

**CHAPTER 5  
PUBLIC RIGHT-OF-WAY CONTRACTORS**

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4-5-1: **DEFINITIONS:** For the purposes of this Chapter, all terms used herein shall have the same meanings ascribed in the “Public Right-of-Way Construction” Chapter. In addition, certain terms shall have the meanings ascribed below:

**PUBLIC RIGHT-OF-WAY 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; 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.

**PUBLIC RIGHT-OF-WAY CONTRACTOR:** Any person, partnership, corporation, association, agency or other organization who engages in the business of public right-of-way construction or who contracts for and engages in removal of snow, debris, or other materials from public rights-of-way. (Ord. 2969, 11-25-14)

**4-5-2: LICENSE REQUIRED:**

(A) No person shall engage in, control or otherwise direct public right-of-way construction or otherwise engage in the business of a public right-of-way contractor within the City unless such person shall have first obtained a license under the provisions of this Chapter.

(B) Exceptions: No license shall be required for the following persons:

- (1) a person working under the direct supervision and bond of a licensed public right-of-way contractor;
- (2) a person who solely installs, lays, forms or places concrete for any sidewalk, curb, gutter or driveway within a public right-of-way and adjacent or appurtenant to property owned by such a person;

(3) a City employee engaged in performing work for the City or an employee of the State of Idaho while engaged in performing work for the State;

(4) a utility holding a franchise granted by the City, but not including a contractor or subcontractor of such utility;

(5) a person who tills soil to a depth of less than fifteen inches (15”) for agricultural purposes; and

(6) a person who replaces highway guard rails, posts, sign posts, delineative posts, culverts, electric poles, telephone poles, traffic control signs or device supports, or other similar publicly-owned fixtures, in the same approximate location and depth within a public right-of-way. (Ord. 2969, 11-25-14)

4-5-3: APPLICATION FOR LICENSE: All applications for a Public Right-of-Way Contractor's License shall be on such forms and shall provide such information as the City Engineer deems necessary to determine the applicant's capability and responsibility to perform work within any public right-of-way. The license application shall be submitted to the Public Works Department and shall be accompanied by payment of the license fee in an amount set from time to time by Resolution of the Council. Upon receipt of a fully-completed application, the Public Works Department shall forthwith transmit the application and license fee to the Clerk. All applications shall be granted or denied by the Council within sixty (60) days following the receipt of the fully-completed application form by the Public Works Department. (Ord. 2969, 11-25-14; Ord. 3003, 04-23-15)

4-5-4: TERM OF LICENSE: Each license issued under this Chapter shall expire one (1) year from the date the license is issued. (Ord. 2969, 11-25-14; Ord. 3282, 11-26-19)

4-5-5: LICENSE FEES: The fee for a Public Right-of-Way Contractor's License shall be in an amount set from time to time by Resolution of the Council. Neither the license fee nor any portion thereof shall be refunded once a license has been issued. No portion of the license fee shall be prorated. (Ord. 2964, 8-14-14; Ord. 2969, 11-25-14)

4-5-6: LICENSE NOT TRANSFERABLE: Licenses issued under this Chapter shall not be transferable.

4-5-7: INSURANCE AND BONDING:

Liability and Hazard Insurance: Every contractor granted a license under this Chapter shall maintain comprehensive general liability coverage including completed operations in an amount 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 is limited to excavation in an easement situated entirely on private property or is for construction of a concrete sidewalk, curb or gutter located within a street right-of-way and parallel with adjoining private property, the amount of such insurance shall be not less than one hundred thousand dollars (\$100,000), single

limit. Coverage for underground hazard shall also be included. Contractors engaged in work requiring the use of explosives or work that may endanger or cause the collapse of adjacent buildings or facilities shall also 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. This coverage may be carried on an individual "project" or "permit" basis where the need for such coverage is applicable. Each policy as required above shall carry an endorsement naming the City as an additional insured under said policy. Each policy shall also contain a clause requiring that the City Engineer be given at least thirty (30) days advance written notice in the event of anticipated cancellation of the policy or any coverage under the policy. Certificates of insurance evidencing the required coverage shall be filed with the City Engineer along with the contractor's license application.

(B) Worker's Compensation Insurance: Contractors with employees shall carry statutory worker's compensation insurance with at least five hundred thousand dollars (\$500,000) employer's liability per occurrence. A certificate of insurance evidencing such worker's compensation coverage as set forth above shall be filed with the City Engineer prior to the issuance of a license under this Chapter.

(C) Bond: Prior to performing work within any public street, alley, easement or other public right-of-way of the City, all licensees shall execute and deposit with the City Engineer either a bond in favor of the City or an equal amount in cash to ensure proper and adequate performance of all work within a public right-of-way in accordance with this Chapter and of the "Public Right-of-Way Construction" Chapter this Code. The amount of such bond shall be in an amount set from time to time by Resolution of the Council. A surety may cancel its future liability under any bond furnished hereunder by giving the City Engineer thirty (30) days advance written notice of the intention to cancel. Cancellation shall not affect any liability which may have accrued under the terms of the bond prior to cancellation. A license shall be subject to revocation whenever a bond is canceled unless a comparable bond is furnished at the time of cancellation of the original bond. (Ord. 2964, 8-14-14; Ord. 2969, 11-25-14)

#### 4-5-8: DUTIES AND RESPONSIBILITIES OF PUBLIC RIGHT-OF-WAY CONTRACTOR:

All licensees under this Chapter shall have the following duties and responsibilities:

(A) Any contractor licensed hereunder shall be responsible for the proper performance of all work required by the contract, whether or not such work is done by him directly or by a subcontractor.

(B) Any licensee shall provide such safety measures and equipment as are required to safely protect workers and the public as prescribed by this Chapter, all other ordinances adopted by the City and all laws of the State of Idaho and the United States.

(C) The licensee shall ensure that all other applicable permits and insurance are obtained by the licensee and any subcontractors working under the contract, prior to undertaking any public right-of-way construction.

(D) The licensee shall present the license when requested to do so by the City Engineer or the City Engineer's authorized representative(s).

(E) The licensee shall faithfully construct all facilities in accordance with any drawings or specifications approved by the City, including but not limited to the Standard Drawings and Specifications.

(F) The licensee shall obtain all inspections required by this Code.

(G) The licensee shall construct or reconstruct all underground facilities in strict compliance with all applicable codes, specifications and standards adopted the City.

(H) The licensee shall warrant the adequacy and continued satisfactory condition and function of any street repairs or underground facilities constructed or reconstructed within any public right-of-way, for a period of one year after final approval and acceptance thereof by the City. Licensee's bond required by this Chapter shall remain in full effect for the duration of the warranty period. (Ord. 2969, 11-25-14; Ord. 3186, 05-24-18)

#### 4-5-9: SUSPENSION AND REVOCATION OF LICENSES:

(A) The City Engineer may suspend or revoke a license when the licensee commits one or more of the following acts or omissions:

(1) Fails to comply with any provisions set forth in this Chapter or the "Public Right-of-Way Construction" Chapter of this Code.

(2) Knowingly combines or conspires with any person to permit the license to be used by such person, except as allowed in this Chapter.

(3) Knowingly conspires with any other person to violate the provisions of this Code.

(4) Knowingly violates any ordinance adopted by the City or any standard drawings or standard specifications governing the construction, replacement or repair of any utility, street or associated facilities within the City, including but not limited to the Standard Drawings and Specifications.

(B) The procedure governing the suspension or revocation of licenses shall be as follows:

(1) The licensee shall be notified in writing, by certified mail, that good cause appears to suspend or revoke the licensee's license. The reason or reasons for each action shall be enumerated in such notice.

(2) Upon receipt of the notice, the licensee may request a hearing before the City Engineer. Such request shall be in writing and shall be delivered to the City Engineer within seven (7) days of the receipt of said notice. Such notice shall be deemed received upon its deposit in the U.S. mail, postage prepaid.

(3) If a hearing is requested by the licensee, the City Engineer shall set a time, date and place of said hearing and shall notify the licensee in writing at least ten (10) days prior to the date of the hearing.

(4) When a hearing is conducted, the licensee and other interested parties may present written or oral testimony and evidence. Upon completion of the hearing, the City Engineer shall promptly notify the licensee in writing, by certified mail, of the findings and decision regarding the suspension or revocation of the license.

(C) If the decision rendered by the City Engineer is adverse to the licensee, the licensee may appeal to the Council. Such appeal must be filed within thirty (30) days after delivery of the ruling to the licensee. Such delivery shall be presumed complete upon its deposit in the U.S. mail, postage prepaid, addressed to the last known address of the licensee. The decision rendered by the Council shall be final. (Ord. 2969, 11-25-14; Ord. 3186, 05-24-18)