

ORDINANCE NO. 2009-02-01

AN ORDINANCE OF ONEIDA COUNTY, IDAHO, A POLITICAL SUBDIVISION OF THE STATE OF IDAHO, DECLARING POLICY AND PURPOSES; REQUIRING PERMITS FOR OBSTRUCTING, DISTURBING, INTERFERING, EXCAVATING, CUTTING, DITCHING, DIGGING, TRENCHING, OR TUNNELLING IN, UPON, UNDER OR ACROSS ANY COUNTY STREET, ROAD, HIGHWAY OR RIGHT-OF-WAY INCLUDING SHOULDERS AND ACCESSES THERETO; PROVIDING FOR SPECIFICATIONS THEREOF; PROVIDING PENALTIES FOR FAILURE TO COMPLY WITH ORDINANCE; PROVIDING FOR FEES; PROVIDING FOR SEVERABILITY; REPEALING CONFLICTING ORDINANCES AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF ONEIDA, IDAHO:

SECTION 01: DECLARATION OF POLICY AND PURPOSE

The purpose of this ordinance is to provide certain minimum standards and requirements to safeguard life or limb, health, property and public welfare by establishing general standards by which to regulate and govern the excavation, cutting, ditching, digging, trenching or tunneling in, upon, under or across any street, alley, sidewalk, road shoulder, road access or other public rights-of-way or public improvements within Oneida County, or by which to regulate and govern the obstruction, disturbance or interference with the surfaces or subsurfaces of any street, alley, sidewalk, road shoulder or road access, or public rights-of-way or public improvements within Oneida County.

SECTION 02: PERMIT REQUIRED

It shall be unlawful for any person to excavate, cut, ditch, dig, trench or tunnel in, upon, under or across any street, alley, sidewalk or other public rights-of-way or public improvements, or in any way obstruct, disturb or interfere with the surfaces or subsurfaces of any street, alley, sidewalk, road shoulder, road access, public rights-of-way or public improvements within the limits of Oneida County without first having obtained a permit as is herein required. Applicants shall pay permit fees and costs in amounts to be determined from time to time by Resolution of the County Commission. All permits required under this Ordinance require fees to be paid prior to a permit being issued, unless specified otherwise herein.

SECTION 03: APPLICATIONS

Applications for such permits shall be made in writing to the Oneida County Clerk, 10 Court Street, Malad City, Idaho, and each application shall describe the kind of work to be done,

the location of the intended interference, disturbance, obstruction, excavation, cutting, ditching, digging, trenching or tunneling, the size thereof, the purpose therefor, the time when such work shall begin, the time when such work shall be completed, and the person doing the actual work and the name of the person for whom the work is being done. Each permit issued shall contain the foregoing information together with an agreement that the applicant will comply with all the provisions of this Chapter, all other laws relating to the work to be done and will not violate the terms and conditions of such permit. The terms and conditions of such permit and the work authorized to be done shall not be altered or varied without the prior written approval of the County.

SECTION 04: SUPERVISION AND RESPONSIBILITY

The County Road Foreman shall from time to time inspect or cause to be inspected all interferences, disturbances, obstructions, excavations, cuts, ditches, trenches or tunnels made in, upon, under, or across any street, alley, sidewalk, road shoulder, road access or other public rights-of-way or public improvements in order to ascertain compliance with the provisions of this ordinance and the permit granted hereunder. The County Road Foreman is charged with the responsibility of supervision, inspection and enforcement of the provisions of this ordinance.

SECTION 05: GENERAL SPECIFICATIONS

The Board of Commissioners may, by duly authorized Resolution of the County Commission, declare specifications that will control conduct or procedure of all persons doing work in, on, upon, under or across streets, alleys, sidewalks, road shoulders, road accesses or other public rights-of-way or public improvements. The following general specifications will control ordinary conduct or procedure of all persons doing work in, on, upon, under or across streets, alleys, sidewalks, road shoulders, road accesses or other public rights-of-way or public improvements:

A. All persons doing work in, upon or under any street, alley, sidewalk or other public rights-of-way shall use proper equipment and qualified help in the performance of the work authorized and permitted to be done.

B. All trenches shall be worked eight (8) hours per working day until completed.

C. Graveled roads, alleys and shoulders shall be left with a minimum of two inches (2") of three-quarter inch (3/4") maximum diameter crushed gravel leveled to the existing grade.

D. All utilities shall be laid in as straight a line as possible, parallel to adjacent property lines, so that future work in the right-of-way will not endanger any utility.

E. All work being done in the public right-of-way shall be provided with proper signs, barricades, and lighting of the work at all times to provide safety for the traveling public, pedestrians and for protection of private property.

F. Except when street closures are permitted under the provisions of this Chapter, all persons doing work in the public right-of-way shall keep all areas within the project clean for public travel and shall keep private property free of work debris. When the work is completed, any person doing the work shall be responsible to clean the project limits to a condition as good or better than that prior to the work and to the satisfaction of the County Road Foreman.

G. All persons doing work in, upon, under or across any street, alley, sidewalk, road access, road shoulder or other public rights-of-way shall notify the County Road Foreman of their anticipated daily work schedule at the beginning of each day.

H. No street, alley, sidewalk or other public rights-of-way shall be closed to public use by any person except by express permission of the County Road Foreman and the Oneida County Sheriff. The permittee shall at all times conduct its work to assure the least possible obstruction within the public right-of-way, and said work shall be protected by approved signs, barricades and lighting where necessary for the safety of the traveling public and private property. The failure of the County Road Foreman or Oneida county Sheriff to notify such permittee to maintain good safety practices will not relieve said permittee of its responsibilities.

I. All persons doing work in, upon, under or across any street, alley, sidewalk, road access, road shoulder or other public right-of-way shall not utilize existing, used or recycled culverts, conduits or piping in and for the installation of new culverts, conduits or piping.

J. The permittee shall notify the County Road Foreman, the Oneida County Sheriff of the closure and reopening to public travel of any street, alley, sidewalk or other public rights-of-way.

K. The permittee shall assume full and complete responsibility to obtain approval and clearance from all other parties, individuals, companies, and/or other entities effected by permittee's interference, disturbance, obstructions, excavations, cuts, ditches, trenches, tunnels, or related work prior to commencing on such work, and permittee shall assume full and complete liability for any damage, injury or interference to said third parties, individuals, companies, and/or entities. Permittee shall indemnify, defend, and hold Oneida County and its representatives harmless from permittee's interference, damage, or injury to third party entities.

SECTION 06: STANDARD SPECIFICATIONS FOR EXCAVATIONS

The following standard specifications or requirements for interferences, disturbance, obstructions, excavations, cuts, ditches, trenches, or tunnels in, upon, under or across any street, alley, sidewalk, road shoulder, road access or other public rights-of-way will govern all work to be done in, upon, under or across the traveled areas within such streets, alleys, sidewalks or other public rights-of-way. The term "traveled areas" means both paved and graveled surfaces, including shoulders, accesses, and driveways.

A. Trenches shall be wide enough to carry on the work in a safe, workmanlike manner and of a width adequate to provide proper compaction. Space shall be provided to permit mechanical tamping on each side of the pipes or conduits that are greater than four inches (4") O.D.

B. All paving, whether concrete or bituminous surfaces, in the public right-of-way shall be cut in neat, straight lines with either a pavement cutter or a wheel attached to a motor grader. Hydra-hammer cuts will not be permitted. Equipment with cleated tracks, grouser or tire chains will be permitted only in unpaved areas. Backhoe stabilizers must be equipped with rubber pads when being used on paved areas.

C. Minimum depth for any work shall be forty-eight inches (48") or as required by the authority having jurisdiction over such highway.

D. Boring, following customary and accepted practices, will be allowed if the bore diameter is not more than two inches (2") greater than the pipe or conduit to be installed.

E. Excavated materials that have poor compaction characteristics and/or any broken paving or concrete or chunks of frozen ground shall not be placed in the trench as backfill material.

F. Tunneling will be permitted in the manner as prescribed and authorized by the County Road Foreman. In the event that the back of the tunnel should cave before backfill is completed, the surface shall be removed and the tunnel backfilled as an open trench.

G. Plow installation of direct burial cable will be allowed only by written permission of the County Road Foreman.

H. Where additional backfill materials are required, all trenches and cuts shall be backfilled with clean, well-graded, pit-run gravel, or with crushed gravel. Crushed gravel shall meet the requirements of Section 401-04 of the Idaho Department of Highways Specifications for three-quarter inch (3/4") maximum size. There shall be a minimum of eight inches (8") of crushed gravel below the lower surface of the pavement patch.

I. All backfill material within paved or traveled areas shall be backfilled to ninety-five percent (95%) of maximum density as determined by the Standard Proctor Method, American Association of Highway Officials, Specification T-99. Additional water shall be added to backfill material if necessary to obtain the maximum compaction.

J. Backfill shall be placed and properly compacted. A lift of not to exceed ten inches (10") will be allowed for compaction by pogo stick or wacker type equipment. A lift of not to exceed twenty-four inches (24") will be allowed for hydra-hammer type equipment. Hydra-hammer equipment shall not be used in areas where vibration will cause damage to other underground utilities.

K. All backfill is to be compacted to the full depth of the trench and then excavated to the proper depth for patching unless patching is performed immediately behind compaction and on the same day of backfilling.

L. In gravel right-of-ways, existing gravel may be reused with the permission of the County Road Foreman if the gravel is kept free of dirt and debris.

M. Water settling of backfill in trenches under traveled way of arterial streets or in other locations where immediate restoration of traffic is necessary will be allowed only by written permission of the County Road Foreman. Where utilized, procedures for water settling shall be consistent with recognized construction practice for the materials and conditions involved.

N. Prior to replacement of pavement over trenches, edges of the existing pavement shall be trimmed to uniform straight lines and all edges shall be uniformly supported on firm base material, and shall be sufficiently clean to assure proper bond of prime coat. The patch shall be neither unsightly nor higher nor lower than the surrounding pavement.

O. A prime coat of tack oil shall be applied to the edges and to prepared trench surface as well as approximately three inches (3") back on the existing paving. All bonding edges shall be kept clean for maximum bonding and thoroughly wetted by the tack oil. The prime oil may consist of SS-1 emulsion oil diluted with an equal quantity of water and applied at the rate of 0.10 gallon per square yard.

P. Trenches shall be patched with hot asphaltic concrete when air temperature is above sixty degrees Fahrenheit (60° F.). Cold patches in all high type paving shall be removed and replaced with hot asphaltic concrete. Cold mix patches that have been placed in the streets, alleys, sidewalks or other public rights-of-way with armor coated or road mixed paving, if inspection proves them to be good, will not need to be replaced if they are seal coated following recognized seal coating practices. All patches placed in all designated arterial streets shall be a minimum of three inches (3") in depth. All other patches shall be a minimum of two inches (2") in depth. Paving with concrete base existing shall be replaced in kind unless otherwise directed by the County Road Foreman. Concrete shall be five (5) bag mix.

Q. Trenches may be patched with hot asphaltic concrete in cold weather provided the trenches are heated with the proper type equipment and the proper means taken to keep the mix hot before being placed and applied.

R. All asphalt patches shall be free of water leakage.

S. Temporary surfacing acceptable to the County Road Foreman shall be placed the same day as backfill in those locations where directed. Such temporary surfacing shall be maintained until the permanent patch is placed.

T. All trenches shall be patched within ten (10) days after backfill, weather permitting, unless otherwise authorized by the County Road Foreman.

SECTION 07: PENALTIES

Any person, firm, partnership, corporation, association, other entity, or combination or group thereof who violates any provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine not exceeding three hundred dollars (\$300.00) or imprisonment in the County Jail of not more than thirty (30) days, or by both such fine and imprisonment.

SECTION 08: SEVERABILITY

This ordinance is hereby declared to be severable. Should any portion of this ordinance be declared invalid by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect and shall be read to carry out the purpose(s) of the ordinance before the declaration of partial invalidity.

SECTION 09: REPEAL OF CONFLICTING PROVISIONS

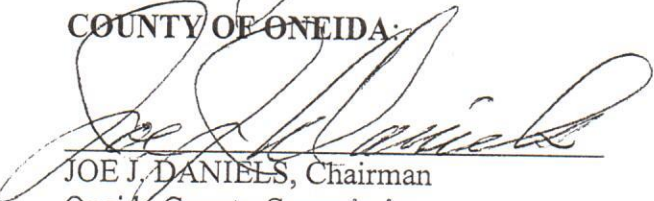
All provisions of current County ordinances which conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

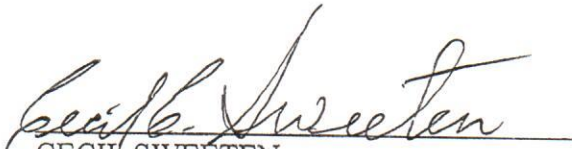
SECTION 10: EFFECTIVE DATE

This ordinance shall be effective upon its passage and publication as provided by law.

PASSED, ADOPTED, APPROVED AND ENACTED by the Board of County Commissioners as an ordinance of the County of Oneida on the 9th day of February, 2009.

COUNTY OF ONEIDA:


JOE J. DANIELS, Chairman
Oneida County Commission


CECIL SWEETEN,
Oneida County Commission


LARRY ETHERINGTON,
Oneida County Commission

ATTEST:


SHIRLEE BLAISDELL,
Oneida County Clerk