ORDINANCE NO. 2009-02-01 Amendment No. 1

AN ORDINANCE OF ONEIDA COUNTY, IDAHO, A POLITICAL SUBDIVISION OF THE STATE OF IDAHO, AMENDING COUNTY ORDINANCE NUMBER 2009-02-01 WITH RESPECT TO COUNTY ROADS, INCLUDING 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 FOR REGULATIONS REGARDING WINTER MAINTENANCE ON NON-MAINTAINED COUNTY ROADS; PROVIDING FOR OTHER REGULATIONS REGARDING USE OR DISTURBANCE OF COUNTY ROADS OR RIGHTS OF WAY; PROVIDING FOR REGULATIONS WITH RESPECT TO HAULING OF AGGREGATE MATERIALS ON COUNTY ROADS; PROVIDING PENALTIES FOR FAILURE TO COMPLY WITH ORDINANCE; 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, and to set forth other desirable regulations with respect to the usage, protection, and maintenance of County roads.

SECTION 02: PERMIT REQUIRED TO WORK ON OR WITHIN ROADWAY

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, fill in, or interfere with the surfaces or subsurfaces of any street, alley, sidewalk, road shoulder, borrow ditch, 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 therefore, 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 and shall constitute the applicant's acknowledgement and agreement that the applicant will comply with all the provisions of this ordinance, all other laws relating to the work to be done, including, without limitation, the County's duly-adopted road standards, 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, or his/her designee, 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 and ensure 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 ordinance, 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. Any 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 and 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 OR RELATED DISTURBANCES OF ROADWAYS

The following standard specifications or requirements for interferences, disturbances, 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. Hydrahammer 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: NO SPRINKLING OR DIVERTING WATER ONTO COUNTY ROADS

A. The act of willfully or negligently sprinkling, diverting or flooding water upon a County Road, public highway, or public right of way is hereby declared to be a public nuisance.
B. For the purpose of this section, the term "public highway" shall be construed to include any public road or public right-of-way, including the shoulders and entire width of the right-of-way.
C. Any sprinkler heads used in the diversion of water on land adjacent to a public highway shall be equipped with a baffle plate which will deflect the water diverted through said sprinkler head in such a manner that water will not be diverted onto a public highway; or such sprinkler heads shall otherwise be programmed, arranged, or set up in such a manner that water will not be diverted onto a public highway. The failure of any person, corporation, or other legal entity responsible through its conduct, acts, or control of property, or operations incident thereto, to equip sprinkler heads used in the diversion of water adjacent to a public highway with baffle plates as provided for herein, shall be prima facie evidence of violation by said person, corporation, or other legal entity of the provisions of this chapter.
D. Any person, corporation, or other legal entity responsible through its conduct, acts, or control of property, or operations incident thereto, for the creation or existence of sprinkling, diverting or flooding of water upon a public highway, is hereby required, upon due written notice served by any authorized agent of the county, to completely abate said nuisance within 24 hours from receipt of said notice. The act of resetting irrigation water of a line of sprinkler irrigation pipe in such a manner as to continue to sprinkle, divert, or flood any water upon a public highway at any time within ten (10) days of said notice shall be construed as a continuing nuisance even though a different portion of the highway is flooded or sprinkled. If such person, corporation, or other legal entity so responsible therefor shall refuse, neglect or fail to abate said nuisance, the county road supervisor or his agents, may summarily abate the nuisance; and the

entirety of all costs of the work performed by the County to abate said nuisance, shall be paid by the offending person, corporation, or other legal entity. Should such person, corporation, or other legal entity refuse to pay such costs promptly, the County may initiate appropriate civil action to recover such costs.

E. If the person, corporation, or other legal entity so responsible therefor refuses either to remove or to permit the removal of a public nuisance, the county road supervisor may commence in the proper court an action to abate the same as a nuisance and to recover a penalty of one hundred dollars ($100.00) for each day such nuisance remained after notice.
F. The action of the person, corporation, or other legal entity responsible through its conduct, acts or control of property, or operations incident thereto, in refusing to abate the nuisance resulting from the sprinkling, diverting or flooding of water upon a public highway after notice; or, who shall continue to sprinkle, diverting or flood any water upon a public highway after notice, shall be prima facie evidence of violation of the provisions of this chapter.
G. All injuries and damages to public highways resulting from the sprinkling, diverting or flooding of water upon a public highway as prohibited herein, shall be promptly be remedied and repaired, under the direction and supervision of the County Road supervisor, at the expense of the person, corporation, or other legal entity responsible through its conduct, acts or control of property, or operations incident thereto for the sprinkling, diverting or flooding of water upon a public highway. If said expenses of repair are not repaired upon demand, the expenses of repair shall be recovered by appropriate civil action commenced by the county road supervisor, or his duly authorized agent.

SECTION 08: WINTER MAINTENANCE ON NON-MAINTAINED ROADS

A. The purpose of this section is to regulate snow removal activities on County-designated "No Winter Maintenance" roads in order to protect public infrastructure, private property, and ensure accountability for damages.
B. For purposes of this section, the following terms have the following meanings:
    1. No Winter Maintenance Road: Any public road officially designated by the County as not maintained during winter months.
    2. Snow Removal Activity: Plowing, blading, pushing, or otherwise removing snow or ice from a roadway.
    3. Permit: Written authorization issued by the County Road and Bridge Department allowing snow removal on specified roads.
C. Permit Required. No person shall perform any snow removal activity on a designated No Winter Maintenance Road without first obtaining a permit from the County Road and Bridge department. The permit shall specify conditions, including but not limited to acceptable equipment, methods, and duration.

Failure to abide by the terms of this section and the terms of any permit issued shall be deemed a violation and may result in revocation of any such permit. In addition, violation of this section is subject to the penalties and enforcement section set forth in Section 09 herein.

D. Liability for Damages. Any person conducting snow removal activity on a No Winter Maintenance Road shall be financially responsible for any damage caused, including but not limited to: (i) damage to fences, gates, culverts, or other private property; (ii) removal, displacement, or loss of gravel, road base, or road surface material; or (iii) any other injury or damage to the road. The permit holder shall be liable for all repair and replacement costs associated with such damage.
E. Bond. The County may require a bond, letter of credit, proof of insurance, or other surety or assurance prior to issuing a permit.
F. Prohibited Activities:
    1. Blading or plowing in a manner that removes or significantly displaces gravel or road surface material is prohibited.
    2. Depositing snow onto private property, roadways, or rights-of-way in a manner that creates a hazard or obstructs the use of said roadways or private property is prohibited.

SECTION 09: COMMERCIAL GRAVEL HAULING

A. The purpose of this section is to protect the public road infrastructure of Oneida County by regulating the commercial hauling of aggregate materials on county roadways, with respect to materials hauled for commercial purposes and intended for use on public works projects.

B. For the purposes of this section, the following terms have the following meanings:
    1. Aggregate Materials: Rock, gravel, crushed stone, sand, and other similar construction materials used for road base, surfacing, or other public works.
    2. Approved Aggregate Source: An aggregate material supplier or pit that meets County specifications and has been reviewed by the Road & Bridge Department.
    3. Hauling Permit: A written authorization issued by the County Road & Bridge Department allowing a person, company, or entity to haul aggregate materials on County roads.

4. County Roads: All public roads maintained by Oneida County and under the purview of the County Road & Bridge Department.

C. Permit Required. No person, business, or entity shall haul aggregate materials over, across, or upon County roads without first obtaining a Hauling Permit from the County Road & Bridge Department. This includes loaded and unloaded travel of vehicles transporting aggregate. The permit requirement shall not apply to persons hauling aggregate materials for personal or non-commercial purposes, or to persons hauling aggregate materials which are not for use on public works projects.

D. Application. Applicants must submit a completed permit application to the County Road & Bridge Department at least five (5) working days before hauling begins. The application shall include: i) The name and contact information of the hauler; (ii) The location and legal description of the source of aggregate (pit or supplier; (iii) The total expected haul volume; (iv) The proposed route(s) over county roads; and (v) The proposed dates and times of hauling operations.

E. Conditions of Approval.

1. Route Approval. The Road & Bridge Department may approve, modify, or disapprove proposed haul routes based on road condition, structural capacity, anticipated traffic conflicts, and potential for damage to infrastructure.

2. Load Restrictions. Hauling shall comply with all applicable county and state weight limits and special permits (e.g., special permits required under Idaho Transportation Department regulations for overweight or oversized loads).

3. Material Source Approval. Aggregate materials shall only be hauled from sources that meet county specifications. The Road & Bridge Department may require documentation verifying that the aggregate meets technical standards suitable for use in county projects.

4. Insurance and Bonds. As a condition of issuance, the applicant may be required to provide proof of insurance and/or a performance bond sufficient to cover potential road damage attributable to the hauling activities.

5. Fees. A permit fee shall be established pursuant to the County fee schedule adopted by resolution of the Board of Commissioners.

F. Compliance and Enforcement

1. Display of Permit. Hauling vehicles shall carry a copy of the approved Hauling Permit at all times while operating on county roads.

2. Revocation. The Road & Bridge Department may suspend or revoke a Hauling Permit upon failure to comply with the terms of the permit, this ordinance, or any applicable county/city/state regulations.

3. Liability for Damages. Permit holders shall be responsible for all damage to county roads caused by their hauling operations. The county may require repair or restoration by the permit holder or with county crews at the permit holder's expense.

4. Penalties. In addition to liability for damages, violations of this section are also subject to the penalties and enforcement provisions set forth elsewhere in this ordinance.

SECTION 10 PENALTIES AND ENFORCEMENT

Notwithstanding that a specific penalty or remedy may be set forth in any of the preceding sections of this ordinance, 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 five hundred dollars ($500.00) or imprisonment in the County Jail of not more than thirty (30) days, or by both such fine and imprisonment. Each day of continuing violation shall be deemed a separate offense hereunder.

In addition, if the violation of this ordinance by any person, firm, partnership, corporation, association, other entity, or combination or group thereof results in damages or injury to any public road, highway, or right of way, or to any street, alley, sidewalk, road shoulder, borrow ditch, road access, public rights-of-way or public improvements within the limits of Oneida County, the person, firm, partnership, corporation, association, or other entity, or combination or group thereof, shall be financially responsible for repairing or replacing any such damage, under the supervision of the County Road and Bridge department, in a prompt manner. Failure to promptly remedy and repair any such damage, and to pay the associated costs as determined by the County, may result in additional enforcement actions, which may include a civil action for recovery of damages and injunctive relief.

All remedies set forth in this ordinance shall be deemed to be cumulative, and the exercise of any one or more such remedies shall not preclude the exercise of other remedies.

SECTION 11 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 12 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 13 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 _____ day of _____, 2026.

County of Oneida:

_____
Bill Lewis, Chairman
Oneida County Commission

_____
Brian Jeppsen
Oneida County Commission

_____
Ken Eliason
Oneida County Commission

ATTEST:

_____

M. Lon Colton
Oneida County Clerk

SUMMARY OF
ONEIDA COUNTY
ORDINANCE NO. 2009-02-01 Amendment No. 1

AN ORDINANCE OF ONEIDA COUNTY, IDAHO, A POLITICAL SUBDIVISION OF THE STATE OF IDAHO, AMENDING PREVIOUS COUNTY ORDINANCE NUMBER 2009-02-01 WITH RESPECT TO COUNTY ROADS, INCLUDING 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 FOR REGULATIONS REGARDING WINTER MAINTENANCE ON NON-MAINTAINED COUNTY ROADS; PROVIDING FOR OTHER REGULATIONS REGARDING USE OR DISTURBANCE OF COUNTY ROADS OR RIGHTS OF WAY; PROVIDING FOR REGULATIONS WITH RESPECT TO HAULING OF AGGREGATE MATERIALS ON COUNTY ROADS; PROVIDING PENALTIES FOR FAILURE TO COMPLY WITH ORDINANCE; PROVIDING FOR SEVERABILITY; REPEALING CONFLICTING ORDINANCES AND PROVIDING AN EFFECTIVE DATE.

The full text of Ordinance No. 2009-02-01 Amendment No. 1 is available at the office of the County Clerk and will be provided to any citizen upon personal request during normal office hours.

ONEIDA COUNTY, IDAHO

_____
Bill Lewis, Chairman
Oneida County Commission

ATTEST:

_____
M. Lon Colton, CLERK

CERTIFICATION OF CLERK

I, the undersigned Clerk of Oneida County, Idaho, hereby certify that I have read the aforesaid Summary of Ordinance No. 2009-02-01 Amendment No. 1 of Oneida County, Idaho, and that the same is true and complete and provides adequate notice to the public of the contents of said Ordinance.

DATED this _____ day of _____, 2026.

_____

M. Lon Colton,
Oneida County Clerk