

Proposed ROW Ordinance changes in red:

(2) *Construction and Maintenance standards and Removal Requirement.* The city engineer shall establish construction standards, regulations and/or specifications for excavation and construction within the public right-of-way for the protection of the public improvements, persons and property; and, may place conditions on any permit as deemed necessary toward this goal. **All facilities, equipment, materials, or things installed or constructed in a right-of-way must be maintained, repaired, and replaced, as needed, by the owner until such time as the owner removes them from the right-of-way. No broken, damaged, or destroyed facilities, equipment or materials, and no facilities, equipment or materials that are no longer working or being used in active utility service are allowed to remain in the right-of-way for longer than thirty (30) days.** Failure to comply with the maintenance and removal obligations set forth herein shall be deemed a municipal offense and subject to fines and other penalties as set forth below or in Section 1-8 of the Foley Code of Ordinances.

The permittee shall ensure all facilities, equipment, materials, or items installed or constructed in a right-of-way that are actively being improved, replaced, or reworked daily will be protected from access by bystanders, pedestrians, the traveling public, etc. by fencing, barricades, or other active reasonable means that prevents direct access to this infrastructure.

c. *Protection of Stormwater Structures.* The Permittee shall provide the necessary measures to ensure that drainage structures important to overall stormwater management and control are not adversely affected by clearing, grading, or any other land disturbing activities and shall permanently stabilize with solid sod any rights-of-way disturbed during construction. Solid sod species shall be the same as adjacent properties in residential areas.

(2) *Municipal fines.* Any person, firm, corporation or other organization commencing any work without a prior valid written permit or contrary to the provisions of the ordinance, **and any person, firm, corporation or other organization failing to maintain or remove broken, damaged, or out-of-service equipment and facilities as required herein** shall be fined upon conviction not less than fifty dollars (\$50.00) and not more than **one five hundred dollars (\$100 \$500.00)** and cost of court for each offense. **Each day a continuing violation persists shall constitute a separate municipal offense.** No further permits shall be issued to a party in violation of this ordinance until all prior fines are paid. Permit requirements shall apply to emergency repairs; however, a delay of forty-eight (48) hours is granted, excluding weekends and holidays, following the beginning of such repair before the lack of a permit shall warrant a fine. The city may recover all attorney's fees, court costs and other expenses associated with the enforcement of this section.