



NOTICE OF PUBLIC MEETING
Monday, September 19, 2022
City Council Chambers
680 Park Avenue, Idaho Falls, ID 83402
3:00 p.m.

The public is invited to observe City Council Work Sessions. However, to observe appropriate social distancing guidelines, as recommended by the Centers for Disease Control and Prevention (CDC), seating in the Council Chambers may be limited. All seating is available on a first-come, first-serve basis. The public also may view this meeting via livestream on the City's website at <https://www.idahofallsidaho.gov/429/Live-Stream>. The agenda does not include an opportunity for public interaction.

This meeting may be cancelled or recessed to a later time in accordance with law. If you need communication aids or services or other physical accommodations to participate or access this meeting or program of the City of Idaho Falls, you may contact City Clerk Kathy Hampton at 612-8414 or the ADA Coordinator Lisa Farris at 612-8323 not less than 48 hours prior to the meeting. They can help accommodate special needs.

CITY COUNCIL WORK SESSION

Times listed in parentheses are only estimates.

Call to Order and Roll Call

Mayor and Council:

- Acceptance and/or Receipt of Minutes
Action Item: To receive recommendations from the Planning and Zoning Commission (5)
- Calendars, Announcements, Reports, Updates, Questions, and Discussion (10)
- Liaison Reports and Councilmember Concerns (10)

Public Works:

- Follow-up Discussion: Councils' Consideration of EIRSD's (Eastern Idaho Regional Sewer District) Service Request (45)
Action Item: Council Direction to Staff

Mayor's Office:

- Discussion: Spending Authority Resolution (15)
Action Item: Council Direction to Staff

City Attorney's Office

- Discussion: Quality of Life Ordinances (45)
 - Aggressive Solicitation Ordinance
 - Noise Ordinance*Action Item: Council Direction to Staff*

DATED this 16th day of September 2022


Kathy Hampton, City Clerk



MEMORANDUM

TO: Honorable Mayor and Council

FROM: Brad Cramer, Community Development Services Director

DATE: September 7, 2022

RE: September 6, 2022, Planning Commission Action

Planning Commission took the following action during the September 6, 2022, meeting.

- ANNX22-016: ANNEXATION/INITIAL ZONING. Annexation and Initial Zoning of LC, Limited Commercial for approximately 8 acres in Section 23, Township 2 North, Range 37 East. Generally located North of W 17th S, east of Grizzly Ave, south of Pancheri Dr., west of S Skyline Dr.** On September 6, 2022, the Planning and Zoning Commission unanimously voted to recommend approval of the annexation with the initial zoning of LC to the Mayor and City Council as presented.
- ANNX22-013: ANNEXATION/INITIAL ZONING. Annexation and Initial Zoning of LC, Limited Commercial for approximately 15 Acres in Section 7, Township 2 North, Range 38 East. Generally located north of US Hwy 20, east of N Boulevard, south of E 33rd N, west of N Holmes Ave.** On September 6, 2022, the Planning and Zoning Commission unanimously voted to recommend approval of the annexation with the initial zoning of LC to the Mayor and City Council as presented.
- ANNX22-012: ANNEXATION/INITIAL ZONING. Annexation and initial zoning of R1, Single Dwelling Residential for approximately 51 acres in the South 1/2 of Section 10, Township 2 North, Range 37 East. Generally located north of W 17th N, east of N 35th W, south of W 33rd N, west of Bramble Ln.** On September 6, 2022, the Planning and Zoning Commission voted to recommend approval of the annexation with the zoning of R1 for 30 acres along 17th Street and the west portion of the property; and RP for the remainder of the property to act as a buffer between the existing county development to the east, to the Mayor and City Council with a vote of 5 to 1.
- ANNX22-015: ANNEXATION/INITIAL ZONING. Annexation and Initial Zoning of TN, Traditional Neighborhood and R3, Multiple Dwelling Residential for approximately 61 acres in Section 7, Township 2 North, Range 38 East. Generally located north of US Hwy 20, east of N 5th W, south of W 33rd N, west of N Boulevard.** On September 6, 2022, the Planning and Zoning Commission unanimously voted to recommend approval of the annexation with the initial zoning of TN to the Mayor and City Council as presented.
- PLAT22-028: PRELIMINARY PLAT for Innovation Point. Located North of US Hwy 20, east of N 5th W, south of W 33rd N, west of N Boulevard. Generally located north of US Hwy 20, east of N 5th W, south of W 33rd N, west of N Boulevard.** On September 6, 2022, the Planning and Zoning Commission unanimously voted to approve the preliminary plat as presented.
- PLAT22-023: FINAL PLAT for Roderick Business Park. Located north of E Anderson St, east of N Boulevard, south of Technology Dr, west of Boge Ave. Generally located north of E Anderson St, east of N Boulevard, south of Technology Dr, west of Boge Ave.** On September 6,

2022, the Planning and Zoning Commission voted to recommend approval of the final plat to the Mayor and City Council with a vote of 5 to 1.

7. **PLAT22-026: FINAL PLAT for Cassiopeia Parks Subdivision. Located north of Lola St, east of Grace Ave, south of Cassiopeia St, west of N Saturn Ave. Generally located north of Lola St, east of Grace Ave, south of Cassiopeia St, west of N Saturn Ave.** On September 6, 2022, the Planning and Zoning Commission unanimously voted to recommend approval of the final plat to the Mayor and City Council as presented.
8. **PLAT22-027: FINAL PLAT for Valo at Bellin. Located north of Pancheri Dr, east of Boxwood Dr, south of Bellin Cir, west of S Bellin Rd. Generally located north of Pancheri Dr, east of Boxwood Dr, south of Bellin Cir, west of S Bellin Rd.** On September 6, 2022, the Planning and Zoning Commission unanimously voted to recommend approval of the final plat to the Mayor and City Council as presented.
9. **PLAT22-029: FINAL PLAT for Black Feather Apartments. Located north of W Anderson St, east of US Hwy 20, south of Science Center Dr, west of N Boulevard. Generally located north of W Anderson St, east of US Hwy 20, south of Science Center Dr, west of N Boulevard.** On September 6, 2022, the Planning and Zoning Commission unanimously voted to recommend approval of the final plat to the Mayor and City Council as presented.

RECOMMENDED COUNCIL ACTION: To receive recommendation(s) from the Planning and Zoning Commission pursuant to the Local Land Use Planning Act (LLUPA).

Idaho Falls Downtown Development Board Meeting held August 2, 2022, at 9:00am in the Arts Council conference room. Those in attendance: Kevin Cutler, Cindy Napier, Jill Hansen, Tasha Taylor, Chip Langerak, Brandi Newton, Kasi Nelson, Antonio Mesa, Kevin Josephson, Lisa Farris, Councilman Jim Francis, Brad Crammer, Katelyn Long. Staff – Catherine Smith, Juan Hernandez, and Mala Lyon

Minutes of the July 12, 2022, meeting reviewed; Chip motioned to accept, Cindy seconded; Board approved.

Financial report – Brandi – biggest expense is the watering of the flowers; We have a single contract with Dave Lawrence this year instead of teenagers and Dave Lawrence so we are hoping the final costs will be lower – but the costs are treading up with everything rising. We are watering the flowers with a contract of \$20,000 with the city that IFDDC manage it all. The city budgeted \$85,000 for the same work. We need to coordinate with the city to be hired at a cost closer to what it costs to do the work. We did cut back our expenses by not doing spring flowers on Broadway. The goal is to have all the pots and baskets set up on an auto watering system at Shoup and A Street. Councilman Jim Francis said we should bring this to the city council and show that we are doing our part and subsidizing the costs. Brandi motioned to accept; Tasha seconded; Board approved.

Directors Report – Catherine – We have ordered and will install two ‘Little Art Galleries’ which are similar to the mini free libraries but instead of books you can borrow there will be small pieces of art that people can take and enjoy. One will be placed by the Art Museum and one by the Museum of Idaho. It will have its own social media page and local artists will be encouraged to participate.

Six of The Dogs of Downtown statues have been ordered – we are waiting on shipping. Artist will pick them up to decorate and Idaho Steel will attach the bases. They will be moved inside during the winter months and stored at the Art Museum. A new mural to highlight people’s pets will be placed on the alley wall of BlackRock. Each pet portrait will be 12” x 12” and people will have to pay \$250 to have their pet’s portrait painted on the wall. We will work with Snake River Animal Shelter. Of that \$50 will go to Snake River Animal Shelter, \$150 to the artist and \$50 to us to maintain the mural. There will be a 3-year contract with the pet owner’s sponsor and then a new portrait will be installed. If this goes well, we hope to expand it onto the Melaleuca wall to the west. Page Insurance also wants to have a mural installed on their building in the same alley. They are willing to pay to have it done and would just like our support and input – Catherine has applied for a grant through Mountain View Charity to help support the contribution from Page Insurance.

Events – We are working on setting up a meeting with the board of the Farmer’s Market and having a hard time finding a time everyone can meet. They need some organizational support. We do not want the Market to move away from the downtown as they are very successful there and it benefits our downtown.

Shop the Sidewalk summer sales – June was very successful as it was the same day as SummerBrew, but we had fewer participate in July. Got complaints that it didn’t boost sales. We are offering \$100 in Downtown Gift Certificates for people that come downtown that day and fill out a shopping postcard. Some merchants choose not to participate. We will be doing Ladies Shopping Days in Sept.

Road Closures for Events – We have been given permission to hold Oktoberfest Sept 17th on Park Avenue in the street if we have a security guard at the door of every bar to control the problem of drinks going in and out of the bars and have a security vehicle at each end of the block with a security person in the vehicle at all times. The police still want us to have bollards or something to block every entrance into the events. Councilman Jim Francis said he had a meeting with the police Chief, and he agreed to let us use the barricades they have but we would have to figure out how to move them and install them and return them each time. Kevin C. said we all appreciate safety, but it needs to be feasible. He has attended soccer tournaments with 1,000's of people and there is no security required. Nothing is failsafe and if they require a certain standard for security it needs to be for everyone not just certain groups. Brandi said the goal is to keep working on what are the options. How can we make it work? Help us find a way. Being able to have vehicles parked at the end of the blocks is a great step forward. Chip pointed out that road closures are under the jurisdiction of the IFPD and a large group in a park doesn't fall under their immediate concerns. The removeable bollards could be used, but where do we store them and who would be in charge of placing them out and removing them each time?

International Festival – INL has offered to sponsor this event, but they need an organization to give them a scope and statement of the work and manage the money for the committee. IFDDC has the interest and desire to do this. Hoping it will be a yearly event that people will look forward to.

We would also like to do a Winter Farmer's Market every Saturday from our Shop Small Saturday to the Saturday before Christmas on the greenbelt. We have found a 'fake' ice skating rink that can be rented and placed in the Broadway Plaza. Brandi said the Museum of Idaho has nativities stored and would love to display them. Chip said we can bring back the nostalgic feel with lots of lights along the river – hire a contractor to put the lights up.

Brad Cramer – Report from City of Idaho Falls – housing is still a big concern – there are 1,000 apartments being built and 3,000 more being looked at

Catherine – we are still working on getting the lights across the street back up on Park Ave. Kevin met with the Economic Director from Great Falls MT. He had done a tour of Boise, Twin Falls, Pocatello and Idaho Falls. He said they are working on lighting in their alleys for safety and attractiveness. Chip said he is looking at getting a light and cameras in the alley by his mural. More businesses are getting security cameras. It was suggested that we find out who has cameras. If we know who has them, we can look at having them strategically placed to get views everywhere. It is very expensive to link all the cameras together and hire someone to monitor them. Catherine said Jayce Howell suggested we investigate having a 'clean & green team' like Boise where this group does all the sidewalk snow removal, security, parking where they let employees know where open parking is thru an app and help move people from place to place. Not sure we can ask property owners to up their BID to cover those costs. We looked into placing lights across Puggslane but were stopped by I F Power and sanitation. Jill suggested that the lights be put on the sides of the buildings rather than strung across.

Jill said the Rib & Chop House for safety has the policy that they all leave together at night as a team. The City Council is looking into requiring security at each bar as there has been more problems at them lately.

Lisa Farris – CDBG Report – we have \$59,000 for 2022 funding. Encourage people to apply for the façade grants. Page Insurance is doing restoration work on the bricks. Willowtree has not applied for an awning and sign as suggested by the Board with the denial of their façade grant.

Brandi motioned to move the budget review of the 2022-2023 budget to our next meeting; Antonio seconded. It will be emailed out for review.

Meeting adjourned at 10:09am The next board meeting will be held September 13th, 2022 (one week later than normal due to Labor Day)

Respectfully submitted - Jill Hansen, secretary and Mala Lyon

Mayor's Office - Spending Authority Resolution

RESOLUTION NO. 2022-_____

A RESOLUTION OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, GRANTING TO THE MAYOR AND THE MAYOR'S DESIGNEES, LIMITED AUTHORITY TO EXECUTE CONTRACTS, LEASES, REAL PROPERTY PURCHASES, AND CHANGE ORDERS WITHIN CERTAIN LIMITS IN ORDER TO FURTHER CITY INTERESTS; AND PROVIDING THAT THIS RESOLUTION BE EFFECTIVE UPON ITS PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

WHEREAS, the City authorizes and approves the City budget annually; and

WHEREAS, the City budget includes funding for various City projects; and

WHEREAS, changes to budgeted and approved projects and purchases may become necessary in order to deal with unanticipated circumstances and contingencies (including cost and labor availability and fluctuations; supply chain disruptions; and unit price increases) and to otherwise ensure that City projects continue to move forward on a timely basis; and

WHEREAS, timely execution of lease agreements may be necessary for City-owned or City-controlled properties with various individuals, corporations, or other entities for the benefit the City; and

WHEREAS, timely acquisition of additional personal or real property by the City may be required to complete various City projects or to further City interests; and

WHEREAS, timely execution of minor contracts may be required to provide services necessary to accomplish certain aspirations of the City; and

WHEREAS, authorizing the Mayor and Mayor's designee(s) to enter into such contracts, leases, project cost changes, and change orders, where budgeted and related to City projects or initiatives or Council expectations, will promote efficiency and timeliness; and

WHEREAS, prior City Resolution 2020-26, addressed approval of minor contracts, lease agreements, real property purchases and change orders; and

WHEREAS, Council deems it expedient to supersede Resolution 2020-26 with this Resolution for simplicity and clarity, and in order to build flexibility into the current policy.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF IDAHO FALLS, IDAHO, AS FOLLOWS:

1. Changes, Purchase Orders, and Change Orders on Council Approved Budgeted Projects

- a. The Council hereby grants to the Mayor and to the Mayor's designee(s) authority on Council approved and budgeted projects to approve changes, purchase

orders, or change orders not to exceed the following cumulative amounts:

- i. For a project of two hundred and fifty thousand dollars (\$250,000) or less, twenty-five percent (25%) of the original project contract estimate; and
 - ii. For a project between two hundred and fifty thousand dollars (\$250,000) and seven hundred and fifty thousand dollars (\$750,000), twenty percent (20%) of the original project contract estimate.
 - iii. For a project of more than seven hundred and fifty thousand dollars (\$750,000), fifteen percent (15%) of the original project contract estimate.
- b. Any approved change, purchase order, or change order exceeding three hundred thousand dollars (\$300,000) shall be submitted to the City Council for ratification. Unit quantity/volume changes within an approved project do not require disclosure to Council other than in the Treasurer's quarterly budget report.
- c. In cases where, in the opinion of the Department Director responsible for the project, failure to make changes to an approved and budgeted project is reasonably likely to cause significant project delay or disruption, the Mayor may approve expenditures above the amount authorized in this Subsection 1 upon the following conditions:
- i. Such expenditure is in the minimum necessary amount to avoid significant delay or disruption; and
 - ii. The expenditure is within the responsible Department's total authorized budget; and
 - iii. The expenditure is reported to the Council at the next Council meeting following the Mayor's approval for ratification, adjustment, or other Council action.

2. Contracts, Leases, and Real Property Purchases

- a. The Council hereby grants to the Mayor and to the Mayor's designee(s) authority to negotiate and to execute budgeted:
 - i. lease agreements that do not exceed fifty thousand dollars (\$75,000) per year.
 - ii. real property purchase agreements where the purchase amount does not exceed seventy-five thousand dollars (\$75,000).
 - iii. contracts, including purchase orders, that do not exceed one-hundred thousand dollars (\$100,000).

- b. Prior to execution, all contracts, leases, and real property purchases authorized pursuant to this Resolution must be approved/recommended by the responsible Department Director.
- 3. Nothing in this Resolution shall alter, enhance, or diminish the powers and duties granted by Idaho Code to the Board of Trustees of the Idaho Falls Public Library.
- 4. This Resolution supersedes and replaces Resolution 2020-26.

This Resolution shall be in full force and effect from and after its passage by the Council.

ADOPTED and effective this _____ day of _____, 2022.

ATTEST:

CITY OF IDAHO FALLS, IDAHO

Kathy Hampton, City Clerk

Rebecca L. Noah Casper, Ph.D., Mayor

(SEAL)

STATE OF IDAHO)
) ss:
County of Bonneville)

I, KATHY HAMPTON, CITY CLERK OF THE CITY OF IDAHO FALLS, IDAHO, DO HEREBY CERTIFY:

That the above and foregoing is a full, true and correct copy of the Resolution entitled, “A RESOLUTION OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, GRANTING TO THE MAYOR AND THE MAYOR’S DESIGNEES LIMITED AUTHORITY TO EXECUTE CONTRACTS, LEASES, REAL PROPERTY PURCHASES, AND CHANGE ORDERS WITHIN CERTAIN LIMITS IN ORDER TO FURTHER CITY INTERESTS; AND PROVIDING THAT THIS RESOLUTION BE EFFECTIVE UPON ITS PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.”

(SEAL)

Kathy Hampton, City Clerk

Attorney's Office - Quality of Life Ordinances

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; AMENDING TITLE 5, CHAPTER 4, BY THE ADDITION OF SECTION 9 TO PROHIBIT AGGRESSIVE SOLICITATION; PROVIDING SEVERABILITY, CODIFICATION, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

WHEREAS, aggressive personal confrontations in public areas are disturbing and disruptive to residents, visitors, and businesses and contribute to the loss of access to and enjoyment of public places and to a sense of fear, intimidation and disorder; and

WHEREAS, aggressive confrontation includes people who approach or follow pedestrians; repetitive attempts to confront another person despite refusals; the use of abusive or profane language with the intent to cause fear and intimidation; unwanted physical contact; and/or the intentional blocking of pedestrian and vehicular traffic; and

WHEREAS, this Ordinance is intended to protect citizens from the fear and intimidation accompanying certain kinds of aggressive confrontations, while not limiting a constitutionally protected activity; and

WHEREAS, the presence of individuals who solicit money, jobs, or donations from persons at or near bus stops, banks, automated teller machines, public transportation facilities, crosswalks, etc., is especially troublesome because of the enhanced fear of crime in a place that is confined, difficult to avoid, or where a person might find it necessary to wait; and

WHEREAS, the Council finds that the City has a particular interest in encouraging and preserving a vital, pedestrian-friendly urban core; promoting tourism and business in the City; preserving the quality of urban life; and encouraging businesses and neighborhoods where walking is a realistic alternative to vehicles that use fossil fuels; and

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF IDAHO FALLS, IDAHO, THAT:

SECTION 1: Title 5, Chapter 4, Section 9 of the City Code of the City of Idaho Falls, Idaho, is hereby added as follows:

5-4-9:

A. **PURPOSE.** This Section is intended to protect individual members of the public from the fear and intimidation resulting from certain kinds of unwanted solicitation and is not intended to limit any Constitutionally protected activity.

B. DEFINITIONS. Whenever the following words or terms are used in this Section, they shall have the meanings ascribed below:

AGGRESSIVE MANNER: Causing a person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession by:

1. making any physical contact with or touching another person in the course of the confrontation without the other person's consent when the person knows or should reasonably believe that the other person will regard the contact as offensive or provocative;
2. following the person being confronted, if that conduct is:
 - a. intended to cause a person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or
 - b. intended to intimidate the person being confronted into engaging in acts or behaviors the person would not otherwise do or perform; or
 - c. continuing to confront a person within five feet (5') of the person being confronted after the person has communicated that the confrontation should cease; or
 - d. blocking the safe or free passage of the person being confronted or requiring the person, or the driver of a vehicle, to take evasive action to avoid physical contact with the person initiating or continuing the confrontation; or
 - e. using obscene or abusive language or gestures toward the person being confronted in a manner that tends to incite an immediate breach of the peace; or
 - f. is intended to or is likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or is intended to or is reasonably likely to intimidate the person being confronted into responding affirmatively to the solicitation.

AUTOMATED TELLER FACILITY: The area comprised of one or more automatic teller machines and any adjacent space that is made available to banking customers for automated banking.

AUTOMATED TELLER MACHINE: A device, linked to a bank's account records, which is able to carry out banking transactions.

BANK: A bank, savings bank, savings and loan association, credit union, trust company, or similar financial institution.

BUS: A vehicle operated by a transit authority for public transportation, such as Greater Idaho Falls Transit (GIFT).

CHECK CASHING BUSINESS: The business of cashing checks, drafts, or money orders for consideration.

CONFRONT: To approach or threaten or intimidate another person by words or actions in a manner reasonably calculated to detain, hinder, or delay the person.

PUBLIC AREA: An outdoor area to which the public has access and includes, but is not limited to, a sidewalk, street, highway, park, park amenity, parking lot, alleyway, pedestrian way, or the common area of a school, hospital, apartment house, office building, transport facility, or shop.

SOLICIT: To request, by the spoken, written, or printed word, or by other means of communication an immediate donation or transfer of money or another thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other thing of value, and regardless of whether consideration is offered.

C. VIOLATION. A person commits an offense if the person solicits another person in an aggressive manner:

1. in a public area;
2. on a highway within the City;
3. at a bus station or stop, or at a facility operated by transit authority for passengers;
4. within twenty-five feet (25') of:
 - a. an automated teller facility;
 - b. the entrance or exit of a bank; or
 - c. the entrance or exit of a check cashing business;
5. at a marked crosswalk;
6. on either side of the street on a block where a school attended by minors or a child care facility has an entrance or exit;
7. at a sidewalk cafe authorized or the patio area of a bar or restaurant.

D. EXEMPTIONS.

1. This Section is not intended to proscribe a demand for payment for services rendered or goods delivered, or to regulate activities otherwise allowed by this Code.
2. This Section does not apply to a person who participates in or views a parade, festival, performance, rally, demonstration, or similar event, or to a peace officer or other person making a lawful detention or arrest.

SECTION 2. Savings and Severability Clause. The provisions and parts of this Ordinance are intended to be severable. If any section, sentence, clause, or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this Ordinance.

SECTION 3. Codification Clause. The Clerk is instructed to immediately forward this Ordinance to the codifier of the official municipal code for proper revision of the Code.

SECTION 4. Publication and Effective Date. This Ordinance, or a summary thereof in compliance with Idaho Code, shall be published once in the official newspaper of the City, and shall take effect immediately upon its passage, approval, and publication.

PASSED by the City Council and APPROVED by the Mayor of the City of Idaho Falls, Idaho, this _____ day of _____, 2022.

ATTEST:

CITY OF IDAHO FALLS, IDAHO

KATHY HAMPTON, CITY CLERK

REBECCA L. NOAH CASPER, Ph.D., MAYOR

(SEAL)

STATE OF IDAHO)
) ss:
County of Bonneville)

I, KATHY HAMPTON, CITY CLERK OF THE CITY OF IDAHO FALLS, IDAHO, DO
HEREBY CERTIFY:

That the above and foregoing is a full, true and correct copy of the Ordinance entitled,
“AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL
CORPORATION OF THE STATE OF IDAHO; AMENDING TITLE 5, CHAPTER 4, BY
THE ADDITION OF SECTION 9 TO PROHIBIT AGGRESSIVE SOLICITATION;
PROVIDING SEVERABILITY, CODIFICATION, PUBLICATION BY SUMMARY,
AND ESTABLISHING EFFECTIVE DATE.”

KATHY HAMPTON, CITY CLERK

(SEAL)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; AMENDING TITLE 5, CHAPTER 4 BY ADDING SECTION 9 PROHIBITING NUISANCE NOISES AND AMENDING CITY CODE SECTION 8-7-1 TO REGULATE THE TIME, PLACE, AND MANNER OF NOISE GENERATED BY A VARIETY OF ACTIVITIES; ESTABLISHING PENALTIES FOR VIOLATIONS; PROVIDING SEVERABILITY, CODIFICATION, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

WHEREAS, the City is an attractive destination for both visitors and inhabitants; and

WHEREAS, part of what makes the City particularly attractive is the beauty, peace, and quiet of its environs; and

WHEREAS, the Council wishes to encourage the peaceable enjoyment of the City, its amenities, neighborhoods, and open spaces; and

WHEREAS, in order to facilitate the wide variety of activities within the City, while promoting mutual respect, the City wishes to establish general noise regulations; and

WHEREAS, such regulations balance fairly the sometimes competing activities within City limits and establish expectations regarding the amount and timing of noise expected by the community during certain hours and within certain areas within City limits; and

WHEREAS, these regulations reflect community standards and are an exercise of health, safety, and welfare police powers granted to the City by the Idaho Constitution, the Idaho Code, and the City's charter; and

WHEREAS, the Council hereby declares certain noise to be a general public nuisance as set out in this Ordinance; and

WHEREAS, the Council also amends the current construction hours to be consistent with the Code language adding for nuisance noises.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF IDAHO FALLS, IDAHO, THAT:

SECTION 1. Title 5, Chapter 4, Section 9, of the City Code of the City of Idaho Falls, Idaho, is hereby added as follows:

5-4-9 NUISANCE NOISE.

A. PURPOSE.

Plainly audible noise which due to its volume, its duration, or its location disturbs, injures or endangers the comfort, repose, health, peace, or safety of persons who are not voluntary listeners, is hereby declared to be excessive and harmful to the welfare of the occupants in the City and; therefore, a public nuisance. Further, sounds coming from inside a vehicle louder than necessary for the hearing of persons within the vehicle, are deemed excessive and; therefore, a public nuisance.

B. DEFINITIONS.

Construction. Any site preparation, assembly, erection, repair, alteration, or similar action, including demolition of buildings or structures.

Demolition. Any dismantling, destruction, or removal of buildings, structures, or roadways.

Emergency Work and Public Works Activities. Any work or action necessary to deliver essential public services including, but not limited to, constructing or repairing water, gas, electricity, broadband fiber, telephone, sewer facilities, or transportation facilities, removing fallen trees on public rights-of-way, sanitation, plowing snow, tree trimming and removal, dredging navigational waterways, or abating life-threatening conditions.

Plainly Audible. Any sound that can be detected by a person using unaided hearing faculties. For example, if a sound source is a portable or personal vehicular sound amplification or reproduction device, the rhythmic bass component of the music is sufficient to be considered plainly audible even if the title of music, words, or artist is not distinct or identifiable. A sound that is measured at the ninetieth percentile sound pressure level (LEQ 90) for a five (5) minute measurement period in excess of sixty-five decibels (65 dBA) during daylight hours or fifty-five decibels (55 dBA) during night-time hours measured at a distance of fifty feet (50') from the source that is emitting the sound shall constitute a "Plainly Audible" sound per se. If the source of the sound is not readily determinable, the property line along the parcel of real property from which the sound is emitted shall be deemed as the source of the sound.

Vehicle. A conveyance that is propelled other than by human or animal power on land.

C. NOISE PROHIBITED.

No person shall make, continue, or cause to be made, or allow to be made on any premises or any public place or public right-of-way in the City, from any radio, cd/dvd/mp3 player, portable computer, smartphone, tablet, computer, tape player, television, musical instrument, music streaming service, phonograph, sound amplifier, or similar sound emitting devices, any excessive, loud, unnecessary, or unusual Plainly Audible noise. Specifically prohibited is the playing, using, operating, or permitting to be played, used, or operated, any device for playing, producing, or reproducing Plainly Audible sound at a louder volume than is necessary for the hearing of persons who are voluntary listeners on

the premises or in the building, room, or chamber in which the sound is being played, produced, or reproduced.

D. EXCESSIVE VEHICULAR NOISE PROHIBITED.

No person shall use, operate, or permit to be used, played, attached, installed, or operated, radios, cd/dvd/mp3 players, portable computer, smartphones, tablets, computers, tape players, phonography, vehicle stereo systems, televisions, glasspack mufflers, loud tailpipes, and similar amplified or unamplified sound emitting devices, modifications, or apparatuses in or on a motor vehicle loudly enough to disturb the peace, quiet or comfort of persons who are involuntarily subjected to the Plainly Audible sound other than persons on the same premises, or within ten feet (10') of the vehicle from which the sound is emitted; provided; however, that emergency vehicles and persons engaged in lawful parades including sirens, exhaust, music, loud speakers, and associated noises shall be exempt from the provisions of this Subsection for the duration of the activity.

E. QUIET HOURS.

No person shall shoot off fireworks or allow fireworks to be shot off or engage in or allow prolonged shouting, yelling, hooting, whistling, singing, or playing of musical instruments loud enough to disturb the peace, quiet and comfort of persons who are involuntarily subjected to such noise between the hours of eleven o'clock (11:00) p.m. and six o'clock (6:00) a.m. local time; provided, however, that persons engaged in school-related or sports-related activities shall be exempt from the provisions of this Subsection for the duration of the activity.

F. ANIMALS

No person shall permit any animal that they keep, own, or possess to create frequent or habitual noises that are Plainly Audible. This prohibition applies to all private and public facilities, including animal care clinics and animal care facilities, as defined by this Code.

G. CONSTRUCTION NOISE.

1. Construction Noise Hours Restriction. No person shall engage in construction, repair, or demolition of buildings, streets, poles, etc., including site excavation and grading between the hours of
 - a. Eleven o'clock (11:00) p.m. and six o'clock (6:00) a.m. local time from May 1 to October 31
 - b. Nine o'clock (9:00) p.m. and seven o'clock (7:00) a.m. local time from November 1 to April 30
2. Exceptions. The following activities are exempt from this section:
 - a. Emergency Work and Public Works Activities, as defined in this Chapter,
or

- b. in the case of an urgent necessity in the interest of public health and safety and with the permission of the Director of the Public Works Department; or
 - c. pursuant to the terms of a construction noise permit issued by the Director of the Public Works Department.
3. Construction Noise Permit. The Director of the Public Works Department may issue a permit to any applicant that shall exempt the party from the construction noise time restrictions on the following basis:
- a. That the applicant demonstrates an unavoidable loss or substantial inconvenience that warrants special consideration, including but not limited to time constraints associated with concrete pouring, asphalt application, roofing, weather and heat conditions that require reasonable accommodation due to the practical needs of the construction work, or health and safety concerns; and
 - b. That the applicant's need for exemption from the construction noise hour restrictions under this Chapter will not exceed fourteen (14) consecutive days; and
 - c. The applicant provides a written plan detailing the reasonable and responsible steps the applicant will take to keep plainly audible construction noise at the lowest practical level during the construction noise hour restrictions applicable under this Chapter; and
 - d. The applicant provides notice of the construction activities no less than seven (7) days prior to the commencement of the construction work to property owners within three hundred feet (300') of the construction site. The notice shall include the written plan detailing steps taken to minimize noise and the expected duration of the construction noise that will occur outside of the hours permitted by this section.

Any permit issued pursuant to this section shall expire fourteen (14) days from the date that construction begins. An applicant who receives a permit may renew the permit, provided that the Director of Public Works determines that the renewal is necessary due to unforeseen circumstances, outside of the applicant's control, to prevent an unavoidable loss or substantial inconvenience.

H. LAWN AND WOODCUTTING NOISE.

No person shall engage in the use of chain saws and/or other woodcutting equipment, or gasoline or electric powered lawn care equipment between the hours of nine o'clock (9:00) p.m. to seven o'clock (7:00) a.m. local time in any residential zone.

I. LOADING NOISE

No person shall engage in loading, unloading, opening, or otherwise handling boxes, crates, containers, garbage containers, or other objects between the hours of nine o'clock (9:00)

p.m. and seven o'clock (7:00) a.m. local time in such a manner that it produces Plainly Audible noise in any residential zone.

J. EXCEPTIONS

1. The prohibitions in this Section shall not apply to the following:

- a. A government agency or persons acting within the course and scope of such government agency's lawful functions, provided that construction projects conducted for the City shall comply with the requirements for a Construction Noise Permit, as set out in this Chapter.
- b. The brief celebratory noisemaking at twelve o'clock (12:00) midnight local time on New Year's Eve.
- c. Celebratory lighting of fireworks on the third, fourth, and fifth of July between eight o'clock (8:00) p.m. and midnight local time.
- d. During an event permitted by the Director of Parks and Recreation [notice requirements?].
- e. Activities and events authorized by an educational institution regulated by the Idaho State Board of Education.
- f. Operation of trains and airplanes.

K. PENALTY:

A person who violates any provision of this Section shall be deemed guilty of an infraction and upon conviction thereof, shall be punishable by a fine set from time to time by resolution of the Council. Provided, any person who has been found guilty of two (2) violations of this Section within the period of one (1) calendar year shall be guilty of a misdemeanor.

SECTION 2. Savings and Severability Clause. The provisions and parts of this Ordinance are intended to be severable. If any section, sentence, clause, or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this Ordinance.

SECTION 3. Codification Clause. The Clerk is instructed to immediately forward this Ordinance to the codifier of the official municipal code for proper revision of the Code.

SECTION 4. Publication. This Ordinance, or a summary thereof in compliance with Idaho Code, shall be published once in the official newspaper of the City, and shall take effect immediately upon its passage, approval, and publication.

SECTION 5. Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval, and publication.

PASSED by the City Council and APPROVED by the Mayor of the City of Idaho Falls, Idaho, this _____ day of _____, 2022.
CITY OF IDAHO FALLS, IDAHO

REBECCA L. NOAH CASPER, Ph.D., MAYOR

ATTEST:

KATHY HAMPTON, CITY CLERK

(SEAL)

STATE OF IDAHO)
) ss:
County of Bonneville)

I, KATHY HAMPTON, CITY CLERK OF THE CITY OF IDAHO FALLS, IDAHO, DO HEREBY CERTIFY:

That the above and foregoing is a full, true and correct copy of the Ordinance entitled, “AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; AMENDING TITLE 5, CHAPTER 4 BY ADDING SECTION 9 PROHIBITING NUISANCE NOISES AND AMENDING CITY CODE SECTION 8-7-1 TO REGULATE THE TIME, PLACE, AND MANNER OF NOISE GENERATED BY A VARIETY OF ACTIVITIES; ESTABLISHING PENALTIES FOR VIOLATIONS; PROVIDING SEVERABILITY, CODIFICATION, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.”

(SEAL)

KATHY HAMPTON, CITY CLERK