

TITLE 6
PUBLIC WAYS AND PROPERTY

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CHAPTER 1

STREETS, SIDEWALKS AND PUBLIC WAYS

SECTION:

6-1-1:	Supervision
6-1-2:	Obstructing Streets and Sidewalks
6-1-3:	Sidewalk Repair and Maintenance
6-1-4:	Irrigation, Other Waters Upon Public Ways
6-1-5:	Pathway Regulations
6-1-6:	Penalty

6-1-1: SUPERVISION: As provided in Idaho Code section 50-313, the city council shall have the care, supervision and control of public ways. (2012 Code)

6-1-2: OBSTRUCTING STREETS, SIDEWALKS AND PATHWAYS: No person, firm or entity shall obstruct or cause to be obstructed any of the sidewalks, streets, pathways or alleys of the city, nor damage or litter the same. (2012 Code; modified by Ord 2024-3)

6-1-3: SIDEWALK REPAIR AND MAINTENANCE: Property owners are responsible for the construction, repair and maintenance of, and snow and ice removal from, sidewalks adjacent to their own property. (2012 Code)

6-1-4: IRRIGATION, OTHER WATERS UPON PUBLIC WAYS:

A. Prohibited Acts And Conditions:

1. Any person, company or corporation who runs or causes to run irrigation water or irrigation wastewater across or upon the public highways, roads, streets, or sidewalks by reason of failure to construct and maintain a good and sufficient ditch to carry the same shall be guilty of a misdemeanor and of committing and maintaining a nuisance.

2. Any person, company or corporation who dams up a ditch carrying irrigation water or irrigation wastewater or constructs or causes to be constructed or maintains or causes to be maintained a bridge across such ditch and thereby causes such water to run across or upon the public highways, roads, streets, or sidewalks shall be guilty of a misdemeanor and of committing and maintaining a nuisance.
 3. Any person, company, or corporation who suffers or allows water used by them for the purpose of irrigation or any other purpose to flow into or upon the public highways, roads, streets, or sidewalks shall be guilty of a misdemeanor and of committing and maintaining a nuisance.
- B. Evidence: Proof of water running from any lot or piece of land and into or upon the public highways, roads, streets, or sidewalks shall be competent evidence that the occupant thereof has caused the same to flow therefrom into and upon said public highway, road, street, or sidewalk. (2012 Code)

6-1-5: PATHWAY REGULATIONS:

- A. Definitions:
1. Commercial Activity: The sale of any item by any person, entity, or machine.
 2. Motorized Vehicle: Any bicycle, scooter, car, truck, or other device propelled by any source of power other than a human being.
 3. Pathway: A right-of-way within the limits of the City of Lewisville, identified by the City as a pathway, usually consisting of a hard-surface, akin to a sidewalk. For the express purpose of allowing pedestrian, bicycle, scooter, and other forms of non-motorized recreation and travel.
 4. Pet: Any animal of any kind owned by a person.
 5. Pet Owner: A person who owns a pet.
 6. Pet Waste: Any and all fecal matter, vomitus, or other emission (not including urine) created by a pet.
- B. Signage: Within public access easement(s) granted to the City; the City shall reserve the right to display signage identifying the pathway and regulating the use thereof, as set forth herein.

C. Pet Waste:

1. For the health and safety of the public, all pet waste and trash shall be removed from the right-of-way identified by the City as a pathway.
2. No pet owner shall leave any pet waste on or within 5 yards of the pathway. All pet waste must be removed by the pet owner at or near the time it is created by the pet.

D. Pathway Location: The City shall identify all pathways by signage installation every 100' or at every intersection/corner of each pathway identifying the location as a pathway.

E. Motorized Vehicles Prohibited: All motorized vehicles are prohibited on all pathways.

F. Commercial Activity Prohibited: All commercial activity is prohibited on all pathways. (Ord 2025-1)

6-1-6: PENALTY: Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be subject to penalty as provided in Section 1-4-1 of this code. (2012 Code)

CHAPTER 2

PUBLIC LIBRARY

SECTION:

6-2-1:	Short Title
6-2-2:	Library Established
6-2-3:	Funding
6-2-4:	Library Board Of Trustees
6-2-5:	Library Director
6-2-6:	Annual Budget
6-2-7:	Annual Report
6-2-8:	Failure To Return Borrowed Material

6-2-1: **SHORT TITLE:** This chapter shall be known as the *PUBLIC LIBRARY ORDINANCE*. (Ord. 2011-1, 6-8-2011)

6-2-2: **LIBRARY ESTABLISHED:**

- A. Creation: Pursuant to Idaho Code section 33-2603, the city council hereby establishes a public library for the citizens and residents of the city, known as the Lewisville public library.
- B. Free Library: The Lewisville public library shall be forever free for the use of the citizens and residents of the city, always subject to such reasonable rules and regulations as the library board of trustees may find necessary to adopt and publish in order to render the use of the library to the greatest benefit to the greatest number of citizens. The trustees may exclude any citizen or resident who shall, in the sole discretion of the trustees, violate the rules established by the trustees for the use of the library. (Ord. 2011-1, 6-8-2011)

6-2-3: **FUNDING:** The Lewisville public library shall be funded out of allocations, made no less than annually, out of the city general fund. The funds shall be in the custody of the city clerk-treasurer

and shall be used only for library purposes. The library board of trustees shall have control of all library expenditures. Money shall be paid for library purposes upon submission of properly authenticated vouchers to the city clerk-treasurer. The library board of trustees shall not make expenditures or incur indebtedness in any year in excess of the amount of money appropriated for library purposes. Donations or gifts for the benefit of the library shall be budgeted along with other library accounts and shall be used only for library purposes. (Ord. 2011-1, 6-8-2011)

6-2-4: LIBRARY BOARD OF TRUSTEES:

- A. **Creation of Board:** The Lewisville public library shall be governed by a library board consisting of five (5) trustees appointed by the mayor and city council from among the citizens of the city. A member of the city council shall not be one of the trustees, but each year the city council shall appoint one of its members to be a liaison to the board, without voting rights.
- B. **Appointment of Trustees:** The mayor and city council shall appoint the trustees, pursuant to subsection A of this section, solely upon consideration of the ability of such appointees to serve the interests of the people, without regard to sex, age, race, nationality, religion, disability, or political affiliation.
- C. **Terms of Trustees:** As the city council has currently appointed trustees, those trustees shall be reappointed to terms of one, two (2), three (3), four (4), and five (5) years, respectively. Those appointed trustees shall hold their office for the number of years appointed from the date of appointment, and until their successors are appointed. All subsequent appointments shall be made for five (5) years from the date of appointment, and until their successors are appointed.
- D. **Vacancy and Removal:** Any trustee may be removed by the city council by the unanimous vote of all city council members. All vacancies in the position of trustee shall be reported to the city council within five (5) working days by the trustees and shall be filled by appointment in the same manner as appointments are originally made. Appointments to complete an unexpired term shall be for the residue of the term only.
- E. **No Compensation:** The appointed trustees shall not receive any compensation. At the discretion of the library board, trustees may

receive their actual and necessary budgeted expenses while engaged in authorized business of the Lewisville public library.

F. Meetings:

1. Regular: The appointed trustees shall meet from time to time as determined by the board, but under no circumstances shall the trustees meet less than four (4) times per year, at least once in each quarter. One of those meetings shall be designated as the annual meeting. At the annual meeting, the appointed trustees shall elect the officers of the board, establish a regular meeting date and time, and review, amend, repeal, or adopt bylaws, policies and procedures.

2. Special: The trustees may have special meetings at a date and time different than the established regular meeting date and time, but written notice shall be provided to all trustees at least two (2) days prior to the day of the meeting.

3. Quorum: At any meeting, a quorum shall be required to conduct business. A quorum shall consist of three (3) voting members, but a smaller number may adjourn any meeting. All library board meetings shall be held pursuant to the Idaho open meetings act, Idaho Code sections 67-2340 through 67-2344.

G. Powers And Duties: The board of trustees shall have the following powers and duties:

1. To establish bylaws for its own governance.

2. To establish policies and rules of use for the governance of the library under its control; to exclude from the use of the library any and all persons who violate such rules.

3. To establish, locate, maintain and have custody of the library to serve the city, and to provide suitable rooms, structures, facilities, furniture, apparatus and appliances necessary for library service.

4. With the approval of the city council, the board of trustees shall have the following powers and duties:

a. To acquire real property by purchase, gift, devise, lease or otherwise.

b. To own and hold real and personal property and to construct buildings for the use and purposes of the library.

c. To sell, exchange or otherwise dispose of real or personal property when no longer required by the library.

d. To ensure the real and personal property of the library.

e. To prepare and adopt a budget for review and approval by the city council.

f. To control the expenditures of money budgeted for the library.

g. To accept or decline gifts of money or personal property, in accordance with library policy, and under such terms as may be a condition of the gift.

h. To hire, supervise and evaluate the library director and any employees of the library.

i. To establish policies for the purchase and distribution of library materials.

j. To attend all meetings of the board of trustees.

k. To maintain legal records of all board business.

l. To exercise such other powers, not inconsistent with law, necessary for the orderly and efficient management of the library. (Ord. 2011-1, 6-8-2011)

6-2-5: LIBRARY DIRECTOR:

A. Appointment: The library board of trustees shall appoint the library director who shall serve at the pleasure of the board.

B. Powers And Duties:

1. The library director shall advise the board of trustees, implement policy set by the board of trustees, supervise all library staff, and acquire library materials, equipment, and supplies.

2. The library director shall attend all meetings of the board of trustees, but shall not vote.

3. The library director shall recommend the hire of other employees to the board of trustees as may be necessary for the operation of the library in accordance with the policies and procedures of the Lewisville public library. These employees shall be employees of the city and subject to the city's personnel policies and classifications unless otherwise provided by city ordinance. (Ord. 2011-1, 6-8-2011; amd. 2012 Code)

6-2-6: ANNUAL BUDGET: The board of trustees shall prepare and adopt an annual budget, stating anticipated revenues and expenditures, indicating what support and maintenance of the library will be required for review and approval by the city council for the ensuing year. (Ord. 2011-1, 6-8-2011)

6-2-7: ANNUAL REPORT:

- A. State: The board of trustees shall annually, and no later than January 1 of each year, file with the Idaho state board of library commissioners, a report of the operations of the library for the fiscal year just ended, stating the condition of their trust, the various sums of money received from the library fund and from all sources, and how much has been expended, the number of books and periodicals on hand, the number added by purchase, gift, or otherwise during the year, the number lost or missing, the number of books loaned out, and the general character of such books, with such other statistics, information and suggestions as they may deem of general interest, and the Idaho state board of library commissioners may require.
- B. City Council: Said report shall also be provided to the mayor and the city council. (Ord. 2011-1, 6-8-2011)

6-2-8: FAILURE TO RETURN BORROWED MATERIAL: Any person who borrows from the Lewisville public library any book, newspaper, magazine, manuscript, pamphlet, publication, microform, recording, film, artifact, specimen, device, exhibit or other article belonging to, or in the care of, the Lewisville public library, under any agreement to return the same within a specified time, and thereafter fails to return the book, newspaper, magazine, manuscript, pamphlet, publication, microform, recording, film, artifact, specimen, device, exhibit or other article, shall be given written notice, which shall bear upon its face a copy of this section

mailed by a registered or certified letter with return receipt, or delivered in person to such person at his last known address, to return the borrowed article within fifteen (15) days. In the event that the person shall thereafter fail to return the borrowed article within thirty (30) days, or shall fail to reimburse the Lewisville public library for the value of the borrowed article, plus overdue fines and costs incurred, the person shall be guilty of a petit theft and punishable as provided in Idaho Code chapter 24, title 18. (Ord. 2011-1, 6-8-2011)

CHAPTER 3
SPEED REGULATIONS

SECTION:

- 6-3-1: Basic Rule
 6-3-2: General Speed Limit
 6-3-3: Establishment of Speed Limits
 6-3-4: Minimum Speed Regulations

6-3-1: BASIC RULE: Any person who operates a vehicle within the limits of the City, at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing shall be guilty of an infraction.

6-3-2: GENERAL SPEED LIMIT: Subject to the provisions of the preceding section, any person who drives or operates any vehicle in excess of the speed set forth below shall be guilty of an infraction. Such speeds are as follows:

- A. Any speed established pursuant to Section 6-3-3 of this Code.
- B. Twenty-five (25) miles per hour on all streets except as posted in accordance with Section 6-3-3 of this Code.
- C. Twenty (20) miles per hour in all posted school zones, except where a different speed is posted in accordance with Section 6-3-3 of this Code.
- D. Ten (10) miles per hour in all alleys except as posted in accordance with Section 6-3-3 of this Code.

6-3-3: ESTABLISHMENT OF SPEED LIMITS: Whenever the City Council determines, upon the basis of an engineering and traffic study or investigation that any prima facie speed set forth above is greater or less than is reasonable or safe under the conditions found to exist at any location within the City, the Council may determine and declare by resolution a reasonable and safe prima facie speed limit, which, when proper signs giving notice thereof have been erected, shall be the speed limit for such street or portion thereof.

6-3-4: MINIMUM SPEED REGULATIONS: Any person who drives a vehicle at such a slow speed as to impede or block the safe and efficient movement of vehicular traffic, shall be guilty of an infraction.

CHAPTER 4

LICENSING FOR PUBLIC RIGHT-OF-WAY CONTRACTORS**SECTION:**

6-4-1:	Definitions
6-4-2:	Permit Required
6-4-3:	Exceptions
6-4-4:	Insurance
6-4-5:	Application for Permit
6-4-6:	Permit Fees
6-4-7:	Location Procedure and Notification
6-4-8:	Completion of Work and Backfilling
6-4-9:	Time to Complete Repairs
6-4-10:	Maintenance and Safeguards
6-4-11:	Warranty of Repairs
6-4-12:	Repairs by City
6-4-13:	Remedy for Noncompliance
6-4-14:	No Duty

6-4-1: DEFINITIONS: For the purposes of this Chapter, certain terms shall have the meanings ascribed below:

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

B. 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.

C. 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.

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

E. 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.

F. 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.

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

H. 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.

6-4-2: 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 Council. 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 Council 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.

6-4-3: 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; provided that notice of excavation has been given to the City Clerk prior to any excavation:

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 Council as soon as practicable and shall complete, backfill, maintain, safeguard, and warranty the work in accordance with the provision of this Chapter.

D. For work performed by a utility holding a franchise granted by the City, but not including a contractor or subcontractor of such utility;

6-4-4: INSURANCE: No permit shall be issued pursuant to this Chapter unless the applicant presents with the application, or has on file with the City Council, 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 one-million dollars (\$1,000,000) single limit liability for personal injury, death, and property damage. Each policy, as required above, shall carry an endorsement naming the City as an additional insured under said policy. Said insurance policy or policies shall contain a clause requiring that the City Council 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 Council prior to the time of cancellation or expiration of the original policy of insurance.

6-4-5: APPLICATION FOR PERMIT: Applications for construction, repair and excavation permits shall be made at the office of the City Council 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.

6-4-6: 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.

6-4-7: 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 Council 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 Council 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.

6-4-8: 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.

6-4-9: 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 Council or his designated representative. If weather conditions prohibit permanent repairs, the City Council, 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.

6-4-10: 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.

6-4-11: 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 Council. 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.

6-4-12: 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 reflect current market rate for all expenses required to accomplish such repairs, including the hiring of a company to complete repairs. The permittee shall pay such cost within thirty (30) days after the City has given written notice to permittee of the cost.

6-4-13: 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.

6-4-14: 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.

CHAPTER 5

PERMITTING FOR ALL PUBLIC RIGHT-OF-WAY CONSTRUCTION

SECTION

6-5-1:	Definitions
6-5-2:	Permit Required
6-5-3:	Exceptions
6-5-4:	Insurance
6-5-5:	Application for Permit
6-5-6:	Permit Fees
6-5-7:	Location Procedure and Notification Requirements
6-5-8:	Completion of Work and Backfilling
6-5-9:	Time to Complete Repairs
6-5-10:	Maintenance and Safeguards:
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6-5-12:	Repairs by City
6-5-13:	Remedy for Noncompliance
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6-5-1: DEFINITIONS: For the purposes of this Chapter, certain terms shall have the meanings ascribed below:

- A. **ACT:** The Underground Facilities Damage Prevention Act as set forth in Idaho Code Section 55-2201, et seq.
- B. **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 similar structure or appurtenant facilities within any street, alley, easement or other public right-of-way of the City.
- C. **EXAVATION:** Any operation in which earth, rock or other material in the ground is moved or otherwise displaced by any means, including but limited to explosives.
- D. **EXCAVATOR:** Any person who engages directly in excavation within City limits.

- E. REPAIR: 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.
- F. 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.
- G. WORKING DAYS: All days except for Saturdays, Sundays and legal holidays.
- H. 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.

6-5-2: 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 Council. 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 Council 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.

6-5-3: 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; provided that notice of excavation has been given to the City Clerk prior to any excavation:

- 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 Council as soon as practicable and shall complete, backfill, maintain, safeguard and warranty the work in accordance with the provision of this Chapter.
- D. For work performed by a utility holding a franchise granted by the City but not including a contractor or subcontractor of such utility.

6-5-4: INSURANCE: No permit shall be issued pursuant to this Chapter unless the applicant presents with the application, or has on file with the City Council, 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 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 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 one-million dollars (1,000,000) single limit liability for personal injury, death, and property damage. Each policy as required above, shall carry an endorsement naming the City as an additional insured under said policy. Said insurance policy or policies shall contain a clause requiring that the City Council 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 Council prior to the time of cancellation or expiration of the original policy of insurance.

6-5-5: APPLICATION FOR PERMIT: Applications for construction, repair and excavation permit shall be made at the office of the City Council 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.

6-5-6: 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.

6-5-7: 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 Council 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 Council 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.

6-5-8: 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.

6-5-9: 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 Council or his designated representative. If weather conditions prohibit permanent repairs, the City Council, 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.

6-5-10: 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.

6-5-11: 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 Council. 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.

6-5-12: 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 reflect current market rate for all expenses required to accomplish such repairs, including the hiring of a company to complete repairs. The permittee shall pay such cost within thirty (30) days after the City has given written notice to permittee of the cost.

6-5-13: 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.

6-5-14: 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.