

TITLE 11
PUBLIC WAYS AND PROPERTY

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CHAPTER 1

PUBLIC RIGHT OF WAY CONSTRUCTION

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11-1-1: **DEFINITIONS:** As used in this chapter, the following words and terms shall have the meanings ascribed to them in this section:

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, electrical line, cable TV line, gas line or any other similar structure or appurtenant facilities in any street, alley, easement or other public right of way of the county.

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.

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 facilities in any street, alley, easement or other public right of way of the county.

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 irrigation, 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. of any working day. (2001 Code)

11-1-2: 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 county without first obtaining a permit from the county road and bridge supervisor. No permit under this chapter shall be valid until or unless the notice provisions of

Idaho Code section 55-2201 et seq., 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 county road and bridge supervisor for a period of not less than five (5) years after its issuance. (2001 Code)

11-1-3: **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. Tilling Of Soil: The tilling of soil to a depth of less than fifteen inches (15") for agricultural purposes;
- B. Replacements: For replacement of highway guardrail posts, sign posts, delineator posts, culverts, electrical poles, telephone poles and traffic-control device supports in the same location and depth of the replaced item within a public highway right of way. (2001 Code)

11-1-4: **INSURANCE:** No permit shall be issued pursuant to this chapter unless the applicant presents with the application, or has on file with the county road and bridge supervisor, a certificate of insurance from an insurance company qualified to write insurance contracts within the state, certifying that the applicant has a policy of liability insurance in an amount of not less than five hundred thousand dollars (\$500,000.00) 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 (\$100,000.00) single limit for personal injury, death and property damage. Said insurance policy shall contain a clause requiring that the county 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 county road and bridge supervisor prior to the time of cancellation or expiration of the original policy of insurance. (2001 Code)

11-1-5: **APPLICATION FOR PERMIT:** Applications for construction, repair and excavation permits shall be made at the office of the county road and bridge supervisor. The application shall state the applicant's name, business or home address; the applicant's 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 locator services or the owner of any "underground public facility" as defined under the act; and the nature 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 county 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. (2001 Code)

11-1-6: **LOCATION PROCEDURE:** Call digline or blue stakes type organization for location procedure. (2001 Code)

11-1-7: **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. All work and backfilling shall be done in accordance with the county standards adopted by ordinance of the county. (2001 Code)

11-1-8: **TIME TO COMPLETE REPAIRS:** Permanent asphalt repairs shall be completed by the permittee not later than three (3) days after the excavation has been backfilled, unless otherwise authorized by the county road and bridge supervisor or his designated representative. If weather conditions prohibit permanent repairs, the county road and bridge supervisor, or his 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. (2001 Code)

11-1-9: **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 county. 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 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 provisions of Idaho Code section 49-102. (2001 Code)

11-1-10: **WARRANTY OF REPAIRS:** The permittee shall warrant to the county 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 permanent patch has been accepted by the county road and bridge supervisor. 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. (2001 Code)

11-1-11: **REPAIRS BY COUNTY:** If the permittee fails to install permanent patching 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 county, the county may complete the work and make such repairs. If such repairs are completed by the county, the county 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 county of repairs at the time the repair was completed. If the permittee is charged with the county's costs of repairs, the permittee shall pay such cost within five (5) days after the county has given written notice to permittee of the cost. (2001 Code)

11-1-12: **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 to the preceding section within the time provided therein, the county, at its option and upon prior written notice to permittee, may suspend or revoke any contractor's license issued by the

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county to the permittee, cancel or revoke all permits held by the permittee and refuse to issue to the permittee further permits for construction, repair or excavation in public rights of way or easements of the county. (2001 Code)

11-1-13: **NO DUTY:** Nothing in this chapter shall be deemed or construed to impose any private duty or obligation upon the county to properly or accurately locate any utility line or facility or to ensure that a permittee fully complies with the provisions hereof. (2001 Code)