

7-7-21
1st reading 7-7-21
2nd reading 7-7-21
3rd reading 8-4-21
Voted On 8-4-21
Ayes 6 Nays 0
PASSED ☒ DEFEATED ☐

7/19/2021

**ORDINANCE NO. 2021-11
(AS AMENDED)**

**AN ORDINANCE
AMENDING CHAPTER 901 AND SECTION 1329.01 OF THE
CODIFIED ORDINANCES OF ORANGE VILLAGE TO
ENACT NEW REGULATIONS APPLICABLE TO WORK IN
PUBLIC AND PRIVATE RIGHTS OF WAY, AND
DECLARING AN EMERGENCY.**

WHEREAS, the Orange Village administration has advised this Council of difficulties that have been caused by public utilities and other users of municipal rights of way; and

WHEREAS, Orange Village has the authority under Article XVIII, Section 3 of the Ohio Constitution to enact reasonable regulations of its public rights of way; and

WHEREAS, under Ohio law, public utilities and other persons are required to obtain consent from municipalities that have jurisdiction over a right of way; and

WHEREAS, the Orange Village administration has recommended reasonable regulations to ensure all users of the public and private rights of way are protected from undue interference in their uses of the rights of way by others who are using a public or private rights of way; and

WHEREAS, this Council desires to adopt reasonable right of way regulations, based upon the recommendations of the Orange Village administration, to advance the health, safety and welfare of Village residents and all other users of the Orange Village public rights of way.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF ORANGE VILLAGE, STATE OF OHIO:

SECTION 1. That existing Chapter 901, Streets, of the Codified Ordinances of Orange Village is hereby amended to provide, in its entirety, as follows:

**“CHAPTER 901
RIGHT OF WAY REGULATIONS**

901.01 PERMIT AND CONTRACTOR REGISTRATION REQUIRED.

- (a) Except in the case of an emergency, as further provided below, or unless waived by the Village Engineer, as provided in Section 901 no person, firm, or corporation shall make any opening or excavation in any street, alley sidewalk, public way, utility easement or any other public or private right of way within the Village unless a permit to make such opening or excavation

has been obtained prior to the commencement of the work, as hereinafter provided.

- (b) Except in the case of an emergency, as further provided below, no Contractor performing the work related to such opening or excavation shall perform such work unless such contractor has first been registered with the Village. For the purposes of this section, "Contractor" shall have the same meaning as provided in Section 1329.01 of the Codified Ordinances, and the regulations established in Chapter 1329 of the Codified Ordinances shall govern such Contractors.
- (c) As used in this section, an "Emergency" is a serious situation or occurrence that happens unexpectedly and demands immediate action to protect human life or property. No permit or construction observation is required for any person to take any action to abate an Emergency by working in a Village right of way. Once the Emergency has passed, if corrective work within the right of way needs to be performed, the parties performing such work shall comply with the requirements of this chapter.

901.02 APPLICATION FOR PERMIT; PLAN REVIEW; DEPOSIT.

- (a) Each permit application for making such opening shall be confined to a single project and shall be issued by the Building Commissioner. The permit shall be issued only after a fee has been paid with the Building Department. The amount of the fee for such permit, shall be that amount prescribed by motion of Council, based upon the extent of work required. The current list of fees shall be kept on file in the office of the Building Department.
- (b) Together with the application for a permit, the applicant shall submit plans that shall contain the following information:
 - 1. Scaled drawing (minimum 1" = 30') on 11" x 17" paper minimum.
 - 2. North Arrow.
 - 3. Roadway name and Right of Way dimension.
 - 4. Property Addresses and Property Lines.
 - 5. Any recorded Utility Easement with dimensions.
 - 6. Show all existing utilities in the area of proposed work.
 - 7. Type of Work clearly defined (boring, open cutting etc.).
 - 8. Material installation (conduit(s), direct bury etc.).
 - 9. Symbol Legend.
 - 10. Defined anticipated pavement repair limits if applicable.
 - 11. Clearly mark any removal items.
 - 12. Maintenance of Traffic requirements (Lane Closure etc.), which may be handled with standard details.
 - 13. Typical Section of improvement area.
 - 14. Details as required for construction (typical trench, pavement repairs, etc.).
 - 15. Licensed Ohio Professional Engineer stamp.
 - 16. Abbreviated Storm Water Notes, if applicable, as required by Section 1378.01 of the Codified Ordinances.

- (c) Except as otherwise prohibited by law, the person applying for a right of way permit shall file with the Building Department a Deposit. The return of the Deposit shall be conditioned upon the payment of the costs of plan review fees, construction observation pursuant to Section 901.03, the prompt and satisfactory refilling of excavations and restoration of all surfaces disturbed in the right of way, and the compliance with all of the requirements of this chapter and Chapter 1329 of the Codified Ordinances which establish contractor obligations. The amount of the deposit shall be equal to the amount the Village Engineer reasonably estimates would be needed to restore the right of way to its condition after the work has been performed.

901.03 CONSTRUCTION OBSERVATION.

Any time work is being performed pursuant to a permit issued pursuant to Section 901.01 of this Chapter, a designee of the Village Engineer shall be present to observe the performance of the work, identify and record any damage or other impact the work has on existing facilities in a public or private right of way. The permit holder shall be responsible for scheduling construction observation with the Village Engineer's office not less than forty-eight (48) hours prior to starting any work. If scheduled work is cancelled because of inclement weather, the Village Engineer's office shall be notified before the time the work is to be commenced. Failure to notify to Village Engineer's in a timely fashion shall result in a charge of three (3) hours of observation time. The cost of construction observation shall be paid out of the bond deposited pursuant to Section 901.02(b) or paid pursuant to an invoice transmitted to the Contractor or owner of the facility for whom work was being performed.

901.04 RESTORATION OF PAVEMENT AND OTHER SURFACES.

- (a) The restoration of the pavement or other surface in public rights of way shall be performed to the satisfaction of the Village Engineer in accordance with the specifications used by the Village for its public roads. Restoration of other surfaces in other public or private rights of way shall be to the condition of those surfaces prior to the opening or excavation and other work.
- (b) Upon failure or refusal of the permittee to satisfactorily fill the excavation, restore the surface, and remove all excess materials within the time specified in the permit or, where not specified therein, within a reasonable time after commencement of the work, the Village, after twenty-four (24) hours-notice to the applicant for the right of way permit, may fill any excavation, restore the site, remove excess materials, and perform any other work necessary to complete the project. The costs incurred by the Village in performing such work shall be paid out of the deposit made under Section 901.02, if such a deposit has been made, or invoiced to the Contractor or owner of the facility for whom work was being performed. If the cost of such restoration exceeds the amount of such deposit, the proper officer of the Village shall proceed to collect the remainder due from such Contractor or the owner of the facility for

whom the work was performed, and no permit shall be subsequently granted to such Contractor or facility owner until such restoration costs are paid.

901.05 BARRICADES.

Any person engaged in or employing others in excavating or opening any street, sidewalk, alley, or other public way shall have such excavation or opening always barricaded to prevent injury to persons.

901.06 WARNING LIGHTS.

Any person engaged in or employing others in excavating or otherwise in any manner obstructing all or any portion of any street, sidewalk, or other public way shall, at all times after sunset or before sunrise, cause at least two illuminated red or yellow lights to be securely and conspicuously posted on, at or near each end of such obstruction or excavation. If the space involved exceeds fifty feet in length, then at least one additional light for each additional fifty feet or portion thereof excavated or obstructed shall be posted.

901.07 TRAFFIC MAINTENANCE.

Unless otherwise coordinated with the Village Engineer to permit a necessary street closure, two-way vehicular traffic shall be safely maintained while work is performed in or near a public or private right of way.

901.08 APPROVAL OF DRAIN TILE PLANS.

No person shall install drain tile in any roadside ditch on any Village street unless plans and specifications therefor are presented to the Building Commissioner by the person requesting to install such tile and unless such plans and specifications are approved by the Building Commissioner, who may consult with the Village Engineer prior to approving the proposed installation.

901.09 WAIVER OF PERMIT PROCESS FOR SINGLE RESIDENTIAL UTILITY CONNECTION.

In the event that a utility connection for a single residence is to be made in the Village right of way, the person performing the work may obtain a waiver or a partial waiver from the requirements of this Chapter by submitting to the Building Department a plan noting the location of the proposed connection and adjacent facilities in the right of way (e.g., location of road, location of utility poles in vicinity, etc.) In the event the Village Engineer determines that a waiver or a partial waiver of the requirements of this Chapter may be appropriate if there are no facilities in the right of way which are likely to be adversely impacted by the proposed utility connection, the Village Engineer may grant the requested waiver or partial waiver and establish terms and conditions which must be met by the person. The Village Engineer shall establish a form which permits for such waiver or partial waiver and states the conditions (e.g., pavement and lawn restoration

requirements) upon which the waiver is granted. A failure to comply with the conditions of the waiver is a violation of this section.

901.99PENALTY.

Whoever violates any provision of this chapter is guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty days or both for each offense. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.”

SECTION 2. That existing Section 1329.01 is amended to provide, in its entirety, as follows:

“1329.01 CONTRACTOR DEFINED.

As used in this chapter, "contractor" means any firm, individual, co-partnership, corporation, association or any other organization, or any combination thereof, who or which, by himself, herself or itself, or by or through others, constructs, alters, repairs, adds to, subtracts from, reconstructs or remodels any building or other structure or appurtenance thereto, performs any work in a public or private right of way, or who or which undertakes, offers to undertake, purports to have the capacity to undertake or submits a bid to undertake any such activity.

"Contractor" includes subcontractors and also specialty contractors whose operations as such are the performance of construction work requiring special skill and whose principal contracting business involves the use of specialized building trades or crafts. "Contractor" also includes general contractors and those engaged in carpentry, electrical, heating and/or air conditioning, cement and/or asphalt, dry wall, excavating and/or earth moving, lathing and/or plastering, masonry, painting and/or decorating, plumbing and/or sewer, sign building and/or erecting, glazing, ornamental iron, awning, paving, grading, roofing and/or siding, tile setting, house moving, landscaping and sheet metal work. Any property owner in the Village who requests more than one building permit within a three-year period for the construction of a new dwelling shall be considered a general contractor.”

SECTION 3. That existing Chapter 901, Section 1329.01, and any ordinance or any part of any ordinance that conflicts with this ordinance, is repealed to the extent of the conflict.

SECTION 4. That the actions of this Council concerning and relating to the passage of this legislation were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements including Chapter 105 of the Codified Ordinances of Orange Village.

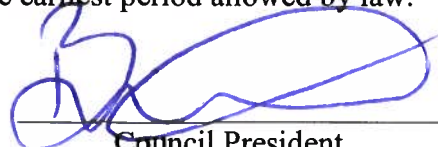
SECTION 4. That this ordinance constitutes an emergency measure in that the same provides for the immediate preservation of the public peace, health, safety and welfare of the

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inhabitants of Orange Village and, further, that this ordinance needs to be effective immediately to secure the safety of the Village's rights of way during the summer construction season; wherefore, this ordinance shall be in full force and effect from and after its adoption and approval by the Mayor, provided it receives the affirmative vote of five (5) members of Council, otherwise it shall take effect and be in force from and after the earliest period allowed by law.

PASSED: Aug 4, 2021

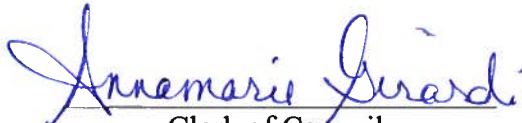


Council President

Submitted to the Mayor for
approval on this 4th day of AUGUST, 2021

Approved by the Mayor this
4th day of AUGUST, 2021

ATTEST:



Clerk of Council



Mayor