

**521.06 CONSTRUCTION, REPAIR AND REPLACEMENT OF SIDEWALKS, INTEGRAL APPROACHES/APRONS AND RELATED AREAS. DUTY TO KEEP SIDEWALKS AND VEGETATION MAINTAINED.**

(a) *Definitions.* As used in the Codified Ordinances:

Commented [PW1]: Moved to 903.2

- (1) *Block or blocks.* Approximately equally spaced, generally rectangular, blocks as visible on the surface of a sidewalk area, or blocks as visible on the surface of an integral approach/apron area, formed by saw cut joints or tooled joints in the concrete (control/contraction joints) and/or by expansion joints.
- (2) *Handicap access/approach.* That portion contiguous to an integral approach/apron or sidewalk designed and constructed pursuant to the Americans with Disabilities Act (ADA) as it now exists or may from time-to-time hereafter be amended.
- (3) *Integral approach/apron.* That portion of a driveway between the street and the public right-of-way or easement dedicated to the public use containing a sidewalk crossing through it.
- (4) *Sidewalk.* A hard surface portion of the street system for pedestrian use which lies outside the curb lines (or integral with the curb) or edge of pavement of the roadway. An area abutting a public right-of-way improved, or intended to be improved, as part of an overall pedestrian travel system within the community.
- (5) *Abutting owner.* An individual or entity indicated on the most recent tax records of the Franklin County Auditor's office as owners, in whole or in part, of property which frontage confronts, is adjacent to, or abuts the sidewalk, integral approach/apron and related areas. The City intends that all owners of a parcel shall be obligated pursuant to the provisions of this Chapter on a joint and several basis as this Chapter affects any parcel. Further, for purposes of this Chapter, any one owner of real estate shall be deemed to be the agent of all other owners of that real estate.
- (6) *Affected areas.* Those areas requiring sidewalk construction, repair or replacement after inspection including sidewalks and/or integral approach/aprons.
- (7) *Primary inspection area.* The inspection area selected for special attention for a given calendar year, as determined by the Director or designated representative and subsequently approved by Council Resolution, which contains properties which have frontages confronting, adjacent to, or abutting a sidewalk, integral approach/apron and related areas. Such areas are inspected as set forth within Section 521.06(D).
- (8) *Director.* The Director shall refer to the Director of the department responsible for administration of this Section.

(b) *Obligation of abutting owner.* No owner or occupant of abutting lands shall fail to keep the sidewalks, integral approaches/aprons, and curbs or gutters within the City free from obstructions at all times in accordance with the requirements of the City as set forth herein and as such requirements may from time to time be amended. The owner shall keep sidewalks and approaches/aprons in good repair.

Commented [PW2]: To remain in 521.06

In addition to the requirements of Section 913.08, it shall be the duty of any person or persons owning real property bordering on any street upon which property there may be plants, trees or shrubs, to prune, or cause to be pruned, such plants, trees or shrubs in such manner that they will not obstruct the passage of pedestrians across the full width of sidewalks or pathways. Any portion of a tree extending over a sidewalk shall be trimmed to such an extent that no portion of the same shall be less than eight feet above the sidewalks.

Commented [PW3]: To remain in 521.06, with the inclusion of traffic visibility concerns as stated in 2018 code

(c) *Inspection program.* The Director or their designee shall conduct, as determined necessary by such appropriate public official, an inspection program designed to require repair and replacement of sidewalk areas and/or walkway areas integral to or monolithic with approach/apron areas within the City for the

purpose of maintaining those areas in a good and orderly state of repair so as to protect the health, safety, and welfare of the public. The inspection program shall occur for each property within the City in accordance with the provisions of this Chapter. Specifically, the inspection program shall include the primary inspection area; such inspection being performed as set forth within Section 521.06(d).

Commented [PW4]: Now 903.4(a)

(d) *Inspection criteria.* The primary inspection area criteria to be utilized by the Director or their designee shall include primary conditions deemed by such official to be potentially detrimental to the public health, safety and welfare. The existence of such conditions shall necessitate repair or replacement of sidewalks within the Primary Inspection Area.

Commented [PW5]: Now 903.4(b)

(e) *Procedure for construction, repair or replacement.* When the Director or their designee finds deficiencies after such inspection, such official shall:

Commented [PW6]: Now 903.4(d)

- (1) Verify the identity of the property owner or owners utilizing the Franklin County Auditor's records.
- (2) Prepare a notice for each property setting forth the deficiencies discovered upon inspection, and other pertinent information as set forth in Section 521.06(e)(4) below.
- (3) Serve the notice of deficiency on each property owner. Service shall be made upon the property owner or owners by ordinary U.S. Mail, postage prepaid. The City shall also post a list of such information in the manner it uses for posting legislation so that it is accessible to the public. The City may additionally post such information on its website. The notice will recite that the City will accomplish the construction, repairs or replacements within the program area and assess the cost of such improvements benefiting the abutting property based upon the actual unit costs associated with the various improvements against the abutting property based upon its unit costs over five years from the date of assessment.

Commented [PW7]: Changed location to be with the rest of the items included in the notice, 903.4(d)(2)

(4) Such notice shall indicate the following:

Commented [PW8]: Moved to be under 903.4(d)(2)

- A. The deficiencies discovered as a result of inspection.
- B. That a property owner(s) has 45 days from the original notice mail date, or decision on their appeal as set forth in Section 521.06(e)(4)(g) herein to advise the City that the property owner(s) does not consent to the improvements, repair or replacement by the City and that the property owner(s) "opt out" as otherwise set forth in this Chapter. Such lack of consent and "opt out" must be sent from the property owner(s) to the City in writing at the address stated in the original notice from the City to the property owner(s). If the property owner(s) fails to advise the City of the property owner's absence of consent, it shall be presumed for all purposes that the property owner(s) has consented. The notice from the property owner(s) to the City must be received by the City no later than 45 days after the original notice mail date from the City to the property owner(s).

Commented [PW9]: Moved to 903.4(e)

~~C. A property owner(s) may "opt out" in accordance with this Chapter. Such "opt out" shall be accomplished in writing and served upon the City no later than 45 days after the original notice mail date from the City to the property owner(s), or decision on appeal of property owner(s).~~

Commented [PW10]: Redundant to above language

- D. Requirements for permitting and inspection if the property owner(s) intend to "opt out".
- E. If, in the opinion of the Director or their designee, trees within the public right-of-way abutting the owner(s)' property have contributed to sidewalk disrepair, the trees will either be identified to be removed or their roots pruned. The City Forester or their designee will determine if each of those trees is to be removed or its roots are to be pruned in accordance with the Sidewalk Maintenance Program Tree Removal and Root Pruning Guidelines. All tree removals will be performed by the City or their designee at no cost to the abutting property owner unless the property owner "opts out". All tree root pruning will be performed by the City or their designee and assessed to the abutting property owner unless the property owner "opts out".

Commented [PW11]: Language modified, City to cover both costs

- F. If the property owner(s) chooses to "opt out," pursuant to Section 521.06(f), then the methods of sidewalk and integral approach/apron repair shall be consistent with ~~the standards for such work adopted by the Director or their designee. Sidewalk and integral approach/apron replacement shall be performed in accordance with Section 903.01.~~
- G. If the property owner(s) disagrees with the findings by the Director or their designee, that property owner may appeal the findings to the Property Appeals Board within 30-days of the original notice mail date. The property owner has the burden to present sufficient evidence to overcome the presumption that said findings are appropriate, in order for City Council to modify the Resolution of Necessity with regards to the property owner(s)' property.

(f) **Construction by property owner ("opt out").** Any property owner who desires to "opt out" of the City program and take responsibility for performing the required construction, repairs and replacements shall return to the City, within 45 days from the mail date of the original notice from the City to the property owner(s), ~~a written request by the property owner to "opt out" of the City's program, which shall comply with the following requirements and specifications:~~

- ~~(1) Notify the Director or their designee in writing of the identity of the contractor(s) who will perform the work in compliance with any and all applicable licensing and permitting requirement enacted by the City.~~
- ~~(2) Identify the proposed method(s) of construction, repair or replacement so the Director or their designee representative may determine appropriateness.~~
- ~~(3) Acknowledge on the notice to the City that the improvement will be completed in a fashion satisfactory to the Director or their designee within 105 days from the mail date of the original notice from the City to the property owner(s) or that the property owner will be in violation of this Ordinance and the City may proceed with the process described in Section 521.06(k).~~

The Director or their designee representative may extend, in such public official's sole discretion, ~~the time for performance by the property owner~~ for any reason deemed appropriate by such public official, including but not limited to delays occasioned by natural disaster, weather or other unforeseen circumstances.

(g) **Consent.** Every owner of real property in the City of Gahanna is deemed to have consented:

- (1) That all property owners who do not consent to entry upon private property for the purposes of accomplishing this chapter shall be assessed the additional costs necessary to do work from the right of way.
- (2) To the grinding, cutting or removing of roots and trees within the public right-of-way abutting the owner(s)' property, or the grinding, cutting or removing of roots in the public right-of-way for trees located on the owner(s)' private property if such grinding, cutting or removing of roots occurs in furtherance of this Chapter.
- (3) That any public official is immune from civil or criminal liability for entry upon real property in furtherance of the purposes set forth in this Chapter, and the City and its agents and employees shall have no liability for the damage or destruction to any trees or tree roots for activity conducted in furtherance of the purposes of this Chapter.

(h) **Mandatory disclosure.** Any property owner who receives the notice set forth in Section 521.06(e)(4) or who elects to "opt out" pursuant to those provisions in Section 521.06(f) and, who thereafter transfers all or any portion of the title to the property before concluding such repairs and having them accepted by the City, is under an affirmative duty to disclose in writing to the transferee of such property the contents of the notice or the election to "opt out". Nothing contained within this Section shall be construed to alter or diminish the City's rights under Section 521.06(j) to collect all amounts due from the transferee or any subsequent transferee.

Commented [PW12]: Now 903.4(e)

Commented [PW13]: Now Right of Way permit application

Commented [PW14]: All applicable items requested on Right of Way permit

Commented [PW15]: Now 903.4(f)

Commented [PW16]: Now 903.4(h)

Commented [PW17]: Now 903.4(i)

(i) **Resolution of necessity.** The Director or their designee shall from time to time prepare a list of all properties in need of construction, repair or replacement of sidewalks, integral approaches/aprons. Such list shall be submitted to Council who, at a time it deems appropriate, may adopt a Resolution of Necessity reciting the necessity to repair or replace or construct those sidewalks, integral approaches/aprons as indicated by the public official. Upon adoption of such Resolution of Necessity:

Commented [PW18]: Now 903.4(c)

- (1) The Director or their designee may proceed to prepare solicitations for bids for completing the public improvements and/or repairs for all properties not opting out of the City program ~~or for any property in which the property owner fails to comply with any of the "opt out" procedures set forth herein~~ and,
- (2) Council shall appropriate such funds as are necessary from time to time to accomplish such improvements and defray the costs of such improvements upon such terms as Council deems appropriate and,
- (3) Council may at its discretion borrow such funds as Council deems appropriate for the cost of such construction, repair and replacement and the defraying of all costs associated therewith.

(j) **Assessment.** Upon completion of such construction, repair or replacement, all owners affected thereby shall be notified of a public hearing to determine any mistake of fact regarding allocation of such assessments and:

Commented [PW19]: Now 903.4(j)

- (1) Notice of such public hearing shall be served upon all property owners in accordance by ordinary U.S. Mail, postage prepaid. The City shall also post a list of such information in the manner it uses for posting legislation so that it is accessible to the public. The City may additionally post such information on its website; and,
- (2) After such public hearing, Council shall determine the unit cost of such construction, repair or replacement associated with the various improvements performed; and,
- (3) Council shall assess the costs, as determined pursuant to subparagraph (2) above, of such improvement against each abutting, benefited property based upon the actual unit cost associated with such improvements; and,
- (4) The Clerk shall certify the amount of such assessment, its effective date, and its rate of interest to the County Auditor for addition to the tax duplicate of the properties affected by such assessment.
- (5) Any persons affected by this section may opt to pay all the costs determined pursuant to subparagraph (2) above directly, in lieu of having said costs assessed against real property. Said costs must be paid in full within 30 days of the date of said public hearing referenced in subparagraph (2) above, or the assessment will be issued as outlined herein.

Commented [PW20]: Combined into 903.4(j)(2) A and B

The obligations hereunder shall run with the land affected by this Chapter.

(k) **Failure to complete construction, repair or replacement.** Any property owner who opts out of the City program, and who fails to construct, repair, or replace the affected area in accordance with the provisions of this Chapter, shall:

Commented [PW21]: Now 903.4(g)

- (1) Be sent a written notice by the Director or their designee of the failure to complete construction, repair or replacement.
- (2) ~~Be advised in the notice by the City that the City shall proceed to accomplish such construction, repair, or replacement on such basis as the City deems appropriate, including proceeding as though the City had received no notice of "opting out."~~
- (3) Be advised that the property owner is in violation of this Chapter and may be subject to the penalties described in Section 501.06(m).

~~(4) Be sent the notice required by this division in accordance with the provisions and in the manner set forth for Service of Summons in civil proceedings as set forth in the Ohio Rules of Civil Procedure.~~

(l) **Specifications.** All sidewalk repairs, alterations, and replacements shall be in accordance with Section 903.01.

**Commented [PW22]:** Now 903.4(k)

(m) **Violations.** Any person, firm or corporation violating any regulations, provision, amendment or supplement of this Chapter shall be charged with a minor misdemeanor and upon conviction thereof, shall be fined no less than \$50.00 and not more than \$150.00. Each and every day during which such violation continues shall be deemed a separate offense.

**Commented [PW23]:** Now 903.4(l)

( Ord. No. 0025-2018, § 1(Exh. A), 4-2-18 ; Ord. No. 0096-2018, § 1(Exh. A), 12-3-18 ; Ord. No. 0038-21 , § 1(Exh. A), 6-21-2021; Ord. No. 0025-2022 , § 1(Exh. A), 6-6-22; Ord. No. 0053-2022 , § 1(Exh. A), 9-19-22)

State law reference(s)—O.R.C. § 723.011; Construction or repair at owner's expense, O.R.C. § 729.01 et seq.;  
Notice to construct or repair sidewalks, O.R.C. § 729.03 et seq.

Proposed 521.06

**521.06 - DUTY TO KEEP SIDEWALKS AND VEGETATION MAINTAINED.**

(a)

No owner or occupant of abutting lands shall fail to keep the sidewalks, integral approaches/aprons, and curbs or gutters within the City free of obstructions at all times in accordance with the requirements of the City as set forth herein and as such requirements may from time to time be amended. This includes but is not limited to weeds, grass, or any other nuisance. The owner shall keep sidewalks and approaches/aprons in good repair.

(b)

In addition to the requirements of Section 913.08, it shall be the duty of any person or persons owning real property bordering on any street upon which there may be plants, trees or shrubs, to prune, or cause to be pruned, such plants, trees or shrubs in such manner that they will not obstruct or shade the street lights, obstruct the passage of pedestrians across the full width of sidewalks or pathways, obstruct visibility of traffic signs, obstruct visibility of or from any driveway, street, or alley intersection, or generally obstruct vehicular traffic. Any portion of a tree extending over a sidewalk shall be trimmed to such an extent that no portion of the same shall be less than eight feet above the sidewalks.

(c)

Whoever violates this section is guilty of a minor misdemeanor and subject to penalties and/or fines in accordance with G.C.O [§ 501](#).

**CHAPTER 903 Sidewalk Construction, *Maintenance, and Renewal***

Sections:

**903.1 PLANS AND SPECIFICATIONS.**

All sidewalks constructed within public right-of-way in the City shall be made and constructed in accordance with the latest edition of the City of Columbus Standard Construction Drawings for sidewalk and the Public Right-of-Way Accessibility Guidelines (PROWAG), current edition as proposed or adopted. Construction of new sidewalk shall be made according to the requirements of the City of Columbus Construction and Materials Specifications in force at the time of construction (as determined applicable by the Inspector), **a copy of which is on file with the City of Gahanna Department of Engineering**. Repairs to existing sidewalk shall be approved by the Director or designee in accordance with codified ordinance Chapter 931.

**903.2 Definitions.**

(a) *Definitions.* As used in the Codified Ordinances:

- (1) *Block or blocks.* Approximately equally spaced, generally rectangular, blocks as visible on the surface of a sidewalk area, or blocks as visible on the surface of an integral approach/apron area, formed by saw cut joints or tooled joints in the concrete (control/contraction joints) and/or by expansion joints.
- (2) *Integral approach/apron.* That portion of a driveway between the street and the public right-of-way or easement dedicated to public use containing a sidewalk crossing through it.
- (3) *Handicap access/approach.* That portion contiguous to an integral approach/apron or sidewalk designed and constructed pursuant to the Americans with Disabilities Act (ADA) and the Public Right-of-Way Accessibility Guidelines (PROWAG) as it now exists or may from time-to-time hereafter be amended.
- (4) *Sidewalk.* A hard surface portion of the street system for pedestrian use which lies outside the curb lines (or integral with the curb) or edge of the roadway pavement. An area abutting a public right-of-way improved, or intended to be improved, as part of an overall pedestrian travel system within the community.
- (5) *Abutting owner.* An individual or entity indicated on the most recent tax records of the Franklin County Auditor's office as owners, in whole or in part, of property which frontage confronts, is adjacent to, or abuts the sidewalk, integral approach/apron and related areas. The City intends that all owners of a parcel shall be obligated pursuant

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to the provisions of this Chapter on a joint and several basis as this Chapter affects any parcel. Further, for the purposes of this Chapter, any one owner of real estate shall be deemed to be the agent of all other owners of that real estate.

- (6) *Affected areas.* Those areas requiring sidewalk construction, repair or replacement after inspection.
- (7) *Primary inspection area.* The inspection area selected for special attention for a given calendar year, as determined by the Director or designated representative and subsequently approved by Council Resolution, which contains properties which have frontages confronting, adjacent to, or abutting a sidewalk, integral approach/apron and related areas. Such areas are inspected as set forth within Section 906.06(d).
- (8) *Director.* Referencing the Director of the department responsible for administration of this Section.
- (9) *Maintenance and Repairs.* Pursuant to the criteria established by the Director and as may be amended from time to time, shall include, however, is not limited to – vertical offset grinding, individual panel replacement, removal of vegetation overgrowth, and joint filler.
- (10) *Corridor Renewal.* When the cost to repair one side of a street’s sidewalk facility or pedestrian accessible route from intersection to intersection exceeds 50% of the cost to remove and replace the sidewalk to current PROWAG standards.
- (11) *Lot Renewal.* When the cost to repair the sidewalk facility or pedestrian accessible route of an individual lot frontage exceeds 50% of the cost to remove and replace the entire sidewalk facility along the given frontage to current PROWAG standards.
- (12) *Major Development/Redevelopment.* Work on a site that will initiate the need for any of the following: subdivision of parcels with or without platting; final development plan; and/or building alterations, additions, or change of use requiring existing facilities to be brought up to current standards.

### **903.3 New Sidewalk and Sidewalk Renewal**

- (a) *New Residential Sidewalks.* Residential properties that front residential streets and do not have existing sidewalk facilities or pedestrian accessible routes shall follow applicable Ohio Revised Code provisions for petition for assessment of improvement.
  - (1) The City may provide a cost share up to 50% of the cost of installation, said amount to be limited by the annual budget appropriations as adopted by Council. When petition(s) for assessment exceed the annual funding reserve allocated for new residential sidewalks, the Director or designee may elect to prioritize the request made and/or initiate the assessment collections in advance of the work being performed.
- (b) *Residential Property Renewal of Sidewalk Facilities.*



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(1) When the City administers a Capital Improvement Project (CIP) that consists of major improvements including street rebuilds or utility projects, noncompliant sidewalks shall be brought up to PROWAG accessible standards, to the maximum extent practicable, in conjunction with the project.

A. The City will accomplish the construction as part of the CIP and the cost will be covered by the City.

(2) When existing sidewalks in the primary inspection area are found to be in need of renewal:

A. *Corridor Renewal.* The sidewalk facility shall be programmed for replacement with City planned asphalt overlay roadway maintenance along the given corridor. At such time, any noncompliant portions of the sidewalk facility shall be upgraded to comply with PROWAG standards, to the maximum extent practicable, in conjunction with the project. The City will accomplish the construction within the program area and assess the cost of such improvements benefiting the abutting property as set forth in Section 903.4(j).

B. *Lot Renewal.* Any noncompliant portions of the sidewalk facility along the subject property's frontage shall be brought up to PROWAG standards, to the maximum extent practicable, with transition panels at the property lines or in a location as best fit for the proposed work. The City will accomplish the construction within the program area and assess the cost of such improvements benefiting the abutting property as set forth in Section 903.4(j).

C. Corridor and Lot Renewal projects shall follow the same procedure for sidewalk maintenance and repair as outlined in Section 903.4, excluding "opt out" provisions.

(c) When major development/redevelopment as defined within this Chapter occurs, and where commercial properties either do not presently have pedestrian accessible routes or the existing routes do not meet current PROWAG standards, then a pedestrian accessible route will be required to be provided at the expense of the property owner.

#### **903.4 REPAIR AND MAINTENANCE OF SIDEWALKS AND RELATED AREAS**

(a) *Inspection program.* The Director or their designee shall conduct, as determined necessary by such appropriate public official, an inspection program designed to require repair and replacement of sidewalk areas and/or walkway areas integral to or monolithic with approach/apron areas within the City for the purpose of maintaining those areas in a good and orderly state of repair to protect the health, safety, and welfare of the public. The inspection program shall occur for each property within the City in accordance with the provisions of this Chapter. Such inspection will be performed as set forth within Section 903.4(b).

(b) *Inspection criteria.* The inspection criteria to be utilized by the Director or their designee shall include primary conditions deemed by such official to be potentially detrimental to the public health, safety and welfare. **The criteria shall be consistent with that adopted by the**

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**Public Right-of-Way Accessibility Guidelines (PROWAG) as it now exists or may hereafter be amended.** The existence of such conditions shall necessitate repair or replacement of sidewalks.

(c) *Resolution of necessity.* The Director or their designee shall, from time to time, prepare a list of properties in need of construction, repair, or replacement of sidewalks. Such list shall be submitted to Council, who, at a time it deems appropriate, may adopt a Resolution of Necessity reciting the necessity to repair or replace or construct those sidewalks, as indicated by the public official. Upon adoption of such Resolution of Necessity:

- (1) The Director or their designee may proceed to prepare solicitations for bids for completing the public improvements and/or repairs for all properties not opting out of the City program **as established in 903.4(e)** and,
- (2) Council shall appropriate such funds as are necessary from time to time to accomplish such improvements and defray the costs of such improvements upon such terms as Council deems appropriate and,
- (3) Council may, at its discretion, borrow such funds as Council deems appropriate for the cost of such construction, repair, and replacement and the defraying of all costs associated therewith.

(d) *Procedure for construction, repair, or replacement.* When the Director or their designee finds deficiencies after such inspection, such official shall:

- (1) Verify the identity of the property owner or owners utilizing the Franklin County Auditor's records.
- (2) Prepare a notice for each property setting forth the deficiencies discovered upon inspection. Notices shall include the following information:
  - A. The deficiencies discovered as a result of inspection **and the inspection criteria used to determine the deficiencies.**
  - B. That a property owner(s) has **60 days** from the original notice mail date, **or 30 days** from the decision on their appeal as set forth in Section 903.4(d)(2)(F) herein, to advise the City that the property owner(s) does not consent to the improvements, repair, or replacement **to be performed** by the City and that the property owner(s) "opt out" as otherwise set forth in **Section 903.4(e)** herein.
  - C. Requirements for permitting and inspection if the property owner(s) intend to "opt out" as referenced in Section 903.4(e).
  - D. If the property owner(s) chooses to "opt out," pursuant to Section 903.4(e), then the methods of sidewalk shall **be consistent with accepted engineering or construction practice.** Sidewalk replacement shall be performed in accordance with Section 903.01.
  - E. If, in the opinion of the Director or their designee, trees within the public right-of-way abutting the owner(s)' property have contributed to sidewalk disrepair, the trees will either be identified to be removed or their roots pruned. The City

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Forester or their designee will determine if each of those trees is to be removed or its roots are to be pruned in accordance with the Sidewalk Maintenance Program Tree Removal and Root Pruning Guidelines. Tree removals and tree root pruning as identified above will be performed by the City or their designee at no cost to the abutting property owner unless the property owner "opts out".

- F. If the property owner(s) disagrees with the findings by the Director or their designee, that property owner may appeal the findings to the Property Appeals Board within **45 days** of the original notice mail date. The property owner has the burden to present sufficient evidence to overcome the presumption that said findings are appropriate, in order for City Council to modify the Resolution of Necessity with regards to the property owner(s)' property.
- G. That the City will accomplish the construction, repairs or replacements within the program area and assess the cost of such improvements benefiting the abutting property as set forth in Section 903.4(j).
- (3) Serve the notice of deficiency on each property owner. Service shall be made upon the property owner or owners by ordinary U.S. Mail, postage prepaid.
- (e) *Construction by property owner ("opt out")*. Any property owner who desires to "opt out" of the City program and take responsibility for performing the required construction, repairs, and replacements shall return to the City a **Right of Way permit application** to "opt out" of the City's program within **60 days** from the mail date of the original notice from the City to the property owner(s). If the property owner(s) fails to advise the City of the property owner's absence of consent, it shall be presumed for all purposes that the property owner(s) has consented. **Construction shall be completed as set forth by the Right of Way permit.**
- (f) The Director or their designee representative may extend, in such public official's sole discretion, the **"opt out" deadline as written in Sections 903.4(d)(2)(B) and 903.4(e)** for any reason deemed appropriate by such public official, including but not limited to delays occasioned by natural disaster, weather or other unforeseen circumstances.
- (g) *Failure to complete construction, repair, or replacement*. Any property owner who opts out of the City program and who fails to construct, repair, or replace the affected area in accordance with the provisions of this Chapter, shall:
- (1) Be sent a written notice by the Director or their designee of the failure to complete construction, repair, or replacement.
  - (2) Be advised that the property owner is in violation of this Chapter and may be subject to the penalties described in Section 903.4(l).
- (h) *Consent*. Every owner of real property in the City of Gahanna is deemed to have consented:

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- (1) That all property owners who do not consent to entry upon private property for the purposes of accomplishing this chapter shall be assessed the additional costs necessary to do work from the right of way.
  - (2) To the grinding, cutting or removing of roots and trees within the public right-of-way abutting the owner(s)' property, or the grinding, cutting or removing of roots **and limbs** in the public right-of-way for trees located on the owner(s)' private property if such grinding, cutting or removing of roots **and limbs** occurs in furtherance of this Chapter.
  - (3) That any public official **or agent working on the City's behalf** is immune from civil or criminal liability for entry upon real property in furtherance of the purposes set forth in this Chapter, and the City and its agents and employees shall have no liability for the damage or destruction to any trees or tree roots for activity conducted in furtherance of the purposes of this Chapter.
- (i) *Mandatory disclosure.* Any property owner who receives the notice set forth in Section 903.4(d)(2) or who elects to "opt out" pursuant to those provisions in Section 903.4(e) and, who thereafter transfers all or any portion of the title to the property before concluding such repairs and having them accepted by the City, is under an affirmative duty to disclose in writing to the transferee of such property the contents of the notice or the election to "opt out". Nothing contained within this Section shall be construed to alter or diminish the City's rights under Section 903.4(j) to collect all amounts due from the transferee or any subsequent transferee.
- (j) *Assessment.* Upon completion of such construction, repair, or replacement, all owners affected thereby shall be notified of a public hearing to determine any mistake of fact regarding allocation of such assessments and:
- (1) Notice of such public hearing shall be served upon all property owners in accordance by ordinary U.S. Mail, postage prepaid. The City shall also post a list of such information in the manner it uses for posting legislation so that it is accessible to the public. The City may additionally post such information on its website; and,
  - (2) After such public hearing, Council shall:
    - A. Approve the actual field measured unit cost of such construction, repair or replacement associated with the various improvements performed and,
    - B. For Corridor and Lot Renewal pursuant to Section 903.3(b)(2), the cost assessed to the abutting benefited property shall be based on the unit cost of the repair or replacement as cited in the notice of defects and at 50% of the unit cost. The City shall bear the remainder of the cost.**
    - C. Assess the costs at 50% of the unit cost of such improvements against each abutting, benefited property.**
  - (3) The Clerk shall certify the amount of such assessment, its effective date, and its rate of interest to the County Auditor for addition to the tax duplicate of the properties affected by such assessment.

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(4) Any persons affected by this section may choose to pay all the costs determined pursuant to subparagraph (2) above directly, in lieu of having said costs assessed against real property, pursuant to the rules and regulations set forth by the Director or their designee. Said costs must be paid in full within 30 days of the date of said public hearing referenced in subparagraph (2) above, or the assessment will be issued as outlined herein.

The obligations hereunder shall run with the land affected by this Chapter.

- (k) *Specifications.* All sidewalk repairs, alterations, and replacements shall be in accordance with Section 903.01.
- (l) *Violations.* Any person, firm or corporation violating any regulations, provision, amendment or supplement of this Chapter shall be charged with a minor misdemeanor and upon conviction thereof, shall be fined no less than \$50.00 and not more than \$150.00. Each and every day during which such violation continues shall be deemed a separate offense.

#### **903.5 INSPECTION FEE.**

The fee for sidewalk inspection shall be in accordance with the Department Fee Schedule.

#### **903.6 GUARANTEE OF BUILDER, OWNER.**

Sidewalks must be guaranteed by the builder or owner for a period of one year for construction and material.

#### **903.99 RESERVED.**

Ord. No. 0034-2022 , § 1(Exh. A), adopted Aug. 1, 2022, repealed § 903.99, which pertained to penalties and derived from Ord. No. 34-62, 11-5-62; Ord. No. 0032-2016, § 1(Ex. A), 4-18-16; Ord. No. 0079-2017, § 1(Ex. A), 11-20-17 )