

RECORD OF ORDINANCES

Ordinance No. 20-07 Passed September 9, 2020

AN EMERGENCY ORDINANCE REGULATING THE USE OF PUBLIC RIGHTS-OF-WAY BY PUBLIC UTILITIES TO CONSTRUCT, MAINTAIN, AND OPERATE TRANSMISSION WIRES, AND PIPING WITHIN THE STREETS, THOROUGHFARES, ALLEYS, BRIDGES, AND PUBLIC PLACES OF THE VILLAGE OF BEVERLY, WASHINGTON COUNTY, STATE OF OHIO.

WHEREAS, the Council of the Village of Beverly wishes to establish public utility right-of-way regulations.

NOW THEREFORE, be it ordained by the Council of the Village of Beverly, County of Washington, State of Ohio, as follows:

SECTION 1: the Village of Beverly Council hereby authorizes the establishment of the following public utility right-of-way regulations:

- A.** The objective of this ordinance is to ensure all excavations in the rights-of-way are properly restored in order to minimize damage to public property according to ORC 723.01.
- B.** No person shall commence or continue with the construction, installation, or maintenance of transmission lines or piping of non-emergency work without approval of the Village of Beverly.
- C.** In order to protect the public health, safety, and welfare, all Users constructing, installing, or maintaining will register with the Village of Beverly at least 24 hours in advance of non-emergency work.
- D.** Said Grantee shall save the Village harmless from any and all liability arising in any way from Grantee's negligence in the erection, maintenance, or operation of said lines or piping for the distribution and transmission of any utility except to the extent such liability arises out of the contributory negligence or willful misconduct of the Village.
- E.** A permit, issued by the Village, must be obtained (24) twenty-four hours in advance, in order to perform any non-emergency work within the Corporation of Beverly. Emergency restoration work is exempt from the permit process.
- F.** Whenever said Grantee shall begin the erection or installation of any lines, piping, or equipment, it shall promptly and diligently prosecute the work to completion and leave the streets, thoroughfares, alleys, bridges, and public places where such work is done in as good condition or repair as before such work was commenced.
- G.** It shall be unlawful for any person, firm, or corporation to cut an open ditch or make a cut of any kind in or on any public street, alley, or roadway within the Village limits without first obtaining a permit to do so from the Village of Beverly.
- H.** If any of the provisions of this ordinance are not followed, a permit may be revoked by the Mayor. If a User has not followed the terms and conditions of this ordinance in work done pursuant to a prior permit, new permits may be denied or additional terms required.
- I.** In case of an Emergency, a Public Utility Right-of-Way User may proceed with required work without a Public Utility Right-of-Way Permit, however, in such event, the Public Utility Right-of-Way User shall, within five (5) days following the Emergency, submit the documents and information to the Mayor, required work necessitated by the Emergency and restoration of the utility. Any unsatisfactory work completed within the Village of Beverly will be reported to the owning company. In the event the Public Utility Right-of-Way User fails to correct such unsatisfactory work, then the City shall be entitled to correct such unsatisfactory work. The Village shall submit to the Public Utility Right-of-Way User an itemized statement of the costs for such work. The Public Utility Right-of-Way User shall pay the amount of the statement within thirty (30) days from receipt.
- J.** Each Public Utility Right-of-Way User shall be responsible for the cost of repairing any property owned by other Persons in the Public Right-of-Way damaged by the Public Utility Right-of-Way User or its Facilities. Each Public Utility Right-of-Way User shall be responsible for the cost of repairing any damage to the property of another Person caused

during the Village response to an Emergency caused by a Public Utility Right-of-Way User or its Facilities, except for damage caused by the Village's gross negligence or willful misconduct.

K. Violations:

- a. The Public Utility Right-of-Way User shall, within seven (7) calendar days of receiving a notification of a violation, propose a plan to promptly correct such violation. The Public Utility Right-of-Way User shall promptly correct such violation in accordance with an approved plan. If the violation creates a threat to public safety, the Public Utility Right-of-Way User upon verbal or written notice from the Mayor shall immediately correct such violation. A Public Utility Right-of-Way User's failure to submit an acceptable plan, or to promptly cure a violation shall in addition to all other remedies provided by Law be cause for immediate revocation of the Public Utility Right-of-Way Permit.

- b. Any Public Utility Right-of-Way User violating any provision of this Article is guilty of a public offense, and upon conviction thereof shall be fined in a sum of not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00). Every day that this Article is violated shall constitute a separate offense. The Village shall have the authority to maintain civil suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of this Article. In addition to any other remedies, the City Solicitor may institute injunction, mandamus or other appropriate actions or proceedings to prevent violations of this Article.

SECTION 2: An emergency exists affecting the public health, safety, and general welfare of the citizens of the Village of Beverly. This Ordinance shall take effect and be in full force immediately upon passage.

Passed this 9th day of September, 2020.

Mayor

President of Council

Attest:

Fiscal Officer

CERTIFICATES:

I, Pamela I. Jackson, Fiscal Officer of the Village of Beverly, Ohio, do hereby certify that the foregoing Ordinance #20-07 was duly posted in not less than five of the most public places in the Village of Beverly, as determined by the Council of the Village of Beverly, for a period of not less than fifteen (15) days.

Fiscal Officer

I, Pamela L. Jackson, Fiscal Officer of the Village of Beverly, Ohio, do hereby certify that the foregoing is a true and correct copy of an Ordinance passed by Council at a meeting held September 9, 2020.

Fiscal Officer