

ORDINANCE NO. 9351

AN ORDINANCE TO ENACT A COMPREHENSIVE
RIGHT OF WAY MANAGEMENT POLICY

WHEREAS, the City of Lebanon, Ohio (the "City") is vitally concerned with the use of the various rights-of-way in the City as such rights-of-way are a valuable and limited resource which must be utilized to promote the public health, safety and welfare including the economic development of the City; and

WHEREAS, changes in the public utilities and telecommunication industries have increased the demand and need for access to rights-of-way and placement of facilities and structures therein; and

WHEREAS, it is necessary to comprehensively regulate access to, and structures and facilities in, the rights-of-way to promote efficiency, discourage uneconomic duplication of facilities, lessen the public inconvenience of uncoordinated work in the rights-of-way, and promote public safety; and

WHEREAS, the City is exercising its rights under the laws and Constitution of the State of Ohio, including Article 18, Sections 3 and 4, to regulate public and private entities which use the rights-of-way; and

WHEREAS, the City is regulating access to, and structures and facilities in, the rights-of-way consistent with Ohio Revised Code Chapter 4939, *et seq.* to the extent Ohio Revised Code Chapter 4939 *et seq.* is not in conflict with Article 18, Sections 3 and 4 of the Ohio Constitution; now, therefore,

NOW, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LEBANON,
OHIO.

SECTION 1: That the City of Lebanon Codified Ordinances are hereby supplemented by the enactment of Chapter 908 of the Codified Ordinances of the City as follows:

“CHAPTER 908 – RIGHT-OF-WAY OCCUPANCY PERMIT.

908.01 - DEFINITIONS.

For purposes of this Chapter, the following terms, phrases, words, and their derivations have the meanings set forth herein. When not inconsistent with the context, words in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

- A. "Applicant" means any person applying for a right-of-way occupancy permit hereunder.
- B. "Best Efforts" means the best reasonable efforts under the circumstances, taking into consideration, among other appropriate matters, all applicable laws, regulations, safety, engineering and operational codes, expedition, available technology and human resources and cost.
- C. "Chapter" means Chapter 908 of the Codified Ordinances of the City, as amended from time to time, and any regulations adopted hereunder.
- D. "City" means the City of Lebanon, Ohio.
- E. "City Manager" means the City Manager of Lebanon, Ohio.
- F. "Council" means the legislative body of the City.

- G. "Deputy City Manager" means the Deputy City Manager of Lebanon, Ohio, or designee.
- H. "Force Majeure" means a strike, act of God, act of public enemy, riot, epidemic, landslides, lightning, earthquake, fire, tornado, storm, flood, civil disturbance, explosion, partial or entire failure of a utility or any other cause or event not reasonably within the control of the party disabled by such force majeure, but only to the extent such disabled party notifies the other party as soon as practicable regarding such force majeure and then for only so long as and to the extent that, the force majeure prevents compliance or causes non-compliance with the provisions hereof.
- I. "General Right-of-Way Occupancy Permit" shall have the meaning set forth in Section 908.03(B)(1).
- J. "Governmental Purposes" means those purposes classified as governmental under Ohio law, as well as water utility service, sanitary sewer service, electric service, storm sewers, automatic meter reading service, and any other City utility service to the extent such other City utility service is provided to City facilities.
- K. "Permittee" means any person issued a right-of-way occupancy permit pursuant to this chapter to use or occupy all or a portion of the right-of-way in accordance with the provisions of this chapter and said right-of-way permit.
- L. "Person" means any natural person or any association, firm, partnership, joint venture, corporation, or other legally recognized entity, whether for-profit or not-for-profit.
- M. "Public Property" means any real property owned by the City or easements held or used by the City, other than a right-of-way.
- N. "Regulation" means any rule adopted by the City Manager pursuant to the authority of this chapter, and the procedure set forth in Section 908.10, to carry out its purpose and intent.
- O. "Residential Purposes" means residential use of right-of-way for such uses as mailboxes, trees, decorative purposes or any curb cuts and driveways, and as may be further defined in the regulations.
- P. "Right-of-Way" means the surface of and the space above and below the paved or unpaved portions of any public street, public road, public highway, public freeway, public lane, public path, public way, public alley, public court, public sidewalk, public boulevard, public parkway, public drive and any other land dedicated or otherwise designated for the same now or hereafter held by the City which shall, within its proper use and meaning in the sole opinion of the City Manager, entitle a permittee, in accordance with the terms hereof and of any right-of-way occupancy permit, to the use thereof for the purpose of installing or operating any poles, wires, cables, transformers, conductors, ducts, lines, mains, conduits, vaults, manholes, amplifiers, appliances, attachments or other property or facilities as may be ordinarily necessary and pertinent to the provision of natural gas, electric, cable television, communications or other utility services as set forth in any right-of-way occupancy permit. Right-of-way shall not include private easements or public property, except to the extent the use or occupation of public property is specifically granted in a right-of-way occupancy permit or by regulation.
- Q. "Right-of-Way Occupancy Permit" means the non-exclusive grant of authority to use or occupy all or a portion of City's rights-of-way granted pursuant to this chapter.
- R. "Right-of-Way Related Costs" All documented direct, incidental, and indirect costs actually borne by the City for the control, management and administration of the Rights-of-Way.

908.02 - PURPOSE AND SCOPE OF CHAPTER.

- A. The purpose of this Chapter is to provide for the regulation of the use or occupation of all rights-of-way in the City, the issuance of right-of-way permits to persons for

such use or occupancy and to set forth the policies of the City related thereto.

- B. A right-of-way occupancy permit issued pursuant to this chapter does not take the place of any franchise, license, or permit which may be additionally required by law, including any required by Lebanon City ordinance. Each permittee shall obtain any and all such additional state, federal or City franchises, licenses or permits necessary to the operation and conduct of its business or the occupation or use of any right-of-way; provided, however, that no permittee holding a valid right-of-way permit shall be required to obtain a franchise for any type of services rendered by said permittee for which the City did not require a franchise at the time said permittee's permit was last issued or renewed. Should there be a direct conflict between the provisions of this chapter and a valid franchise, the provisions of the franchise shall prevail; provided, however, that additional obligations shall not be construed as a conflict.
- C. The Deputy City Manager, or designee, is hereby directed and empowered to enforce the provisions of this chapter.
- D. The City's policy regarding rights-of-way is:
1. To promote the utilization of rights-of-way for the public health, safety and welfare and to promote economic development in the City;
 2. To promote the availability of a wide range of utility, telecommunication and other services, including the rapid deployment of new technologies and innovative services, to the City's residents and taxpayers at reasonable costs;
 3. To promote cooperation among the permittees and the City in the occupation of rights-of-way, and work therein, in order to minimize public inconvenience during right-of-way work, and eliminate wasteful, unnecessary or unsightly duplication of facilities;
 4. To promote public safety and protect public property;
 5. To ensure adequate public reimbursement of costs the City has incurred for private use of the rights-of-way, including the regulation thereof;
 6. To promote and require reasonable accommodation of all uses of rights-of-way, and when all requests for right-of-way use cannot be accomplished, to give priority for use of rights-of-way, in the order indicated, from highest to lowest, to the following users:
 - (a) the City for governmental purposes;
 - (b) another governmental entity for governmental purposes with the City's concurrence, or other governmental use required by law;
 - (c) General right-of-way occupancy permittees and proprietary uses by the City; and
 7. To assure that applicants have the financial, technical and managerial resources to comply with this chapter and the provisions of any right-of-way occupancy permit issued hereunder; for purposes of this chapter, an applicant possessing valid certification from the Public Utilities Commission of Ohio, including certification pursuant to R.C. 4933.81 et seq., and/or recognized on the rolls of the Public Utilities Commission of Ohio or of a cable operator possessing a valid franchise awarded pursuant to the Cable Communications Policy Act of 1984, for the services to be provided by the facilities subject to this chapter shall be presumed to possess the requisite financial, technical and managerial resources.
- E. All right-of-way occupancy permits granted hereunder shall be non-exclusive and no property right of any nature shall be created by the granting of a permit under this chapter.
- F. This chapter does not apply, and nothing herein should be construed to apply the provisions of this chapter, to structures or facilities owned or operated by the City or any City operations that occupy or use the rights-of-way. It is specifically contemplated, however, that all City departments or divisions that utilize the rights-of-way shall carry out their operations in a manner consistent with the policy set

forth in this chapter, including participation and cooperation in all joint planning hereunder and identification of structures and facilities located in the rights-of-way.

908.03 - PROHIBITION; TYPES OF PERMITS.

- A. Unless otherwise permitted pursuant to the City of Lebanon Codified Ordinances, no person shall use, occupy, construct, own or operate structures or facilities in, under or over any rights-of-way or any public property within the City unless such person first obtains a right-of-way occupancy permit and conforms to the requirements set forth therein and in this chapter, provided, however, that right-of-way occupancy permits shall not be required for the following uses:
1. Carts;
 2. Landscaping (may require a right-of-way work permit per Chapter 909);
 3. Right Angle Signs and Sidewalk Signs in accordance with Chapter 1141.10 of Lebanon's Codified Ordinances;
 4. Awnings; and
 5. Residential purposes, so long as, in the opinion of the City Manager, the residential use:
 - (a) has received or will receive all other necessary permits, including any required by the City of Lebanon Codified Ordinances;
 - (b) is not inconsistent with policy of the City;
 - (c) does not adversely affect the public health, safety or welfare; and
 - (d) does not materially interfere with the other lawful use of the right-of-way.The Deputy City Manager shall adopt regulations controlling and further defining residential purposes and to otherwise implement the determinations to be made under this section. Such regulations shall, among other matters, specify that the owner of facilities that hold title to such facilities solely as a result of a leaseback, defined as the sale or transfer of property by a permittee to another person contemporaneously followed by the leasing of the property to the permittee on a long term basis, that are not operated or controlled by said lessor, and are operated or controlled by the permittee, are not considered to be using, occupying, owning or operating such facilities, for purposes of this chapter, solely as a result of such leaseback.
- B. The following types of right-of-way occupancy permits are available:
1. General right-of-way occupancy permit - right-of-way occupancy permit granted to persons who desire and are granted authority to utilize rights-of-way generally for business purposes including the provision of utility, cable television, telecommunications or other services to the City, its residents and taxpayers;
 2. Nothing in this chapter should be construed to preclude the City from requiring any person offering any natural gas, electric, cable television, telecommunications or other utility services for which the City may lawfully require a franchise, to acquire a franchise upon the expiration of any right-of-way occupancy permit issued hereunder.
- C. Any such right-of-way occupancy permit may also allow the use of specified public property for the uses set forth in the right-of-way occupancy permit and in this chapter.
- D. Each right-of-way occupancy permit shall specify the use or uses for which it is granted and contain such other non-discriminatory terms and conditions as are appropriate and as are set forth in the regulations.
- E. Unless otherwise set forth herein, right-of-way occupancy permits or the rights of a permittee thereunder are not transferable without the prior express written approval of the Deputy City Manager, upon written request. Such request shall contain evidence that the proposed transferee has the financial, technical and managerial resources to comply with the obligations of this chapter and its right-of-way

occupancy permit and shall be granted if such transferee has such resources. In making said determination, a proposed transferee shall be presumed to possess the requisite, financial, technical and managerial resources if said transferee possesses a valid certification from the Public Utilities Commission of Ohio, including certification pursuant to R.C. 4933.81, et seq., and/or recognized on the rolls of the Public Utilities Commission of Ohio or of a cable operator possessing a valid franchise awarded pursuant to the Cable Communications Policy Act of 1984, for the services to be provided by the facilities subject to this chapter. The Deputy City Manager shall adopt regulations providing procedures for transfer of right-of-way occupancy permits that shall include provisions providing that (i) all requests for transfer shall be deemed approved if the Deputy City Manager does not disapprove the same within thirty (30) days of receipt of the completed written transfer request, and (ii) transfer to affiliates under common ownership and control with the permittee shall not require approval, so long as the Deputy City Manager is provided thirty (30) days written notice of such transfer.

F. The Deputy City Manager shall adopt regulations controlling and further defining residential purposes and to otherwise implement the determinations to be made under this section. Such regulations shall, among other matters, specify (i) that the owner of facilities that hold title to such facilities solely as a result of a leaseback, defined as the sale or transfer of property by a permittee to another person contemporaneously followed by the leasing of the property to the permittee on a long term basis, and are operated or controlled by the permittee, are not considered to be using, occupying, owing or operating such facilities, for purposes of this chapter, solely as a result of such leaseback.

908.04 - APPLICATION PROCEDURE, APPEAL.

A. Applications for general right-of-way occupancy permits, or amendments or renewals thereof, shall be filed in such form and in such manner as the regulations require, along with an application fee of Two Hundred and Fifty Dollars (\$250.00). The Deputy City Manager, or designee, shall determine if the application is in order and shall, within thirty (30) days of the receipt of a complete application, issue a written report regarding such application. The report shall recommend that the City Council deny or grant the right-of-way occupancy permit, subject to any appropriate terms and conditions, in accordance with the criteria set forth in this chapter. The Deputy City Manager's report shall be served upon the applicant by mail along with a notice of when the City Council will consider the same. The City Council shall then consider such recommendation and make a final determination at its next regularly scheduled council meeting, as to whether or not such right-of-way occupancy permit should be granted and if so, upon what terms and conditions. City Council shall make a final determination within 60 days of receipt of the completed application by the Deputy City Manager. The term of each such general right-of-way permit shall be for five (5) years from issuance, or such lesser term as the applicant requests.

B. Any applicant may appeal the failure of the Deputy City Manager to recommend it to be granted upon terms and conditions acceptable to the applicant, to the City Manager. In order to perfect such appeal, the applicant shall file, within ten (10) days of the Deputy City Manager's determination or recommendation, or within thirty (30) days of the filing of the application if the Deputy City Manager has taken no action, an appeal to the City Manager. The City Manager shall then review the matter and after affording the applicant an opportunity to be heard either in person or in writing render a final recommendation that shall be submitted to City Council within fifteen (15) days of the City Manager's receipt of the request for an appeal unless such period is waived by the applicant. City Council shall consider the appeal request at its next regularly scheduled meeting after receiving the City Manager's

recommendation. Except to the extent otherwise appealable by law, the City Council's decision shall be final.

908.05 - CRITERIA FOR GRANTING PERMITS.

- A. A General right-of-way occupancy permit shall be granted to an applicant upon a determination that:
1. The granting of the right-of-way occupancy permit will contribute to the public health, safety or welfare in the City;
 2. The granting of the right-of-way occupancy permit will be consistent with the policy of the City as set forth in Section 908.02(D); and
 3. The applicant is not delinquent on any right-of-way permit fees, or costs owed the city for right-of-way related activity and, except in the case of entities subject to the jurisdiction and recognized on the rolls of the Public Utilities Commission of Ohio or of a cable operator possessing a valid franchise awarded pursuant to the Cable Communications Policy Act of 1984, 98 Stat. 2779, 47 U.S.C.A. 541, has the requisite financial, managerial and technical ability to fulfill all its obligations hereunder.
- B. The Deputy City Manager may impose such lawful conditions on the granting of a permit as reasonably required to be consistent with the criteria set forth in this Section 908.05 and to promote the policy of the City set forth in Section 908.02(D).

908.06 - OBLIGATIONS OF PERMITTEES; CONDITIONS OF PERMITS.

- A. In addition to the other requirements set forth herein and in the regulations each permittee, except for residential purposes, shall:
1. Use its best efforts to cooperate with other permittees and the City for the best, most efficient, and least obtrusive use of rights-of-way, consistent with safety, and to minimize traffic and other disruptions including street cuts;
 2. Have a copy of the permit and associated plans on the job site at all times.
 3. Participate in such joint planning, construction and advance notification of right-of-way work, excepting such work performed in an emergency provided the permittee uses its best efforts to contact the City at the earliest possible time after beginning any such emergency work requiring excavation or other interference with the flow of traffic, as may be required by Chapter 909 and this chapter and as may be more specifically set forth in regulations promulgated pursuant to this chapter, and provided further, that mandatory joint planning shall not (i) commence prior to January 1, 2005, or (ii) require the exchange or provision of trade secrets or competitively sensitive materials or information;
 4. Reasonably cooperate with other permittees in the utilization of, construction in and occupancy of private rights-of-way within the City, but only to the extent the same is consistent with the grant thereof, is not additionally burdensome to any property owner or unreasonably burdensome to the permittee;
 5. Upon reasonable written notice of not less than sixty (60) days, except in an emergency threatening the public health, safety or welfare, and at the direction of the Deputy City Manager, and at the permittee's sole cost, to the extent permitted by Ohio law, promptly remove or rearrange facilities as necessary, as further specified in the regulations (i) during any construction, repair or modification of any street, sidewalk, City utility or other public improvement, (ii) as part of the Deputy City Manager's determination, to the extent permitted by Ohio law, that designated portions of its rights-of-way should accommodate only underground facilities or that facilities should occupy only one side of a street or other public way, provided that such determination is reasonable and a part of an overall improvement plan or project, (iii) if an additional or subsequent City or other public use of rights-of-way is inconsistent with the

then current uses of such permittee, (iv) or for any other reasonable cause as determined by the Deputy City Manager pursuant to Section 908.14(B) to the extent permitted by Ohio law; however, nothing in this subsection shall be interpreted as foreclosing any rights that any Permittee has pursuant to Title 49 of the Ohio Revised Code to file an application with the Public Utilities Commission of Ohio under any applicable provision of Title 49 in order to recover the costs associated with the relocation of any facilities pursuant to this subsection.

6. Provide information relating to a permittee's facilities and operations within the rights-of-way in such form as to allow for the accurate assessment of the quantity of a utility's infrastructure in the public rights-of-way; For a right-of-way work permit, permittee shall provide a detailed plan, as delineated in Chapter 909, of the proposed work; Upon a proper request by a permittee demonstrating that any portion of the information required constitutes a "trade secret" pursuant to Ohio Law, or that the material should remain confidential pursuant to any other provision of local, state, or federal law, the material shall be treated as confidential and not subject to public disclosure. In no event will the City allow any person involved with the City's telecommunications service access to information a permittee has designated "confidential" or "proprietary".
7. Perform all work, construction, maintenance or removal of structures and facilities within the rights-of-way, including tree trimming, in accordance with good engineering and construction practice including any appropriate safety codes and in accordance with the regulations and use its best efforts to repair and replace any street, curb or other portion of the rights-of-way within the disturbed area of the work area, or facilities or structure located therein, to a condition to be determined by the Deputy City Manager to be adequate under current standards, on file with the City Engineer, and not less than materially equivalent to its condition prior to such work and to do so in a manner which minimizes any inconvenience to the public, the City and other permittees, all in accordance with the regulations adopted hereunder or under Chapter 909. Each occupant of the right-of-way that may make a street cut shall file with the City standards for repair of street cuts that shall be approved or denied by the City Engineer within sixty (60) days after filing. If the street cut standards are denied the right-of-way occupant must amend its proposed standards to meet the City's requirements prior to making any street cuts. Each right-of-way applicant shall amend its street cut standards from time to time as required by good engineering practice. If a street cut repair fails the right-of-way occupant responsible for the street cut shall repair the street cut until such time as the City repaves the streets. No right-of-way occupant shall be responsible to repair a street cut damaged by a cause other than the repair made by the right-of-way occupant.;
8. Register, or cause to be registered, its facilities with underground reporting services as set forth in the regulations;
9. Use its best efforts to cooperate with the City in any emergencies involving the rights-of-way in such manner as the regulations shall require including the maintenance of a twenty-four (24) hour emergency contact;
10. Field identify, using distinct identification, all structures and facilities in areas of the rights-of-way designated for construction or related activities in accordance with the regulations, provided that the regulations shall require that the field identifications utilize, to the greatest extent possible, customary industry standards for such identification; and
11. Designate a single point of contact for all purposes hereunder, as well as comply with such other contact and notice protocols as the regulations require.

B. Each permittee shall assure that any subcontractor or other person performing any work or service in the rights-of-way on behalf of said permittee will comply with all applicable provisions of this chapter and its right-of-way permit and will identify the permittee for whom such contractor is working. Said permittee shall be responsible and liable hereunder for all actions of any such subcontractor or others as if said permittee had performed or failed to perform any such obligation.

908.07 - PERMIT FEES AND AUDITING.

A. Any cable television provider that has a valid franchise to operate a cable television system within the City shall not be liable for any additional right-of-way occupancy permit fees over and above any cable television franchise fees specified in its cable television franchise for uses of rights-of-way directly related to the uses for which such cable television provider holds a cable franchise, so long as the amount of such fees due in each quarter is equal to or greater than the amounts otherwise due the City pursuant to Section 908.07(B). If the amount due under Section 908.07(B) is more than said cable franchise fees, then the cable television provider shall receive a credit in each quarter against such amount for all such fees paid in such quarter, and shall pay the balance to the City as set forth in Section 908.07(B).

1. In addition to any fees charged pursuant to Chapter 909, all general right-of-way occupancy permittees shall pay an annual fee, for each calendar year, as compensation for the City's cost to manage, administer and control the right-of-way and maintain each general right-of-way occupancy permit; Every Permittee shall pay to the City general occupancy right-of-way fees beginning January 1, 2007; Fees shall be determined and assessed to Permittee's and other Persons using and occupying the rights-of-way in accordance with the following process and formula:
2. The City by January 31st of each year shall calculate all actual and incurred costs associated with rights-of-way management, administration and control for the previous calendar year that the City incurred and was not able to reasonably recover through permit fees or other recovery mechanisms for each Permittee.
3. The City shall invoice each Permittee based on the actual costs incurred by the City for right-of-way management for that Permittee per 908.07 (A)(2). This shall be the Permittee's then current general right-of-way occupancy permit fee.
4. Registration fees shall be invoiced to Permittees on or about February 1 of each calendar year and shall be due thirty (30) days following receipt.
5. To the extent taxes or other assessments are imposed by taxing authorities on the use of City property as a result of a Permittee's use or occupation of the rights-of-way, the Permittee shall be responsible for payment of such taxes. Such payments shall be in addition to any other fees payable pursuant to chapters 908 and 909 of this ordinance and shall not be considered an offset to, or in lieu of, the right-of-way permit fees.
6. All right-of-way related fees collected through this ordinance shall be deposited in a separate fund to be utilized for the offset of municipal costs associated with the management and control of the public right-of-way.

B. All Fees pursuant to this chapter shall be paid by check, money order or wire transfer to the City of Lebanon.

C. Each general right-of-way occupancy permittee shall maintain books, records, maps, documents and other evidence directly pertinent to its calculation of payments to the City. The Deputy City Manager, the City Auditor or either's designated agents shall have reasonable access to any books, records, maps, documents and other evidence for inspection, copying and audit relative to the quantity of infrastructure in the public right-of-way to the extent necessary to assure that the payments hereunder are

accurate and that all right-of-way occupancy permittees fully comply with the provisions of this chapter and their respective right-of-way permits. Upon a proper request by a permittee demonstrating that any portion of the information required constitutes a "trade secret" pursuant to sections 133.61 through 133.69 of the Revised Code, or shall remain confidential pursuant to any local, state, or federal law or regulation, the material shall be treated as confidential and not subject to public disclosure.

908.08 - JOINT PLANNING AND CONSTRUCTION.

In order to promote the purposes of this chapter and the policy set forth herein, the City Manager shall adopt regulations requiring and governing joint planning and construction for all right-of-way occupancy permittees. Such regulations shall not, however, require a permittee to divulge trade secrets or other competitively sensitive confidential information release of which would cause material injury to the permittee. Such regulations shall also require any confidential information of a permittee in the possession of the City be treated as such, to the extent such information does not legally constitute a public record.

908.09 - CITY USE OF FACILITIES.

Except for traffic control facilities and facilities in place as of the effective date of this chapter, facilities that are the subject of other agreements between the City and a permittee, or as otherwise provided by law, the City shall not install or maintain upon any poles and within any underground pipes or conduits or other facilities of any general right-of-way occupancy permittee, any facilities desired by the City for the City's use without the consent of such Permittee unless (i) such installation and maintenance is lawful and consistent with good engineering and construction practice and all appropriate safety codes (ii) such installation and maintenance does not unreasonably and materially interfere with existing and future operations of the permittee, (iii) such installation and maintenance is not unduly burdensome to such permittee, (iv) the City enters into an agreement with the permittee which specifies other appropriate and reasonable terms and conditions, including compensation based upon the City's proportionate cost of the right-of-way, and including compensation governing the use of permittee's facilities, and (v) the City's use is non-discriminatory. Each permittee shall cooperate with the City in the development of a facility use agreement for such City facilities. Each permittee shall cooperate with the City in planning and designing its facilities so as to accommodate the City's reasonably disclosed requirements in this regard. Copies of all agreements hereunder shall be filed with the City Manager.

908.10 - ADOPTION OF REGULATIONS.

- A. In accordance with the provisions of Section 908.10(C), the Deputy City Manager may promulgate regulations, as the Deputy City Manager deems appropriate from time to time, to carry out the express purposes and intent of this chapter.
- B. Such regulations shall not materially increase the obligations of any permittee hereunder. In promulgating such regulations, including those related to Section 908.06, the Deputy City Manager shall, among other appropriate factors, consider the costs of permittee compliance as an important factor in determining the appropriateness of the regulations.
- C. The Deputy City Manager shall promulgate proposed regulations by forwarding legislation for City Council's consideration. Each general right-of-way occupancy permittee shall be served with a copy of the proposed regulations by certified U.S. mail; provided, however, that any failure of any permittee to actually receive such notice shall not in any way affect the validity or enforceability of such regulation. Any person, including any permittee, may file specific written comments or objections on the proposed regulations within a thirty (30) day period after publication of notice of intent in a publication of general circulation (hereinafter "Comment Period"). The proposed regulations shall become effective thirty (30) days after adoption by City Council, unless such regulation is modified or rejected by

City Council.

- D. The City Council may adopt emergency regulations to be immediately effective, when the City Council determines the same to be appropriate or required by the public health, safety or welfare; provided, however, that any such regulation shall nonetheless be subject to the comment and review process as set forth in Section 908.10(C).

908.11 - INDEMNITY; INSURANCE.

- A. Except for right-of-way permittees for residential purposes, each permittee shall, as a condition of its right-of-way permit, indemnify, protect and hold harmless the City from any claim, loss or damage arising in any way from permittee's occupation or use of the right-of-way, including but not limited to the construction, operation or maintenance of permittee's facilities, and from any such permittee's negligent or wrongful act or omission. A Permittee has no obligation to indemnify the City for any damage or loss caused by the City.
- B. Except for right-of-way occupancy permittees for residential purposes, each permittee, as a condition of its permit, shall keep in force a policy or policies of liability insurance, having such terms and in such amounts as are set forth in the regulations, covering its facilities and operations pursuant to its right-of-way occupancy permit.
- C. Such regulations shall provide that upon the written application of a permittee and approval of the Deputy City Manager, City Attorney and City Auditor, which approval shall not be unreasonably withheld, permittees who maintain a net book value in excess of ten million dollars (\$10,000,000) may self-insure in lieu of providing policies of insurance.

908.12 - REMOVAL OF FACILITIES.

- A. Except for right-of-way occupancy permittees for residential purposes, when the permit so allows any right-of-way occupancy permittee that intends to discontinue use of and abandon any facilities within the rights-of-way shall submit a written notice to the Deputy City Manager describing the portion of the facilities to be discontinued and abandoned, any plan for securing the same and the proposed date of abandonment, which date shall not be less than sixty (60) days from the date such notice is submitted to the Deputy City Manager. A permittee shall not abandon such facilities without such notice. The permittee shall remove, secure, and/or abandon in place such facilities if and as required by the written order of the Deputy City Manager so long as such order is issued no more than sixty (60) days from the date said notice is submitted to the Deputy City Manager.
- B. Should any permittee fail, after notice, to remove or rearrange facilities at the Deputy City Manager's request as specified in Section 908.06(A)(5) or comply with the Deputy City Manager's order pursuant to Section 908.12(A), the City may, at its option and in addition to the imposition of any penalties or other remedies hereunder, undertake or cause to be undertaken, any reasonable action necessary to remove, secure, or rearrange the facilities. The City shall have no liability for any damage caused by such action and the permittee shall be liable to the City for all reasonable costs incurred by the City in such action.

908.13 - REVOCATION.

- A. In addition to any other rights set out in this chapter, the City reserves the right to revoke, in accordance with the procedures set forth in 908.13(B), any right-of-way occupancy permit in the event such permittee violates any material provision of this chapter, its right-of-way occupancy permit, or Chapter 909 of the Lebanon Codified Ordinances.
- B. The Deputy City Manager shall give a permittee thirty (30) days prior written notice

of an intent to revoke said permittee's right-of-way occupancy permit. Such notice shall state the reasons for such action. If the permittee cures the violation or other cause within the thirty (30) day notice period, or if the permittee initiates efforts satisfactory to the Deputy City Manager to remedy the stated violation, the Deputy City Manager may rescind said notice of revocation. If the permittee does not cure the stated violation or other cause or undertake efforts satisfactory to the Deputy City Manager to remedy the stated violation the Deputy City Manager may recommend said permit be revoked. After granting the permittee an opportunity to be heard in person or in writing, the City Council may revoke the right-of-way occupancy permit. Unless otherwise required by law, the decision of the City Council shall be final.

- C. Unless otherwise permitted by the Deputy City Manager or required by law, if a right-of-way occupancy permit is revoked, all facilities located in the rights-of-way or located upon public property pursuant to such permit shall be removed and/or abandoned at the sole expense of the permittee subject to applicable law including, but not limited to R.C. 4905.20 and R.C. 4905.21.

908.14 - RESERVATION OF RIGHTS.

- A. Nothing in this chapter should be construed so as to grant any right or interest in any right-of-way or public property other than that explicitly set forth herein or in a permit.
- B. Nothing in this chapter shall be construed to prevent the City from constructing, maintaining, repairing or relocating any non-proprietary City utility, including street lighting, telecommunications or like facilities; grading, paving, maintaining, repairing, relocating or altering any street, public property or right-of-way; or constructing, maintaining, relocating, or repairing any sidewalk or other public work or improvement. To the extent that such work requires temporary or permanent relocation or rearrangement of any facilities or structures of any permittee, such relocating or rearrangement shall be accomplished at the sole cost of the permittee in such time and in such manner as set forth in the regulations.

908.15 - TEMPORARY MOVEMENT OF FACILITIES.

In the event it is necessary to move or remove temporarily any of the permittee's wires, cables, poles, or other facilities placed pursuant to this chapter, in order to lawfully move a large object, vehicle, building or other structure over the streets of the City, upon two (2) weeks written notice by the Deputy City Manager to the permittee, the permittee shall, at the expense of the person requesting the temporary removal of such facilities, comply with the Deputy City Manager's request; provided that the permittee's expense has been reasonably secured by the person so requesting.

908.16 - FORECLOSURE AND RECEIVERSHIP.

Upon the filing of any voluntary or involuntary petition under the Bankruptcy Act by or against the permittee, or any action for foreclosure or other judicial sale of the permittee's facilities located within the right-of-way, the permittee shall promptly notify the Deputy City Manager of such fact.

908.17 - NON-ENFORCEMENT AND WAIVERS BY CITY.

The permittee shall not be relieved of its obligation to comply with any of the provisions of its right-of-way occupancy permit or this chapter by reason of any failure of the City to enforce prompt compliance.

908.18 - CAPTIONS.

The captions and headings in this chapter are for convenience and reference purposes only and shall not affect in any way the meaning or interpretation of this chapter.

908.19 - SEVERABILITY.

If any section, subsection, clause or provision or any part thereof of this chapter shall be finally

adjudicated by a court of competent jurisdiction to be invalid, the remainder shall be unaffected by such adjudication and all the remaining provisions shall remain in full force and effect.

908.20 - PENALTIES.

A. In addition to any other penalties set forth in this chapter and/or Chapter 909, and the remedy of specific performance which may be enforced in a court of competent jurisdiction, the following penalties shall apply.

1. For failure to comply with any other provision of this chapter, the penalty shall be a civil forfeiture, payable to the City, in an amount up to five hundred dollars (\$500.00) per day for each day of violation. In addition, for failure to timely comply with a notice by the Deputy City Manager to remove or rearrange facilities pursuant to Section 908.06, an additional civil forfeiture equal to any costs incurred by the City as a result of such failure, including but not limited to any penalties or liquidated damages charged the City by its contractors occasioned thereby, shall be imposed.
2. A 5% late fee, accrued monthly, shall be assessed to all delinquent right-of-way occupancy permit fees. Delinquent permit fees may result in the denial of future right-of-way work permits.

B. Any permittee may be excused for violations of this chapter and its right-of-way permit due to force majeure.”

SECTION 2: That the City of Lebanon Codified Ordinances are hereby supplemented by the enactment of Chapter 909 of the Codified Ordinances of the City as follows:

“CHAPTER 909 – RIGHT-OF-WAY WORK PERMIT.

909.01 – PURPOSE.

- A. The City of Lebanon, Ohio (“City”) is concerned with the use of all rights-of-way in the City as such rights-of-way are valuable, and potentially limited resource which must be utilized to promote the public health, safety, and welfare of the City.
- B. Changes in the public utilities and telecommunication industries have increased the demand and need for access to rights-of way and placement of facilities and structures therein.
- C. It is necessary to comprehensively plan and manage access to, and structures and facilities in, the rights-of-way to promote efficiency, discourage duplication of facilities in, lessen the public inconvenience of uncoordinated work in the rights-of-way, and promote the public health, safety, and welfare. Where it is in the best interest of the public health, safety, and welfare and aesthetics of the City, the City shall take steps to encourage locating facilities underground.

909.02 – SCOPE.

The provisions of this chapter shall apply to all users of the rights-of-way.

909.03 – DEFINITIONS.

For the purposes of Chapter 909, the following terms, phrases, words, and their derivations shall have the meanings as set forth herein. When not inconsistent with the context, works in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The words “shall” and “will” are mandatory and “may” is permissive. Words not defined shall be given their common and ordinary meaning. References hereafter to “sections” are, unless otherwise specified, references to sections in this chapter. Defined terms remain defined terms whether or not capitalized.

- A. “City” means the City of Lebanon, Ohio.
- B. “City Engineer” means the City Engineer of Lebanon, Ohio.

- C. “City Manager” means the City Manager of Lebanon, Ohio.
- D. “Contractor” means a person, partnership, corporation, or other legal entity who undertakes to construct, install, alter, move, remove, trim, demolish, repair, replace, excavate, or add to any improvements covered by this Ordinance, that requires work, workers, and/or equipment to be in the public right-of-way in the process of performing the above named operations.
- E. “Deputy City Manager” means the Deputy City Manager of Lebanon, Ohio, or designee.
- F. “Developer” means the person, partnership, corporation, or other legal entity who is improving a parcel of land within the City and who is legally responsible to the City for the cost and quality of construction of improvements within a subdivision or as a condition of a building permit.
- G. “Duct” or “Conduit” means a single enclosed raceway for cables, fiber optics, or other wires, or a pipe or canal used to convey fluids or gases.
- H. “Emergency” means any event which may threaten public health or safety, or that results in an interruption in the provision of services, including, but not limited to, damaged or leaking water or gas conduit system, damaged, plugged, or leaking sewer or storm drain conduit systems, damaged electrical and telecommunications facilities, and advanced notice of needed repairs is impracticable under the circumstances.
- I. “Excavate” means to dig into or in any way remove or penetrate any part of a right-of-way.
- J. “Facilities” means, including, without limitation, any pipes, conduits, wires, cables, amplifiers, transformers, fiber optic lines, antennae, poles, street lights, ducts, fixtures and appurtenances and other like equipment used in connection with transmitting, receiving, distributing, offering, and providing utility and other services.
- K. “Fence” means any artificially constructed barrier of wood, masonry, stone, wire, metal, plastic, or any other manufactured material or combination of materials erected to enclose, partition, beautify, mark, or screen areas of land.
- L. “Infrastructure” means any public facility, system, or improvement including, without limitation, water and sewer mains and appurtenances, storm drains and structures, streets, alleys, traffic signal poles and appurtenances, conduits, signs, landscape improvements, sidewalks, and public safety equipment.
- M. “Landscaping” means materials, including without limitation, grass, ground cover, shrubs, vines, hedges, or trees and non-living natural materials commonly used in landscape development, as well as attendant irrigation systems.
- N. “Permit” means any written authorization for use of the public rights-of-way granted in accordance with the terms of this ordinance, and the laws and policies of the City.
- O. “Permittee” means the holder of a valid permit issued pursuant to this chapter.
- P. “Public Right-of-Way” or “Right-of-Way” or “Public Way” means the surface of and the space above and below any public street, way, place, alley, sidewalk, easement, park, square, plaza, and City right-of-way dedicated to public use except as otherwise required by local, state, or federal law.
- Q. “Specifications” means engineering regulations, construction specifications, and design standards adopted by the City.
- R. “Structure” means anything constructed or erected with a fixed location below, on, or above grade, including, without limitation, foundations, fences, retaining walls, awnings, balconies, and canopies.
- S. “Surplus Ducts” or “Surplus Conduits” are conduits or ducts other than those occupied by permittee or any prior permittee, or unoccupied ducts held by permittee as emergency use spares, or other unoccupied ducts that permittee

reasonably expects to use within three (3) years from the date of a request for use.

- T. "Work" means any labor performed on, or any use or storage of equipment or materials, including but not limited to, construction of streets and all related appurtenances, fixtures, improvements, sidewalks, driveway openings, bus shelters, street lights, and traffic signal devices within a right-of-way. It shall also mean excavation construction, maintenance, or repair of all underground structures such as pipes, conduit, ducts, tunnels, manholes, vaults, buried cable, wire, or any other structure located below surface, and installation of overhead poles, towers, or facilities attached to any above ground structure used for any purpose within a right-of-way.

909.04 – ADMINISTRATION.

The City Manager shall be the principal City official responsible for the administration of this chapter except as otherwise provided herein. The City Manager may delegate any or all of the duties hereunder to the Deputy City Manager or other designee.

909.05 – RIGHT-OF-WAY OCCUPANCY PERMIT.

Prior to commencing any work in the public right-of-way, permittee shall determine whether or not a right-of-way occupancy permit is required pursuant to Chapter 908 of the Lebanon Codified Ordinances. Any permits issued under this chapter do not take precedence over, or alleviate the requirement for, obtaining a right-of-way occupancy permit as set forth in Chapter 908.

909.06 – RIGHT-OF-WAY WORK PERMIT.

- A. No person, except an employee or official of the City, or a person exempted by contract with the City, shall undertake or permit to be undertaken any work in the public rights-of-way without first obtaining a permit from the City as set forth in this chapter. Each permit obtained, along with associated documents, shall be maintained on the job site and available for inspection upon request by any officer or employee of the City. Refer to Section 909.21(c) for emergency situations.
- B. Permit transferability or assignability: The applicant may subcontract the work to be performed under a permit provided that the permittee shall be and remain responsible for the performance of the work under the permit and all insurance and financial security as required. Permits are transferable and assignable if the transferee or assignee posts all required security pursuant to this ordinance and agrees to be bound by all requirements of the permit and this ordinance.
- C. Developer Ownership of Public Infrastructure: The physical construction of public infrastructure in new developments (subdivisions) is the responsibility of the developer of the land. Ownership of that infrastructure remains with the developer of the land until acceptance by the City. Any developer of land where work is undertaken on infrastructure that is within a dedicated right-of-way, but prior to acceptance by the City, shall obtain a permit from the City. The City will not accept public infrastructure improvements where the work performed is not in accordance with applicable City specifications and applicable provisions of this chapter. Infrastructure constructed by a public utility, as that term is defined by R.C. 4905.02, shall remain the property of such public utility. Public Utility infrastructure shall also be known as public utility facilities and abandonment and attachment, including but not limited to relocation, permanent closure, and temporary closure, shall be governed by applicable local, state, and federal law including R.C. Chapter 4909 and the Federal Telecommunications Act.
- D. Any person or utility found to be conducting any excavation activity within the

public right-of-way without having first obtained the required permit(s) shall immediately cease all activity (exclusive of actions required to stabilize the area) and be required to obtain a permit before work may be restarted.

909.07 – PERMIT APPLICATION.

- A. An applicant for a permit to allow construction, excavation, obstruction, or work in the public right-of-way under this section shall:
 1. File a written application which shall include the following:
 - (a) the date of the application;
 - (b) the name and address of the applicant;
 - (c) the name and address of the developer, contractor or subcontractor who shall perform work in the public right-of-way;
 - (d) the exact location of the proposed construction, excavation or work activity;
 - (e) the type of existing public infrastructure (street pavement, curb & gutter, sidewalks, utilities) impacted by the work;
 - (f) the purpose of the proposed work;
 - (g) the dates for beginning and ending the proposed work;
 - (h) proposed hours of work;
 - (i) type of work proposed.
 2. Attach copies of all permits or licenses (including required insurance, deposits, bonding, and warranties) required to do the proposed work, and to work in the public rights-of-way, if licenses or permits are required under the laws of the United States, State of Ohio, or the ordinances or regulations of the City. If relevant permits or licenses have been applied for but not yet received, provide a written statement so indicating.
 3. Provide a reasonable plan of work showing protection of the subject property and adjacent properties. Plan should accommodate trenchless technology and joint use wherever applicable to reduce the negative impact on existing public infrastructure and rights-of-way.
 4. Provide a reasonable plan for the protection of any existing landscaping.
 5. Include with the application engineering construction drawings or site plans for the proposed work.
 6. Include with the application a satisfactory traffic control and erosion protection plan for the proposed work.
 7. Include a statement indicating any proposed joint use or ownership of the facility; any known existing facility or permit of the applicant at this location; any known existing facility of others with which the proposed installation might conflict; and the name, address and telephone number of a representative of the applicant available to review proposed locations at the site.
 8. Applicant shall update any new information on permit applications within ten (10) days after any material change occurs.
 9. Joint Applicants: Applicants may apply jointly for permits to work in public rights-of-way at the same time and place. Applicants who apply jointly for permits may share in the payment of the permit fee. Applicants must agree among themselves as to the portion each shall pay.

- B. Failure to provide the information provided above or any misrepresentation therein shall be cause for denial of the permit if not corrected, or supplemented within a reasonable period from notice to applicant of such deficiency.

909.08 – APPLICATION PERMIT AND ACCEPTANCE.

- A. Application Preparation and Submittal: Applicant shall initially submit a right-of-way work permit application that shall set forth each item and calculation required by this chapter. Applicant must review the provisions of this chapter and prepare an application package that is responsive to each item and requirement herein. An application checklist is available at the office of the Deputy City Manager, which is intended as a guide, and may not be complete for unique circumstances. Questions regarding the sufficiency of the information proposed to be included on the application should be directed to the Deputy City Manager prior to submitting the application. Similarly, inquiries to the Deputy City Manager regarding the most recent plans for road improvements by the City or work in the right-of-way proposed by other persons are encouraged. No application shall be formally reviewed by the City without submittal of the initial application fee.
- B. Application Review:
1. Deputy City Manager shall commence review of a formal application for a right-of-way work permit only after it is determined that all required items are included in the application package. Applicant shall be notified in writing within 10 working / business days whether the application package is complete and a formal review has commenced, or whether the application package is deficient in some manner. If deficient, the applicant shall arrange a meeting with the Deputy City Manager in order to remedy the deficiency.
 2. Deputy City Manager shall complete a formal review of the application package within 10 working / business days of the mailing of the notice to the applicant that a formal review shall commence.
 3. Deputy City Manager shall consult with such persons as he/she deems appropriate during the course of the formal review. If additional or different information is determined to be necessary, the 10 days of the formal review shall be extended by the period of time from the Deputy City Manager's request for the additional information until it is received by the Deputy City Manager from the applicant.
- C. Permit:
- Upon completion, and in conjunction with, the formal review, the Deputy City Manager may issue a tentative right-of-way work permit, a tentative right-of-way work permit with conditions, or a denial of the right-of-way work permit.
1. Tentative permit is issued if the application is approved subject to receipt of a written acceptance and acknowledgement and payment of fees.
 2. Tentative permit with conditions is the same as a tentative permit but the Deputy City Manager has imposed additional conditions or requirements not set forth in the original application and will be issued upon the same terms and conditions as a tentative permit.
 3. Subject to applicable local, state, or federal law denial of permit shall be issued if the right-of-way has reached capacity within the area in which the applicant proposes to perform work or if the application is not sufficient and has not been amended. This includes a denial because applicant has not demonstrated sufficient willingness to cooperate with and share the right-of-way improvements therein with other users, present and future. The City may require applicant to

utilize existing or planned facilities within the right of way to minimize the impact on the public right-of-way.

D. Acceptance:

No applicant may proceed with any work in a right-of-way until a final permit is issued. A final permit shall be issued upon receipt of:

1. Applicant's acceptance of the terms of the tentative permit (with or without conditions) if applicable and an acknowledgement that it accepts and shall abide by all the applicable terms and conditions set forth in this chapter, and the specifications, locations, and details set forth in the application and any conditions imposed by the Deputy City Manager, and;
2. Payment of fees due as determined by the fee schedule in this Chapter upon approval of the right-of-way permit.

E. Exemptions:

The following work shall be exempt from submittal of a right-of-way permit application:

1. Replacement of existing curb, sidewalk, and drive approaches in the right-of-way. Inspection permit must be filed with the City Engineer
2. City-owned and managed utilities where work is being performed by the City or City contractor, including but not limited to water, sewer, electric, and telecommunications.

909.09 – MINOR MAINTENANCE PERMIT APPLICATIONS.

A. Application for a minor maintenance permit may be made to the Deputy City Manager in lieu of a right-of-way permit. Minor Maintenance permits are applicable for activity in the public right-of-way that does not include commercial utility / service expansion and excavation. The Deputy City Manager shall determine whether or not the proposed work is categorized as minor maintenance. In addition to any information required by the Deputy City Manager all minor maintenance permit applications shall contain, and will only be considered complete upon compliance with the following provisions:

1. If applicable, credible evidence that the applicant has obtained a right-of-way occupancy permit, or proof that the applicant has written authority to apply for a minor maintenance permit on behalf of a party that has been issued a right-of-way occupancy permit;
2. Submission of a completed minor maintenance permit application in the form required by the Deputy City Manager;
3. A statement that the applicant will employ protective measures and devices that, consistent with the Ohio Manual of Uniform Traffic Control Devices, will prevent injury or damage to persons or property and to minimize disruptions to the efficient movement of pedestrian and vehicular traffic.
4. If the Deputy City Manager determines that the applicant has satisfied the requirements of this chapter and the minor maintenance permit process, the Deputy City Manager shall issue a minor maintenance permit subject to the provisions of this chapter.
5. The City may impose reasonable conditions upon the issuance of the minor maintenance permit and the performance of the minor maintenance permittee thereunder in order to protect the public health, safety, and welfare, to insure the structural integrity of the rights-of-way, to protect the property and safety of other users in the rights-of-way, and to minimize the disruption and inconvenience to the traveling public.

6. The Deputy City Manager shall charge a \$25.00 fee for the issuance of the minor maintenance permit. The Deputy City Manager may revoke the minor maintenance permit as any other permit may be revoked under this chapter.

909.10 – PERMIT FEE.

- A. Before a final right-of-way work permit is issued pursuant to this ordinance, the applicant shall pay to the City a right-of-way work permit fee, which shall be determined by the fee schedule attached to this Ordinance. Fees have been calculated as reasonably as possible based on the actual costs inherent in reviewing the right-of-way work permit application.

909.11 – PERMIT CONDITIONS.

- A. Unless otherwise specified in a franchise agreement between the permittee and the City, prior to granting of any permit, the permittee shall file with the City an insurance policy or certificate in a form satisfactory to the City with coverage as follows:
 1. The permittee shall carry and maintain in full effect at all times a commercial general liability policy, including broad form property damage, completed operations contractual liability, explosion hazard, collapse hazard, underground property damage hazard for limits not less than one million dollars (\$1,000,000) each occurrence for damages of bodily injury or death to one or more persons; and five hundred thousand dollars (\$500,000) each occurrence for damage to or destruction of property. The insurance policy shall name the City of Lebanon as an additional insured. Permittees who maintain a net book value in excess of ten million dollars (\$10,000,000) may self-insure in lieu of providing policies of insurance.
 2. Workers compensation insurance as required by state law.
- B. Whenever any person has filed with the City evidence of insurance as required, any additional or subsequent permit holder in the employ of said initial person may, at the discretion of the Deputy City Manager, be excused from depositing or filing any additional evidence of insurance if such employee is fully covered by the permittee's insurance policy.
- C. Each permittee shall construct, maintain, and operate its facilities in a manner which provides protection against injury or damage to persons or property.
 1. The permittee, for itself and its related entities, agents, employees, subcontractors, and the agents and employees of said subcontractors, shall save the City harmless, defend, and indemnify the City, its successors, assigns, officers, employees, agents, and appointed and elected officials from and against all liability or damage and all claims or demands whatsoever in nature unless caused by the negligent or intentional acts of the City, and reimburse the City for all its reasonable expenses, as incurred, arising out of the installation, maintenance, operation or any other work or activity in the public right-of-way by the permittee related to its use thereof.
 2. The terms of each contract awarded by the permittee for activities pursuant to a permit shall contain indemnity provisions whereby the contractor shall indemnify the City to the same extent as described above. Acceptance of a permit by a permittee shall constitute an acknowledgment of this duty and a representation that it shall be done. City may request satisfactory proof this has been done.
 3. Following the receipt of written notification of any claim the permittee shall have the obligation to defend the City with regard to all third

party actions, damages and penalties arising in any way out of the exercise of any rights in the permit. If at any time however, permittee refuses to defend, and the City elects to defend itself with regard to such matters, the permittee shall pay all reasonable expenses incurred by the City related to its defense.

909.12 – PERFORMANCE AND MAINTENANCE SECURITY,

- A. Before any permit required by this chapter shall be issued to an applicant, the applicant shall file with the Deputy City Manager either a bond or letter of credit in favor of the City in an amount equal to the total cost of construction, including labor and materials. The bond or letter of credit shall be executed by the applicant as principal and by at least one surety upon whom service of process may be had in the state. The bond or letter of credit shall be conditioned upon the applicant fully complying with all provisions of City ordinances, rules and regulations, and upon payment of all judgments and costs rendered against the applicant for any material violation of City ordinances or state statutes that may be recovered against the applicant by any person for damages arising out of any negligent or wrongful acts of the applicant in the performance of work done pursuant to the permit. The City may bring an action on the bond or letter of credit or other security or assets of permittee on its own behalf or on behalf of any persons so aggrieved as beneficiary. The bond or letter of credit must be approved by the City's legal counsel as to form and as to the responsibility of the surety thereon prior to the issuance of the permit. However, the City may waive the requirements of any such bond or letter of credit or may permit the applicant to post a bond without surety thereon upon finding that the applicant has financial stability and assets to satisfy any claims intended to be protected against the security required by this section.
- B. A letter of responsibility will be accepted in lieu of a bond or letter of credit from any public utility having substantial pre-existing facilities in the rights-of-way which precedes the effective date of this ordinance.
- C. The bond, letter of credit or letter of responsibility shall remain in force and effect for a minimum of three years after completion and probationary acceptance of the work. City may accept alternative forms of security if the City determines that the alternative is substantially equivalent to or better than the bond, letter of credit or letter of responsibility.

909.13 – PRECONSTRUCTION MEETING, INSPECTIONS AND ACCEPTANCE.

The Deputy City Manager shall coordinate all pre-construction meetings and inspections as determined to be necessary. The permittee must make a representative available to the City as required.

909.14 – PUBLIC SAFETY.

The permittee shall maintain a safe work area, free of safety hazards. The City may make any repair necessary to eliminate any safety hazards not performed as directed. Any such work performed by the City shall be completed and billed to the permittee at standard rates as established by the City. The permittee shall pay all such charges within the prescribed time period, the City may, in addition to taking other collection remedies, obtain reimbursements through the maintenance bond guarantee. Furthermore, the permittee may be barred from performing any work in the public right-of-way, and under no circumstances will the City issue any further permits of any kind to said permittee, until all outstanding charges have been paid in full.

909.15 – TIME OF COMPLETION.

All work shall be substantially completed in the time period identified on the permit application. Any work not substantially completed during the time period approved on the permit shall be subject to

denial. Permittee must apply in writing to the Deputy City Manager for a time extension on the permit conditions. Extensions will be granted if delay is caused by an Act of God or other circumstance outside of the reasonable control of the Permittee.

909.16 – TRAFFIC CONTROL.

- A. When it is necessary to obstruct traffic, a traffic control plan shall be submitted to the City prior to starting construction. No permit will be issued until the plan is approved by the Deputy City Manager. If a street closing is desired, the applicant will request the assistance and obtain the approval of the City Engineer. It shall be the responsibility of the permittee to notify and coordinate all work in the public way with police, fire, ambulance, other government entities, and transit organizations and to provide documentation of such to the City Engineer prior to issuance of a final permit. All traffic control measures shall be in accordance with the Ohio Manual of Uniform Traffic Control.
- B. When necessary for public safety, the permittee shall employ flaggers whose duties shall be to control traffic around or through the construction site. The use of flaggers may be required by the City Engineer.
- C. Traffic control devices, as defined by the Ohio Manual on Uniform Traffic Control Devices, must be used whenever it is necessary to close or alter a traffic lane or sidewalk. Traffic control devices are to be supplied by the permittee. If used at night, they must be reflectorized and must be illuminated or have barricade warning lights.
- D. Nighttime work area flood lighting shall not be allowed to spill out of the construction area in such a way as to disturb, annoy, or endanger the comfort, health or peace of others.
- E. The Ohio Manual on Uniform Traffic Control Devices or any successor publication thereto shall be used as a guide for all maintenance and construction signing. The permittee shall illustrate on the work plan the warning and control devices proposed for use. At the direction of the City Engineer, such warning and control devices shall be modified.
- F. Maintenance and Construction Signing: The contractor shall be responsible for maintaining all work area signing and barricading during construction operations as well as any signs and barricades that are needed to protect roadway users and pedestrians during non-work hours. During non-work hours, all construction work area signs that are not appropriate shall be removed, covered, or turned around so that they do not face traffic. Any deficiencies noted by the City shall be corrected immediately by the contractor. If the contractor is not available or cannot be found, the City may make such corrections and the contractor shall pay the actual costs incurred by the City. The Permittee shall provide the Deputy City Manager with a 24-hour emergency contact name and phone number.

909.17 – GENERAL RIGHTS-OF-WAY USE AND CONSTRUCTION.

- A. Right-of-Way Meeting: Permittee will make reasonable efforts to attend and participate in meetings of the City, of which the permittee is made aware, regarding right-of-way issues that may impact its facilities, including planning meetings to anticipate joint trenching and boring. Whenever passable and reasonably practicable to joint trench, share bores or cuts, and/or utilize existing facilities, permittee shall work with other providers, licensees, permittees, and franchisees so as to reduce as far as possible the number of right-of-way cuts within the City and the amount of pedestrian and vehicular traffic that is obstructed or impeded.
- B. Minimal Interference: Work in the right-of-way, on other public property,

near public property, or on or near private property shall be done in a manner that causes the least interference with the rights and reasonable convenience of property owners and residents. Permittee's facilities shall be constructed and maintained in such a manner as not to interfere with sewers, water pipes, electric, telecommunications, or any other property of the City, or with any other pipes, wires, conduits, pedestals, structures, or other facilities that may have been laid in the rights of way by, or under, the City's authority. The permittee's facilities shall be located, erected and maintained so as not to endanger or interfere with the lives of persons, or to interfere with new improvements the City may deem proper to make or to unnecessarily hinder or obstruct the free use of the rights of way or other public property.

C. Underground Construction and Use of Poles:

1. When required by general ordinances, resolutions, regulations or rules of the City, or applicable state or federal law, permittee's facilities shall be placed or relocated underground at no cost to the City. The placement of public utilities facilities underground, as a first installation or as a relocation, from above ground, shall be subject to the cost recovery provisions set forth in Chapter 908.06(A)(5). Placing facilities underground does not preclude the use of essential ground-mounted appurtenances.
2. Where all facilities are installed underground at the time of permittee's construction, or when all such facilities are subsequently placed underground, all permittee facilities shall also be placed underground at no expense to the City. The recovery of such costs by a public utility placing utility facilities underground shall be subject to the cost recovery provisions set forth in Chapter 908.06(A)(5). Related equipment, such as pedestals, must be placed in accordance with the City's applicable code requirements and rules.
3. For above ground facilities, the permittee shall utilize existing poles and conduit wherever possible. No permit shall be issued for the construction of new poles or towers in the rights-of-way without the determination of the Deputy City Manager that existing facilities are not available or suitable for the applicants needs and that the proposed new above ground structures are compatible with existing facilities or uses within the immediate area.
4. Should the City desire to place its own facilities in trenches or bores opened by the permittee, the permittee shall cooperate with the City in any construction by the permittee that involves trenching or boring, provided that the City has first notified the permittee in some manner that it is interested in sharing the trenches or bores in the area where the permittee's construction is occurring. The permittee shall allow the City to place its facilities in the permittee's trenches and bores, provided the City shares proportionally in the cost of the trenching or boring. Should the City desire to install ducts or conduits for the possible use of other entities, then the permittee shall allow the City to place these facilities in the permittee's trenches and bores, provided the City shares proportionally in the cost of trenching and boring. Additionally, should the City install ducts or conduits for their, or others, use the permit application fee shall be waived for the permittee for that particular project. The City shall be responsible for maintaining its respective facilities buried in the permittee's trenches and bores under this paragraph.

D. Use of Conduits by the City: Unless otherwise restricted by state and federal law, and in accordance with Section 908.09, the City may install or affix and

maintain its own facilities for City purposes in or upon any and all of permittee's ducts, conduits or equipment in the rights of way and other public places, at a charge to be negotiated between the parties, to the extent space is therein or thereon is reasonably available, and pursuant to all applicable ordinances and codes. For the purposes of this subsection, "City purposes" includes, but is not limited to, the use of the structures and installations for City fire, police, traffic, water, electric, telecommunications, and/or signal systems.

E. Common Users.

1. Rights-of-way have a finite capacity for containing facilities, whenever the City determines it is impracticable to permit construction of an additional underground conduit system by any other entity and unless otherwise prohibited by federal or state law or regulations, the City shall require a permittee to afford to such entity the right to use surplus ducts or conduits in common with permittee, pursuant to the terms and conditions of an agreement for use of surplus ducts or conduits entered into by permittee and the other entity. Nothing herein shall require permittee to enter into an agreement with such entity if, in permittee's reasonable determination, such an agreement would compromise the integrity of the permittee's facilities or if such entity refuses to assume liability for the occupancy at the negotiated price or price required by applicable local, state, or federal law. In such case, however, permittee shall provide a written explanation to the Deputy City Manager describing the nature and extent of the compromise of integrity of the facilities or refusal to assume liability, which shall be the basis for denying a permit to such other entity if no other alternative exists. Permittee shall cooperate and present evidence regarding the compromise of integrity on any appeal. In no instance shall the City take action against a permittee required to allow attachment by a new right-of-way occupant pursuant to local, state, or federal law, where the City determines that occupancy should be denied. The City shall take action, as it deems appropriate, only against the new right-of-way occupant.
2. If a permittee has permitted use of its conduit to another entity (common user) and thereafter determines that it, the permittee, needs to occupy such conduit for its own use, the permittee shall give its common user(s) one hundred twenty (120) days notice, or such greater or lesser notice as may be required by local, state, or federal law, of its need to occupy the conduit and shall require that the common user choose one of the following alternatives:
 - (a) Pay revised conduit rent designed to recover the cost of retrofitting the conduit with space-saving technology sufficient to meet permittee's space needs, including the space needs of other common occupants;
 - (b) Pay revised conduit rent based on the cost of new conduit constructed to meet permittee's space needs, including the space needs of other common occupants;
 - (c) Vacate the needed ducts or conduit.
 - (d) Construct and maintain sufficient new conduit to meet permittee's space needs and the needs of other common occupants. When two or more common users occupy a section of conduit facility, the last most recent user to occupy the conduit facility shall be the first to vacate or construct new conduit. When conduit rent is revised because of retrofitting,

space-saving technology or construction of new conduit, the cost causer shall bear the entire cost of the expansion or retrofit but all common users shall bear the ongoing increased rental cost. All facilities shall meet any applicable local, state, and federal clearance and other safety requirements, be adequately grounded and anchored, and meet the provisions of contracts executed between permittee and the other common user. Permittee may, at its option, correct any attachment deficiencies and charge the common user for its costs. Each common user shall pay permittee for any fines, fees, damages or other costs the common user's attachments cause permittee to incur.

909.18 – JOINT PLANNING AND CONSTRUCTION.

- A. Excavations in the City right-of-way disrupt and interfere with the public use of City streets and landscaping. The purpose of this section is to reduce this disruption, damage, and interference by promoting better coordination among permittees making excavations in the City right-of-way and between these permittees and the City. Better coordination will assist in minimizing the number of excavations being made wherever feasible, and will ensure the excavations in City rights-of-way are, to the maximum extent possible, performed before, rather than after, the resurfacing of the streets by the City.
- B. Prior to applying for a permit, any person planning to excavate in the City right-of-way shall review the City's repaving plan on file with the City Engineer and shall coordinate, to the extent practicable, with the utility and street work shown on such plans to minimize damage to, and avoid undue disruption and interference with the public use of such rights-of-way.
- C. In performing location of facilities in the public right-of-way in preparation for construction under a permit, permittee shall compile all information obtained regarding its or any other facilities in the public rights-of-way related to a particular permit, and shall make that information available to the City in a written and verified format acceptable to the Deputy City Manager.

909.19 – MINIMIZING THE IMPACTS OF WORK IN THE RIGHTS-OF-WAY.

- A. Each permittee shall conduct work in such a manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. In the performance of the work, the permittee shall take appropriate measures to reduce noise, dust, and unsightly debris.
- B. Trash and Construction Materials: Each permittee shall maintain the work site so that:
 - 1. Trash and construction materials are contained so that they are not blown off of the construction site.
 - 2. Trash is removed from a construction site often enough so that it does not become a health, fire, or safety hazard.
 - 3. Trash dumpsters and storage or construction trailers are not placed in the street without specific approval of the Deputy City Manager.
- C. Deposit of Dirt and Material on Roadways: Each permittee shall utilize their best efforts to eliminate the tracking of mud or debris upon any street or sidewalk. Streets and sidewalks shall be cleaned of mud and debris at the end of each day. All equipment and trucks tracking mud and debris into the right-of-way shall be cleaned of mud and debris at the end of the day or as directed by the City Engineer, or designee. If the permittee fails to do so, the City shall have the authority to perform the required work and bill the permittee for its expense.

- D. Protection of Trees and Landscaping: Each permittee shall protect trees, landscape, and landscape features as required by the City. All protective measures shall be provided at the expense of the permittee.
- E. Protection of Paved Surfaces from Equipment Damage: Backhoe equipment outriggers shall be fitted with rubber pads whenever outriggers are placed on any paved surface. Tracked vehicles that will damage pavement surfaces are not permitted on paved surface unless specific precautions are taken to protect the surface. The permittee will be responsible for any damage caused to the pavement by the operation of such equipment and, shall repair such surfaces. Failure to do so will result in the use of the applicant's performance / warranty guarantee by the City to repair any damage, and, possibly, the requirement of additional warrantee(s).
- F. Protection of Property: Each permittee shall protect from injury any adjoining property by providing adequate support and taking other necessary measures. The permittee shall, at its own expense, shore up and protect all buildings, walls, fences or other property likely to be damaged during the work, and shall be responsible for all damage to public or private property resulting from failure to properly protect and carry out work in the public way.
- G. Clean-Up: As the work progresses, all public rights-of-way and private property shall be thoroughly cleaned of all rubbish, excess dirt, rock, and other debris. All clean-up operations shall be done at the expense of the permittee.
- H. Preservation of Monuments: A permittee shall not disturb any surface monuments, property marks, or survey hubs and points found on the line of work unless approval is obtained from the City Engineer. Any monuments, hubs, and points disturbed will be replaced by an Ohio Registered Land Surveyor at the permittee's expense.
- I. Each permittee shall make provisions for employee and construction vehicle parking so that neighborhood parking adjacent to a work site is not impacted.
- J. Each permittee shall maintain an adequate and safe unobstructed walkway around a construction site or blocked sidewalk.
- K. Each permittee shall provide necessary sanitary facilities for workers. The location of such facilities shall be approved by the City in the permit.

909.20 – STANDARDS FOR REPAIRS AND RESTORATION.

- A. Permittee Responsibility: The permittee shall be fully responsible for the cost and actual performance of all work in the public way. The permittee shall do all work in conformance with any and all engineering regulations, construction specifications, and design standards adopted by the City. These standards shall apply to all work in the public way unless otherwise indicated in the permit.
- B. All restoration shall result in a work site condition equal to or better than that which existed prior to construction.
- C. Flowable fill backfill material shall be utilized as directed by the City Engineer or as agreed to in the street cut repair standard entered pursuant to Chapter 908.06(A)(7).

909.21 – CONSTRUCTION AND RESTORATION STANDARDS FOR NEWLY CONSTRUCTED OR OVERLAYED STREETS.

No person shall cause an open trench excavation or potholing of utilities in the pavement of any public right-of-way for a period of three years from the completion of construction or resurfacing of the street except in compliance with the provisions of this section.

- A. Application: Any application for a permit to excavate in a public right-of-way subject to the requirements of this section shall contain the following

information:

1. A detailed and dimensional engineering plan that identifies and accurately represents the City rights-of-way or property that will be impacted by the proposed excavation, as well as adjacent streets, and the method of construction.
 2. The street width or alley width including curb and gutter that will be impacted by the proposed excavation.
 3. The location, width, length, and depth of the proposed excavation.
 4. The total area of existing street or alley pavement in each individual City block that will be impacted by the proposed excavation.
 5. A written statement addressing the criteria for approval.
- B. Criteria for Approval: No permit for excavation in the right-of-way of new streets shall be approved unless the Deputy City Manager finds that all of the following criteria have been met:
1. Boring or jacking without disturbing the pavement is not practical due to physical characteristics of the street or alley or other utility conflicts.
 2. Alternative utility alignments that do not involve excavating the street or alley are found to be impracticable.
 3. The proposed excavation cannot reasonably be delayed until after the three-year deferment period has lapsed.
- C. Exemptions for Emergency Operations: Emergency maintenance operations shall be limited to circumstances involving the preservation of life, property, or the restoration of customer service. Persons with prior authorization from the City to perform emergency maintenance operations within the public rights-of-way, shall be exempted from this section. Any person commencing operations under the laws of this section shall submit detailed engineering plans, construction methods and remediation plans no later than three working days after initiating the emergency maintenance operation or within such other time as is reasonably practical.
- D. Exemptions for Non-emergency Operations: A permittee may apply to the Deputy City Manager for an exemption under this section when the construction is necessary in the public interest or to provide a public service. By way of example, but not by limitation, an exemption could be requested in order to provide services to a part of the City where no service would be available without construction. If a non-emergency exemption is granted to disturb a public way within the three (3) year period, the Deputy City Manager may, in his sole discretion, impose additional restoration requirements, including but not necessarily limited to, repaving of a larger area, such as an entire block in which the construction occurs.
- E. Construction and Restoration Standards for Newly Constructed or Overlaid Streets and Alleys: The streets shall be restored and repaired in accordance with design and construction standards adopted by the City, including the street cut repair standard set forth by the right-of-way occupant and the City pursuant to Chapter 908.06(A)(7).

909.22 – RELOCATION OF FACILITIES.

- A. If at any time the City requests the permittee to relocate it's facilities, in order to allow the City to make any public use of rights-of-way, or if at any time it shall become necessary because of a change in the grade or for any other purpose by reason of the improving, repairing, constructing, or maintaining of any rights-of-way, or reason of traffic conditions, public safety or by reason of installation of any type of structure of public improvement the City or other public agency of special district, and any general program for the undergrounding of such facilities, to move or change the permittee's facilities within or adjacent to rights-of-way in any manner, either temporarily or

permanently, the City shall notify the permittee, at least 90 days in advance, except in the case of emergencies, of the City's intention to perform or have such work performed. The permittee shall thereupon, at no cost to the City, accomplish the necessary relocation, removal or change within a reasonable time from the date of the notification, but in no event later than three (3) working days prior to the date the City intends to commence its work or immediately in the case of emergencies. For complex projects, the permittee may appeal to the Deputy City Manager for more than a 90-day advance notice from the City. In each instance the City shall permit cost recovery pursuant to Chapter 908.06(A)(5).

- B. Upon the permittee's failure to accomplish such work, the City or other public agencies or special district may perform such work at the permittee's expense and the permittee shall reimburse the City or other agency within thirty (30) days after receipt of a written invoice. The City shall comply with the requirements of R.C. 4905.20 and 4905.21 and the R.C. Chapter 4939. Following relocation, all affected property shall be restored to the condition which existed prior to construction at the permittee's expense.
- C. Notwithstanding the requirements of this section, a permittee may request additional time to complete a relocation project. The Deputy City Manager shall grant a reasonable extension if the extension will not adversely affect the City's project.

909.23 – ABANDONMENT AND REMOVAL OF FACILITIES.

Notification of Abandoned Facilities: Any permittee that intends to discontinue use of any Facilities within the public rights-of-way shall notify the Deputy City Manager in writing of the intent to discontinue use. Such notice shall describe the facilities for which the use is to be discontinued, a date of discontinuance of use, which date shall not be less than sixty (60) days from the date such notice is submitted to the Deputy City Manager and the method of removal and restoration. The permittee may not remove, destroy or permanently disable any such facilities during said sixty (60) day period without written approval of the Deputy City Manager. After sixty (60) days from the date of such notice, the permittee shall remove and dispose of such facilities, or abandon in place, as set forth in the notice, as the same may be modified by the Deputy City Manager, and shall complete such removal and disposal within six months, unless additional time is requested from and approved by the Deputy City Manager.

909.24 – REVOCATION OF PERMITS AND STOP WORK ORDERS.

- A. Any permit may be revoked or suspended by the Deputy City Manager, after written notice to the permittee for:
1. Violation of any material condition of the Permit or of any material provision of this ordinance.
 2. Violation of any material provision of any other ordinance of the City or state law relating to the work performed under this ordinance.
 3. Existence of any condition or performance of any act relating to the work performed under this ordinance which the City determines constitutes or causes a condition endangering life or damage to property.
- B. Stop Work Orders: A stop work order may be issued by the Deputy City Manager to any person or persons doing or causing any work to be done in the public way for:
1. Working without a permit except for routine maintenance or emergency repairs to existing facilities as provided for in this ordinance.
 2. Failure to acquire a valid right-of-way occupancy permit.
 3. Doing work in violation of any provisions of this ordinance, or any other ordinance of the City, or state law relating to the work.

4. Performing any act which the City determines constitutes or causes a condition that either endangers life or property.
5. A suspension or revocation by the Deputy City Manager, and a stop work order, shall take effect immediately upon notice to the person performing the work in the public way, or to the permittee's last known address.
6. Any suspension or revocation or stop work order may be appealed by the permittee to the City Manager by filing a written notice of appeal within thirty (30) days of the action.

909.25 – APPEALS PROCEDURE.

Any decision rendered by the Deputy City Manager pursuant to this chapter may be appealed in writing within thirty (30) days by the applicant or permittee to the City Manager. Within fifteen (15) days of written notification of appeal, the City Manager shall consider all evidence in context of this chapter and, after deliberation, may approve, reverse or modify the decision of the Deputy City Manager. Within fifteen (15) days of the decision of the City Manager, an applicant may appeal the decision of the City Manager to the City Council.

909.26 – PENALTY.

Each day such violation continues shall be deemed a separate offense. For failure to comply with any other provision of this chapter, the penalty shall be a civil forfeiture, payable to the City of Lebanon, in the amount up to five hundred dollars (\$500.00) per day for each day of violation. In addition, for failure to timely comply with a notice by the Deputy City Manager to remove or rearrange facilities pursuant to this chapter and Chapter 908 of the Lebanon Codified Ordinances, an additional civil forfeiture equal to any costs incurred by the City as a result of such failure, including but not limited to penalties or liquidated damages charged the City by its contractors occasioned thereby, shall be imposed.

909.27 – SEVERABILITY.

If any section, subsection, clause or provision or any part thereof of this chapter shall be finally adjudicated by a court of competent jurisdiction to be invalid, the remainder shall be unaffected by such adjudication and all the remaining provisions shall remain in full force and effect.

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FEE SCHEDULE

Review costs mean those administrative and consultation costs associated with the review of the application, as well as permitting, inspections, and general inquiries related to public right-of-way intrusion.

RIGHT-OF-WAY WORK PERMIT FEES

Review Costs:

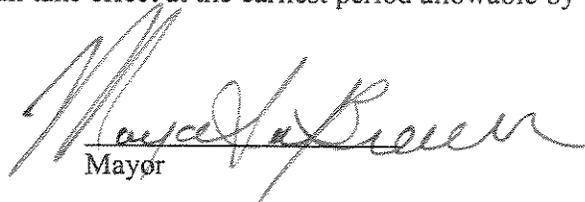
A fee for the review of all applications, excluding minor maintenance permits shall be \$100.00.

The Fee to review minor maintenance permits shall be \$25.00

Exemptions: The following work in the public right-of-way will be exempt from the review fee:

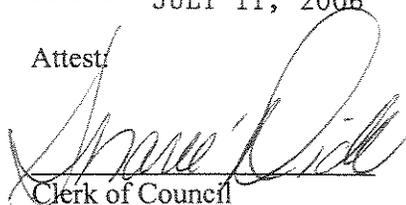
1. Replacement of existing individual property utility service such as water, sewer, electric, gas, and telecommunications.
2. Placement or removal of trees, mailboxes, and other minor landscaping in the public right-of-way.
3. Replacement of existing curb and gutter, and/or sidewalks in the public right-of-way."

SECTION 3: This Ordinance is necessary for the preservation of the public peace, health, safety, morals and welfare of the City of Lebanon; and shall take effect at the earliest period allowable by law.


Mayor

Passed: JULY 11, 2006

Attest:


Clerk of Council

Sponsor

Mayor Amy Brewer
Council member

City
Manager



City
Auditor



City
Attorney





Right-of-Way Minor Maintenance Permit Application

Date: _____ Previous ROW Permit Number: _____

Applicant Name: _____

Applicant Address: _____

Phone Number: _____ Email Address: _____

Contractor Name: _____

Contractor Address: _____

Phone Number: _____ Email Address: _____

Location of Proposed Work: _____

Type(s) of Existing Infrastructure Impacted by Proposed Work: _____

Type of Proposed Work: _____

Purpose of Proposed Work: _____

Beginning Date: _____ Ending Date: _____

Proposed Hours of Work: _____

Note: City Ordinance prohibits work between the hours of 9:00 PM and 7:00 AM

Provide the following with the permit application:

1. If applicable, credible evidence that the applicant has obtained a right-of-way occupancy permit, or proof that the applicant has written authority to apply for a minor maintenance permit on behalf of a party that has been issued a right-of-way occupancy permit;
2. A statement that the applicant will employ protective measures and devices that, consistent with the Ohio Manual of Uniform Traffic Control Devices, will prevent injury or damage to persons or property and to minimize disruptions to the efficient movement of pedestrian and vehicular traffic.

The City may impose reasonable conditions upon the issuance of the minor maintenance permit and the performance of the minor maintenance permittee thereunder in order to protect the public health, safety, and welfare, to insure the structural integrity of the rights-of-way, to protect the property and safety of other users in the rights-of-way, and to minimize the disruption and inconvenience to the traveling public.

Applicant shall update any new information on permit applications within ten (10) days after any material change occurs.

Failure to provide the information provided above or any misrepresentation therein shall be cause for denial of the permit if not corrected, or supplemented within a reasonable period from notice to applicant of such deficiency.

I hereby agree that all work performed under the authority of this permit will be done in strict accordance with the specifications and standards of the City of Lebanon as directed by the Deputy City Manager.

Owner: _____

Contractor: _____

Office Use Only	
Permit Fee: _____	Receipt No. : _____
\$25.00	

Permission is hereby granted to the above applicant to perform the work listed above. The permit shall become void ninety (90) days after the date inscribed below.

Conditions: _____

Date: _____

Deputy City Manager: _____



Right-of-Way Occupancy Permit Application

Date: _____ Permit Number: _____

Applicant Name: _____

Applicant Address: _____

Phone Number: _____ Email Address: _____

Description of Item(s) in Right-of-Way or Use of Right-of-Way: _____

Reason for Placing Items in Right-of-Way or Use of Right-of-Way: _____

Provide the following with the permit application:

- 1. Detailed plans depicting the item(s) to be placed into the Right-of Way. The plans shall contain the appropriate information to accurately locate all items without difficulty.

Applicant shall update any new information on permit applications within ten (10) days after any material change occurs.

Failure to provide the information provided above or any misrepresentation therein shall be cause for denial of the permit if not corrected, or supplemented within a reasonable period from notice to applicant of such deficiency.

I hereby agree that all work performed under the authority of this permit will be done in strict accordance with the specifications and standards of the City of Lebanon as directed by the Deputy City Manager.

Owner: _____

Contractor: _____

Office Use Only

Permit Fee: \$250.00

Receipt No. : _____

Permission is hereby granted to the above applicant to perform the work listed above.

Conditions: _____

Date: _____

Deputy City Manager: _____



Right-of-Way Work Permit Application

Date: _____

Permit Number: _____

Applicant Name: _____

Applicant Address: _____

Phone Number: _____ Email Address: _____

Contractor Name: _____

Contractor Address: _____

Phone Number: _____ Email Address: _____

Location of Proposed Work: _____

Type(s) of Existing Infrastructure Impacted by Proposed Work: _____

Type of Proposed Work: _____

Purpose of Proposed Work: _____

Beginning Date: _____

Ending Date: _____

Proposed Hours of Work: _____

Note: City Ordinance prohibits work between the hours of 9:00 PM and 7:00 AM

Applicant shall update any new information on permit applications within ten (10) days after any material change occurs.

Failure to provide the information provided above or any misrepresentation therein shall be cause for denial of the permit if not corrected, or supplemented within a reasonable period from notice to applicant of such deficiency.

I hereby agree that I will employ protective measures and devices that, consistent with the Ohio Manual of Uniform Traffic Control Devices, will prevent injury or damage to persons or property and minimize disruptions to the efficient movement of pedestrian and vehicular traffic.

I hereby agree that all work performed under the authority of this permit will be done in strict accordance with the specifications and standards of the City of Lebanon as directed by the Deputy City Manager.

Owner: _____

Contractor: _____

Permit Fee: _____ \$100.00 _____

Office Use Only

Receipt No. : _____

Permission is hereby granted to the above applicant to perform the work listed above. The permit shall become void ninety (90) days after the date inscribed below.

Conditions: _____

Date: _____

Deputy City Manager: _____



Right-of-Way Work Permit Checklist

Provide the following with the permit application:

- Attach copies of all permits or licenses (including required insurance, deposits, bonding, and warranties) required to do the proposed work, and to work in the public rights-of-way, if licenses or permits are required under the laws of the United States, State of Ohio, or the ordinances or regulations of the City. If relevant permits or licenses have been applied for but not yet received, provide a written statement so indicating.
- Plan of work showing protection of the subject property and adjacent properties. Plan should accommodate trenchless technology and joint use wherever applicable to reduce the negative impact on existing public infrastructure and rights-of-way.
- Plan for the protection of any existing landscaping.
- Engineering construction drawings or site plans for the proposed work.
- A satisfactory traffic control and erosion protection plan for the proposed work.
- A statement indicating any proposed joint use or ownership of the facility; any known existing facility or permit of the applicant at this location; any known existing facility of others with which the proposed installation might conflict; and the name, address and telephone number of a representative of the applicant available to review proposed locations at the site.