

**ORDINANCE NO. 18-3592**

**AN ORDINANCE TO AMEND AND ENACTING CERTAIN SECTIONS OF  
CHAPTER 53 GOVERNING THE RIGHTS OF WAY IN THE SILVERTON  
CODE OF ORDINANCES;  
AND DECLARING AN EMERGENCY**

**WHEREAS**, the General Assembly recently passed Sub.H.B. 478, effective August 1, 2018, amending state statutes regulating the placement and design of small cell and micro wireless facilities in municipal rights-of-way and permitting some local regulation of such facilities' placement and design ; and

**WHEREAS**, the Village desires to regulate the placement and design of such facilities to the fullest extent permitted by the recently passed Sub.H.B. 478; and

**WHEREAS**, the Village of Silverton, Ohio, has determined a need to update certain portions of the Codified Ordinances for the Village of Silverton to codify such regulations and to promulgate design guidelines for such facilities before the effective date of Sub.H.B. 478; and

**WHEREAS**, the proposed amendments affecting the Right of Way Code (Chapter 53) were reviewed by the Village Solicitor and the Village Manager; and

**WHEREAS**, it is also necessary to amend Chapter 53 of the Code where noted so that the Codified Ordinances are consistent with the newly-enacted changes passed by the General Assembly in Sub.H.B. 478.

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

**SECTION I.** To amend sections: "Sections 53.04 and 53.05 of the Municipal Code of Ordinances are amended to read as follows:"

See attached Exhibit.

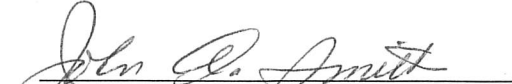
Additionally, the Village Manager is also authorized to promulgate design guidelines as permitted by newly-enacted R.C. 4939.0314.

**SECTION II.** It is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of Village Council, and that all deliberations of this Council that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

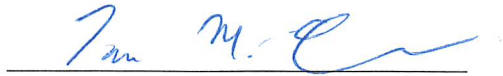
**SECTION III.** This ordinance is hereby declared to be an emergency measure for the immediate preservation of the public, peace, health, safety and welfare; the reason for the emergency being the immediate need to enact changes to the Municipal Code of Ordinances to permit the Village to regulate the design and placement of small cell and micro

wireless facilities in municipal rights-of-way to the fullest extent permitted by Sub.H.B. 479 before its effective date and to ensure that such Codified Ordinances are consistent with the recent changes enacted under Sub.H.B. 478. Therefore, this ordinance shall take effect and be in force from and after its passage.

*Passed this 26<sup>th</sup> day of July, 2018.*

  
\_\_\_\_\_  
John A. Smith, Mayor

ATTEST:

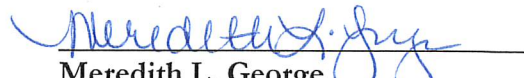
  
\_\_\_\_\_  
Thomas M. Carroll, Village Manager

*Approved as to form:*

  
\_\_\_\_\_  
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. 18-3592 has been duly made by posting true copies in two (2) places that are accessible by the public in said municipality, as determined by Council as follows: 1) Silverton Town Hall lobby area and Council Chambers foyer; and 2) Silverton's official website. Said posting was for a period of fifteen days commencing Aug 17, 2018.

  
\_\_\_\_\_  
Meredith L. George  
Clerk of Council of Silverton, Ohio

**§ 53.01 TITLE.**

This chapter may be known and cited as the Right-of-Way Ordinance for the City of Silverton, Ohio.

**§ 53.02 CONSTRUCTION; GOVERNING LAW.**

This chapter shall be construed under and in accordance with the Ohio Revised Code and any other city ordinance to the extent that such ordinance is not in conflict with or in violation of the Constitution and laws of the United States or the State of Ohio.

**§ 53.03 SCOPE.**

This chapter shall be effective within the geographical limits of the city, including any area subsequently annexed by the city.

**§ 53.04 DEFINITIONS.**

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***APPLICANT.*** The individual or entity either seeking a public right-of-way permit or any individual or entity that is the holder of an approved public right-of-way permit.

***CITY.*** The City Manager or his designee.

***FACILITY.*** The equipment of a public utility and includes property owned, operated, leased, licensed, used, controlled, or supplied for, by, or in connection with the business of a public utility. Facility may also mean those public infrastructure improvements owned and maintained by the city.

***MICRO WIRELESS FACILITY.*** A small cell facility that is not more than twenty-four inches in length, fifteen inches in width, and twelve inches in height and that does not have an exterior antenna more than eleven inches in length suspended on cable strung between wireless support structures.

***NPDES.*** The National Pollution Discharge Elimination System for permitting of storm water runoff, administered by the United States Environmental Protection Agency or the Ohio Environmental Protection Agency.

***RIGHT-OF-WAY.*** The surface of, and the space above and below a public street, road, highway, land, path, public way or place, alley, court, drive, or other easement now or hereafter held by or under the control of the city, to which the city holds the property rights in regard to the use for utilities.

***RIGHT-OF-WAY USER.*** A person, private or public entity, or public utility that owns facilities within a right-of way area owned by the city.

SMALL CELL FACILITY. A wireless facility that meets both of the following requirements:

- (1) Each antenna is located inside an enclosure of not more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an enclosure of not more than six cubic feet in volume.
- (2) All other wireless equipment associated with the facility is cumulatively not more than twenty-eight cubic feet in volume. The calculation of equipment volume shall not include electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

WIRELESS SUPPORT STRUCTURE. A pole, such as a monopole, either guyed or self-supporting, street light pole, traffic signal pole, a fifteen-foot or taller sign pole, or utility pole capable of supporting small cell facilities. "Wireless support structure" excludes all of the following:

- (1) A utility pole or other facility owned or operated by a municipal electric utility;
- (2) A utility pole or other facility used to supply traction power to public transit systems, including railways, trams, streetcars, and trolleybuses.

### **§ 53.05 PUBLIC RIGHT-OF-WAY PERMIT REQUIRED.**

No person shall commence or continue with the construction, installation, maintenance, demolition or operation of facilities or other infrastructure improvements within the right-of-way in the city except as provided by the ordinances of the city. All construction activity in the city right-of-way shall be in accordance with this chapter.

(A) Public right-of-way permits.

(1) No person or entity shall perform any construction, demolition, maintenance or installation of facilities, whether above-ground or underground, in the right-of-way without first obtaining a public right-of-way permit, except as provided herein. The permit shall be in the name of the person or entity who owns or will own the facilities to be constructed, maintained, repaired, or upgraded. The permit must be completed and signed by a representative of the owner of the facilities to be constructed.

(2) Emergency responses related to existing facilities may be undertaken without first obtaining a permit; however the city shall be notified in writing, on a form approved by the City Manager, within 24 hours of any construction related to an emergency response, including a reasonably detailed description of the work performed in the right-of-way and updated plans of any facilities that were moved or repaired.

(3) The phrase "construction, maintenance or installation of facilities" does not include the installation of facilities necessary to initiate service to a customer's property, or repair or maintenance of existing facilities unless such repair or maintenance requires the breaking or

cutting of pavement; the closure of a nonresidential traffic lane; or excavation within the right-of-way or boring.

(4) This chapter shall also apply to all requests to replace or otherwise alter any sidewalk, curb or driveway apron located within the city right-of-way.

(B) The permit shall state the following:

(1) To whom it is issued.

(2) The location and right-of-way affected.

(3) A description of any facilities to be installed, constructed, or maintained.

(4) Whether or not any street will be opened or otherwise need to be restricted, blocked, or closed.

(5) An estimate of the amount of time needed to complete such work.

(6) A description and timetable of any remedial measures planned to close any street opening or repair any damage done to facilitate such work.

(7) A statement verifying that other affected or potentially affected permittees and franchisees have been notified.

(8) A statement that any consumers of any utility, cable television, communications, or other service that will be adversely affected by such work have been or will be notified in conformance with applicable rules and regulations of the Ohio Public Utilities Commission.

(C) The contents of the application requesting a public right-of-way permit shall include the following:

(1) The name, address and phone numbers of the contractor or subcontractor who will perform the actual construction, including the name and telephone number of an individual with the contractor who will be available at all times during construction. Such information shall be required prior to the commencement of any work.

(2) The proposed, approximate location and route of all facilities to be constructed or installed and the applicant's plan for right-of-way construction.

(3) The construction and installation methods and materials to be employed for the protection of existing structures, fixtures, and facilities within or adjacent to the right-of-way, and the dates and times work will occur, all of which (methods, dates, times, etc.) are subject to approval of the city.

(4) Three sets of engineering plans at a scale not to exceed one inch equals 100 feet unless otherwise approved by the city.

(5) Details of the location of all right-of-way and utility easements that the applicant plans to use.

(6) Details of all existing city utilities in relationship to applicant's proposed route.

(7) Details of what applicant proposes to install, such as pipe size, number of interducts, valves, etc.

(8) Details of plans to remove and replace asphalt or concrete in streets, driveways, alleys and sidewalks.

(9) Drawings of any bores, trenches, hand holes, manholes, switch gear, transformers, pedestals, etc. including depth.

(10) Complete legend of drawings submitted by applicant. Applicant may submit a standard legend for all permit applications, provided the applicant submits updated or revised versions of the standard details.

(11) Proof satisfying the insurance and indemnification requirements as provided for in this chapter.

(12) A traffic control plan.

(D) All construction and installation in the right-of-way shall be in accordance with the permit for the facilities. The city shall be provided access to the work and such further information as is reasonably required to ensure compliance with the permit.

(E) A copy of the construction permit and approved engineering plans shall be maintained at the construction site and made available for inspection by the city at all times when construction or installation work is occurring.

(F) All construction or installation work authorized by the permit must be completed in the time specified in the public right-of-way permit. If the work cannot be completed in the specified time periods, the applicant may request an extension from the city.

(G) A copy of any permit or approval issued by federal or state authorities for work in state rights-of-way located in the city shall be maintained at the construction site and made available for inspection by the city at all times when construction or installation work is occurring.

(H) A request for a permit, complete with all information required under this section, must be submitted at least five working days before the commencement of work proposed in the request, unless waived by the city.

(I) The city may require a pre-construction meeting with the right-of-way applicant and the applicant's construction contractor.

(J) Requests for permits will be approved or disapproved by the city promptly after receiving a completed application and any requests for additional information.

(K) Permits are not transferable to another applicant or another location.

(L) Applicants for Micro Wireless Facility Permits or Small Cell Facility Permits, or renewals thereof, shall file an application therefor, in such form as the Village Manager may require, along with an application fee. The Village Manager shall determine if the application is in order in accordance with established administrative policy and shall make a final determination within ninety days after the date the permit is applied for as to whether or not such Permit should be granted and, if so, upon what terms and conditions. The Village Manager is authorized to promulgate regulations as allowed per Ohio Revised Code 4939.0314 including, but not limited to: design, height, spacing, location, and co-location.

(1) The Village Manager shall promulgate detailed Design Guidelines with objective, technically feasible criteria applied in a non-discriminatory manner that reasonably match the aesthetics and character of the immediate area.

(2) The Village Manager shall have authority to update or supplement the Design Guidelines to address relevant changes in law, technology, or administrative processes.

#### **§ 53.06 FEE SCHEDULE.**

The following fees are hereby established:

(A) *Right-of-way construction application fee.* The purpose of the application fee is limited to the recovery of the direct increment or cost incurred by the city in inspecting or reviewing any plans and specifications and in granting the associated permit.

(1) Permittees shall pay an application fee determined by the following:

(a) Permittee proposing to utilize equal to or greater than 20 miles of right-of-way shall pay an application fee of \$400.

(b) Permittee proposing to utilize less than 20 miles of right-of-way shall pay any application fee of \$200.

(c) Said fee shall be paid at the time of application.

(2) Residential permittees shall pay no application fee but shall be required to make application for and receive approval of the use of the right-of-way.

(B) *Right-of-way excavation work permit fee.*

(1) Permittees shall make application for an excavation work permit for each street opening, cut, or bore and shall post a performance bond as specified in § [53.09](#). The fee for an excavation work permit shall be \$50.

(2) Said fees are payable at the time the notice is filed as specified in § [53.08](#). Fees for work done without prior notice per § [53.08](#) shall be made within seven business days of the initiation of any such work.

(3) Said permit shall serve as the permittee's right-of-way work permit.

(C) *Fee exception.* There shall be no fee for a right-of-way work permit when the work being performed involves activities listed in [Chapters 52](#) and [95](#) of the Municipal Code of Ordinances.

### **§ 53.07 INDEMNIFICATION AND INSURANCE REQUIREMENTS.**

The following indemnification and insurance requirements shall apply to work performed within the city right-of-way by public or private utility companies.

(A) An applicant shall, at its sole cost and expense, indemnify, defend and hold harmless the city, its elected and appointed officials, employees and agents, at all times against any and all claims for personal injury, including death and property damage arising out of the applicant's use or occupancy of the public rights-of-way. An applicant shall defend any actions or proceedings against the city in which it is claimed that personal injury, including death, or property damage was caused by the applicant's use or occupancy of the rights-of-way. The obligation to indemnify, hold harmless and defend shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, reasonable attorneys' fees, reasonable expert fees, court costs and all other costs of indemnification.

(B) An applicant shall, at all times during the life of a public right-of-way permit, carry itself and require all of its subcontractors to carry liability, property damage, worker's compensation, and vehicle insurance issued to the applicant by an insurance company licensed to do business in the State of Ohio in a minimum amount of \$1,000,000 provided on a form acceptable to the city as set forth in the permit.

(C) An applicant shall name the city as an additional insured on its liability insurance policies for whom defense will be provided as to all such coverages. All required insurance coverage shall provide for 30 days' written notice to the city in the event of material alteration or cancellation of such coverage prior to the effective date of such material alteration or cancellation. An applicant shall provide appropriate insurance certificates to the city prior to beginning any work within the public right-of-way. Any certificate of insurance presented to the city shall verify that the applicant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the applicant's use and occupancy of the rights-of-way.

### **§ 53.08 NOTIFICATION REQUIREMENTS.**



Applicant shall be responsible for notifying the following entities within the proscribed time frames as a condition of permit approval.

(A) The Silverton Police Department shall be notified at least 24 hours prior to construction when blocking any portion of the traveled rights-of-way.

(B) The Ohio Utilities Protection Service shall be notified no less than two full business days prior to the commencement of any work.

(C) The City Manager shall be notified by telephone no less than 24 hours prior to the following applicable inspection points:

(1) The construction of any subgrade or bedding for roadway and storm sewer drain facilities.

(2) The construction of any curb, gutter, driveway, and sidewalk forms.

(3) The pouring of concrete slabs.

(4) Final inspections.

(D) Applicant or applicant's contractor or subcontractor shall notify the City Manager immediately of any damage to other utilities, whether owned by the city or privately owned.

(E) Applicant or applicant's contractor or subcontractor shall provide project notification for all property owners abutting any proposed work areas. The property owner notification shall be in the form of a hand delivered door knob hang tag, or other suitable method as approved by the City Manager containing a brief description of the work to be performed, the duration of the project, notification of any travel lane or sidewalk closures and any other pertinent project details. The property owner notification shall be delivered at least 48 hours prior to the commencement of any work on the project.

#### **§ 53.09 FINANCIAL SURETY REQUIRED.**

A performance bond or letter of credit is required to guarantee the work is completed as specified in the approved public right-of-way permit and to provide funds to repair and restore any damage to other facilities within the right-of-way caused by applicant's work subject to the provisions below:

(A) The applicant shall execute and file a surety acceptable to the city prior to commencement of any work sought under a public right-of-way permit application. The performance bond or letter of credit guarantee period shall be for the period of time required to complete the work, including all restoration activities, pursuant to the application.

(B) The performance bond or letter of credit shall be provided in the greater amount of the following: \$50,000 or in an amount equal to 110% of the construction estimate of the cost of

completion of all improvements and restoration as set forth in the public right-of-way permit application.

(C) If the city expends funds to temporarily or permanently repair, re-construct, restore, clean up or otherwise complete an applicant's work required under this chapter and permit, the city may undertake reimbursement of those funds through the performance bond or letter of credit. Likewise, if the city expends funds to temporarily or permanently repair, reconstruct or otherwise restore existing facilities located within the right-of-way that have been partially or wholly damaged as a direct or indirect result of the applicant's work or actions conducted within the right-of-way, the city may undertake reimbursement of those funds through the performance bond or letter of credit.

(D) Any residential or non-residential property owner working in the right-of-way adjacent to their parcel is not required to obtain a performance bond or letter of credit.

#### **§ 53.10 ACTIONS TO RECOVER COST.**

When the applicant is a residential or non-residential property owner conducting work in the right-of-way adjacent to their parcel, the city may seek reimbursement for funds expended to temporarily or permanently repair, re-construct, restore, clean up or otherwise complete an applicant's work required under this chapter and permit through the levying of a real property tax assessment upon the adjacent parcel subject to the following provisions:

(A) When the city undertakes such activity, the applicant shall reimburse the city for all of its expenses within 30 days of receipt of an invoice to the applicant. If the applicant fails to pay that amount within 30 days, then the city may cause an assessment to be levied upon the tax duplicate for applicant's parcel for the full amount of the amount expended.

(B) The city may also seek reimbursement of all reasonable costs, including all legal fees, expended under this chapter through the initiation of all available legal remedies with a court of competent jurisdiction.

#### **§ 53.11 CONSTRUCTION STANDARDS.**

Construction shall be in accordance with the current Ohio Department of Transportation standards unless otherwise provided in the text or illustrated drawings found within this chapter (see Appendix A for illustrated drawings of typical construction standards).

(A) Pavement shall be cut in a full depth, neat, and straight line.

(B) Existing drainage ditches, culverts, and like facilities shall be kept clean at all times. Any drainage culvert tile, catch basin, manhole, or other facility disturbed by excavation shall be replaced with new material or repaired as directed by the city. Temporary erosion/sedimentation control measures shall be employed to protect adjacent property and storm drain facilities. Maximum amount of open trench on streets shall be 400 lineal feet. At the end of each day, all trenches must be backfilled or covered with steel plates.

city prior to any excavation or boring with the exception of work involving lane closures, as discussed above.

(O) Placement of all hand holes, manholes or other access facilities must be approved in advance by the city.

### **§ 53.12 CONSTRUCTION WORKING HOURS.**

(A) Working hours in the rights-of-way not involving traffic lane closures are 7:00 a.m. to 6:00 p.m., Monday through Friday. Work which must be performed before 7:00 a.m. or after 6:00 p.m. Monday through Friday must be approved by the city in advance. Any work performed outside the above work hours must be approved 24 hours in advance by the city. Directional boring is permitted only Monday through Friday 7:00 a.m. to 6:00 p.m., unless approved by the city in advance. No work may be done, except for emergencies, on city observed holidays.

(B) Lane closures in school zones or on streets other than residential streets shall be limited to after 8:30 a.m. and before 4:00 p.m. unless prior approval is obtained from the city.

### **§ 53.13 CONSTRUCTION CLEANUP REQUIREMENTS.**

Final cleanup shall include complete repair to damage and restoration to original condition of shoulders, surrounding pavement, curb and gutter, striping, traffic control devices including detector loops, cleaning of ditches, culverts and catch basins, and removal of loose material from back slopes of ditches. This clean-up shall not exceed 500 lineal feet behind excavating operations. Street surfaces shall be kept clean at all times with the use of a power broom or other approved methods.

### **§ 53.14 PROTECTION OF PUBLIC PROPERTY.**

(A) The applicant shall not remove, even temporarily, any trees or shrubs which exist in a public right-of-way or other land owned by the city without first obtaining the consent of the city.

(B) Any monument set for the purpose of locating or preserving the lines of any street or property subdivision, or a precise survey reference point, or a permanent survey bench mark within the city, shall not be removed or disturbed or caused to be removed or disturbed without first obtaining permission in writing from the city to do so. Permission to remove or disturb such monuments, reference points or benchmarks shall be granted only when no alternate route for the proposed substructure or conduit is available. If the city is satisfied that no alternate route is available, permission shall be granted only upon condition, by an agreement in writing, that the person or utility applying for such permission shall pay all expenses incurred to replace this monument by the city.

(C) No applicant shall remove, damage, haul away or cause misalignment of any curbing, including radius curb and catch basin, stones, for any reason whatsoever, without first receiving written permission from the city.

(D) No applicant shall remove, damage, haul away, or otherwise disturb any manhole and/or catch basin castings, frames, and/or covers owned by the city without first receiving written permission from the city. Any manhole and/or catch basin castings, frames and/or covers missing, damaged, or disturbed shall be repaired and/or replaced by the city, and the cost will be charged to the applicant.

**§ 53.15 IMPROPERLY INSTALLED, REPAIRED, OR MAINTAINED FACILITIES.**

Any applicant of the public right-of-way permit shall properly install, repair, upgrade and maintain facilities. Facilities shall be considered to be improperly installed, repaired or upgraded when any one or more of the following occurs:

(A) The installation, repair, upgrade or maintenance endangers public health, safety or welfare.

(B) The facilities encroach upon private property or extend outside the right-of-way location as approved on the public right-of-way permit.

(C) The facilities do not meet the applicable state, federal, or local laws.

(D) The facilities are not capable of being located or maintained using standard practices.

(E) The facilities are placed in an area that interferes with another right-of-way user's facilities. Nothing in this section shall diminish the authority of the city to require specific placement of specific lines.

(F) All work performed within the city right-of-way shall be in accordance with the current Ohio Department of Transportation standards unless otherwise provided herein.

**§ 53.16 RESTORATION OF PROPERTY.**

(A) Applicants with facilities in the right-of-way shall restore property affected by construction, repair, maintenance installation, demolition or upgrade of facilities to a condition that is equal to or better than the most recent specification of the city public infrastructure standards as provided for in the Subdivision Regulations.

(B) Restoration must be to the reasonable satisfaction of the city. The restoration shall include, but not be limited to:

(1) Yard improvements within the right-of-way shall be restored to as close to original conditions as feasible. This includes but is not limited to features such as landscaping, rock features, lamp posts, retaining walls, mailboxes, fences and irrigation components;

(2) Installation of all manholes and hand holes as required;

(3) All bore pits, pot holes, trenches or any other excavations shall be backfilled daily unless other safety requirements are approved by the city;

(4) Street and sidewalk repair that conforms with the Subdivision Regulations or other standards adopted by City Council;

(5) Leveling of all trenches;

(6) Restoration of any excavation site to city's specifications; and

(7) Restoration of all landscaping ground cover and sprinkler systems.

(C) All layout stakes shall be removed during the cleanup process by the applicant at the completion of the work.

(D) Restoration shall be made in a timely manner and to the satisfaction of the city. If restoration is not satisfactory or not performed in a timely manner, then all of right-of-way applicant's work in progress, (except for that work related to the problem), shall be halted and no other permit will be approved until all restoration is complete. The hold on right-of-way applicant's work will include work previously permitted but not complete.

#### **§ 53.17 DAMAGE TO OTHER FACILITIES.**

In the event the applicant causes damage to any city owned or maintained facilities located within the right-of-way either above or below ground, the applicant shall be responsible for the full repair and restoration of the damaged facilities. The damage to city facilities may either occur from applicant's direct contact with the city facility or by an applicant's indirect work or action that consequentially causes damage to the city facility. If the applicant fails to repair and restore the damaged facilities within 24 hours, the city shall seek funds to repair the damaged facilities from the performance bond or letter of credit posted by the applicant as required under § 53.09. Each applicant shall also be responsible to repair and restore any damaged facilities located within the right-of-way area that are owned and maintained by other non-city entities.

#### **§ 53.18 REVOCATION OR DENIAL OF PERMIT.**

If any of the provisions of this right-of-way chapter are not followed, a permit may be revoked by the city. If an applicant has not followed the terms and conditions of this chapter in work done under a prior permit, new permits may be denied or additional terms required.

#### **§ 53.19 ASSESSMENT.**

Work performed in the right-of-way by city property owners concerning a sidewalk, drive apron, utility service line or similar property right-of-way work directly benefitting an applicant's real property shall be subject to the assessment procedures set forth in this chapter.

#### **§ 53.99 PENALTY.**

(A) If the city has reason to believe that the applicant has violated any of the terms of this chapter, it shall notify the applicant in writing of the nature of the violation and the section of this chapter that it believes has been violated. Except in the case of an emergency, the applicant shall have 20 business days to cure the violation. If the nature of the violation is such that it cannot be fully cured within such time period, the city may, in its reasonable judgment, extend the time period to cure.

(B) If the violation has not been cured within the time period allowed, the applicant shall be guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, such person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense such person is guilty of a misdemeanor of the third degree. Each day's violation of failure to conform shall constitute a separate offense. The court of competent jurisdiction shall process violations under this chapter.

(C) In the case of an emergency which is discovered by the city or reported to the city, the city shall notify the applicant via the applicant's emergency telephone number. In the event the applicant does not repair the emergency within six hours upon telephone contact, the city may take the necessary actions to temporarily mitigate the unsafe condition at the applicant's expense. In the event the applicant fails to complete permanent repairs of the unsafe condition within 24 after telephone contact, the city may undertake the necessary permanent repairs at the applicant's sole expense.

(D) Notwithstanding the foregoing, no provision hereof shall prohibit the city from exercising its right to enforce this chapter through an action at law.