the Village Manager's marking of same under Section 95.81 at the property owner's sole expense, provided the property owner follows all requirements in Sections 95.30 to 95.45 of the Code of Ordinances.
- (D) Notice to property owners for the Sidewalk Replacement Program shall be by certified mail by provided under the standards also used in Section 95.31-95.32 of the Code of Ordinances.

**“Section 95.83 Right to Appeal Necessity to Repair”**

A property owner provided notice to fix or replace and sidewalk sections designated as in need of repair pursuant to Section 95.82 shall have the same right of appeal as provided in Section 95.34 of the Code of Ordinances. An appeal by a property owner for one or more sections of sidewalk to be replaced under the Silverton Sidewalk Replacement Program must be filed within 15 days of the Village providing notice to the property owner under Section 95.82 of the Code of Ordinances.

**“Section 95.84 Silverton to Cause Necessary Repairs to be completed by Contractor for the Sidewalk Replacement Program”:**

Within 90 days of Council adopting a resolution of necessity, the Village Manager or the Village Manager's designee shall engage a contractor to repair all sidewalk sections designated as in need of repair which have not been removed from the list through an appeal under Section 95.83. The Village Manager or the Village Manager's designee shall hire the contractor.

**“Section 95.85 Special Assessments for Silverton Sidewalk Replacement Program”**

The Village Manager or the Village Manager's designee shall prepare an accounting of the work performed in the designated area and shall note all property owners who had sections of sidewalk repaired under the Silverton Sidewalk Replacement Program.

- (A) The Village Solicitor shall prepare legislation to enable Council to assess 50% of the cost of the Sidewalk Replacement Program to the abutting property owner of each section or sections repaired or replaced in the designated areas under the Sidewalk Replacement Program.
- (B) The property owner shall be charged special assessments in three annual equal installments totaling 50% of the cost of repair associated with their property.
- (C) In the event that three annual equal installments would be exceed \$150 per year, the property owner shall have the cost capped at \$150 per year and the schedule of assessments extended beyond three years until the entirety of 50% of the cost associated with the Sidewalk Replacement Program is repaid to the Village of Silverton.

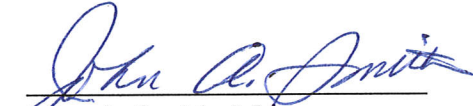
**“Section 95.86 Silverton Sidewalk Replacement Program”**

Nothing herein shall limit or alter the ability of the Village of Silverton to take any enforcement actions deemed necessary pursuant to Sections 95.30 to 95.45 of the Code of Ordinances.

**SECTION II**

This Ordinance is declared to be an emergency measure necessary to preserve the public peace, health, safety and welfare of the citizens of the Village of Silverton; the reason for the emergency being the immediate need to create the authority to commence this sidewalk repair program and assessment process in 2017 with sufficient time to notify residents of the program requirements, bid and oversee the work, and begin levying assessments in 2017. Accordingly, this Ordinance shall take effect and be in force from and after its passage and approval.


*Passed this 19<sup>th</sup> day of January, 2017.*

  
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John A. Smith, Mayor

**ATTEST:**

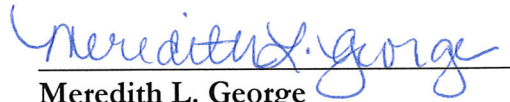
  
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Thomas M. Carroll, Village Manager

*Approved as to form:*

  
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Bryan E. Pacheco, Village Solicitor

**CERTIFICATION:**

I, Meredith L. George, Clerk of Council of the Village of Silverton, County of Hamilton, State of Ohio; do hereby certify that there is no newspaper published in said municipality and that publication of the foregoing Ordinance No. 17-3538 has been duly made by posting true copies in three (3) of the most public places in said municipality, as determined by Council as follows: 1) Parkview Lane at Railroad; 2) Silverton Municipal Building and 3) The Village of Silverton's Website. Said posting was for a period of fifteen days commencing January 20, 2017.

  
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Meredith L. George  
Clerk of Council of Silverton, Ohio