

Instrument # 360622

RIGBY, JEFFERSON, IDAHO

2007-07-24

01:02:00 No. of Pages: 5

Recorded for : JEFFERSON COUNTY COMMISSIONERS

CHRISTINE BOULTER

Fee: 15.00

Ex-Officio Recorder Deputy

Text to: ORDINANCE

360622

ORDINANCE NO. 07-05

AN ORDINANCE FOR THE COUNTY OF JEFFERSON TO ESTABLISH PROCEDURES AND POLICY FOR THE MANAGEMENT OF THE COUNTY'S RIGHT OF WAY, REQUIREMENTS AND LIMITATIONS THEREFORE; AND, PROVIDING THE EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF JEFFERSON COUNTY, IDAHO, AS FOLLOWS:

SECTION 1: USE OF PUBLIC RIGHT-OF-WAY.

It shall be a violation of this Ordinance for any person, firm or corporation to cut, tunnel under, make any opening in, disturb or place facilities in any public right-of-way accepted for maintenance by the County of Jefferson without first meeting the requirements of this Ordinance.

SECTION 2: PERMIT AND NOTIFICATION REQUIREMENTS.

A. Requirements for Permit. No permit shall be issued for any such cut, tunnel under, make any opening in, disturb or place facilities in any public right-of-way unless the applicant shall present with the application, or have on file with the county, a certificate of insurance, from an insurance company qualified to write contract within the State of Idaho, certifying that the applicant has public liability insurance with limits not less than fifty thousand dollars (\$50,000) for property damage, not less than one million dollars (\$1,000,000) for property damage, and not less than one million dollars per person and two million dollars (\$2,000,000) per occurrence for injury to the person, including, death, all permits of any permittee shall be revoked immediately upon cancellation or expiration of the insurance.

B Application for Permit and Notice of Project. Application for permit must be made with the Planning and Zoning office or Road and Bridge not more than twenty four (24) hours not less than two (2) hours of the time when the excavation is to commence. Such request shall be made by tendering the following:

1. Submission of an Application on Forms supplied by the county
2. Payment of the application fee.

3. Surety bond or Irrevocable Letter of Credit

C. Bonding. Upon granting a petition filed und Section 2(B) for a permit to cut, disturb, make an opening in, tunnel under or place private facilities in a public right-of way, or application by a regulated or municipal utility for permission to post bond in lieu of payment of fees, the applicant shall purchase and tender the necessary bond as may be required by the county or this ordinance. Non-utilities shall also execute a contract with the county relating to the use of public way by such applicant.

D. Construction Standards. Any person, firm or corporation, who cuts, disturbs, make an opening in, tunnels under or places any facilities, public or private, in pubic rights-of-way, shall conform to those reasonable construction standards applicable to public rights-of-way as may be adopted by the County Commissioners.

Unless special permission is first obtained from the Road and Bridge to open cut, pipeline or conduit which crosses under the surfaced portion of the highway, including shoulders, road or street connections, or road approaches or driveways shall either be tunneled, jacked or driven, or placed in a hole bored under the surface for that purpose in accordance with the following provisions:

(1) Trenching in connection with any of these methods shall be no nearer the toe of the fill slope in fill sections or the point where the outer edges of the surfacing meets the subgrade in other sections than two (2) feet.

(2) If the tunneling method is used it shall be by an approved method which supports the surrounding materials so as to caving or settlement. Areas around the installed pipe or conduit shall be backfilled with moist sand, granular material or cement grout filling all voids and packed in place with mechanical tampers or other approved devices. Lagging, bulkheading and timbering shall be removed as the backfilling progresses.

(3) When the jacking or driving, or boring method is used it shall be by approved means which will hold disturbances of surrounding material to a minimum. Sluicing and jetting is not permitted. Voids or displacement outside the outside perimeter of the pipe, conduit or

cable where greater than 0.1 foot, shall be filled in with sand or cement grout packed in place.

E. Utility Certification. Any public or municipal utility may apply to the county for a certification waiving the fees set out herein and providing that such utility may post a bond or and irrevocable letter of credit, on an annual basis, securing the duty of the utility to restore any public right-of-way which it may have disturbed under its statutory right to use the way. Granting any application by a public or municipal utility to post bond in lieu of payment of fees, as contemplated by the certification procedure, shall be discretionary with the county commission, is a privilege and not a right, and shall be based on the record of past performance of the applicant utility in repairing county rights of way.

SECTION 3: FEES

1. Fees for the use of the County right-of-way, where required to be paid, shall be limited to the direct, actual and reasonably incurred cost incurred in managing the right-of-way. Such cost includes and is based upon:

- The cost of registering right-of-way occupants
- The cost of inspection of right-of-way interruption and restoration
- The cost of restoration of right-of-way improperly restored after notice of such improper restoration
- The cost of administering this ordinance

2. Fees for the use of the right-of-way shall be as follow:

Underground construction parallel to, but not in, pavement	\$50.00
Facilities in public way below pavement	\$1500.00
Boring or pushing under road way	\$100.00

SECTION 5: BOND REQUIREMENTS

A. Unless specifically waived by the county, or as a part of the certification of a utility under 2 (E), each applicant who has been granted a permit shall be required, as condition of the permit, to tender to and keep in force during the life of any permit a performance bond, or irrevocable letter of credit drawn on an FDIC insured financial institution, acceptable to the county in an amount determined by the County Commissioners as necessary to secure the obligations accepted by an applicant for a permit under this Ordinance. In the alternative, a utility or non utility applicant, submit a bond pursuant to the following bond schedule:

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|--|-------------------------------|
| 1. Open Road | \$5,000 |
| 2. Underground construction
Parallel to but not in Pavement | \$500 per mile or
fraction |
| 3. Push or Bore | \$1,000 |
| 4. A comprehensive bond
covering all work on an annual
basis | \$ 10,000 |

B. Contractors who intend to apply for multiple permits over the course of a year, or public utility companies posting bond in lieu of payment of the fees as contemplated in Section 2(E) above, shall provide a bond or letter of credit payable to the county guaranteeing that the applicant or utility shall restore the public right-of-way, in the minimum sum of \$5,000, with the provisions of the bond or letter requiring that the bond or letter be irrevocable for a period of one year and requiring that the bond or letter is automatically renewable unless the bonding company or financial institution gives a minimum of 30 days notice replaced by a new bond or letter of credit, such entity shall have no right to cut or use the public right of way until such bond or letter of credit is reestablished.

SECTION 6: ENFORCEMENT AND PENALTIES:

A. Enforcement:

1. No subdivision plat required by this title or the Idaho Code shall be admitted to the public land records of Jefferson County or recorded by the county recorder until such subdivision plat has received final approval of the county commissioners.
2. No public board, agency, commission, official or other authority shall proceed with the construction of or authorize the construction of any of the public improvements required by this title until the final plat has received the approval by the county commissioners.
3. No permits for construction of any structure shall be issued on any parcel or lot until it has been determined such parcel or lot meets the requirements of this title.

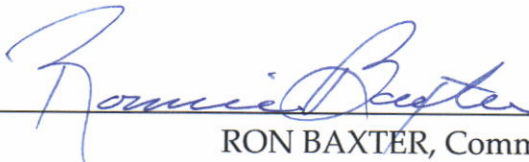
4. The county attorney shall, in addition to taking whatever criminal action deemed necessary, take steps to civilly enjoin any violation of this title.

B. Violations and Penalties: Violations of any of the provisions of this title or failure to comply with any of its requirements shall constitute a misdemeanor, and be punishable as provided in section 3-5-23 of the Zoning code. Each day such violation continues shall be considered a separate offense. The landowner, tenant, subdivider, builder, public official or any other person who commits, participates in, assists in or maintains such violation may each be found guilty of a separate offense. Nothing herein contained shall prevent the county commissioners or any other public official or private citizen from taking such lawful action as is necessary to restrain or prevent any violation of this title or of the Idaho Code.

SECTION 7: This ordinance shall become effective upon its passage, approval and publication.


PASSED BY THE COUNTY COMMISSIONERS on this the 23 day of July, 2007 .


TAD HEGSTED, Chairman


RON BAXTER, Commissioner


BRETT OLAVESON, Commissioner

ATTEST:


CHRISTINE BOULTER, County Clerk

