

**CHAPTER 7**  
**PUBLIC RIGHT OF WAY CONSTRUCTION**

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8-7-1: **DEFINITIONS:** For the purposes of this Chapter, certain terms shall have the meanings ascribed below:

**ACT:** The Underground Facilities Damage Prevention Act as set forth in Idaho Code Section 55-2201, et seq.

**CONSTRUCTION:** The construction, placement or laying of any asphalt or concrete pavement; sidewalk; driveway; curb; gutter; water line; sanitary sewer line; storm drain line; telephone line, conduit or facilities; electrical line, conduit or facilities; cable TV line, conduit or facilities; gas line or facilities; or any other similar structure or appurtenant facilities within any street, alley, easement or other public right-of-way of the City.

**EXCAVATION:** Any operation in which earth, rock or other material in the ground is moved or otherwise displaced by any means, including, but not limited to explosives.

**EXCAVATOR:** Any person who engages directly in excavation within City limits.

**REPAIR:** The improvement, alteration, modification or replacement of any asphalt or concrete pavement; sidewalk; driveway; curb; gutter; water line; sanitary sewer line; storm drain line; telephone line, conduit or facilities; electrical line, conduit or facilities; cable TV line, conduit or facilities; gas line or facilities; or any other structure or appurtenant facilities in any street, alley, easement or other public right-of-way of the City.

**UNDERGROUND FACILITY:** Any item buried or placed below ground for use in connection with the storage or conveyance of water (unless being delivered primarily for landscape sprinkler systems), sewage, electronic signal, telephonic or telegraphic communications, cable television,

fiber optic, electrical energy, petroleum products, gas, gaseous vapors, hazardous liquids or other substances, including, but not limited to pipes, sewers, conduits, cables, valves, lines, wires manholes, attachments and those parts of poles or anchors located below ground.

**WORKING DAYS:** All days except Saturdays, Sundays and legal holidays.

**WORKING HOURS:** The hours from eight o'clock (8:00) a.m. to five o'clock (5:00) p.m. local time of any working day. (Ord. 2970, 11-25-14)

8-7-2:           **PERMIT REQUIRED:** No person shall engage in any construction, repair or excavation in any street, alley, easement or other public right-of-way within the City without first obtaining a permit to do so approved by the City Engineer. Engaging in any such construction, repair, or excavation without a permit shall constitute an infraction. No permit under this Chapter shall be valid until or unless the notice provisions of Idaho's Underground Facilities Damages Prevention Act have been complied with. The permit shall clearly define the area within which the permittee may do such construction, repair or excavation. A copy of the permit shall be kept on file with the City Engineer for a period of not less than ten (10) years after acceptance of the completed work that was permitted. The permittee shall keep a copy of the permit onsite at all times that work under this permit is being performed. (Ord. 2970, 11-25-14)

8-7-3:           **EXCEPTIONS:** Unless facts exist which would reasonably cause an excavator to believe that an underground facility exists within the depth of the intended excavation, a permit shall not be required for the following excavations:

(A)   The tilling of soil to a depth of less than fifteen inches (15") for agricultural purposes;

(B)   For replacement of highway guardrail posts, sign posts, delineator posts, culverts, electric poles, telephone poles and traffic control device supports in the same approximate location and depth of the replaced item within a public highway right-of-way.

(C)   For emergency repairs to underground facilities when any delay in performing the work could reasonably result in a hazard to life or property. In such case, the person performing the work shall notify the City Engineer as soon as practicable and shall complete, backfill, maintain, safeguard, and warranty the work in accordance with the provision of this Chapter. (Ord. 2970, 11-25-14)

8-7-4:           **INSURANCE:** No permit shall be issued pursuant to this Chapter unless the applicant presents with the application, or has on file with the City Engineer, a certificate of insurance from an insurance company qualified to write insurance contracts within the State of Idaho, certifying that the applicant has a policy of public liability insurance in an amount of not less than five hundred thousand dollars (\$500,000) single limit liability for personal injury, death and property damage; provided, however, if the work to be done under the permit is limited to excavation in an easement situated entirely on private property or is for construction of a

concrete sidewalk, driveway or curb and gutter within a street right-of-way, but parallel with and adjacent to private property, the amount of such insurance shall be not less than one hundred thousand dollars (\$100,000) single limit for personal injury, death and property damage. Coverage for underground hazard shall also be included. Permits involving work requiring the use of explosives or work that may endanger or cause the collapse of adjacent buildings or facilities shall also require the permittee to carry explosion and collapse hazard coverage with a minimum limit of five hundred thousand dollars (\$500,000) single limit liability for personal injury, death, and property damage. Each policy, as required above, shall carry and endorsement naming the City as an additional insured under said policy. Said insurance policy or policies shall contain a clause requiring that the City Engineer be given at least thirty (30) days advance written notice in the event of expiration or anticipated cancellation. The permit shall be revoked at the time such insurance expires or is cancelled unless a certificate of comparable insurance is filed with the City Engineer prior to the time of cancellation or expiration of the original policy of insurance. (Ord. 2964, 8-14-14; Ord. 2970, 11-25-14)

8-7-5:           **APPLICATION FOR PERMIT:** Applications for construction, repair and excavation permits shall be made at the office of the City Engineer and shall be accompanied by payment of the permit fee. The application shall state the applicant's name, business or home address, the applicant's City Right-of-Way Contractor's license number (if any), telephone number, the location of the construction, the name, address and telephone number of the owner of the property where such repair or excavation will occur, the date notification was given to all one number locater services or the owner of any underground public facility as defined under the Act, and a detailed description of the work to be performed at the location specified. If the applicant complies with the provisions of this Chapter and the proposed construction, repair or excavation work complies with this Code and will not endanger public health, safety or welfare, the City shall issue the permit, provided the City may issue the permit subject to such conditions as are necessary to protect the public health, safety and welfare. No permit shall be issued to any person who does not possess all licenses required by state or local law. (Ord. 2970, 11-25-14)

8-7-6:           **PERMIT FEES:** The fee for each permit issued pursuant to this Chapter shall be in an amount set from time to time by Resolution of the Council. (Ord. 2970, 11-25-14)

8-7-7:           **LOCATION PROCEDURE AND NOTIFICATION REQUIREMENTS:** The permittee shall call for utility locates in accordance with the Idaho Code. The permittee shall also give written or oral notice to the City Engineer or a designated representative not more than seven (7) working days nor less than one (1) working day prior to commencing construction, repair or excavation. If the permittee, after commencing work, shall cease construction, repair or excavation for more than one working day, then notice shall again be given to the City Engineer or a designated representative not more than seven (7) working days nor less than one (1) working day prior to the time when construction, repair or excavation shall again commence. (Ord. 2970, 11-25-14)

8-7-8:           **COMPLETION OF WORK AND BACKFILLING:** All work shall be expeditiously performed and completed as soon as reasonably possible. Upon completion of construction or repair, the permittee shall promptly backfill any street, alley, easement or other public right-of-way in which permittee has made any excavation and restore all surface

improvements. All work, backfilling, and surface restoration shall be done in accordance with the drawings and specifications approved by the City. Any survey monuments disturbed shall be reestablished and remonumented as set forth in the Idaho Code. (Ord. 2970, 11-25-14)

8-7-9: **TIME TO COMPLETE REPAIRS:** Permanent surface repairs shall be completed by the permittee not later than three (3) days after the excavation has been backfilled, unless otherwise authorized by the City Engineer or their designated representative. If weather conditions prohibit permanent repairs, the City Engineer, or a designated representative, may authorize the use and installation of temporary cold patches. Such temporary cold patches shall be replaced by the permittee as soon as weather permits.

8-7-10: **MAINTENANCE AND SAFEGUARDS:** The permittee shall continuously maintain the construction, repair or excavation site in a safe condition and keep the site free from any condition that may cause risk of harm to any person or property at all times after the work has commenced and until all work, including permanent patching, has been completed and accepted by the City. During such time, permittee also shall provide, install and continuously maintain proper safeguards, signs and barricades at the construction, repair or excavation site. Such signs and barricades shall conform to the requirements and standards set forth in the most recent edition of the Manual on Uniform Traffic Control Devices (MUTCO) published by the U.S. Department of Transportation, Federal Highway Administration, or any other manual adopted by the State of Idaho, Department of Transportation, pursuant to the Idaho Code. (Ord. 2970, 11-25-14)

8-7-11: **WARRANTY OF REPAIRS:** The permittee shall warrant to the City the adequacy and continued satisfactory condition and function of all backfill and permanent patches installed by permittee or by any agent or employee of permittee for a period of one year after the completed work has been accepted by the City Engineer. Such warranty shall extend only to any unsatisfactory condition or function caused by inferior design, workmanship and materials furnished by permittee or by any agent or employee of permittee. (Ord. 2970, 11-25-14)

8-7-12: **REPAIRS BY CITY:** If the permittee fails to install permanent surface repairs within three (3) days after completion of backfill, or if the permittee fails to honor the warranty set forth in the preceding section after demand by the City, the City may complete the work and make such repairs. If such repairs are completed by the City, the City may charge the cost of the repairs to the permittee. The cost of repairs shall be based upon the actual charges and cost to the City of repairs at the time the repair was completed. The permittee shall pay such cost within thirty (30) days after the City has given written notice to permittee of the cost. (Ord. 2970, 11-25-14)

8-7-13: **REMEDY FOR NONCOMPLIANCE:** If any permittee fails to perform any duty imposed by this Chapter or if any permittee fails to pay the costs assessed pursuant the preceding section within the time provided therein, the City, at its option and upon prior written notice to permittee, may suspend or revoke any contractor's license issued by the City to the permittee, cancel or revoke all permits held by the permitted and refuse to issue to the permittee further permits for construction, repair or excavation in public rights of way or easements of the City. The City may also make a claim against the permittee's bond. (Ord. 2970, 11-25-14)

8-7-14: NO DUTY: Nothing in this Chapter shall be deemed or construed to impose any private duty or obligation upon the City to properly or accurately locate any utility line or facility or to ensure that a permittee fully complies with the provisions hereof. (Ord. 2970, 11-25-14)